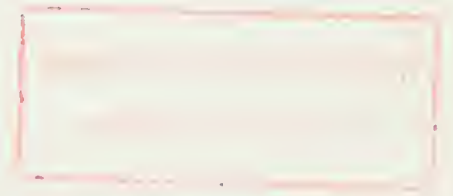


**Records of the
Louisiana Constitutional
Convention of 1973:
Committee Documents**

VOLUME XI

LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

Records of the Louisiana Constitutional Convention of 1973: Committee Documents



VOLUME ELEVEN

by

LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

Moise W. Dennery, Chairman
A. Edward Hardin, Coordinator of Research

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A. Edward Hardin, Coordinator of Research

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**COMMITTEE
ON THE
EXECUTIVE DEPARTMENT**

I. Minutes

A. Full Committee Minutes

MINUTES

Minutes of the meeting of the Executive Department
Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of
the Convention on March 1, 1973

State Capitol, Baton Rouge, Louisiana

Thursday, March 15, 1973, 10:00 A.M.

Friday, March 16, 1973, 10:00 A.M.

Presiding: Due to weather conditions, the Chairman
of the Executive Department Committee was
unable to preside at the early portion of
the meeting, therefore Vice-Chairman Elmer
R. Tapper presided until the arrival of
the Chairman.

Present

Mr. Mack Abraham
Rev. Avery C. Alexander
Mr. Joseph E. Anzalone
Mr. Greg Arnette
Dr. Emmett Asseff
Mrs. Hilda Brien
Mr. Stanwood R. Duval
Mr. Camille F. Gravel
Mr. Tom Staggs
Rev. James L. Stovall
Rep. Elmer R. Tapper

Absent

Mr. Moise W. Denery

Others Present

Mr. Sheldon Beychok
Executive Council to
the Governor

The following Agenda was read:

Consider what procedure the committee might follow
in conducting future meetings and hearings. Possible
alternatives are: (1) inviting persons who have experience
in this area to testify on functions and organization of
the Executive Branch; (2) proceed to create sub-committees
for the purpose of studying particular subjects under the
Executive Branch.

Consider the extent to which there may be jurisdictional
problems with other committees.

Review existing provisions in the 1921 Constitution
to determine what might be deleted or retained in an
Article on the Executive.

Roll call was taken by Mrs. Hilda Brien and a
quorum was present

The Vice-Chairman introduced the staff members
appointed to assist the committee. Dr. Gene Tarver
distributed background information from the research
staff and summarized the information. It was suggested
that some sort of grouping be established. A lengthy
discussion followed.

It was stated that time is a major factor and

because of lack of finances, no committee should try
to schedule more than four (4) meetings a month. The
Executive Committee adopted a resolution in January
to the effect that each committee try to meet the
deadlines of May 5, 1973, and June 22, 1973. Hopefully,
after June, the Convention will have more funds so that
the committee may meet more often.

-2-

Discussion ensued concerning the Budget Commission.
Several members suggested that if the committee has to
meet more than the required number of meetings at its
own expense, it should do so. It was stated that Article VI
would be the committee's biggest problem.

Vice-Chairman Tapper offered a motion that the
committee recess for lunch and reconvene at 1:30 P.M.
The motion was seconded by Mrs. Hilda Brien and approved.

The Executive Department Committee meeting resumed
at 1:30 P.M. The Chairman apologized for his late
arrival and informed the committee that Vice-Chairman
Tapper had brought to his attention the problems discussed
earlier. Chairman Staggs also stated that between now
and the next meeting, each of the members would be
furnished with a draft of a schedule of meetings in
which subject matter will be discussed. He said that
he would follow the decisions of the Executive Committee,
that all committees do not meet on Friday and Saturday
because of lack of press coverage; also that the committee
will not meet on the same day of every week. Mr. Staggs
already proposed that the committee meet on Monday,
March 26, 1973, and Tuesday, March 27, 1973, provided
witnesses are available to appear. Discussion followed
after which Rev. Stovall offered a motion that the
committee meet on March 26, 1973, and March 27, 1973,
and April 2, through, April 4, 1973, provided witnesses
are available to appear. The motion was seconded by
Mr. Abraham and approved.

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The Chairman stated that sub-committees would be
made after hearing all of the witnesses.

It was asked that the committee be given sufficient
notice when dates of meetings are changed. The Chairman
recommended that the committee keep the first two weeks
in May available. He also stated that beginning March 26,
1973, the committee would meet at nine o'clock A.M.
(9:00) in the morning and break for lunch at twelve
o'clock P.M. (12:00), reconvene at one-thirty P.M. 1:30

and continue until designated topics were discussed. He said that all of the witnesses will be scheduled that the committee thinks necessary.

A proposed plan of the Committee on Executive Department Meetings was distributed. Discussion followed. A final approved plan is attached hereto and made a part of these minutes.

Several members suggested that some part of the day be set aside for briefing before the hearing of witnesses in order to fully comprehend the subject matter the witness is presenting before the committee.

The Chairman introduced Mr. Sheldon Beychok, Executive Council to the Governor. Mr. Beychok spoke on how the Executive Department operates now. He stated that the law provides for the governor to have on the Executive Council a secretary to the governor whose duties are not defined except to say that these people can serve as proxy to the governor. He stated that the Executive Council is the legal arm of the Executive branch.

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He also spoke of the functions of different departments. Mr. Beychok said that he would appear before the committee at a future date with a Proposal for the committee and the Convention to consider.

Following a short recess, a discussion was held on materials to be gathered by the research staff.

A motion was offered by Mr. Gravel that the Chairman refer to the Coordinating Committee with the suggestion that Article IX concerning impeachment and removal from office be assigned to a committee other than the Executive Department Committee. The motion was seconded by Mr. Duval and approved.

A lengthy discussion on remaining articles followed with a determination of those articles applying to the Executive Department Committee. A final approved list of those articles are attached hereto and made a part of these minutes.

Rev. Stovall offered the motion that the committee recess until Tuesday, March 16, 1973, at nine o'clock a.m. (9:00). The motion was seconded by Dr. Asseff and approved. The meeting recessed at five o'clock p.m.

-5-

The meeting of the Executive Department Committee reconvened at nine o'clock a.m., March 16, 1973, in the State Capitol, Room 205, Baton Rouge, Louisiana. All members were present with the exception of Mr. Moise Dennery who had an excused absence. Mr. John Rome, Budget Analyst from the Division of Administration, was a guest at the meeting.

The Chairman stated that there was a difference of opinion between this committee and the Judiciary

Committee concerning the Attorney General, the District Attorney, etc. Rev. Stovall was asked to sit in on the Judiciary meeting and ask questions on the committee session. The Chairman also proposed that the Committee discuss a breakdown in the subject matter dividing it into fourteen (14) meeting days as a minimum and have the subject matter in a logical sequence from now through the month of June. Discussion followed as to the scheduling of meeting days. It was decided that the discussion would resume after hearing from Mr. John Rome, Budget Analyst with the Division of Administration. Mr. Rome spoke on the functions of the Division of Administration, referring to an organizational chart which is attached hereto and made a part of these minutes. He said that the chart, with some minor variations could be used as a reorganizational plan. The chart was discussed at length.

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Following the interview of Mr. Rome, it was suggested that the committee resume the discussion from the last meeting regarding the articles that should be included under the Executive Department. A copy of the articles under the heading of Executive is attached hereto and made a part of these minutes.

The Committee resumed discussion of the scheduling of calendar days in which the committee would meet. A copy of the schedule is attached hereto and made a part of these minutes.

A discussion ensued concerning witnesses to testify before the committee. Several members suggested that department heads submit their observations on their particular department in writing so that the members could discuss the issues in depth. The chairman stated that the subject matter would determine the amount of time allotted each witness.

A motion was offered by Mr. Duval that on the agenda of every committee meeting, a place shall be designated in which the general public could appear and present themselves with time limitation left to the discretion of the Chairman. The motion was seconded by Rev. Alexander and approved. A short recess followed.

The meeting reconvened with the resuming of business at hand.

A lengthy discussion ensued on Constitutional Agencies appearing before the committee. A tentively

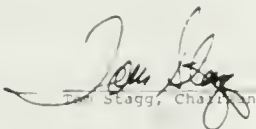
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approved list of these agencies is attached hereto and made a part of these minutes. It was suggested that committee members might wish to invite someone to appear that they feel would have a point of view to present.

It was suggested to the staff that in addition to the materials already given to the committee, that back-up material be distributed along with any relevant material from The Project and the Model State Constitution, and other thought leads or suggestions the staff feels would aid the committee.

Mr. Gravel offered the motion for adjournment. The motion was seconded by Mr. Arnette and approved.

There being no further business, the committee adjourned at 4:30 p.m.


Tom Stagg, Chairman

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Constitution of the State of Louisiana
(Topic 11; Volume 1)

A. Distribution of Powers
(Deleted)

B. Executive Officer or Officers

1. General Provisions

- Art. II. Distribution of Powers
 - Sec. 3. Continuity of governmental operations upon enemy attack
- Art. V. Executive Department
 - Sec. 1. Executive officers; consolidation of offices
 - Sec. 2. Governor; Lieutenant Governor; executive power; term; election
 - Sec. 3. Qualifications of Governor and Lieutenant Governor
 - Sec. 4. Commencement of term of Governor and Lieutenant Governor
 - Sec. 6. Governor; vacancy; inability to act; succession
 - Sec. 9. Lieutenant Governor; vacancy in office
 - Sec. 18. Constitutional officers; election; term; vacancies; assistants
 - Sec. 19. Treasurer; eligibility to succeed self
- Art. VI. Administrative Officers and Boards
 - Sec. 13. Agriculture; Commissioner to direct department
- Art. VII. Judiciary Department
 - Sec. 55. Establishment; composition; Attorney General, election and assistants
 - Sec. 56. Attorney General; qualifications; powers and duties; vacancies
- Art. VIII. Suffrage and Elections
 - Sec. 13. Office holders; residence requirements
- Art. IX. Impeachment and Removal from Office
(Deleted)
- Art. XII. Public Education
(Deleted)
- Art. XIX. General Provisions
 - Sec. 1. Oath of Office
 - Sec. 4. State offices; ineligibility of federal officer or officers of other states; dual office holding
 - Sec. 6. Performance of duties until successor inducted
 - Sec. 15. Passes, franking privileges or discriminatory rates for public officials; penalties; testimony

2. Powers and Duties

- Art. III. Legislative Department
 - Sec. 8. Veto
 - Sec. 26. Signing of bills; delivery to governor
 - Sec. 27. Effective date of laws; publication
 - Sec. 32. Mergers or consolidation of executive and administrative offices

page 2

- Art. IV. Limitations
 - Sec. 1. Appropriation; quarterly accounting
- Sec. 12-c. Commission of Agriculture and Immigration; jurisdiction; farm youth organization
- Art. V. Executive Department
 - Sec. 8. Lieutenant Governor; president of the senate; vote; president pro tempore
 - Sec. 10. Reprieves; pardons; commutation of sentences; remission of fines and forfeitures
 - Sec. 11. Appointment of officers
 - Sec. 12. Appointment of officers; recess appointments
 - Sec. 13. Reports to Governor; information and recommendations to Legislature
 - Sec. 14. Governor; execution of laws; extraordinary sessions of Legislature; restriction on power to legislate; limitation on time; proclamation and notice
 - Sec. 15. Signature of bills; veto
 - Sec. 16. Appropriation bills; veto of items
 - Sec. 17. Acts not requiring Governor's signature; legislative investigations
 - Sec. 21. Commissions; formalities

- Art. VII. Judiciary Department
 - Sec. 69. Vacancies; appointments; special elections; notices (local officers)
 - Sec. 72. Vacancy (coroners)
 - Sec. 93. Vacancies; temporary filling by district judges (Orleans)
- Art. VIII. Suffrage and Elections
 - Sec. 14. Election returns, officers commissioned by governor
 - Sec. 15. Ballots; methods of voting; secrecy; independent candidates; statements of candidacy
 - Sec. 18. Registrars of Voters; board of registration

- Art. IX. Impeachment and Removal from Office
(Deleted)
- Art. XIX. General Provisions
(Deleted)

page 3

3. Miscellaneous Provisions

- Art. III. Legislative Department
(Deleted)
- Art. 4. Executive Department
 - Sec. 5. Salary of Governor and Lieutenant Governor
 - Sec. 7. Salary of Acting Governor
 - Sec. 20. Salaries of constitutional officers; fees; expenses
- Art. VI. Judiciary Department
 - Sec. 57. Salaries (Attorney General and assistants)
- Art. XIII. Militia
 - Sec. 1. Organization, equipment and discipline
 - Sec. 2. Governor; Commander-in-Chief; powers
 - Sec. 3. Adjutant General
 - Sec. 4. Preservation of records, banners and relics
- Art. XIX. General Provisions
(Deleted)

2. Administrative Officers and Boards*

- Art. IV. Limitations
 - Sec. 1(a). Board of Liquidation of State Debt
 - Sec. 2(a). Board of Liquidation of State Debt; bonds; public works
 - Sec. 12-b. State Market Commission; guaranteed loans; agricultural facilities
- Art. VI. Administrative Officers and Boards
 - Sec. 1. Wildlife and Fisheries Commission; Forestry Commission; Department of Conservation; powers, duties; functions, etc.
 - Sec. 3. Public Service Commission
 - Sec. 4. Public Service Commission; powers
 - Sec. 5. Public Service Commission; orders; effective date; injunction; review; enforcement; appeals
 - Sec. 6. Public Service Commission; orders; penalties for violation

Sec. 7. Public Service Commission; local regulation of utilities; retention or surrender

*Local boards and port commissions and detailed tax and fund provisions which mention a board only slightly are generally not included.

- Art. VI. (cont'd.)
 - Sec. 8. Public Service Commission districts
 - Sec. 9. Public Service Commission; applicability of laws relating to Railroad Commission
 - Sec. 11. Boards of health; state, parochial and municipal; state health officer
 - Sec. 12. Public health; practice of healing arts; food and drug regulations
 - Sec. 15. Fire Marshal
 - Sec. 18. State Bank Commissioner
 - Sec. 19. State highways and bridges; construction and maintenance; traffic regulation; rights of parishes, municipalities and political subdivisions
 - Sec. 19.2. Board of highways; director; powers, duties and functions
 - Sec. 19.3. Beautification of highways; regulation of outdoor advertising and junk yards.
 - Sec. 19.4. Board of Highways; regulation and control of annual budget
 - Sec. 25.1. Bridges; construction and maintenance
 - Sec. 26. Department of Revenue; Legislative Auditor; State Printing Board
 - Sec. 27. Lake Pontchartrain; sale of submerged lands; islands; Causeway
 - Sec. 28. Liquefied Petroleum Gas Commission
- Art. X. Revenue and Taxation
 - Sec. 2. Tax Commission; powers; appointment; terms; salary
- Art. XII. Public Education (Deleted)
- Art. XIV. Parochial and Municipal Affairs (Deleted)
- Art. XVIII. Pensions
 - Sec. 4. Civil War; memorial hall for relics; battlefield markers and monuments
 - Sec. 8. Confederate Memorial Medical Center; correctional, charitable and penal institutions; bonds; tax
- Art. XIX. General Provisions
 - Sec. 27. Governmental ethics

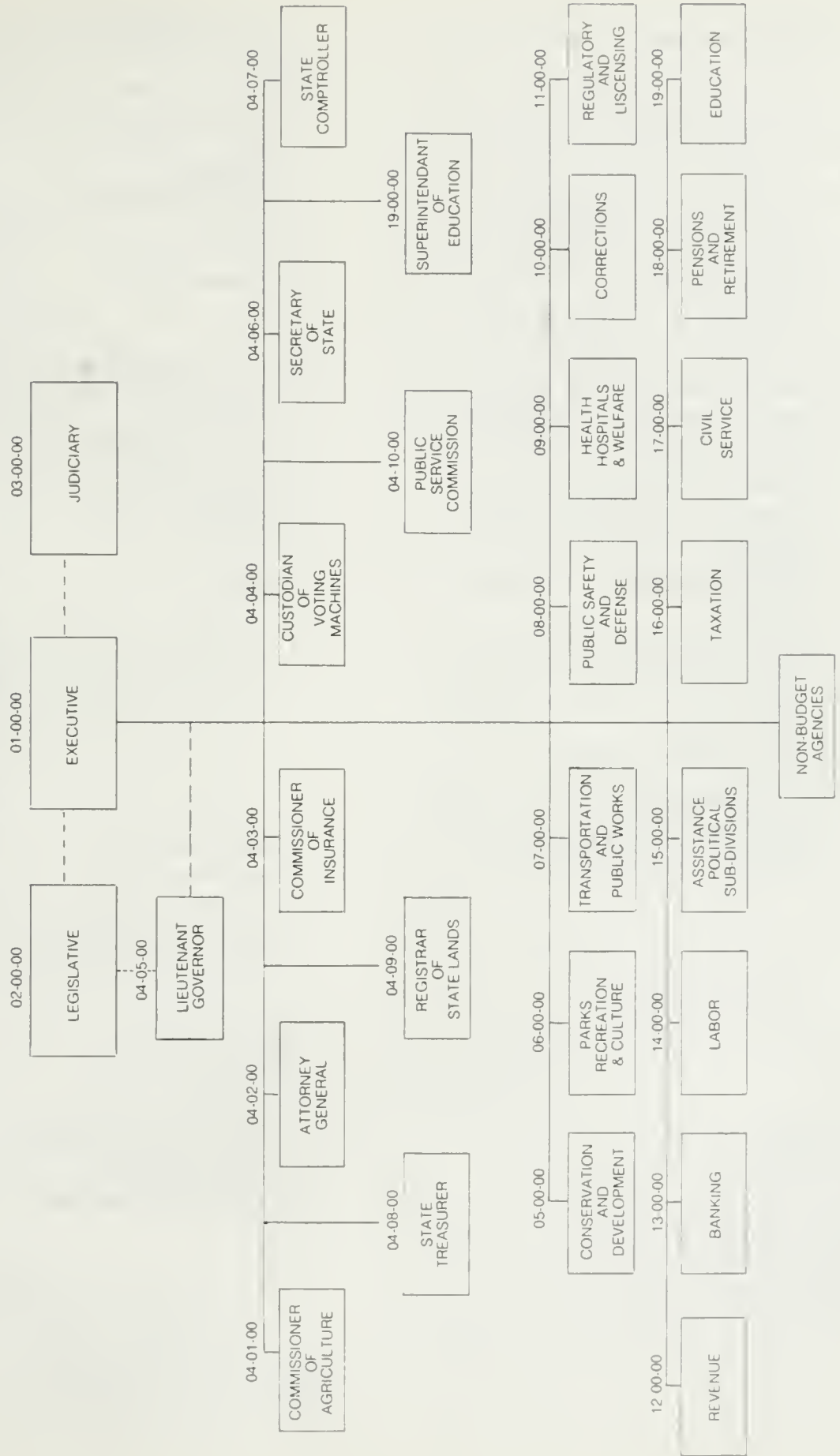
IN ADDITION TO THE CONSTITUTIONAL PROVISIONS DIRECTLY RELATED TO THE EXECUTIVE, THE COMMITTEE SHOULD BE COGNIZANT OF THE FOLLOWING CONSTITUTIONAL PROVISIONS WHICH AFFECT EXECUTIVE FUNCTIONS:

- Article I. Section 14Military power is subordinate to civil power.
- Article III. Section 8Governor to call special elections to fill legislative vacancies.
- Article IV. Section 9General Appropriation Bill, (Governor's office revises the bill which is tied to the executive budget and is an administration policy instrument)
- Article VI. Section 19.1Governor is ex-officio member of highway board; to fill vacancies; certain administrative functions.
- Article VI. Section 21,22, 23,23.1,23,24.1.....General Highway Fund. (Constitutional provisions limit governor's powers over state funds.)
- Article VI. Section 39.....Governor has authority to obtain reports and information from all executive and administrative departments (would extend to non-budget units)
- Article VI. Section 5, 7.....Relates to disposition of collections from "gasoline tax for ports", to be expended in part by the Board of Highways, an executive agency.

Article VI.-A. Sections 7, 9, 10, 11, 12.....Refers to tax collection ("gasoline tax for ports") by "Supervisor of Public Accounts", later referred to as "Supervisor of Public Funds." (Tax collection is an executive function, and there is no official with either of these names).

- Article VII. Section 7.....Governor to call special election to fill vacancies on Supreme Court.
- Article VII, Section 21.....Governor to call special election to fill vacancies in appellate judgeships.
- Article VII, Section 33.....Governor to call special election to fill vacancies in district judgeships. (See also Art. VII, Sec. 69).
- Article VII, Section 60.....Assistant District Attorneys to be commissioned by governor.
- Article X. Sections 4 (10).....State Board of Commerce. Industry authorized to enter into contracts for new manufacturing industries with governor's approval.
- Article XIII, Section 6.....Reference to duties of a "State Board of Engineers".
- Article XIV. Section 31.7.....Constitutional authority granted to executive agency: Department of Highways authorized to cooperate with and expend funds on New Orleans Inner-Harbor navigational Canal and New Orleans Port.
- Article XIV. Section 38.....Constitutional authority granted to State Land Office relative to public improvement districts.
- Article XIV. Section 38.1 (d).....Duties of State Land Office and Department of Public Works relative to public improvement districts.
- Article XV Section 4.....Governor appoints member to Iatt Lake Water Conservation District.
- Article XVI. Section 1.....Governor to fill vacancies on levee boards.
- Article XVI. Section 7 (b).....A state agency under control of governor appoints member of Lake Pontchartrain sanitary district.
- Article XVI. Sections 8, 8 (a)..... Constitutional functions given to agency in executive branch (Department of Public Works) including expenditure of public funds.
- Article XVIII. Sections 3, 6..... Constitutional functions of fiscal agency not under executive control, Board of Liquidation.
- Article XIX, Section 14..... Governor to direct injunctions against monopolies in restraint of trade.
- Article XIX, Section 20..... Duties of Governor and Department of Highways relative to New Basin Canal and Shell Road.
- Article XX. Section 1..... Governor's duties relative to Angola Bond issue.

**STATE OF LOUISIANA
BUDGETARY & FISCAL ORGANIZATIONAL CHART**



PROPOSED PLAN OF COMMITTEE ON EXECUTIVE DEPARTMENT MEASURES

The Committee adopted the following as an outline for its schedule of meetings:

- Meeting #1 - Thursday, March 15, 1973 - Outline Committee approach and general objectives
- Meeting #2 - Friday, March 16, 1973 - Continuation of Meeting #1 - Review of existing Constitutional provisions on Executive Department
- Meeting #3 - Monday, March 26, 1973 - Hearings on the powers, duties, and responsibilities of the Governor, Lieutenant Governor, and other statewide elective Executive officers
- Meeting #4 - Tuesday, March 27, 1973 - Continuation of Meeting #3 on Governor and other statewide elective Executive Officer
- Meeting #5 - Monday, April 2, 1973 - Continuation of hearings on Governor and other statewide elective Executive officers
- Meeting #6 - Tuesday, April 3, 1973 - Hearings on other Executive Departments, boards, and commissions
- Meeting #7 - Wednesday, April 4, 1973 - Continuation of hearings on other Executive departments, boards, and commissions
- Meeting #8 - Monday, April 30, 1973 - Hearings on reorganization of the Executive Department
- Meeting #9 - Tuesday, May 1, 1973 - Continuation of hearings on reorganization of the Executive Department
- Meeting #10 - Wednesday, May 2, 1973 - Continuation of hearings on reorganization of the Executive Department
- Meeting #11 - Wednesday, May 9, 1973 - Hearings on other Executive departments, boards, and commissions
- Meeting #12 - Thursday, May 10, 1973 - Hearings on other Executive departments, boards, and commissions
- Meeting #13 - Friday, May 11, 1973 - Drafting of Executive article
- Meeting #14 - Thursday, June 14, 1973 - Continuation of drafting of Executive article
- Meeting #15 - Friday, June 15, 1973 - Continuation of drafting of Executive article
- Meeting #16 - Saturday, June 16, 1973 - Final drafting of Executive article and recommendations of Committee

- 6. Bridge and Ferry Authorities (General provision)
- 7. Commerce and Industry, State Board and Department of 15
- *8. Comptroller, State
- 9. Conservation, Commissioner and Department of 1
- 10. Education, State Superintendent and Department
- 11. Ethics, La. Commission on Governmental 5
- 12. Ethics for State Elected Officials, La. Board of 1
- 13. Fire Marshal, State 1
- 14. Forestry Commission 5
- *15. Governor
- 16. Health, State Board of and State Health Officer 9
- 17. Highways, Board and Department of 8
- *18. Insurance, Commissioner of
- *19. Land Office, State and Register of the
- 20. Levee Districts, Boards and Commissioners of
- *21. Lieutenant Governor
- 22. Liquefied Petroleum Gas Commission
- * Elected

1. Does not include state & local agencies referred to by name or function only; does not include local agencies such as local health units, parish

Page 2

- 23. Museum, Board of Managers of the Louisiana State 11
 - 24. Pardons, Board of
 - *25. Public Service Commission
 - 26. Public Welfare, State Board, Commissioner and Department of 8
 - 27. Revenue, Collector and Department of 1
 - *28. Secretary of State
 - 29. Stadium and Exposition District, Louisiana 1
 - 30. Tax Commission, Louisiana 3
 - 31. Treasurer, State
 - *32. Voting Machines, State Custodian of
 - 33. Wild Life and Fisheries, Commission, Louisiana 7
 - 34. Liquidation of the State Debt, Board of
- TOTAL 79

CONSTITUTIONAL AGENCIES¹

Agency Name	Number of Governatorial Appointees
1. Adjutant General, Military Department	1
*2. Agriculture, Commissioner and Department	
*3. Attorney General and Department of Justice	
4. Banking, State Commissioner and Department	1
5. Bond and Tax Board, State (referred to Coordinating Committee)	1

MINUTES

Minutes of the meeting of the Executive Department Committee on the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary
of the Convention on March 15, 1973

State Capitol, Baton Rouge, Louisiana
Room 205, Monday, March 26, 1973 and
Tuesday, March 27, 1973, 9:00 a.m.

Presiding: Tom Stagg, Chairman of the Executive

Department Committee

Present: Mack Abraham
Reverend Avery C. Alexander
Joseph E. Anzalone
Greg Arnette
Emmett Asseff
Hilda Brien
Stanwood R. Duval
Camille F. Gravel
Tom Stagg
Reverend James L. Stovall
Representative Elmer R. Tapper

Absent: Moise Dennery

Others Present: Honorable Wade O. Martin, Jr.,
Secretary of State
Honorable Roy Theriot, State Comptroller
Governor Robert Kennon
Governor John J. McKeithen
Honorable Nat B. Knight, Public Service Com.
Honorable Charles Roemer, Division of
Administration

A briefing by the research staff was the first
order of business with discussion of new material handed
out to the committee members.

Chairman Stagg introduced the Honorable Wade O.
Martin, Jr., Secretary of State. A copy of Mr. Martin's
presentation is attached hereto as Exhibit A and made
a part of these minutes. Mr. Martin emphasized the
importance of the Secretary of State's office remaining
an elective office. Discussion was held on the contents
of his presentation. Mr. Martin suggested that the
Secretary of State be the chief elections officer in
the state, which would of necessity require that there
be some constitutional change with the implied authority
to call special elections.

Comparing the Secretary of State's office in Louisiana
to that in other states, Mr. Martin said that there are
only four or five states where the Secretary of State's
office has more functions than that of Louisiana. Mr.
Martin suggested that the Commissioner of Insurance office
be separate from that of the Secretary of State's office.
He further suggested that land titles of the state be
transferred to the Secretary of State's office because
they justly deserve to be treated as records in the archives
department. Several members requested that Mr. Martin
submit a recommendation on how he feels the language should
read in the new constitution concerning the Secretary of
State's office. He agreed, with the understanding that
his recommendation apply in the event the State Land

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Office was abolished. Mr. Martin urged the committee
to state in the constitution the general areas of
jurisdiction of each office and what that office shall
constitute.

Following Mr. Martin's presentation, Chairman
Stagg introduced the Honorable Roy Theriot, State

Comptroller. Mr. Theriot stated reasons why the state
comptroller's office should continue as an elective
office. He said that when the people are given the
right to elect state officials, then democracy is
working at its best. He also said that since the advent
of Huey Long into the political world, Louisiana has had
a powerful governor and a weak legislative branch. He
remarked that through the years, the comptroller's office
has been weakened tremendously. Many of the duties of the
comptroller have been distributed to the Division of
Administration. Mr. Theriot recommended that the Division
of Administration be abolished. He also advised the
committee that twenty-five (25) out of fifty (50) states
in the Union have comptrollers. Mr. Theriot then explained
the functions of the comptroller's office, the main function
being to provide a check and balance of the treasurer. A
lengthy interview followed.

The Committee on the Executive Department recessed
at 12:00 p.m. and reconvened at 1:30 p.m.

A motion was offered by Mr. Gravel that about the
time that the Attorney General appears before the committee,
the committee also hear from a representative

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of the District Attorney's Association in order to get
facts regarding the removal of the attorney general and
the district attorney from the Judiciary Committee to the
Executive Department Committee. The motion was seconded
by Representative Tapper and approved.

Chairman Stagg introduced former Governor Robert
Kennon. Governor Kennon recommended that for the purpose
of long term programs, the governor be able to succeed
himself. He also stated that he is in favor of retaining
the blue-ribbon boards but suggested some changes might
be made in appointing them. He suggested the Police
Jury Association, Municipal Association, and the State
School Board Association might nominate panels from which
the governor might appoint persons to these boards. He
also stated that the governor should have control over
all of the Executive Department Division and that he is
not in favor of centralized authority.

Chairman Stagg introduced former Governor John J.
McKeithen. Governor McKeithen yielded to the first
question. Some basic information brought out by the
committee and Governor McKeithen are as follows:
Governor McKeithen stated that when he was in office, he
refused to go along with anything that gave more power
to the governor. He also stated that the chances of getting
good government are better with the governor controlling
the legislature. He also stated that the Civil Service
could be too strict.

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Governor McKeithen recommended that the levee board be eliminated and further, that if they are going to be appointed by the governor, they should serve at his pleasure. Governor McKeithen noted that there is not a department that could be combined. He also advised the committee "If you try to do too much, you are going to lose it all. We need strong leadership."

After a brief recess, Chairman Stagg introduced Mr. Nat B. Knight of the Public Service Commission. Mr. Knight gave reasons why the authority and treatment of the commission should be continued in the constitution. He said that since 1921, there have been no constitutional amendments added to the document dealing with the Public Service Commission. The principal and basic authority, the regulation of utilities, is in the same condition today as it was in 1921. He stated that the authority, particularly over utilities, should be protected for the public interest by incorporations in the constitution. Mr. Knight stated that funds are self-generated and that many are obtained through an appropriation which the Legislature makes.

Mr. Charles Roemer of the Division of Administration was introduced by the Chairman. A copy of Mr. Roemer's presentation is attached hereto as Exhibit B and made a part of these minutes. Mr. Roemer stated that the Division of Administration is an extension of the governor's office, to serve at the governor's pleasure and report

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to him directly. He stated that the Division of Administration has been set up since 1940 and that merging with the office of Comptroller would be taking power from the governor. A discussion ensued on the materials handed out.

The meeting of the Committee on the Executive Department recessed at 5:30 p.m. and reconvened at 9:00 a.m., Tuesday, March 27, 1973.

Present

Mack Abraham
Reverend Avery C. Alexander
Greg Arnette
Emmett Asseff
Hilda Brien
Moise W. Dennery
Stanwood R. Duval
Camille F. Gravel
Tom Stagg
Reverend James L. Stovall

Absent

Joseph E. Anzalone
Elmer R. Tapper

Others Present

Mr. Sherman Bernard, Commissioner of Insurance
Mr. Ed Steimel, Executive Division of PAR
Mrs. Ellen Bryan Moore, Registrar of State Lands
Lt. Governor James Fitzmorris
Mrs. Mary Evelyn Parker, State Treasurer
Mr. Douglas Fowler, Custodian of Voting Machines
Mr. Edward W. Stagg, Council for a Better Louisiana
Mr. Dave L. Pearce, Commissioner of Agriculture

A discussion was held concerning scheduled dates of meetings. Mr. Abraham offered a motion that the scheduled meeting number 7 of April 4, 1973, be cancelled and that day be banked for future use. The motion was seconded by Mr. Gravel and approved.

A motion was offered by Mr. Gravel that Messrs. J. H. Burris, J. B. Lancaster and Allison R. Kolb be invited and scheduled to appear before the Committee on the Executive Department. The motion was seconded

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by Dr. Asseff and approved.

Chairman Stagg introduced Mr. Sherman Bernard, Commissioner of Insurance. A copy of Mr. Bernard's presentation is attached hereto as exhibit C and made a part of these minutes. In the interview that followed Mr. Bernard's presentation, Mr. Bernard stated that the Commissioner of Insurance should remain an elective office. He stated that the duties of the Commissioner of Insurance office are to perform all regulatory authority in the state in regard to insurance. He suggested that all of Title 22 should come under the Commissioner of Insurance which would in effect abolish the Rating Commission. He also stated that the office is politically bogged down. Mr. Bernard then referred to charts and discussion ensued.

Chairman Stagg introduced Mr. Ed Steimel of the Executive Division of PAR. A copy of Mr. Steimel's presentation is attached hereto as Exhibit D and made a part of these minutes. Mr. Steimel gave no recommendations for the extension of the duties of the Lt. Governor, but said he would make a further survey and present it to the committee. He stated that he is opposed to having a state auditor elected. He also stated that the attorney general's functions are primarily Executive functions rather than Judicial. Discussion ensued concerning his presentation.

Chairman Stagg introduced Mrs. Ellen Bryan Moore,

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Registrar of State Lands. A copy of Mrs. Moore's presentation is attached hereto as Exhibit E and made a part of these minutes. Mrs. Moore reiterated on her presentation and agreed to submit to the committee her recommendations as to where the different sections of the State Land Office should go in the new constitution.

The Committee on the Executive Department recessed at 12:00 p.m. and reconvened at 1:30 p.m.

The Chairman introduced Lieutenant Governor James Fitzmorris. A copy of Governor Fitzmorris' presentation is attached hereto as Exhibit F and made a part of these minutes. Governor Fitzmorris stated that there are advantages of the Lieutenant Governor and the Governor running on the same ticket. He urged the committee to spell out the duties of the Lieutenant Governor. Governor Fitzmorris also stated that it is very improper to give an elected official the responsibility of serving as chairman of the Pardon Board merely making recommendations.

Chairman Stagg introduced Mary Evelyn Parker, State Treasurer. A copy of Mrs. Parker's presentation is attached hereto as Exhibit G and made a part of these minutes. Mrs. Parker reiterated on her presentation stating that the most general function the treasurer performs is that the Treasurer and Comptroller act as a check and balance on each other. It was requested by the members that Mrs. Parker provide the committee with a list of all funds which are not received by the Treasurer's office, and why. It was also requested that Mrs. Parker prepare a recommended

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statement that might be put into the new constitution.

Chairman Stagg introduced Mr. Douglas Fowler, Custodian of Voting Machines. A copy of Mr. Fowler's presentation is attached hereto as Exhibit H and made a part of these minutes. Mr. Fowler stressed that the office of Custodian of Voting Machines should be an elective office. He stated that Louisiana was the first state to elect a Custodian of Voting Machines. He suggested that there should be a Commissioner of Elections for the State of Louisiana.

Chairman Stagg introduced Mr. Edward W. Stagg of the Council For a Better Louisiana. After Mr. Stagg noted that he would not bloviate, Chairman Stagg asked that the records show that "bloviate" be defined as "to come and tell more than you know". Mr. Stagg said that the council has taken the position in the past in support of governmental reorganization from the standpoint of consolidation of agencies and reduction in the number of agencies. The Constitution should not attempt to delineate too many of these agencies. He stated that generally, the present powers that the governor has are good. He suggested that the committee take into consideration the following points:

1) Pardon Power - It might be desirable for the governor to have this in capital cases; perhaps set up an agency to handle pardons rather than having it before the governor.

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2) A ten day deadline for the governor to approve bills is not enough - perhaps he should have a fifteen day period or more to review bills.

3) The governor's power is severely restricted in the authorization of bonds.

4) If the addressing of people out of office should stay in the constitution, the benefit of a hearing should be had.

5) Fix a salary for the governor at some reasonable level.

6) Retain the Lieutenant Governor, but not necessarily strengthen his powers.

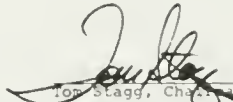
Mr. Stagg also stated that a percentage type veto on certain bills would not work.

Chairman Stagg introduced Mr. Dave L. Pearce, Commissioner of Agriculture. A copy of Mr. Pearce's presentation is attached hereto as Exhibit I and made a part of these minutes. Mr. Pearce stated that compared to that of other states, the trend is toward larger and fewer farms. He also stated that all states have a Commissioner of Agriculture except Indiana and Arkansas. The committee members requested that Mr. Pearce submit to the committee a recommendation on how the new provision should be worded in the constitution. He also stated that he would not support the new constitution if it were decided that the Commissioner of Agriculture should be an appointed office.

A briefing by the research staff was held.

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There being no further business, the Committee on the Executive Department adjourned at 5:00 p.m.


Tom Stagg, Chairman

NOTES

Exhibit A is omitted. It reproduces Agency Program Outline from Executive Budget for Fiscal Year 1973-74. It includes an organizational outline of Secretary of State's Office and the constitutional and legal authority for the office and its functions.

Exhibit B

10:00, March 19th

Mr. Roemer:

Re: Your appearance before the Executive Committee of CC73

Time and Date: ^{4 00 4 45} ~~10:15-11:00~~, Monday, March 26th

The Committee would like a report on the following:

- 1) Constitutional and statutory-dedicated revenues, and the collections for the most recent year.
- 2) Information on the size of the State Budget allocation -- cost of personnel, equipment, etc. -- information on all of the large segments.
- 3) Relationship between our office and the Office of the Governor -- what functions do we (Division of Administration) perform for the Governor's Office, etc.
- 4) Types of State funds which do not flow through this office and over which you have no control, such as investment of idle funds, etc.

1. The specific constitutional and statutory dedications can be found in the State Budget (copies enclosed).

Revenue estimates for FY 72-73 are \$1,457,000,000.

Dedicated Revenues for FY 72-73 \$1,011,500,000.

2. Total State Budget Allocation for FY 72-73, \$1.9 billion.

Personnel Services	\$826,000,000
Includes wages, Student Labor, Professional Services and Fringe Benefits. Also, includes school personnel of about \$400,000,000.	
Equipment	13,700,000
Supplies	41,000,000
Contractual Services	44,000,000
Debt Service	50,000,000
Welfare Payments	299,000,000
Highways	289,000,000

3. Functions of the Division of Administration

- Budget Preparation and Control
 - Property Insurance
 - Property Rental
 - Purchasing
 - Fiscal & Administrative Research
 - Accounting
 - Adm. of Group Insurance
 - Public Information System
 - Administrative
- (See detailed list of functions attached)

4. Investment of idle funds

(See copy of Act 341 - Cash Management Bill)

- (2) Coordination of all the procedures for financial administration and financial supervision so as to integrate them into an adequate and unified system, including the devising, prescribing and installing of accounting procedures for all State agencies.
- (3) Formulations of financial plans and programs for approval and adoption by the Governor and the Legislature and exercising such supervision as is necessary to provide for carrying out such financial plans and programs as are adopted by the Legislature.
- (4) Accounting supervision and fiscal reporting for all State agencies and the State as a whole.
- (5) Investigating the financial affairs and operations of the State and its agencies, as hereinabove defined.
- (6) A central purchasing agency is constituted and created in the Division of Administration and shall exercise those powers and functions as hereinafter set forth and as may be further provided by law. The Commissioner of Administration through the State Purchasing Officer shall be required to purchase or contract for all supplies, material, and contractual services, including institutions, boards, commissions, budget units and other agencies which derive support from public funds and which are hereinafter referred to as the using agency, except as otherwise expressly provided

SUMMARY OF THE DUTIES AND RESPONSIBILITIES
OF THE OFFICE OF THE GOVERNOR
DIVISION OF ADMINISTRATION

Louisiana Revised Statutes, Title 39 of 1950, as amended throughout the years, created the Division of Administration of the Office of the Governor to exercise powers and functions as hereinafter stated under Title 39 and as may be further provided by law.

The purpose of the Division of Administration is to implement laws passed by the Legislature and/or Executive Orders issued by the Governor. As it does in most states, the Division of Administration performs the administrative functions for the Governor's Office.

"The Division of Administration shall consist of the position of Commissioner of Administration and such other subdivisions and sections deemed necessary in the opinion of the Governor to carry out budgeting, accounting controls, centralized purchasing, and other functions as provided for in Title 39."

The functions of the Division of Administration shall comprise all administrative functions of the State, except as otherwise expressly provided by this, in relation to:

- (1) General management and supervision of the finances and financial operations and affairs of the State and all State agencies including allotment of expenditures based on work program and preparation of the Executive Budget of the State.

- herein. The Purchasing Department shall in all its purchasing and related activities pursue a policy of securing the greatest possible economy consistent with grades or quality of supplies and services that are adapted to the purposes to be served, including standardization of materials, management of inventories, and the projection of the needs of State agencies. Whenever in his opinion the best interest of the State will be served, thereby, the Commissioner of Administration may delegate in writing the authority to purchase any materials, supplies and contractual services in any degree for any State agency covered by this Chapter. When such delegation of purchasing authority to any agency is made, the Purchasing Agent or other purchasing authority shall be considered to be a deputy purchasing agent of the central purchasing agency and shall be subject to all of the requirements of this Chapter and shall be under the supervision of the Division of Administration.
- (7) Controlling surplus property and assigning such property for use as required and prescribing and enforcing regulations governing the condemnation and disposition of movable properties of no further use to the State or its agencies.
- (8) The rental, purchase, erection or construction of any building structure, or space to be used by State administrative agency for housing its personnel or facilities or carrying on its business. The Commissioner,

however, shall at all times utilize property owned by the State to house State agencies insofar as this is practical and shall, to the best of his ability and consistent with their functions, house all State departments in a single building.

(9) The Division of Administration shall have the following Data Processing responsibilities:

(A) All selection, purchase, and installation of data processing equipment or services where all or any part of such equipment or services is to be purchased with State and/or federal funds for use by any state agency, board or commission, shall first be approved by the Commissioner of Administration and all contracts shall be executed under the supervision of the Commissioner of Administration through state central purchasing.

(B) Current information regarding data processing equipment and its use shall be kept and made available to agencies of the state by the Division of Administration.

(C) The use and management of all data processing systems by any agency, commission or board, political subdivision or political corporation of the State, except parishes and municipalities of the State, shall be supervised and coordinated by the Commissioner of Administration. The state computer center and its

director and employees shall be managed and operated by the Commissioner of Administration.

(D) The Division of Administration shall review, coordinate and approve data transmission requirements and needs for all State agencies. A state-wide computer data communications coordinating office shall be established by the Commissioner, Division of Administration in order to provide central control for data communications.

(E) All other duties which the Commissioner, Division of Administration may deem essential to the carrying out of the above stated duties and those duties and responsibilities as required by Title 39 shall be performed by the Commissioner, Division of Administration.

(1) The Commissioner of Administration was directed to establish a master group hospital, surgical, n/a or medical and life insurance program for all State employees and make all arrangements necessary for effective implementation. Provisions should also be made in the program for optional coverage for dependents.

(11) The Commissioner of the Division of Administration through the Insurance Office, shall establish self-insurance programs to cover as much of the State's properties, insurable interest, activities, and group programs as he deems economically feasible.

The provisions of this shall not apply to the judiciary of the State, except the office of the Attorney General to which they shall apply, nor to the Legislature.

The Division of Administration shall exercise such other duties and functions germane to its primary functions as may be prescribed by law or as directed by the Governor by Executive Order.

NOTES
Act 341, 1972 Regular Session omitted.
Text of the "Cash Flow Management Act"
is found in printed acts.

NOTES
Statement of Commissioner of Insurance
Sherman A. Bernard follows.

I am in a hard position today. If I do not speak out, I am failing to serve the insurance consumers of Louisiana who elected me to serve them. And if I object to proposed consolidation and reorganization some might say this is a selfish plea for preservation of the Louisiana Insurance Commissioner, as an elected official.

Louisiana citizens spend 10% of their income on insurance-- more than one billion dollars. They elect an Insurance Commissioner to bird-dog their money. My office has recently put several people out of business -- whose activities included collecting money for insurance and then failing to deliver what they had been paid for. We also regulate agents activities in other ways and we license them. In a typical year, we issue 77,000 agents and brokers licenses and company appointments.

We also investigate the financial condition of 1,200 companies which sell insurance to Louisiana. If we find these companies in bad financial condition, we do not allow them to do business here. If an insurance company goes bankrupt, we oversee the efforts made to reimburse creditors.

We collect more than \$20 million in premium taxes annually. The Commissioner recently forced a general reduction in casualty insurance rates by 6.6%. And this was done in a time of general inflation -- with the price of everything on the increase. By the way, we do this with a staff of only 39 and a budget of \$485,000.

The office of Insurance Commissioner is one of a select few with direct powers over things that bear on what the citizen pays for what he must buy. And let us face it -- the citizen who owns something he can lose, already has compulsory insurance; he dares not do without.

The president has moved to spotlight the importance of local responsibility in political affairs. Are we not putting the right foot where the left should be if we reverse this trend from Washington?

Our Insurance Commissioner's Office is not controlled by anyone but the voters.

I feel that the insurance consumers of Louisiana have too much of their budgets concerned to remove the commissioner's job from elective status. If the commissioner does not do his job then the insurance consumers can toss him out at the end of four years.

In states where the insurance commissioner is appointive, the National Association of Insurance Commissioners tells me that the average term of office is only 8 months. If things go wrong, the governor tosses out the commissioner and blames him for everything that was out of whack. This revolving door approach to insurance business in state government does nothing for the insurance consumer. A man hardly has time to locate his desk before he doesn't have a desk anymore.

The Louisiana insurance consumer has a right to elect that person who has such control over such a very high percentage of the contents of his wallet. I request that you remember that -- for the benefit of the insurance consumers of Louisiana.

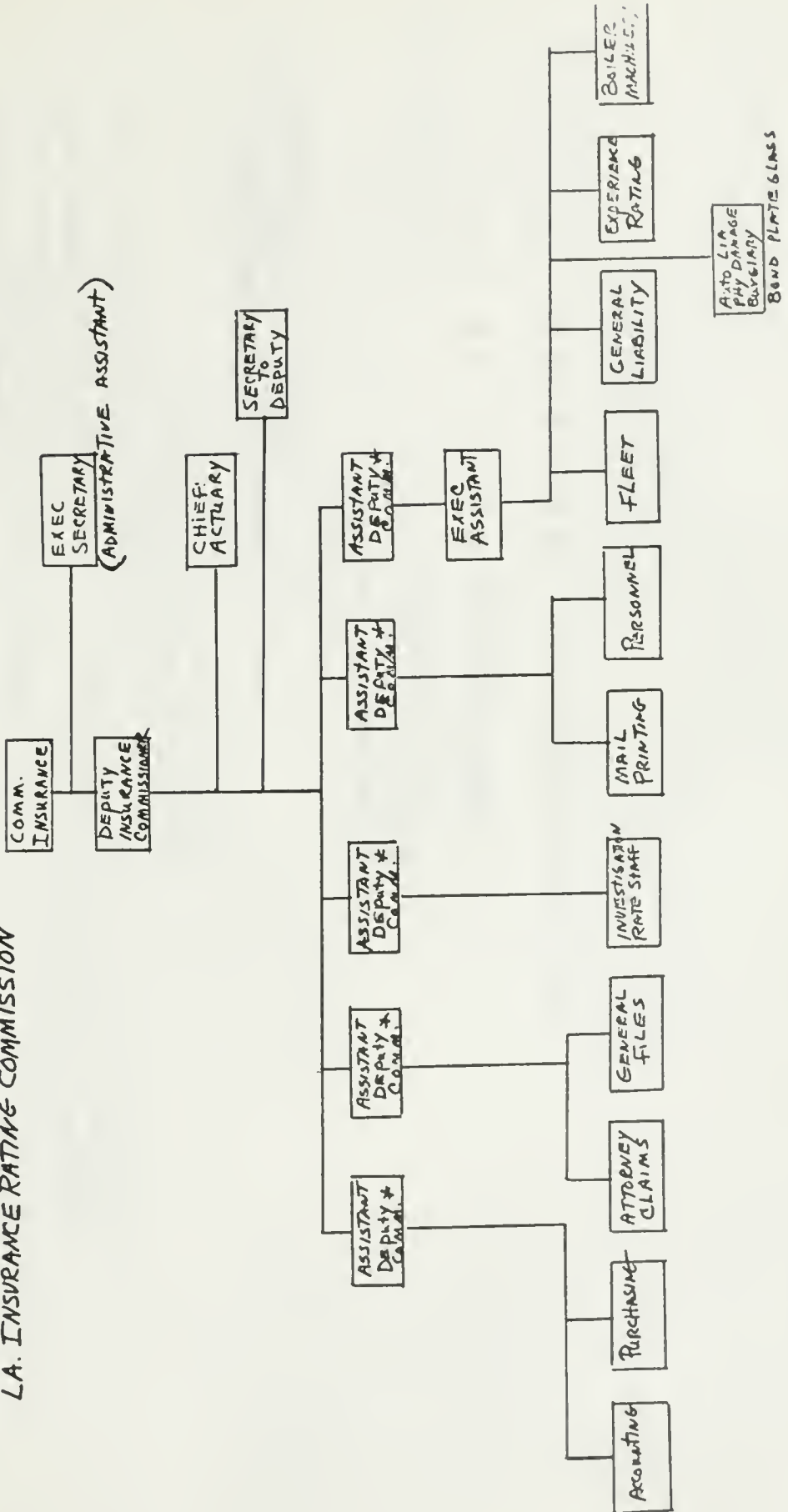
Why bury the Insurance Commissioner Office among the 1,500 officials already appointed by the Governor -- and the countless officials appointed by those appointed by the Governor?

En passant, here is a suggestion which the committee may wish to look into:

Let us consider the Swiss plan where the Governor of Louisiana would not be elected at all. Under this ultra democratic system, we would elect only the several constitutional officers of the state. Then each one of these elected officers, in turn, would hold the additional title "Governor of Louisiana" in addition to his other title, for one year only. He would shake hands with all visiting insurance commissioners; kiss the Gumbo Queen, the Oyster Queen, the Crawfish Queen and the Sweet Potato Queen. At the end of the year, the next elected officer would assume the additional burdensome duties. He would get \$2,000 extra during this year in office. The Governor would have no appointive powers at all beyond the power to name honorary governors of Louisiana. That would bring a true Swiss democracy to Louisiana.

CONSOLIDATION:
 COMMISSIONER OF INSURANCE OFFICE
 LA. INSURANCE RATING COMMISSION

Exhibit C



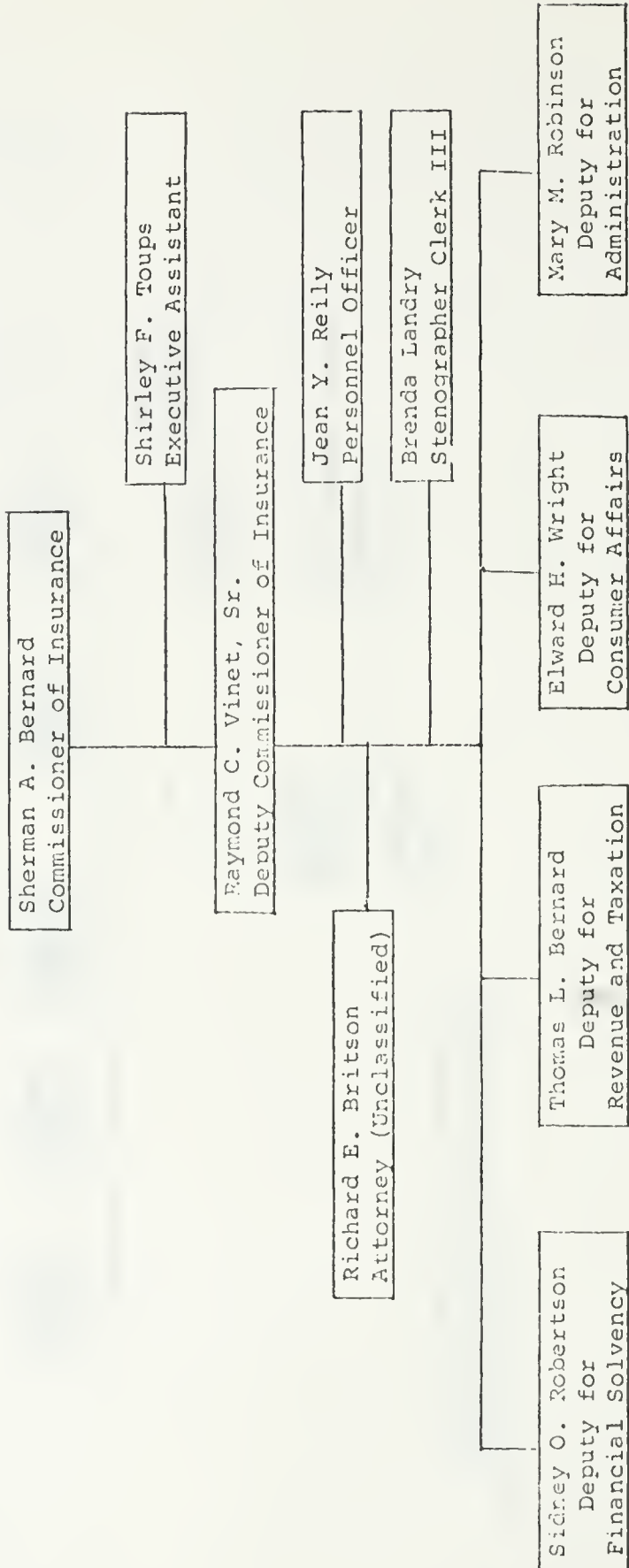
* = See # 1 for Present duties & Extra shown here. This is Total Departmentalization Idea.

Exhibit A

#1

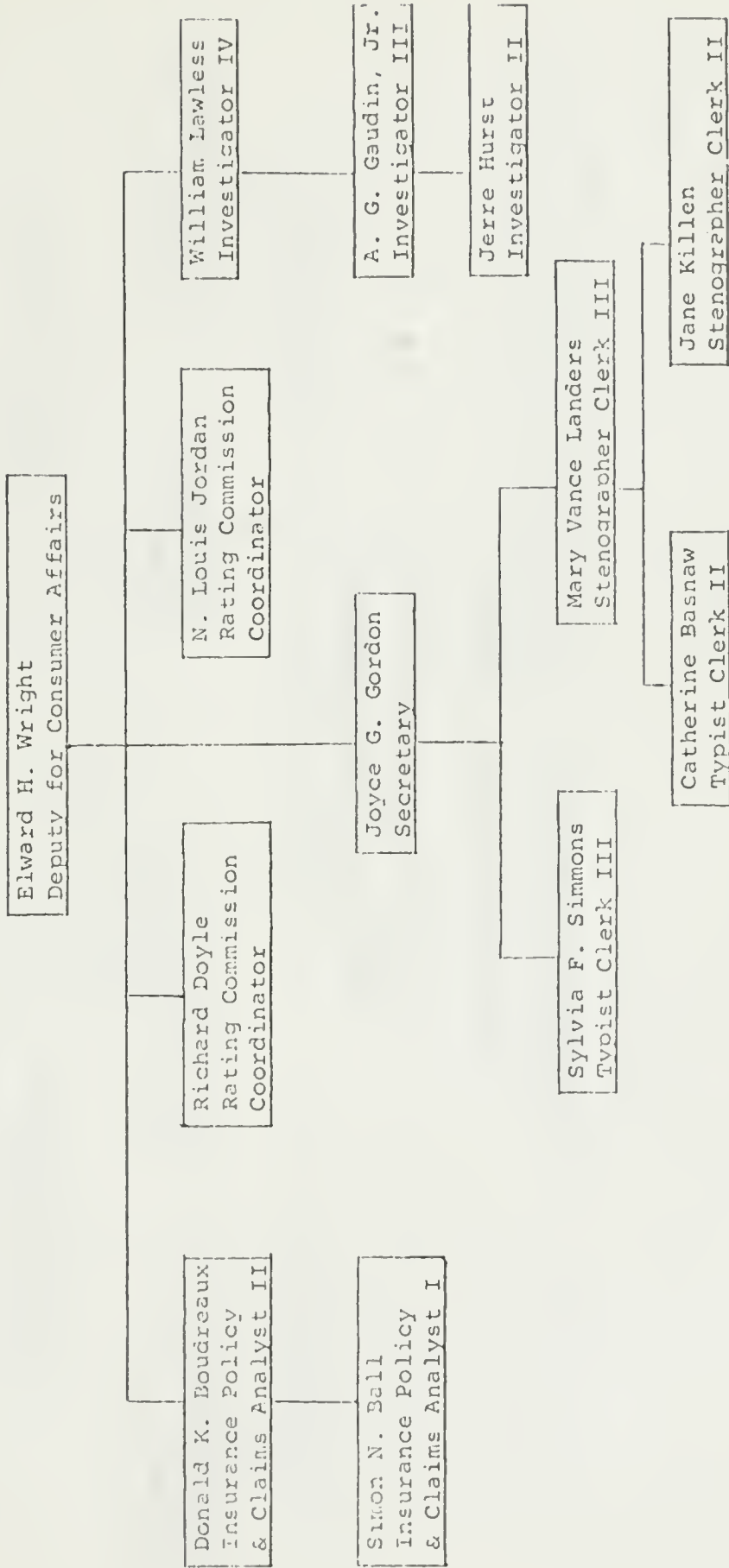
COMMISSIONER OF INSURANCE

COMMISSIONER'S OFFICE



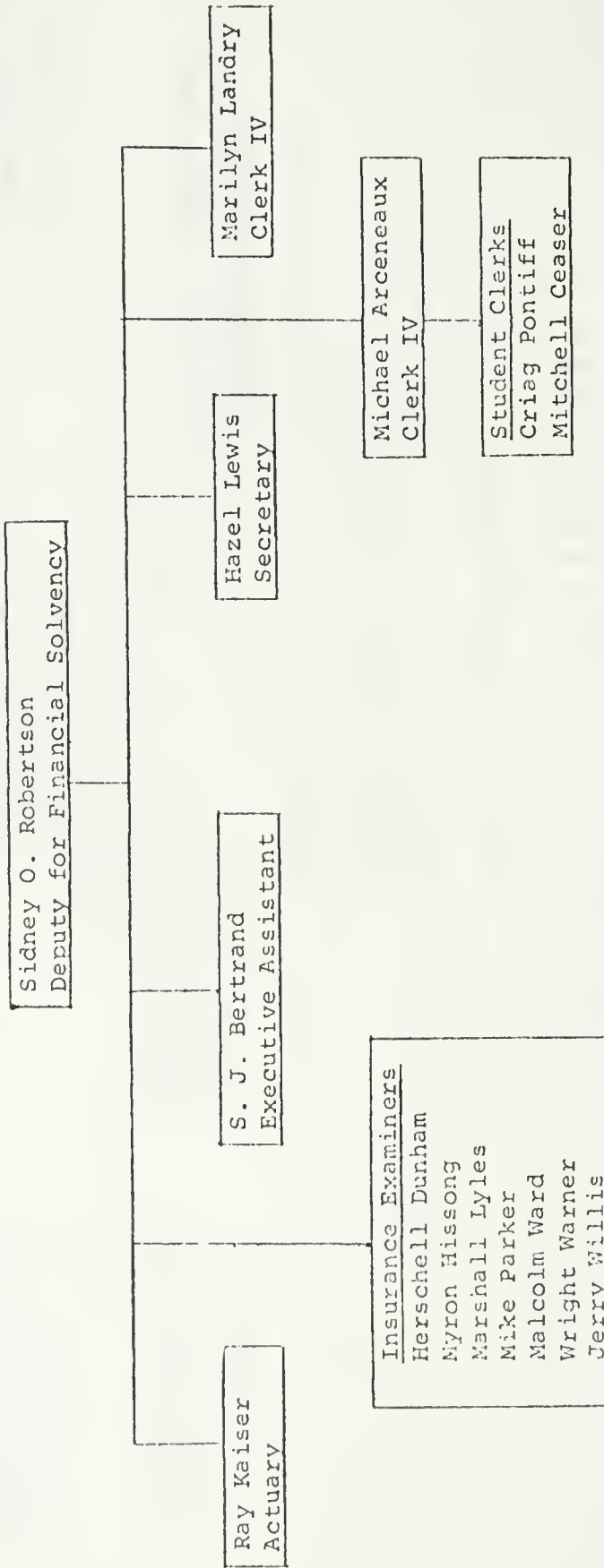
COMMISSIONER OF INSURANCE

DIVISION OF CONSUMER AFFAIRS



C O M M I S S I O N E R O F I N S U R A N C E

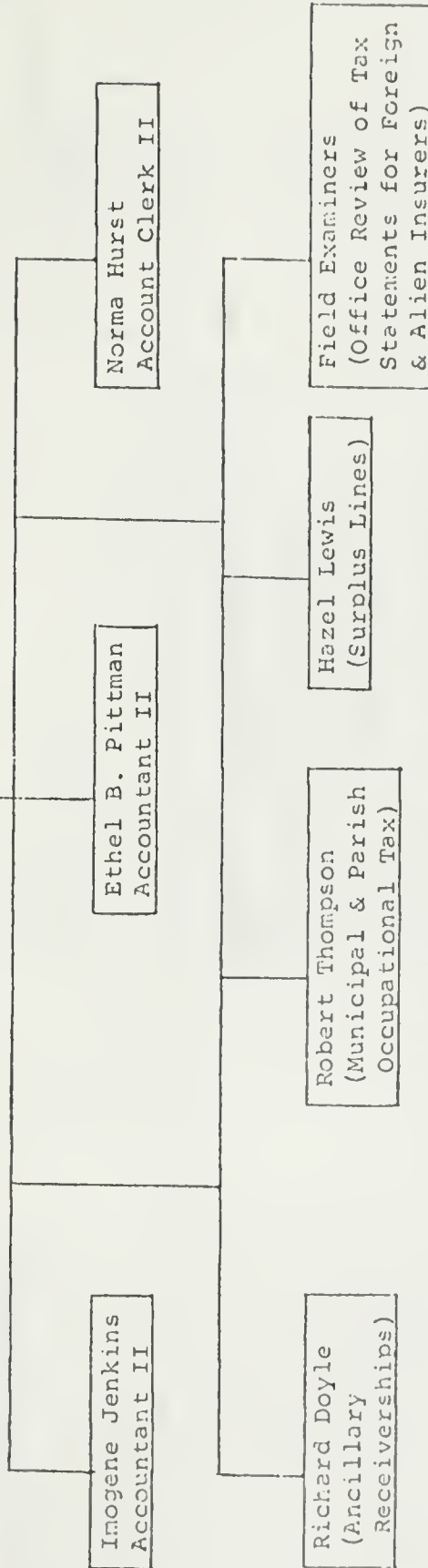
DIVISION OF FINANCIAL SOLVENCY



COMMISSIONER OF INSURANCE

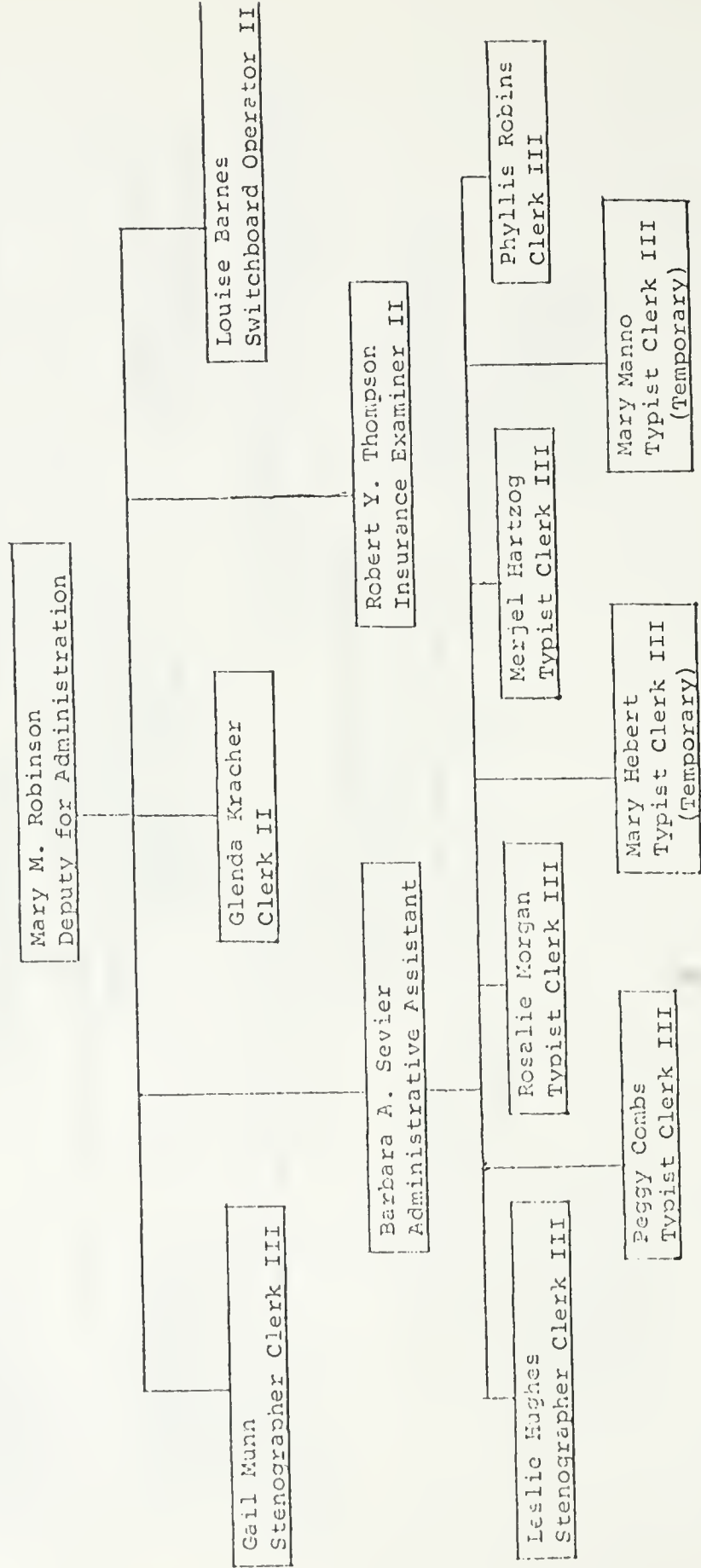
DIVISION OF REVENUE & TAXATION

Thomas L. Bernard
Deputy for Revenue & Taxation



C O M M I S S I O N E R O F I N S U R A N C E

DIVISION OF ADMINISTRATION



STATEMENT OF E. J. STEIMEL, EXECUTIVE DIRECTOR OF PAR

In Response to A Request of the Committee on Executive Department of the Louisiana Constitutional Convention March 27, 1973--10:15 a.m.

I do not propose the phrasing of the article on the executive. Rather I will suggest what we, of the PAR staff, believe are the important substantive provisions to be included in the Constitution.

We are sure that through your staff's or your own committee's efforts, you have access to much of the comparative data which is also available to us. I will, therefore, not burden you with a large amount of statistical data on how many states do this or that. Neither will I review the provisions of the Model State Constitution published by the National Municipal League, for I am sure you have it, too.

What I will present today is a consensus of our staff which draws on a combination of our research and observations of Louisiana state government for the past 22 years, recent experiences of other states in rewriting their constitutions, as well as a review of the current literature on the subject.

A very brief composite of the provisions dealing with the executive branch from recent state constitutions was recently set forth by Albert Sturm in the publication, State Government, as follows:

"Integration of the executive power in a Governor elected for a four-year term and eligible for re-election (alternative: election of Governor and Lieutenant Governor as a team on the same ticket);

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extensive executive and administrative powers, including selection and removal of subordinates; power to initiate administrative reorganization; the item veto and ample time to act on legislative bills; limitation on the number of administrative departments into which agencies are integrated on the basis of major purpose; clear provision for succession to the governorship and a reasonable procedure for determining executive disability; general provision for a merit system."¹

We would generally agree with this enumeration as proper for a modern state constitution. Some of the provisions could be located in other articles, such as the merit system and legislative veto power but can just as well fit in the executive article.

Let me therefore speak in the substantive points. The Constitution we believe should provide for the following:

1. Officers

The governor and lieutenant governor should be elected jointly as a team. The lieutenant governor should be clearly the Number Two man in the executive branch. He should not preside over the Senate nor perform any other functions associated with the legislative branch. The two branches should be distinctly separate.

This coincides with the trend in new state constitutions and corresponds to the current provisions of 15 states, eight of which adopted the provision in the past half-dozen years. A true second-in-command, with views compatible with the chief executive, in a giant organization spending \$2 billion a year and employing 50,000 persons just makes administrative sense in 1973.

¹The 1971 Revised Virginia Constitution and Recent Constitution-making by Albert L. Sturm. From State Government, v. XLIV, no. 3, summer 1971

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It is essential that these two officials be elected, so they represent the statewide electorate.

Three other elective positions could either be made appointive or permitted to remain elective. At least a case can be made for keeping them elective. They include:

Attorney General, currently ensconced in Louisiana's judiciary article as head of the Department of Justice, though listed as an officer of the executive branch in many states. However, so long as we have such a poor record in prosecution by district attorneys especially of corrupt officials, it may be necessary that this office remain independent of other offices and responsive to the citizenry. It has often been shown that competing, and apparently duplicative, law enforcement agencies are necessary to protect the public against organized crime and corrupt officials; and this is a good argument for election of the Louisiana Attorney General. Most states (42) elect the Attorney General.

The Secretary of State is in charge of most election machinery which is less likely to be perverted and used as a tool for the perpetuation of the chief executive than might be the case if he were appointed by the chief executive. Because honest elections are so fundamental to the proper functioning of representative democracy, the precaution of independent election of this officer has real merit. If this office remains elective, however, the duties of Custodian of Voting Machines, once stripped from the Office of Secretary of State should be returned. (Thirty-eight states now elect the Secretary of State.)

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The Treasurer is the custodian of all state funds, receives and disburses of state money, and many feel should be maintained as an elective office to provide a check against the other officials, primarily the governor, who spend the money. This is less true than it was before the legislative auditor was created in 1964, which is the primary agency that provides a check by one branch (the legislative) on the executive. Nevertheless, the Treasurer does provide another accounting of the cash. In addition, there have been enormous improvements in bond issuing procedures, investment of idle funds, and central cash management--all of which are under the Treasurer's office--in the past five years. Most of these improvements are largely attributable to the aggressiveness of an elected treasurer who wanted to make a record of solid performance. This office has served as a check on the financial practices

of the state on a current basis, and it has brought under control what once was looked upon as a large area of political patronage for governors. Most states (40) currently elect their treasurer.

A brief enumeration of the duties and powers of these elective officials should be set forth.

None of the remaining statewide six elective officials should be. We recommend that to the extent their offices are perpetuated, five of them be appointed by the governor, with or without consent of the Senate, depending on the final determination of the exact roles they play. These include:

Commissioner of Agriculture
Commissioner of Insurance
Custodian of Voting Machines
Register of State Lands
Comptroller

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It is suggested that the duties of Custodian of Voting Machines be returned to the Secretary of State; the Register of State Lands office be merged with one or more agencies associated with minerals, lands, and conservation; and that the Comptroller's duties, which are a duplication of the duties of other offices, be transferred to other financial agencies of the state.

We recommend the Superintendent of Education be appointed by the regionally elected State Board of Education which already has policy control over all of education in Louisiana except the LSU system.

Power of Governor. The power of the governor has become a badly misused term in Louisiana. Its connotation is almost as bad as syphilis, something to be avoided like the plague.

The argument continues that to allow the governor to appoint these five officials, instead of keeping them elective, transfers enormous power to the governor.

This argument is groundless when one realizes that the actual dollars spent by these five agencies totals just over 1/2 of 1 percent of the state budget. In fact the total of the dollars under the expenditure discretion of all 10 elective officials--all those excluding the governor--is still less than 1 percent of the state budget.

What power does he get by appointing the Commissioner of Insurance, that he doesn't now have through the Insurance Rating Commission?

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What is there about the Comptroller's office that adds up to power? It has escaped us for a long time why the office even exists.

There is no new power given to the mineral board if the Register of State Lands is merged with it.

The Custodian of Voting Machines wields no power and what patronage there is associated with buying voting machines has already been shown to belong to governors if they go after it, even though the Custodian is elected.

What sound reason can be advanced for keeping the \$7 million Department of Agriculture under an elective official that couldn't better be made for the \$300 million Highway Department, the new \$500 million Health and Social and Rehabilitation Services Department, the Forestry Commission, the Commerce and Industry Department and any of the other 20 or more agencies devoted to promoting or regulating various aspects of our economy?

Unusual or inordinate power in the hands of the chief executive does not come from a grant of power to the governor to run the executive branch. That is his purpose, and he should be left as unfettered as possible to do it.

Inordinate power in the chief executive comes primarily from direct delegation of legislative powers to the governor or non-assertion of power by the legislature including the following:

1. Legislative acquiescence in gubernatorial meddling in the selection of legislative officers and committees.
2. Direct grants to the governor of the power to appoint legislators in some 40 cases to executive branch committees and commissions.

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3. Grants by the legislature to the governor of the power to increase the compensation of legislators through interim committee appointments.

4. Unusually large appointive power in the hands of the governor that results solely from the horrendous number of agencies. The normal four appointments per agency when multiplied by nearly 300 agencies adds up to a lot of patronage. If reduced to 20 agencies, these 1,200 appointments would reduce to about 80. The ability of the governor to manage the state would be greatly enhanced by such a move, but his ability to influence the legislature with 80 appointments would be drastically reduced from the present situation.

5. Failure to develop and execute a true long-range highway budget that minimizes, or hopefully eliminates, what for years and years has been the largest source of political patronage available to governors to dangle before legislators who too frequently swap legislative power and independence for a road or bridge which the traffic count won't justify.

6. Failure to adopt a long-range capital budget for all other state construction which produces the same compromises of power between the branches.

7. Lack of independence of the legislature for the source of most of its information. It is too dependent on the executive branch agencies.

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8. Perhaps the largest source of the governor's power is our

tradition and the tradition of the legislature in looking to the governor as king. The governor's power is not so much established in law, certainly not in the constitution as it is in our traditions.

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2. Terms of Office

We suggest no change in the present terms of office or right to succeed himself.

3. Eligibility

We have no strong feelings on the age requirements. Some states have dropped the age requirements from 30 to 25. We doubt the people would elect an 18 year old governor even if he were considered eligible, so we are not overly concerned on this point.

4. Gubernatorial Vacancy and Succession and Disability

A specific procedure should be spelled out for succession, to the office of governor in the event of vacancy, but exclusively within the executive branch, not as at present.

Illinois provides the following order: lieutenant governor, attorney general, secretary of state and then as provided by law. This arrangement seems sound, but it should be spelled out so the people will know they are electing a potential governor.

A provision should also be spelled out for determination of physical or mental disability. It would appear wise to place such a responsibility in the hands of the state supreme court.

5. Vacancies in Other Elective Offices

Perhaps vacancies in these offices should be filled by interim appointment and then by election, provided a major portion of the term remains.

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6. Appointments, Removals, Pardons

The normal powers of appointment, dismissals, clemency and pardons, should be granted in the executive article.

7. Reorganization

The governor should have authority to reorganize the executive branch, subject to legislative veto. The maximum number of state agencies should be specified at 20 or 25, as is called for in several recently adopted state constitutions.

8. Compensation

Salary should be subject to determination by the legislature and not specified in the Constitution though "just compensation" for elected and appointed officials seems appropriate. It is not necessary, however, since the legislature has power to do anything not prohibited by the Louisiana or U. S. Constitution. An effective dual office holding provision is necessary.

9. Assumption of Office

The governor and other elected officials should assume office about March 1, assuming the present election and legislative session dates are maintained, to allow the new officials to prepare for the first session and first budget.

10. Legislative Powers

The governor should, of course, be granted the power to make recommendations to the legislature and to call them into extraordinary session.

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We see no compelling reason to change the present procedure which allows the governor to sign all bills or to have them become laws without his signature.

11. Veto Power

The item veto is a proper power of the governor and should be continued.

Summation

This is not intended as an all encompassing set of recommendations. However, the key provisions are outlined as to substance--and substance only.

We do recommend that every effort be made to reduce verbiage wherever possible. It can be done, as other states have proved in recent years, and the result is an understandable Constitution.

This is 1973, not 1921. This is a time when the electorate is far more in control of the political machinery than at any time in our Constitution's history, a time when the elected officials are more cognizant of the power of the electorate than at any time in our lives. This development in Louisiana is a growing one. There is no reason any longer for inordinate protection against the "powerful" politicians for that power has clearly shifted back where it belongs. Proof of this is documented in the election trends and political reforms in Louisiana for the past 20 years on amendments, gubernatorial tickets, candidates who have political records, campaign issues and a host of others. The people have demonstrated they CAN and DO hold their legislators, even past governors, accountable for their records in office.

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The people, therefore, need a Constitution with the fundamental grants of power and limitations of power and no others. The rest they can take care of at the polls.

So make it shorter than you think is possible, for this political trend, I speak of, is growing in Louisiana.

• • • •

3/27/73
edv/sk

NOTES

Statement of Register of State Lands
Ellen Bryan Moore follows.

Exhibit E

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE CONSTITUTIONAL CONVENTION COMMITTEE ON THE EXECUTIVE DEPARTMENT. I HAVE BEEN ASKED TO APPEAR HERE TODAY TO DISCUSS THE POWERS, DUTIES AND RESPONSIBILITIES OF THE STATE LAND OFFICE IN RELATION TO THE LOUISIANA CONSTITUTION AS IT NOW EXISTS AS WELL AS SUGGESTING CHANGES FOR A NEW CONSTITUTION. AS THE NAME IMPLIES, THE OFFICE DEALS PRIMARILY WITH MATTERS RELATING TO STATE LANDS AND WATER BOTTOMS.

FOR YOUR CONVENIENCE, WE HAVE PREPARED A LIST OF THE CONSTITUTIONAL PROVISIONS IN WHICH THE LAND OFFICE IS NOW EITHER DIRECTLY OR INDIRECTLY CONCERNED. WE HAVE DIVIDED THE ARTICLES INTO FOUR MAJOR CATEGORIES: (1) THE CONSTITUTIONAL STRUCTURE OF THE LAND OFFICE; (2) THE PROVISIONS AFFECTING MINERALS, NAVIGABLE STREAMS, AND RECLAMATION (3) THE PROVISIONS AFFECTING TAXATION, AND (4) OTHER CONSTITUTIONAL PROVISIONS.

IN CATEGORY 1, ARTICLE 5 COVERS THE CONSTITUTIONAL STRUCTURE OF THE OFFICE WHICH WAS CREATED BY ACT 91 OF THE 1844 LOUISIANA LEGISLATURE.

THE REGISTER OF THE STATE LAND OFFICE HAS BEEN AN ELECTIVE OFFICIAL SINCE 1908 AND WAS GIVEN CONSTITUTIONAL STATUS IN THE LOUISIANA CONSTITUTION OF 1921. SECTION 1, PROVIDES THAT THE REGISTER OF THE STATE LAND OFFICE BE A MEMBER OF THE EXECUTIVE DEPARTMENT. OTHER SECTIONS IN ARTICLE 5 PROVIDE FOR

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THE ELECTION, SALARY, TERM OF OFFICE AND THE PROCEDURE SHOULD A VACANCY TAKE PLACE. ARTICLE XIV, SECTION 15a ALLOWS THE REGISTER TO HAVE A PRINCIPAL ASSISTANT, AN ATTORNEY, AND ONE PERSON WITH A CONFIDENTIAL POSITION UNCLASSIFIED.

THE SECOND GROUP COMPRISES EXTREMELY IMPORTANT ARTICLES DESIGNED TO PROTECT REAL PROPERTIES AND NAVIGABLE WATER BOTTOMS IN THE STATE, AS WELL AS MINERALS FROM STATE LANDS, AND RECLAMATION OF WATER BOTTOMS.

HOW AND WHY IS THE LAND OFFICE INVOLVEO?

STATUTORY LAW REQUIRES THE REGISTER TO KEEP TITLE RECORDS GIVEN TO THE LAND OFFICE BY THE FEDERAL GOVERNMENT. THESE FEDERAL RECORDS, MANY DATING PRIOR TO THE LOUISIANA PURCHASE, HAVE A DIRECT BEARING ON EVERY ACRE OF LAND AND WATER BOTTOM IN THE STATE. THE OFFICIAL PLATS OF THE ORIGINAL SURVEYS BY FEDERAL SURVEYORS COMMENCING IN 1807 DELINEATE ON THESE PLATS ALL NAVIGABLE STREAMS WITHIN EACH TOWNSHIP. WHEN LOUISIANA

BECAME A STATE IN 1812, THE STATE ITSELF HAD NOT ONE ACRE OF LAND IN ITS NAME BUT IT DID HAVE TITLE TO THE BEDS AND BOTTOMS OF ALL NAVIGABLE STREAMS.

HOW CAN YOU TELL WHICH STREAMS WERE NAVIGABLE?
BY THE RECORDS ON FILE IN THE STATE LAND OFFICE.

Page 3 --

AS YOU WILL NOTE, MANY OF THE ARTICLES SET THE PACE FOR ADDITIONAL ARTICLES. FOR INSTANCE, ARTICLE 4, SECTION 2 STATES THAT THERE CAN BE NO ALIENATION OF THE FEE OF THE BED OF ANY NAVIGABLE STREAM, LAKE OR OTHER BODY OF WATER EXCEPT FOR THE PURPOSE OF RECLAMATION. THIS THEN LEADS TO ARTICLES XIV AND XVI WHEREIN BASED ON THE RECLAMATION CLAUSE, SEVERAL PARISHES ARE GIVEN SPECIFIC AUTHORITY TO RECLAIM STATE PROPERTIES.

THEN ARTICLE IV, SECTION 2 FURTHER STATES THAT THE LEGISLATURE MAY AUTHORIZE THE LEASING OF STATE LANDS FOR MINERALS OR OTHER PURPOSES. THIS ARTICLE OPENS THE DOOR NOT ONLY FOR MINERAL LEASING BUT FOR SURFACE LEASING AND THE LEASING OF LANDS FOR RECREATIONAL AND OTHER PURPOSES. THIS SAME ARTICLE FURTHER PROVIDES THAT MINERAL RIGHTS ON PROPERTIES SOLD BY THE STATE SHALL BE RESERVED PERPETUALLY, AND THAT 10% OF ANY ROYALTY RECEIVED BY THE STATE FROM MINERAL LEASES, SHALL BE CREDITED TO THE PARISH WHEREIN PRODUCTION OCCURS.

MANY STATUTORY LAWS DIRECTLY RELATED TO THESE CONSTITUTIONAL PROVISIONS HAVE BEEN PASSED, WITH THE REGISTER ASSUMING MANY ADDITIONAL RESPONSIBILITIES AND DUTIES.

THE THIRD MAJOR SOURCE OF ARTICLES IMPOSING DUTIES UPON THE REGISTER ARE THE ONES ON TAXATION.

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WHY AND HOW IS THE LAND OFFICE INVOLVEO?

STATUTORY LAWS PROVIDE THAT WHEN TAXES IMPOSED ON IMMOVABLE PROPERTY ARE NOT PAID, SUCH PROPERTY WILL BE ADJUDICATED TO THE STATE AND ADMINSTRATED BY THE LAND OFFICE.

ONCE TITLE IS IN THE STATE, THE PROPERTY CAN BE EITHER REDEEMED, CANCELLED OR OFFERED FOR SALE. IF THE PROPERTY IS REDEEMED, THE LAND OFFICE MUST COMPUTE THE INTEREST AND COLLECT VARIOUS TAXES PROVIDED FOR THROUGH THE CONSTITUTION. THE PROPERTY CAN BE CANCELLED BY THE TERMS SET FORTH IN THE CONSTITUTION UNDER ARTICLE X, SECTION 11. IF THE PROPERTY IS SOLD, THE MINERALS ARE RESERVED IN PERPETUITY AS PROVIDED FOR IN ARTICLE IV, SECTION 2. AGAIN, MANY STATUTORY REQUIREMENTS HAVE BEEN IMPOSED UPON THE REGISTER IN MATTERS RELATING TO TAXATION AND ARE A CONTINUATION OF THE CONSTITUTIONAL PROVISIONS LISTED IN THIS THIRD CATEGORY.

THE FOURTH CATEGORY OF ARTICLES DEALS WITH THOSE
ARTICLES WHICH ARE CONCERNED WITH STATE LANDS THOUGH NOT AS
DIRECTLY LINKED TO THIS OFFICE AS THE FIRST THREE CATEGORIES.
THIS CATEGORY DEALS WITH THE REGISTER'S DUTIES AND FUNCTIONS
ON MATTERS RELATING TO RIGHTS-OF-WAY; FLOOD CONTROL; PRESCRIPTION
AND LIENS AGAINST STATE PROPERTIES.

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THE STATUTORY PROVISIONS AFFECTING THE STATE LAND
OFFICE ARE NUMEROUS. I WOULD LIKE TO MENTION BRIEFLY
EACH SUBJECT MATTER IN ORDER THAT THIS COMMITTEE GET AN
OVER-ALL VIEW OF THE FUNCTIONS OF THE OFFICE:

TITLE 41 CONTAINS STIPULATIONS OF THE AUTHORITY
AND RESPONSIBILITY OF THE LAND OFFICE AND ITS REGISTER IN
RELATION TO STATE OWNED LANDS AND WATER BOTTOMS. SOME OF THE
PROVISIONS RELATE TO:

(1) UTILIZATION AND MAINTENANCE OF RECORDS
TRANSFERRED TO LOUISIANA'S STATE LAND OFFICE BY THE UNITED
STATES GOVERNMENT. THESE RECORDS CONSIST OF VALUABLE SURVEYS,
PLATS, DOCUMENTS PERTAINING TO EARLY LAND GRANTS; AS WELL AS
LISTS OF ALL LANDS GIVEN TO LOUISIANA BY THE FEDERAL GOVERNMENT;
RECORDS OF LANDS DISPOSED OF BY THE STATE OF LOUISIANA. WITH
THE HELP OF THESE RECORDS, THE LAND OFFICE CAN DETERMINE WHAT
AND WHERE ARE THE NAVIGABLE WATERS IN LOUISIANA. THESE ARE
THE NAVIGABLE WATER BOTTOMS THAT THE MINERAL BOARD LEASES.
THESE ARE THE WATER BOTTOMS THAT THE DEPARTMENT OF WILD LIFE
AND FISHERIES UTILIZES FOR FISHING AND OTHER RELATED ACTIVITIES;
THESE ARE THE WATER BOTTOMS STATE PARKS AND RECREATION USE IN
PLANNING RECREATIONAL ACTIVITIES. ACCESS TO THESE RECORDS

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PROVIDES VITAL BASIC TITLE INFORMATION TO EACH AND EVERY
AGENCY - AS WELL AS TO THE PUBLIC; THEY ARE IN DAILY USE.

- (2) THERE ARE STATUTORY PROVISIONS FOR:
- A. ISSUANCE OF LAND PATENTS,
 - B. ADMINISTRATION OF HOMESTEAD LAWS.
MINERALS ON HOMESTEAD WERE RESERVED
PERPETUALLY TO THE STATE.
 - C. ADMINISTRATION OF 16TH SECTIONS SCHOOL
LANDS AND SCHOOL INDEMNITY LANDS IN
COOPERATION WITH PARISH SCHOOL BOARDS.
 - D. SELLING OF TIMBER ON STATE OWNED LANDS,
 - E. WORKING WITH STATE DEPARTMENT OF PUBLIC
WORKS ON NECESSARY SURVEYS,
 - F. GRANTING OF RIGHTS OF WAY OVER STATE
LANDS AND NAVIGABLE STREAMS,

G. SURFACE LEASING OF PUBLIC LANDS AND
NAVIGABLE WATERS FOR RECREATIONAL
PURPOSES: FOR UNDERGROUND STORAGE OF
NATURAL GAS; LEASES TO THE UNITED STATES
GOVERNMENT OR ANY POLITICAL SUBDIVISION
OF THE STATE; AND EVEN LEASES FOR THE
SEARCHING FOR SUNKEN TREASURES UNDER
NAVIGABLE WATERS.

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THERE ARE MANY STATUTORY PROVISIONS UNDER R.S. TITLE
47 RELATING TO THE ADMINISTRATION OF TAX ADJUDICATED LANDS.
THERE ARE STATUTORY PROVISIONS COVERING THE PROCEDURE FOR
ADJUDICATING PROPERTY TO THE STATE AND SETTING FORTH THE
TERMS AND CONDITIONS OF THE TRANSFER. TITLE 47 ALSO OUTLINES
THE RESPONSIBILITIES AND DUTIES OF THE REGISTER AFTER THE
TITLE TO THE PROPERTY IS IN THE STATE WITH PROVISIONS FOR THE
REDEMPTION, CANCELLATION, SALE AND LEASE OF TAX ADJUDICATED
PROPERTY. EXTENSIVE RECORDS ARE KEPT ON TAX ADJUDICATED LANDS
IN WHICH THE LAND OFFICE IS USED AS A CENTRAL LAND MANAGEMENT
AGENCY ON TAX LANDS.

R.S. TITLE 30 PROVIDES NUMEROUS PROVISIONS RELATING
TO MINERAL LEASES AND THE DUTIES OF THE REGISTER CONCERNING
MINERALS. ONE OF THE MORE IMPORTANT STATUTORY PROVISIONS IS
R.S. 30:130 WHICH DIRECTS THE REGISTER TO BE CUSTODIAN OF ALL
MINERAL LEASE RECORDS, THIS INCLUDES ALL LEASES AND BIDS,
PROPOSALS, ASSIGNMENTS OR TRANSFERS PERTAINING TO LEASES.
THIS PROVISION ALLOWS FOR MORE CENTRALIZED AND COMPLETE LAND
TITLE RECORDS.

ALL RECORDS OF THE STATE LAND OFFICE ARE OPEN PUBLIC
RECORDS -- WE ARE A SERVICE OFFICE, TO BOTH STATE AND PARISH
AGENCIES AS WELL AS TO THE PUBLIC. ATTORNEYS, TITLE ABSTRACTORS,

Page 8 --

GENEALOGISTS, FARMERS -- CITIZENS IN ALL WALKS OF LIFE OFTEN
NEED BASIC TITLE INFORMATION ON FILE IN THE OFFICE. THIS
SERVICE WE HOPE AND FEEL IS HANDLED IN AN EFFICIENT MANNER.

THE DUTIES AND RELATIONSHIP OF THE REGISTER, AS YOU
CAN SEE, IN REGARD TO PUBLIC LANDS ARE VARIED. VIRTUALLY
EVERY ASPECT OF STATE LAND MANAGEMENT HAS BEEN PROVIDED FOR
THROUGH THE YEARS. THE LAND OFFICE ALWAYS HAVING A MAJOR
ROLE.

AS REGISTER I SERVE AS AN EX-OFFICIO MEMBER OF THE
STATE PARKS AND RECREATION COMMISSION; I SERVE ON THE REGIONAL
PLANNING COMMISSION AT THE REQUEST OF THE GOVERNOR; I SERVE ON
THE BUREAU OF OUTDOOR RECREATION FUND ALLOCATION COMMITTEE;

THE RIVER AND STREAM ACCRETION COMMISSION; AND RECENTLY COMPLETED THE TASK OF SERVING AS LOUISIANA'S REPRESENTATIVE ON THE PUBLIC LAND LAW REVIEW COMMISSION AND THE FIRST STATE CHAIRMAN OF THE STATUS OF WOMEN; I ALSO SERVED ON THE INITIAL COMMITTEES OF THE ATCHAFALAYA BASIN COMMISSION, THE GAS PRESERVATION AND THE SUPER PORT COMMITTEES -- ALL OF THIS GOES WITH THE TASK OF BEING REGISTER.

WE HAVE PREPARED A LIST OF THOSE PROVISIONS IN THE PRESENT CONSTITUTION THAT I FEEL SHOULD BE REVIEWED AND IN SOME INSTANCES CHANGED OR PERHAPS DELETED ALL TOGETHER. PROVIDED ALSO IS A LIST OF RECOMMENDATIONS FOR ADDITIONS TO BE CONSIDERED.

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MR. CHAIRMAN, THANK YOU FOR ALLOWING ME TO APPEAR HERE AND I AM NOW READY TO ANSWER ANY QUESTIONS THE MEMBERS OF THIS COMMITTEE MAY WISH TO ASK.

Exhibit E

I FEEL IT IS MORE IMPORTANT TODAY, THAN EVER, THAT WE NOT OVERBURDEN THE GOVERNOR'S OFFICE WITH TOO MANY ADMINISTRATIVE FUNCTIONS, NOR SHOULD WE PLACE TOO MUCH POWER THEREIN. I WOULD RECOMMEND TWO ALTERNATIVES THAT, AS FAR AS THE OFFICE OF REGISTER OF STATE LANDS IS CONCERNED, THAT THE REGISTER OF THE STATE LAND OFFICE REMAIN AN ELECTIVE OFFICE - STRENGTHENED AND COMPLETELY INDEPENDENT - AND THAT THE TITLE OF THE OFFICE BE CHANGED TO COMMISSIONER OF LAND NATURAL RESOURCES -- AND/OR THAT A NATURAL RESOURCES COUNCIL OR COMMISSION COMPOSED OF THE GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, AND ONE MEMBER EACH NAMED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES, BE CONSTITUTIONALLY DELEGATED TO BE RESPONSIBLE FOR THE MANAGEMENT OF STATE PROPERTIES -- PERHAPS 5 MILLION OR MORE ACRES OF LAND AND WATER BOTTOMS.

THIS COULD BE DONE BY COMBINING ALL AGENCIES DIRECTLY DEALING WITH PUBLIC LANDS AND NATURAL RESOURCES; STATE PARKS, FORESTRY, WILD LIFE AND FISHERIES, MINERAL BOARD AND PERHAPS CONSERVATION (UNLESS DETERMINED STRICTLY A REGULATORY BODY.)

CONTINUITY IN OFFICE IS AMONG THE TOP CONSIDERATIONS IN MAKING ANY CHANGE. IF NOT, PERHAPS CHAOS EVERY 4 YEARS WITH A COMPLETE CHANGE OF TOP MANAGEMENT WOULD OCCUR.

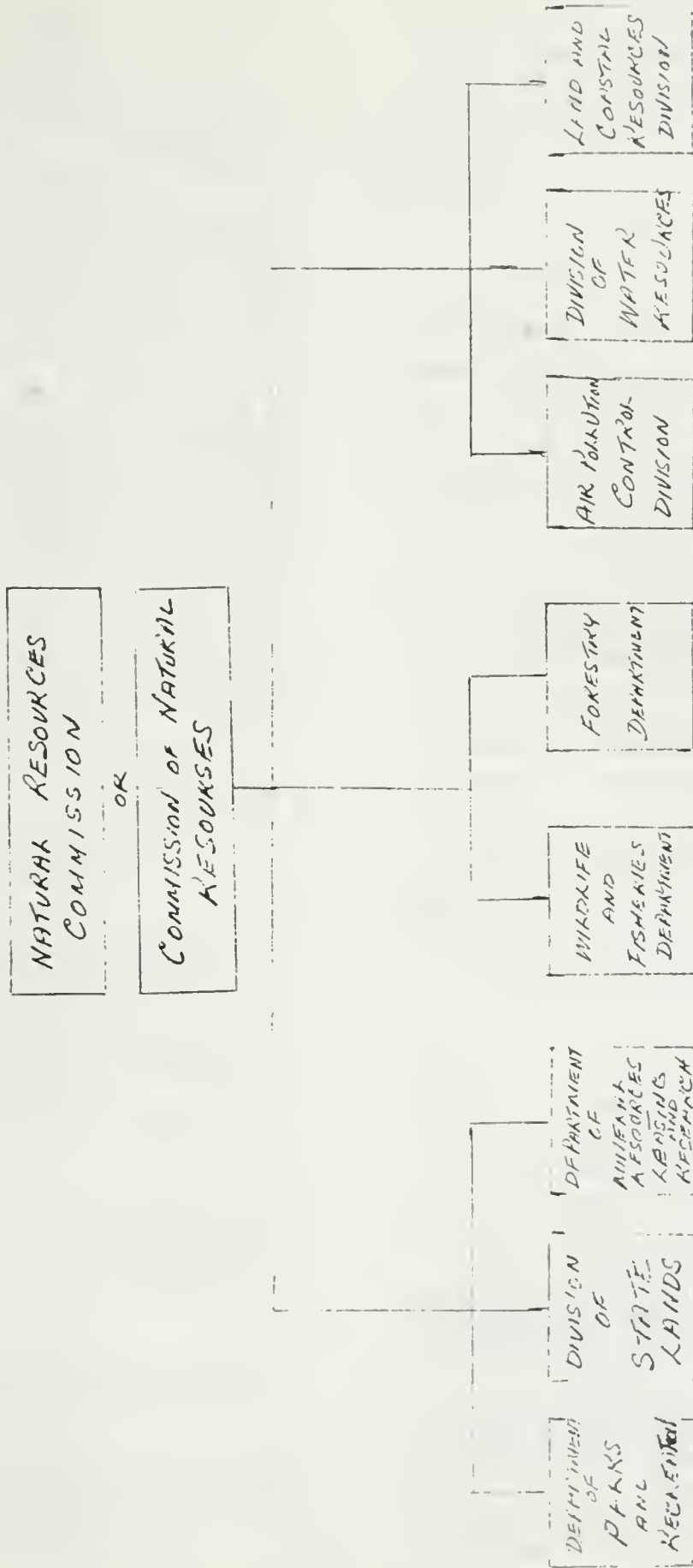
CONSOLIDATION IN ANY CASE SHOULD BE BY STATUTE WHEN NOT SPELLED OUT IN THE CONSTITUTION --THIS I BELIEVE TO BE A LEGISLATIVE FUNCTION AND NOT A FUNCTION OF THE EXECUTIVE DEPARTMENT.

I AM UNALTERABLY OPPOSED TO A GOVERNMENT WITH ONLY THE GOVERNOR AND LT. GOVERNOR ELECTED -- I BELIEVE WE HAVE A MORE DEMOCRATIC FORM WHERE AT LEAST 5 OR 6 OFFICIALS ARE ELECTED. I DO NOT CHOOSE TO STIPULATE WHICH.

MOST IMPORTANT DUTIES OF THE STATE LAND OFFICE.

1. CUSTODIAN OF LAND TITLE RECORDS GIVEN THE STATE OF LOUISIANA BY THE U. S. GOVERNMENT.
2. ADMINISTRATIVE CONTROL OF LANDS ADJUDICATED TO THE STATE FOR NON-PAYMENT OF TAXES.
3. PROCESSING OF REVENUE AND CUSTODIAN OF ALL RECORDS PERTAINING TO MINERAL LEASING OF STATE LANDS.
4. STATUTORY CONTROL OVER NAVIGABLE WATER BOTTOMS IN MATTERS OF LEASING FOR STORAGE FACILITIES, RECREATION, TREASURE, AND RIGHTS-OF-WAY.
5. MAINTAINING A LISTING OF REAL PROPERTY OWNED BY ALL STATE AGENCIES.
6. LAND MANAGEMENT OF LANDS UNDER THE JURISDICTION OF THE STATE OF LOUISIANA.

POSSIBLY ONE OF THE MOST IMPORTANT DUTIES IS THE CREATION OF A STRONG LAND MANAGEMENT PROGRAM TO ASSURE CITIZENS THAT LANDS OF THE STATE AND ITS AGENCIES ARE BEING PROPERLY PROTECTED.



NOTES

Executive Budget form for Fiscal Year 1973-1974 showing source of funds for State Land office is omitted.

Eybl, J E

1921 Constitution

ARTICLES PERTAINING TO THE STATE LAND OFFICE

I. CONSTITUTIONAL STRUCTURE:

- Art. V Sec. 1 Executive Department shall consist of...Register of Land Office.
- Art. V Sec. 13 Governor may require written reports from the Executive Department.
- Art. V Sec. 18 Register has 4 year term by election.
- Art. V Sec. 20 Annual salary of the Register of the State Land Office.
- Art. XIV Sec. 15a Allows Register to have one assistant, one attorney and one person with a confidential position as unclassified Civil Servant.

II. MINERALS, NAVIGABLE STREAMS AND RECLAMATIONS:

- Art. IV Sec. 2 No alienation of fee of bed of navigable stream, lake, etc., except for reclamation. This shall not prevent leasing for minerals and other purposes.

Mineral rights reserved in perpetuity on sales by the State.

10% of royalties dedicated to the Parish Road Fund.
- Art. IV Sec. 2a Minimum royalties are paid to State Treasury.
- Art. XIV Sec. 38 State shall grant title to all lands within levees and seawalls and reclaimed by certificate issued by Register. Mandatory for Register to issue the certificate of title upon notice of completion of such a district though minerals are reserved to State.
- Art XIV Sec. 38 Jefferson Parish allowed to create Public Improvement Districts, the title which is in the public.

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- Art.XIV Sec. 38 cont'd. Property of state (minus minerals) is vested in the Public Improvement District of Jefferson Parish.

If any bed or navigable stream is reclaimed it may be patented to the District by the Register of the State Land Office.
- Art.XIV Sec. 38.1 St. Charles District - Parish of St. Charles authorized to create Public Improvement District within Lake Pontchartrain up to 1 mile from shore, title to which shall be transferred from the State by the Register of the State Land Office. Minerals retained by the State.
- Art XIV Sec. 39 Lake Charles is authorized to construct jetties and reclaim part of lake with the title going to Commission Council - minerals reserved. The limits of reclamation specified here.
- Art XIV Sec. 44 Further authorization for Lake Charles to reclaim water bottoms, with title going to the Commission Council of Lake Charles, minerals reserved. Again, limits of development set out.

Art XVI Sec.7 Orleans Levee District is able to dredge and construct seawalls, etc., up to 3 miles from present shoreline. The title to said property is hereby vested in the Levee Board from the State. The state grants title to all lands reclaimed within the bounds, to the levee board.

III. TAXATION PROVISIONS:

- Art IV Sec. 4 Legislature cannot extend time for assessment or collection of taxes or exempt property from taxation.
- Art X Sec. 3 Rate of State Taxation 5-1/2 mills of assessed value (Repealed by Act 3 Extraord. Sess. as PS47:1701).
- Art X Sec. 11 Sale of property for taxes due by Sheriff. Must be held three years.
- Art X Sec. 11 cont'd. The Register must retain tax adjudicated lands for three years before alienating such property in full title.

Property sold to the State may be redeemed by paying the price given, including cost and 5% penalty thereon, and 1% per month thereafter.

Taxes may be postponed in cases of flood, general destruction of public calamity.
- Art X Sec. 14 Constitutional provision specifying tax adjudicated procedure is extended to parish, district, ward, etc.
- Art X Sec. 20 Annulment of tax adjudications to State that occurred prior to 1880.
- Art XIX Sec. 19 Tax liens shall lapse in three years on redeemable property.

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IV. OTHER CONSTITUTIONAL PROVISIONS.

- Art IV Sec. 12 State through the Legislature shall have power to grant Rights of Way through public lands for construction of railroads, flood control or navigation canals.

State can transfer to U. S. through authorized representatives of the State, lands and property for certain certain public uses.
- Art VI Sec. 19 Every parish, municipality or political subdivision shall have the right to build or acquire bridges over navigable lakes, rivers and streams.
- Art XIII Sec. 6 Corporations for constructing canals, etc. for irrigation, navigation or hydroelectric power are able to use navigable streams.
- Art XIV Sec. 30 Erection of wharves and improvements for public purposes in municipalities of over 5,000.

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- Art XIV Sec. 30.3 Legislature is able to create navigation and river improvement districts for improving and maintaining navigation on rivers and streams.
- Art XV Sec. 1 Legislature is able to enact legislation for causing undrained marsh, swamp and overflow lands to be drained and reclaimed.
- Art XIX Sec. 16 Prescription shall not run against the State in any civil matter.
- Art XIX Sec. 19 No mortgage or privilege on immovable property shall affect 3rd persons unless recorded (Re: Tax Adjudicated Lands).

ARTICLES TO BE REVIEWED

E. J. B. F.

THE OFFICE OF LEUTENANT GOVERNOR

- 1) Article VI, Section 27, Selling of Islands in Lake Pontchartrain. This provision should be deleted.
- 2) Article XIV, Section 30, Erection of wharves and improvements for public purposes in municipalities over 5,000. This should be reviewed and possibly extended. Population should not be the governing factor.
- 3) Article IV, Section 2b Minerals reserved beyond the three mile limit dedicated to retire the State's bonded indebtedness. U. S. Supreme Court decision has over-ruled this provision.
- 4) Article X, Section 20, Title to property adjudicated to the State prior to 1880 is declared null and void. Consideration should be given this article whereby title to all lands adjudicated to the State for a period of over 50 years be declared null and void.
- 5) Article X, Section 11, The interest on all adjudications redeemed after 1931 is 5% plus 1% per month. The interest now being charged on some adjudications is reaching 500%. This should be studied. I recommend a change.
- 6) Article IV, Section 2, The reservation of minerals on the sale of Tax Adjudicated lands should be reviewed. Little tax adjudicated acreage is available - mostly city lots - Perhaps sales of lots of one acre or less should not be subject to mineral reservation. The decision to reserve or not to reserve might be determined by the State Geologist when concurred in by the Register, the Mineral Board or both.
- 7) Article 14, Section 38, (and others) Special constitutional provisions authorizing the falling in of State property (navigable water bottoms) by various parishes should be reviewed and possibly require the approval of the State Planning Commission before any reclamation occurs.

Throughout the recent political history of Louisiana there has been little attention paid to the office of Lieutenant Governor. While change has invaded almost every corner of Louisiana government and while many innovations have been instituted into state government to allow us to try to meet the problems of the 20th century and prepare for the problems of the 21st., there has been no provision for change of any kind in the office of lieutenant governor.

While the balance of state government is busily converting from pistons to jets and from adding machines to computers we still treat the second-highest office of the state as some sort of nostalgic link to the past.

Aside from presiding over the Senate, the most important function of the lieutenant governor seems to be marking time waiting for the governor to leave the state or to vacate the office. He's the bridemaid, hoping to catch the bridal bouquet. Certainly he's an ex-officio member of many state boards and commissions, but with the exception of his position on the Pardon Board most of his assignments involve a shared responsibility and most of his responsibilities are little more than ceremony.

The position of lieutenant governor was established by the constitution of 1845 and has continued since that time without a single meaningful or constructive change in the office. While other agencies of state government have been restructured or streamlined to meet the changing times the number two office in the state has continued to plod along, intact, like some governmental dinosaur whom evolution and ever revolution simply pass by.

On the federal level we have seen significant changes in the status of the office of vice president. His importance has been recognized and the responsibilities of the job broadened. He presided over the National Space Council until it was done away with just recently. He presides over the National Security Council. His job is a far cry from what it was 20 years ago and it is recognized that the demands and pressures upon the president

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of the United States are such that some functions can easily and efficiently be delegated to the vice president.

Although in this report I attempt to inform you of the present duties of the office of Lt. Governor in Louisiana and other states and offer recommendations for your consideration, my message and recommendation to you is simple, sincere, and direct. We should either charge the Lt. Governor with meaningful duties and responsibilities or we should abolish the office. Hopefully, the Constitutional Convention will adopt the first of these alternatives as the more desirable because there are many areas of state government where the Lt. Governor can be of effective and useful service to this state.

PRESENT DUTIES OF THE LEUTENANT GOVERNOR IN LOUISIANA

The fundamental duties of the Lt. Governor in Louisiana, as in most states are, namely: presiding over the Senate; serving as acting Governor when necessary, and succeeding to the Governorship whenever a vacancy occurs. Additionally, the Lt. Governor of Louisiana serves as Chairman of the Pardon Board. Other duties assigned by statute of executive appointment are: ex-officio member of the Board of Commerce and Industry, ex-officio member of the Louisiana Tourist Development Commission, member of the Board of Liquidation of State Debt; member of the Bond and Building Commission; Chairman of the Board of Nuclear Energy, and member of the Joint Legislative Budget Committee:

These duties have restricted the holder of the office to primarily a legislative officer. Until just recently, the office has been considered a part-time position with very few, if any, executive duties.

The Lt. Governor of Louisiana is elected independent of any other office similar to each of the other elected state officials.

RECOMMENDED ADDITIONS TO THE CONSTITUTION

- 1) IN ORDER TO IMPROVE THE PROVISIONS OF ACT 150 OF 1962 WHICH INITIATED THE FIRST STATE LAND MANAGEMENT PROGRAM, THE STATE LAND OFFICE SHOULD BE DESIGNATED AS THE OFFICIAL DEPOSITORY OF ALL RECORDS WHICH PERTAIN TO STATE LANDS AND THE ACT SHOULD BE MANDATORY WITH PENALTIES FOR NON-COMPLIANCE.

THIS LIST WOULD INCLUDE LAND HOLDINGS; MINERAL OR SURFACE LEASES; RIGHTS-OF-WAY GRANTED OR ACQUIRED; SALE OR ACQUISITION; BY ANY STATE AGENCY OR OTHER POLITICAL SUBDIVISION AND WOULD RESULT IN A COMPREHENSIVE LAND USE PROGRAM - CENTRALIZED. THE STATE WOULD THEN KNOW WHAT ITS ASSETS ARE.

UNDER THE PRESENT LAW, THE REPORTING OF REAL PROPERTY IS NOT MANDATORY AND THERE ARE NO PROVISIONS FOR THE ENFORCEMENT OF THE LAW.

- 2) THE REGISTER OF STATE LANDS SHOULD BE DESIGNATED AS THE CUSTODIAN OF THE NAVIGABLE WATER BOTTOMS IN LOUISIANA. THE ATTORNEY GENERAL ON SEVERAL OCCASIONS HAS RULED THAT NO ONE AGENCY HAS THE AUTHORITY TO POLICE STATE PROPERTIES IN REGARD TO ENCROACHMENT OR ILLEGAL RECLAMATION. THIS WOULD INSURE PROTECTION OF THE STATE'S PROPERTY FOR THE BENEFIT OF ALL CITIZENS. -- "WHAT'S EVERYONES BUSINESS IS NO ONES BUSINESS."
- 3) A STUDY SHOULD BE MADE TO DETERMINE THE FEASIBILITY OF ADDING A PROVISION CONCERNING ARTIFICIAL OR MAN-MADE ACCRETION. WITH THE U. S. CORPS OF ENGINEERS DOING TREMENDOUS AMOUNTS OF WORK IN LOUISIANA, MORE AND MORE DISPUTES ARE ARISING OVER THE OWNERSHIP OF THE LANDS ACCRETED THROUGH ARTIFICIAL MEANS.
- 4) ADEQUATE PROVISIONS FOR THE PROTECTION OF OUR ENVIRONMENT ARE NEEDED. POLLUTION OF LOUISIANA'S AIR AND WATER RESOURCES MUST BE STOPPED. THE STATE SHOULD BEGIN NOW TO CONSTITUTIONALLY PROTECT HER ENVIRONMENT. TIME ELEMENT SHOULD BE CONSIDERED SO AS NOT TO PLACE UNDUE HARDSHIP ON INDUSTRY WHICH HAS BEEN LOUISIANA'S MAINSTAY.

THE ROLE OF THE LT. GOVERNOR IN OTHER STATES

During 1972 a comparative report on the executive and legislative duties of Lt. Governors of thirty-eight states was prepared for the National Conference of Lt. Governors. The report cites the historical development of the office giving particular attention to the contemporary emergence of the fundamental duties stated earlier, which basically are presiding over the Senate and serving as Governor in his absence of succeeding the Governor for reasons of death, resignation or removal from office.

The executive duties of the Lt. Governor is a relatively recent historical development in the Office. Indiana Governor Paul V. McNutt (1933-37) apparently initiated the practice by appointing his Lt. Governor as Chief Administrative Officer of the Department of Commerce and Industries. In recent years, other states creating the office have relied on the executive concept (in addition to Legislative duties) ... Hawaii, Alaska, Florida, and Maryland.

Another significant development in the office emerged in 1953, When New York provided for team election of the Governor and Lt. Governor. Currently, 18 of the 38 states reporting provide for this method of selection. Proponents of the team election cite party compatibility, accountability, and continuity of policy administration, and facility of succession to the Governorship as advantages in this system. Opponents believe that joint election makes it more difficult to hold the Lt. Governor to accountability. Still others feel the independent election of the Lt. Governor provides an opportunity for greater independence and a significant separation of executive powers.

In discussing the legislative role of the Lt. Governor, the report delineates the following powers:

- Presiding over the Senate - most states
- Appointment of certain or all committees - 10 states
- Tie-breaking vote:
 - Bill passage - 27 states
 - Amendments and Motions - 30 states
 - Organizational matters - 16 states
- Bill Assignment - 21 states

Most Lt. Governors serve both an executive and legislative function. Almost all serve on numerous executive committees, commissions, and task forces. In at least twelve states the Lt. Governor is a Cabinet member. Several states have him serve as Chairman or Secretary of the Cabinet. Some Lt. Governors, in addition to their other Legislative and executive duties also serve as Agency Directors as does the present Indiana Lt. Governor who is Director of the Department of Commerce which embraces industrial development, international trade, and tourism. The same is true in Florida. Alaska and Hawaii have the Lt. Governor exercising the powers of Secretary of State in addition to their Legislative duties. In Massachusetts, the Lt. Governor serves as the Governor's Chief of Staff.

RECOMMENDATIONS:

The powers, duties, functions, and responsibilities of the Office of Lt. Governor are as varied and diverse as the men who hold the office. In some states the office is mostly legislative, others mostly executive, while in most states it's a combination of the two.

During the last 100 years only 1 state, Maryland, has abolished the office and in that state the office was reconstituted in 1970 to the level of Assistant Governor.

We in Louisiana must attempt to achieve the delicate balance of an office, which is the second highest elected position in the State, that can encompass both the necessary legislative functions and the executive responsibilities in order to assure continuity of

administrative policy. The following recommendations are offered for your consideration:

Legislative Duties:

The legislative duties of the Lt. Governor of Louisiana should certainly not be diminished. The Lt. Governor is the only Legislative Officer chosen by voters of the entire state. The Lt. Governor should continue to serve as President and Presiding Officer of the Senate, casting a tie-breaking vote only on amendments, motions, and organizational matters. He should continue to have the power of recognition and parliamentary rulings in the Senate as well as administrative and budgetary control for the Senate which include hiring and determining staff compensation, committee appointments and legislative budget preparation.

Lt. Governor should continue to serve as Acting Governor in the Governors' absence and should succeed to the Governorship whenever a vacancy occurs.

Executive Duties:

The Lt. Governor should be provided more executive functions in addition to his legislative duties. The trend of more executive duties result from the growing burdens of the gubernatorial office and the increasing importance of management functions in administering state affairs. The ever-increasing popularity of team elections of the Governor and Lt. Governor also help to make the number two man in state government the Governors' number one man in his administration.

The Lt. Governor should serve as a member of the Cabinet. He should be provided executive functions to perform such as those which relate to economic and industrial development and tourism and intergovernmental relations. The office of Lt. Governor should be assigned other executive duties as determined by the Chief Executive or statutory enactment.

Other Duties:

The Lt. Governor should no longer be required to be the Chairman or a member of the Pardon Board. This board functions could be incorporated with the duties of the Parole Board. Appointment of professionally trained penologists and criminologists to assess these requests for pardon and commutation of sentences and advise the Executive would facilitate this executive privilege.

The position of Lt. Governor should be a full-time job.

The staff and budget of the Lt. Governor should be commensurate with the duties of the office.

In conclusion, the sum of it all is this, one of the problems with the office of Lieutenant Governor is that we seek a man whom we expect to be able to assume the most powerful office in the State in the event of a vacancy but then we relegate him to the most powerless status in state government. You, the members of the Constitutional Convention, are charged with the responsibility of making a meaningful and significant change in the duties and functions of this high office. If my office can be of any assistance to you in this endeavor, please do not hesitate to call.

James. E. Fitzmorris, Jr.
Lieutenant Governor

Exhibit C

Statement of Mary Evelyn Parker, State Treasurer March 27, 1973
Committee on Executive Department - Constitutional Convention of 1973

The State Treasurer has been a constitutional office in Louisiana since

the inception of statehood in 1812. The first Constitution provided for the election of a Governor and a State Treasurer.

In 1845 the Constitution added the office of Lieutenant Governor and all the other constitutional offices have been added piecemeal since then. The office of State Treasurer became a popularly elected office under the Constitution of 1852 and at the same time the office of Secretary of State was made elective.

The office of State Treasurer has been given constitutional sanction and has been independently elected as long as the office of Governor has existed and these two offices are the only two that have existed as such since the original Constitution of 1812.

Forty-eight states have the office of State Treasurer. In 40 states the office of State Treasurer is a constitutional office and is popularly elected. In four states the State Treasurer is elected by the Legislature. In one state the Treasurer is appointed by a commission. In three states the Treasurer is appointed by the Governor subject to legislative confirmation. With the exception of office of the Governor, the office of State Treasurer is a constitutional office and is filled by popular election in more states than any other office.

Page #2 - Statement of Mary Evelyn Parker

March 27, 1973

In Louisiana the State Treasurer performs these functions:

1. Receives and deposits nearly 90% of all state funds and from 35 to 40% of all Federal funds. In the current fiscal year this will amount to about 1 billion 300 million dollars.
2. Disburses monies to all units in accordance with the General Appropriations, Special Acts and Dedications provided by legislation.
3. Maintains proper audit control for a check and balance with the State Comptroller on all receipt and disbursement transactions of the State Treasury.
4. Initiates and determines the daily investment portfolio for the money management program of funds in the State Treasury. Today the Treasurer's office has invested \$360 million with interest earnings averaging approximately \$55,000 per day.
5. Maintains all safekeeping receipts deposited and assigned for State agencies' bank accounts.
6. We maintain in the State Treasurer's vault for the Commissioner of Insurance all securities required for deposit by insurance companies doing business in Louisiana. This represents almost \$100 million in negotiable securities.
7. We provide comprehensive accounting for bond servicing of all General Obligation, State Agency and Parish Road Royalty bonds.

Page #3 - Statement of Mary Evelyn Parker

March 27, 1973

8. We evaluate and review the revenues of the State periodically for the Legislative Budget Committee and the Legislature.

9. We established and are implementing with the Division of Administration the State's Cash Management Program.

10. We act as ex-officio member of the State Employees, the Teachers and the School Employees Retirement Systems, in each instance providing assistance to the board in matters of policy administration and the maintenance of a flexible, progressive investment program.

The State Treasurer is also Chairman of the State Bond Commission and is responsible for the following:

1. Directs a centralized program of Debt Management and provides a single issuing agency for all State Revenue and General Obligation bonds.
2. Supervises the management of State Debt and is responsible for the development of legal documents, the advertising of bond sales, developing the prospectus, and receiving competitive bids for the public sale of all bonds of the State and its agencies.
3. Must act on all requests of local governmental units to borrow money, incur debt, issue bonds, or to levy taxes, where they are authorized by the Constitution or laws of the State.
4. Supervises the State's capital construction program.

Page #4 - Statement of Mary Evelyn Parker

March 27, 1973

Gentlemen, in conclusion, anything I say here today in defense of maintaining the office of State Treasurer as an elective office could be interpreted as self-serving. However, when one considers the tremendous responsibilities of this office together with the widely held public concept that Louisiana's Governor is already too powerful, it is my firm conviction that the people of our State would be unwilling to do other than elect their own State Treasurer.

NOTES

Statement of the Custodian of Voting Machines Douglas Fowler follows.

Exhibit H

I WOULD LIKE TO THANK YOU FOR INVITING ME HERE TODAY, AFTER HAVING SERVED AS THE APPOINTED STATE CUSTODIAN OF VOTING MACHINES AND NOW IN MY FOURTH TERM AS THE ELECTED STATE CUSTODIAN OF VOTING MACHINES, I FEEL THAT I CAN SPEAK WITH SOME KNOWLEDGE OF THE APPOINTIVE SIDE, AS WELL AS THE SIDE THAT HAS BEEN RESPONSIVE TO THE WILL OF THE PEOPLE.

I COME TODAY TO REPRESENT THE VOTERS OF THE STATE OF LOUISIANA, SO FIRST, I WOULD LIKE TO TAKE THE PERSONALITIES OUT OF MY REMARKS AND BEGIN BY FORGETTING ABOUT DOUGLAS FOWLER, GOVERNOR EDWARDS OR ANY OTHER INDIVIDUAL AND CONCENTRATE OUR THOUGHTS FOR THE NEXT FEW MINUTES ON WHETHER THIS JOB SHOULD BE ELECTIVE OR APPOINTIVE.

TO ME, TODAY IS A SAD DAY AND A DARK DAY IN THE STATE OF LOUISIANA, BECAUSE WHEN YOU ARE TALKING ABOUT TAKING AWAY THE RIGHT OF THE PEOPLE TO VOTE FOR OR AGAINST THE CANDIDATE OF THEIR CHOICE IN ANY JOB, TO ME THIS IS A MOST SERIOUS QUESTION THAT WE HAVE TO FACE.

LET US NOW LOOK AT THIS JOB WHEN IT WAS AN APPOINTIVE JOB -- WE HAD THREE CUSTODIANS APPOINTED IN THREE YEARS, INCLUDING YOURS TRULY. APPOINTMENTS HAVE A WAY OF NOT ALWAYS WORKING OUT. I BELIEVE WE HAVE ALL SEEN IN EVERY ADMINISTRATION THAT APPOINTMENTS ARE MADE, IN MANY CASES, THAT DON'T WORK. THAT APPLIES NOT ONLY ON THE LOCAL LEVEL BUT THE STATE AND NATIONAL LEVEL. I BELIEVE PRESIDENT NIXON HAS ONLY TWO MEMBERS OF HIS ORIGINAL CABINET AS IT WAS FIRST APPOINTED.

I WOULD LIKE TO POSE THE QUESTION -- WHAT IS WRONG WITH LETTING THE PEOPLE ELECT YOUR STATE CUSTODIAN OF VOTING MACHINES? IT IS INCONCEIVABLE TO ME THAT WE WOULD PERMIT A SMALL GROUP OF PEOPLE IN A SMALL AREA TO ELECT A CONSTABLE, AND DON'T MISUNDERSTAND -- I AM NOT DEGRADING THE OFFICE OF CONSTABLE -- AND AT THE SAME TIME NOT GIVE THE PEOPLE THE RIGHT TO ELECT THE MAN WHO PROVIDES THE FACILITIES AND SERVICES NECESSARY TO ALLOW THE PEOPLE IN THESE SMALL AREAS TO ELECT THEIR CONSTABLE.

YOU WILL ALWAYS HAVE SOMEONE CHARGED WITH THE RESPONSIBILITY OF RUNNING THE VOTING MACHINE DEPARTMENT, SO WHY NOT LET THE PEOPLE DECIDE WHO THAT SOMEONE WILL BE, RATHER THAN LET ONE INDIVIDUAL MAKE THAT DECISION.

THE COST OF OPERATING THE VOTING MACHINE DEPARTMENT HAS INCREASED ONLY 41% IN 17 YEARS. I COULD POINT OUT TO YOU CERTAIN AGENCIES IN THE STATE GOVERNMENT THAT HAVE BEEN OPERATING UNDER APPOINTIVE PEOPLE THAT HAVE INCREASED OVER 600% IN COST, SO WE COULD NOT SAY THAT THE COST OF OPERATING THE VOTING MACHINE DEPARTMENT HAS BROUGHT US TO THIS QUESTION TODAY. YOU CAN CHECK THE OPERATING BUDGET OF THE ELECTIVE OFFICIALS THAT HAVE TO BE RESPONSIVE TO THE WILL OF THE PEOPLE AND I AM SURE YOU WILL FIND THAT THE INCREASE IN THE COST OF OPERATING THESE OFFICES HAS BEEN MUCH SMALLER THAN IN THE APPOINTIVE POSITIONS.

MUCH HAS BEEN SAID AND WRITTEN ABOUT A CABINET FORM OF GOVERNMENT, BUT I FIRMLY BELIEVE THAT IF A LOT OF THE PEOPLE APPOINTED TODAY HAD TO GO BACK AND FACE THE PEOPLE AFTER FOUR OR SIX YEARS, WE WOULD HAVE A DIFFERENT SITUATION THAN WE HAVE IN LOUISIANA AND EVEN THE UNITED STATES TODAY.

THERE HAS ALSO BEEN MUCH SAID ABOUT THE LENGTH OF OUR PRESENT CONSTITUTION AND I WILL AGREE IT IS LENGTHY AND HAS BEEN AMENDED NUMBERS OF TIMES, BUT MOST EVERYONE POINTS TO THE FACT THAT OUR FEDERAL CONSTITUTION HAS BEEN AMENDED ONLY A SMALL NUMBER OF TIMES, BUT NO ONE WOULD DARE SAY HOW MANY TIMES THE CONSTITUTION OF THE UNITED STATES HAS BEEN COMPLETELY REWRITTEN BY OUR COURTS.

I BEGAN MY POLITICAL LIFE ON A REFORM MOVEMENT, HAVING BEEN ELECTED TO MY FIRST PUBLIC OFFICE IN 1940, WHEN GOVERNOR SAM JONES WAS ELECTED. POLITICS HAVE BEEN MY LIFE,

MY PROFESSION, AND IT IS AN HONORABLE PROFESSION. IN ALL THIS TIME, NO ONE HAS EVER PUSHED WITH ANY DEGREE OF AUTHORITY FOR THE ABOLISHMENT OF ELECTED OFFICES TO MAKE THEM APPOINTIVE.

PERSONALLY, I WOULD LIKE TO SEE A LOT OF PEOPLE IN APPOINTIVE JOBS TODAY ASK TO BE ELECTED ON THEIR RECORDS.

WE HAVE HELD MORE THAN 7,000 GOOD HONEST ELECTIONS SINCE I HAVE BEEN HEAD OF THIS DEPARTMENT. WE HAVE GIVEN OUR PEOPLE GOOD SERVICE, BECAUSE I KNEW THE SATISFACTION OF A JOB WELL DONE AND I ALSO KNEW THAT AT THE END OF EVERY FOUR YEARS I HAD TO GO BACK AND FACE THE PEOPLE AND SAY "HERE IS MY STEWARDSHIP -- NOW JUDGE ME AGAIN TO SEE IF YOU WANT TO CONTINUE ME IN THIS JOB."

I DO NOT BELIEVE THAT OUR PRESENT GOVERNOR HAS ANY DESIRE OR AMBITION TO SET UP A POLITICAL DYNASTY OR AS SOME WOULD SAY, A POLITICAL DICTATORSHIP, BUT I SAY TO YOU THAT ONCE YOU DESTROY AND TAKE AWAY FROM THE PEOPLE THE RIGHT TO VOTE FOR THEIR OFFICIALS AND MAKE THEM APPOINTIVE, THEN YOU HAVE PLANTED THE FIRST SEEDS FOR A DICTATORSHIP. IN ALL THE COUNTRIES AROUND THE WORLD THAT THE COMMUNISTS NOW RULE, THE FIRST THING THAT THEY DESTROYED WHEN THEY TOOK OVER WAS FIRST, THE POLICE AND THE NEXT THING WAS TO DESTROY AND TAKE AWAY FREE ELECTIONS. SOME MAY SAY, "LET'S TAKE IT AWAY AND PUT IT BACK UNDER THE SECRETARY OF STATE, BUT IT IS HARD FOR ME TO BELIEVE -- IN FACT, I DO NOT BELIEVE -- THAT ANY MAN WHO IS EVER ELECTED GOVERNOR OF LOUISIANA WITH AS MANY OBLIGATIONS AS HE HAD WOULD EVER GIVE UP ANY POLITICAL PLUM TO TAKE CARE OF HIS FRIENDS TO WHOM HE HAD OBLIGATED HIMSELF. THIS JOB WOULD GO TO SOMEONE WHO HAD CONTRIBUTED A SIZEABLE SUM OF MONEY TO A CAMPAIGN. WHEN THIS IS DONE, YOU HAVE COMPLETELY TAKEN AWAY THE OPPORTUNITY OF ANY LESS FORTUNATE INDIVIDUAL OF EVER HOLDING PUBLIC OFFICE SUCH AS THAT OF CUSTODIAN OF VOTING MACHINES.

I CAME FROM VERY HUMBLE SURROUNDINGS. I WAS BORN AND REARED ON A SMALL HILL FARM IN NORTH LOUISIANA. WE USED TO SAY, "THE LAND WAS SO POOR IT WOULD TAKE TEN BARRELS OF WHISKEY AND TWO OUTLAWS TO RAISE A FUSS ON IT!" FROM THESE HUMBLE SURROUNDINGS, I WAS ABLE, BY A VOTE OF THE PEOPLE, TO BE ELECTED TO ONE OF THE HIGHEST OFFICES IN THE STATE.

THE 1964 AND 1968 CIVIL RIGHTS ACTS WERE PASSED TO GIVE OUR PEOPLE, THE MINORITY PEOPLE, THE RIGHT TO VOTE, BUT IF YOU MAKE ALL THE OFFICES APPOINTIVE WHAT GOOD IS THIS RIGHT?

AND KEEP IN MIND, AS I MENTIONED ABOVE, OUR PRESENT GOVERNOR HAS NO AMBITION TO SET UP A DICTATORSHIP, FOR AT THE MOST YOU WILL HAVE HIM FOR ONLY APPROXIMATELY SEVEN MORE YEARS AND THEN WHO WILL YOU HAVE? YOU DON'T KNOW AND NEITHER DO I, BUT WE DO KNOW THAT THERE ARE THOSE WHO WOULD LIKE TO HAVE A POLITICAL DICTATORSHIP OVER THE PEOPLE IN THE STATE OF LOUISIANA; BUT I KNOW AND YOU KNOW THAT AS LONG AS YOU GIVE THE PEOPLE THE RIGHT TO VOTE FOR THEIR STATE OFFICIALS, THEN THIS COULD WELL ALWAYS BE BEYOND THE REACH OF ANYONE WHO WANTS TO SET UP A DICTATORSHIP.

THE RIGHT OF THE PEOPLE TO VOTE SHOULD NEVER BE TAMPERED WITH, REGARDLESS OF WHAT OFFICE IS INVOLVED, BECAUSE WHEN YOU PLACE TOO MUCH POWER IN THE HANDS OF ONE PERSON YOU ARE HEADED FOR TROUBLE. ALL THE GRIPES, POLITICAL CHALLENGES, AND ELECTION CHALLENGES THAT WE NOW HAVE, AND THAT ARE SETTLED WITHIN THE DEPARTMENT, WOULD WIND UP IN THE GOVERNOR'S OFFICE. THAT IS THE REASON THIS OFFICE WAS PLACED IN THE CONSTITUTION TO BEGIN WITH.

THERE IS A LOT TO BE DONE IN REWRITING THE CONSTITUTION -- THERE IS A LOT THAT CAN BE DONE IN REWRITING THE CONSTITUTION, BECAUSE THERE IS NO RHYME OR REASON WHY THE PEOPLE IN RED RIVER PARISH (AND I MENTION THIS PARISH BECAUSE THAT IS WHERE I CAME FROM) SHOULD MAKE A DECISION AS TO HOW THE PEOPLE IN EAST BATON ROUGE SHOULD RUN THEIR FAMILY COURT AND WHETHER THE PEOPLE IN ORLEANS PARISH SHOULD HAVE ANOTHER DISTRICT JUDGE, WHEN THEY KNOW NOTHING OF THE CONDITIONS THAT EXIST IN THESE AREAS. THIS I BELIEVE TO BE SOMETHING THE LOCAL PEOPLE SHOULD DECIDE WITHOUT INTERFERENCE FROM OTHER AREAS OF THE STATE.

I DO NOT BELIEVE IT IS GOOD FOR THE PEOPLE OF OUR STATE TO PLACE THE AWESOME POWER OF APPOINTING ALL THE ELECTED STATE OFFICIALS, OR A PORTION OF THEM, IN THE HANDS OF ONE PERSON.

I HAVE TRIED TO MAKE MY REMARKS AS CONSTRUCTIVE AS I COULD AFTER HAVING HELD PUBLIC OFFICE SOME 36 YEARS, AND THE JOB I NOW HOLD FOR A GREAT NUMBER OF YEARS. I BELIEVE I KNOW MORE ABOUT RUNNING THE ELECTION MACHINERY THAN ANYONE ELSE FROM THE VOTERS' STANDPOINT.

I AM NOT DEFENDING THE QUESTION OF LEAVING THIS JOB AS AN ELECTIVE OFFICE FOR MY BENEFIT, BECAUSE WHEN I FINISH THIS TERM OF OFFICE I WILL BE WITHIN MY 70TH YEAR AND I WOULD QUESTION THE WISDOM AND WOULD STUDY A LONG TIME BEFORE I WOULD TRY IT AGAIN. I DO BELIEVE THAT THE MOST DETERRENT FACTOR IN THE PASSAGE OF A CONSTITUTION THAT HAD BEEN REWRITTEN IN THE STATE OF LOUISIANA WOULD COME WHEN YOU DEPRIVE THE PEOPLE OF THE RIGHT TO ELECT THEIR OFFICIALS.

TODAY I HAVE TRIED TO COVER THE SUBJECT I KNOW THE MOST ABOUT AND HAVE NOT TRIED TO GO INTO ANY OTHER PHASE OF YOUR WORK AND I BELIEVE THAT THE BEST INTEREST OF THE PEOPLE OF THE STATE CAN BE SERVED BY LETTING THEM DECIDE WHO IS TO RUN THE VARIOUS DEPARTMENTS OF THEIR STATE. SOME HAVE POINTED TO THE FEW ELECTED OFFICIALS IN OTHER STATES, BUT WHAT IS GOOD FOR OTHER STATES WOULD NOT NECESSARILY BE GOOD FOR OUR PEOPLE IN THE STATE OF LOUISIANA. NEITHER WOULD WHAT WE DO IN THE STATE OF LOUISIANA BE WHAT THE PEOPLE IN SOME OTHER STATE WOULD WANT. THERE ARE SOME EIGHT STATES IN THE UNITED STATES THAT HAVE VOTING MACHINES STATEWIDE AND THEY ARE FINDING OUT WHAT WE FOUND OUT LONG AGO AND THAT IS THAT THE JOB SHOULD BE MADE RESPONSIVE TO THE WILL OF THE PEOPLE. WE HAVE RECEIVED INQUIRIES FROM OTHER STATES ABOUT OUR SETUP IN THE VOTING MACHINE DEPARTMENT AND FOR ONCE, LOUISIANA HAS BEEN FIRST BY ELECTING OUR CUSTODIAN OF VOTING MACHINES, SO LET US REMAIN THE FIRST STATE AND CONTINUE TO GIVE THE PEOPLE THE RIGHT TO VOTE.

IF I WERE TO MAKE A RECOMMENDATION TO THIS HONORABLE BODY AS TO WHAT COULD CONSTRUCTIVELY BE DONE, INSOFAR AS THE ELECTION MACHINERY OF THE STATE OF LOUISIANA IS CONCERNED, IT WOULD BE TO TAKE THE DUTIES PERFORMED BY THE SECRETARY OF STATE, THE DUTIES PERFORMED BY THE BOARD OF REGISTRATION, AND THE DUTIES PERFORMED BY THE CUSTODIAN OF VOTING MACHINES, AND PLACE THEM ALL UNDER THE TITLE OF "COMMISSIONER OF ELECTIONS FOR THE STATE OF LOUISIANA" AND MAKE IT AN ELECTIVE OFFICE SO THAT IT WILL ALWAYS BE RESPONSIVE TO THE WILL OF THE PEOPLE.

NOTES

Statement of the Commissioner of Agriculture Dave L. Pearce follows.

Exhibit I

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ONE OF THE INITIAL AND PRIMARY QUESTIONS TO BE RESOLVED BY THE CONSTITUTIONAL CONVENTION IS THE QUESTION OF WHETHER OR NOT THE OFFICE OF COMMISSIONER OF AGRICULTURE SHALL REMAIN ELECTIVE OR BECOME APPOINTIVE. FROM THE CONTACT I HAVE HAD WITH THE AGRICULTURAL INTERESTS IN LOUISIANA, THE OVERWHELMING CONSENSUS OF PEOPLE THROUGHOUT THE STATE APPEARS TO BE THAT THE OFFICE OF COMMISSIONER OF AGRICULTURE SHOULD REMAIN ELECTIVE, IT IS MY UNDERSTANDING THAT THE FARM BUREAU, FOR EXAMPLE, FAVORS THE PROPOSITION THAT THE OFFICE OF COMMISSIONER SHOULD REMAIN ELECTIVE. IT IS MY OWN PERSONAL CONVICTION THAT BECAUSE OF THE VITAL ROLE THAT AGRICULTURE PLAYS IN THE ECONOMY OF LOUISIANA, THE PEOPLE WANT AND HAVE A RIGHT TO SELECT THEIR COMMISSIONER OF AGRICULTURE. IT IS MY RECOMMENDATION TO THIS COMMITTEE THAT UNDER ARTICLE V, SECTION 1, EXECUTIVE DEPARTMENT, THE OFFICE OF COMMISSIONER OF AGRICULTURE SHOULD BE RETAINED AS ONE OF THE ELECTIVE OFFICES IN THE EXECUTIVE DEPARTMENT. IN REDRAFTING THIS SECTION, THE WORDS "AND IMMIGRATION" SHOULD BE DELETED.

I HAVE NO STRONG PERSONAL FEELINGS AS TO ARTICLE 5, SECTION 18, HAVING TO DO WITH THE SPECIFICS AS TO THE MANNER OF ELECTION, FILLING OF VACANCIES, ETC., OF ELECTIVE OFFICES. WHATEVER PROVISION IN THIS REGARD IS ADOPTED BY THE CONVENTION WILL BE APPROPRIATE FOR ALL OFFICES RETAINED AS ELECTIVE IN THE EXECUTIVE DEPARTMENT. I DO FEEL STRONGLY, HOWEVER, THAT THE PROVISIONS OF ARTICLE V, SECTION 20, SHOULD BE DELETED AS WRITTEN, SINCE THE MANNER OF COMPENSATING THE COMMISSIONER OF AGRICULTURE AND OTHER ELECTIVE OFFICERS SHOULD NOT BE RETAINED IN THE CONSTITUTION, BUT SHOULD BE LEFT TO THE LEGISLATURE.

IN ESTABLISHING THE OFFICE OF COMMISSIONER OF AGRICULTURE AS A CONSTITUTIONAL OFFICE, I DO RECOMMEND THAT ARTICLE 6, SECTIONS 13 AND 14 BE REVISED AND REWRITTEN. THESE SECTIONS SHOULD PROVIDE THAT THE GENERAL RESPONSIBILITIES OF THE COMMISSIONER OF AGRICULTURE SHALL BE DEFINITELY FIXED BY SECTION 13 AND THE LEGISLATURE AUTHORIZED TO IMPLEMENT THESE GENERAL POWERS IN SECTION 14. FOR YOUR CONSIDERATION I RESPECTFULLY PROPOSE THE FOLLOWING LANGUAGE FOR ARTICLE 6, SECTIONS 13 AND 14:

S13. AGRICULTURE; COMMISSIONER TO DIRECT DEPARTMENT; DUTIES AND POWERS

SECTION 13. THE DEPARTMENT OF AGRICULTURE SHALL BE DIRECTED BY THE COMMISSIONER OF AGRICULTURE, WHOSE DUTIES AND POWERS SHALL BE THE FOLLOWING:

- (1) TO PROMOTE, ADVANCE AND ENCOURAGE THE AGRICULTURAL INTERESTS OF THE STATE, AND TO DEVISE MEANS AND TO DEVELOP POLICIES CONSISTENT WITH THIS OBJECTIVE.
- (2) TO BE RESPONSIBLE FOR THE ADMINISTRATION OF THE DEPARTMENT OF AGRICULTURE AND FOR THE ENFORCEMENT OF THE AGRICULTURAL LAWS OF THE STATE AND THE RULES, REGULATIONS AND ORDERS OF THE DEPARTMENT OF AGRICULTURE; AND
- (3) IN ADDITION TO THOSE POWERS AND DUTIES ESTABLISHED BY THIS SECTION, WITHOUT IN ANY MANNER LIMITING THOSE POWERS AND DUTIES SET FORTH HEREIN, TO PERFORM ALL THOSE POWERS AND DUTIES PRESCRIBED BY LAW.

S14. AGRICULTURE; PUBLIC POLICY

SECTION 14. THE LEGISLATURE IS HEREBY DIRECTED TO ENACT LAWS FOSTERING AGRICULTURE IMPLEMENTING THOSE DUTIES AND POWERS RESERVED TO THE COMMISSIONER OF AGRICULTURE, AND PREVENTING THE SPREAD OF PESTS AND DISEASES INJURIOUS TO PLANTS AND DOMESTIC ANIMALS. IT MAY ENACT LAWS PRESCRIBING ADDITIONAL POWERS AND DUTIES OF THE COMMISSIONER OF AGRICULTURE, WITHOUT IN ANY MANNER LIMITING THOSE POWERS AND DUTIES SET FORTH IN ART. 6, S13 OF THIS CONSTITUTION, AND LIMITING OR PROHIBITING THE CULTIVATION OF SPECIFIED CROPS IN DEFINITE ZONES OR AREAS AND PROVIDING THE NECESSARY FUNDS TO COMPENSATE FOR DAMAGES CAUSED BY SUCH LIMITATIONS OR PROHIBITIONS. (AS AMENDED ACTS 1965, NO. 548, ADOPTED NOV. 8, 1966.)

ON THE SUBJECT OF TAXATION AND TAX EXEMPTIONS AS THEY RELATE TO AGRICULTURE, IT IS MY RECOMMENDATION THAT THE SUBSTANCE OF ARTICLE 6A OF THE CONSTITUTION, SECTION 1, BE MAINTAINED. THIS SECTION PROVIDES FOR EXEMPTION OF TAX ON TRACTOR FUEL. I ALSO FEEL VERY STRONGLY THAT THE PROVISIONS OF ARTICLE 10, SECTION 4, PARAGRAPH 3, OF THE CON-

STITUTION SHOULD BE RETAINED INSOFAR AS AGRICULTURE IS CONCERNED. THIS SECTION PROVIDES FOR THE EXEMPTION FROM TAXATION OF VARIOUS ENUMERATED PROPERTY INCLUDING THE FOLLOWING: "AGRICULTURAL PRODUCTS WHILE OWNED BY THE PRODUCERS; AGRICULTURAL IMPLEMENTS USED IN THE CULTIVATION, PRODUCTION, AND HARVEST OF CROPS, AS WELL AS OTHER MACHINERY AND EQUIPMENT USED EXCLUSIVELY FOR AGRICULTURAL PURPOSES, CONSISTENT WITH PRESENT DAY MECHANIZED FARM OPERATIONS, ALL CATTLE, LIVESTOCK, ANIMALS AND POULTRY..." IN LIKE MANNER THE PROVISIONS IN ARTICLE 10, SECTION 4, PARAGRAPH 4, HAVING TO DO WITH THE 10 YEAR EXEMPTION OF PROPERTY USED IN CONNECTION WITH IRRIGATION AND NAVIGATION SYSTEMS SHOULD BE MAINTAINED AS BEING CONSISTENT WITH SIMILAR EXEMPTIONS GRANTED OTHER INDUSTRIES.

I FEEL STRONGLY THAT THE PROVISIONS OF ARTICLE 4, SECTIONS 12B AND 12C, SHOULD BE MAINTAINED. THE PROGRAMS FOR AGRICULTURAL PLANT CONSTRUCTION, AS PROVIDED FOR BY ARTICLE 4, SECTION 12B, AND THE GUARANTEED LOANS FOR THE YOUTH OF OUR STATE TO PURCHASE AND RAISE LIVESTOCK, AS PROVIDED FOR BY ARTICLE 4, SECTION 12C, HAVE BOTH PROVEN TO BE TREMENDOUSLY EFFECTIVE AND HAVE ADDED MUCH TO THE IMPETUS OF THE AGRICULTURAL ECONOMY OF LOUISIANA. WITH THE REVOLVING FUND CREATED FOR AGRICULTURAL PLANT LOANS UNDER THE STATE MARKET COMMISSION, ONE HUNDRED TWENTY-THREE PLANTS HAVE BEEN BUILT.

CONSERVATIVE ESTIMATES INDICATE THAT OVER TWO HUNDRED MILLION DOLLARS IN ADDITIONAL PRODUCTIVITY PER YEAR HAVE BEEN CREATED BY THESE PLANTS. THE INITIAL REVOLVING FUND SET UP FOR THE COMMISSION HAS INCREASED, AND ALTHOUGH THERE HAVE BEEN SOME LOSSES BECAUSE OF BAD LOANS, THERE HAS THROUGHOUT THE LIFE OF THE FUND BEEN A NET GAIN IN THE FUND, NOT TO MENTION THE TREMENDOUS IMPACT THIS PROGRAM HAS HAD ON THE ECONOMY OF LOUISIANA. IN LIKE MANNER, I CANNOT STRESS TOO STRONGLY THE GOOD THAT HAS COME FROM THE GUARANTY PROGRAM WHICH UNDERWRITES BANK FINANCING OF LIVESTOCK FOR 4-H, FFA AND SIMILAR YOUNG FARMER PROGRAMS. I CAN TELL YOU SUCCESS STORY AFTER SUCCESS STORY OF YOUNG BOYS WHO GOT INTO THIS PROGRAM WHILE STILL IN HIGH SCHOOL WHO ARE NOW SUCCESSFUL FARMERS AND SUBSTANTIAL TAX PAYERS AS A RESULT OF THE HELP THEY RECEIVED THROUGH THIS PROGRAM. I DO FEEL THAT BOTH OF

THESE PROGRAMS SHOULD BE CONSOLIDATED INTO ONE AGENCY RESPONSIBLE FOR MAKING OR GUARANTEEING AGRIBUSINESS LOANS. THIS COULD BE ACCOMPLISHED IN ONE OF SEVERAL WAYS. THE FIRST PROPOSAL WOULD BE TO REWRITE ARTICLE 4, SECTIONS 12B AND 12C, TO PROVIDE FOR THE STATE COMMISSION ON AGRIBUSINESS. A SUGGESTED DRAFT OF THE SUBSTANCE OF THIS ARTICLE IS AS FOLLOWS:

ARTICLE 4, SECTION 12B, STATE COMMISSION ON AGRIBUSINESS:

THE STATE COMMISSION ON AGRIBUSINESS SHALL HAVE THE POWER AND AUTHORITY TO LEND OR UNDERWRITE, PARTICIPATE IN OR GUARANTEE THE REPAYMENT OF 25 PER CENTUM OF ANY LOAN MADE BY ANY BANK, FINANCIAL INSTITUTION OR FEDERAL AGENCY FOR THE PURCHASE, EXPANSION, IMPROVEMENT, OR CONSTRUCTION OF ANY AGRICULTURAL PLANT WHICH IN THE JUDGMENT OF SAID COMMISSION MAY PROVIDE ADDITIONAL FACILITIES FOR THE PROCESSING, MARKETING, DISTRIBUTING OR STORING OF AGRICULTURAL PRODUCTS OF THE STATE SO THAT AGRICULTURAL PRODUCTS OF THE STATE MAY BE BETTER PRESERVED AND MARKETED. IT SHALL ALSO HAVE THE POWER AND AUTHORITY TO UNDERWRITE OR GUARANTEE THE REPAYMENT OF 25 PER CENTUM OF ANY INSURED LOAN DUE WITHIN FOUR YEARS AFTER DATE MADE BY ANY BANK, FINANCIAL INSTITUTION OR FEDERAL AGENCY FOR THE DEVELOPMENT, EXPANSION, IMPROVEMENT OR CONSTRUCTION OF ANY 4-H, FUTURE FARMERS OF AMERICA AND/OR ANY OTHER RECOGNIZED FARM YOUTH ORGANIZATION FUNCTIONING WITHIN OUR SCHOOL SYSTEM PROJECT IN THIS STATE FOR THE RAISING AND SALE OF LIVESTOCK, POULTRY OR EGGS BY THE MEMBERS OF THE 4-H, FUTURE FARMERS OF AMERICA AND/OR ANY OTHER RECOGNIZED FARM YOUTH ORGANIZATION FUNCTIONING WITHIN OUR SCHOOL SYSTEM WHO ARE CITIZENS OF LOUISIANA, WHICH, IN THE JUDGMENT OF SAID COMMISSIONER MAY PROVIDE ADDITIONAL FACILITIES FOR THE MARKETING, SELLING OR DISTRIBUTING OF LIVESTOCK, POULTRY AND EGGS PRODUCED IN LOUISIANA, TO THE END THAT MORE OF THESE PRODUCTS OF THE STATE MAY BE RAISED AND SOLD. THE LEGISLATURE IS AUTHORIZED TO MAKE SUCH APPROPRIATIONS AS IT MAY DEEM NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS SECTION.

THIS IS SUBSTANTIALLY THE PRESENT LANGUAGE IN THE CONSTITUTION COVERING THESE TWO PROGRAMS. AN ALTERNATIVE WOULD BE AN ABBREVIATED SECTION TO READ AS FOLLOWS:

SECTION 12B, STATE COMMISSION ON AGRIBUSINESS,

IN ORDER TO PROMOTE THE CONSTRUCTION, IMPROVEMENTS AND EXPANSION OF AGRICULTURAL PLANTS AND IN ORDER TO UNDERWRITE OR GUARANTEE THE REPAYMENT OF INSURED LOANS TO YOUTH PROGRAMS FOSTERING AGRICULTURE AND THE RAISING AND SALE OF LIVESTOCK, THE LEGISLATURE IS HEREBY AUTHORIZED TO CREATE A STATE COMMISSION ON AGRIBUSINESS, WHICH COMMISSION SHALL HAVE THE POWER AND AUTHORITY TO LEND MONIES OR UNDERWRITE, PARTICIPATE IN OR GUARANTEE LOANS AS PROVIDED FOR BY THE LEGISLATURE.

THERE ARE SEVERAL SECTIONS IN THE CONSTITUTION WHICH RELATE TO AGRICULTURE WHICH WOULD APPEAR TO NO LONGER BE OF ANY REAL NEED OR UTILITY AND SHOULD THEREFORE BE DELETED FROM ANY NEW CONSTITUTION. IN MY OPINION THE PROVISIONS OF ARTICLE 3, SECTION 33, ARE OBSOLETE AND UNNECESSARY. THIS PROVISION HAS TO DO WITH LIMITATIONS ON THE USE OF "CONVICT LABOR". WITH MANY OF THE EVOLVING PROGRAMS FOR WORK RELEASE, IT SEEMS TO ME THAT THIS PROVISION SHOULD BE ELIMINATED. IN LIKE MANNER ARTICLE 3, SECTION 44, PROVIDING FOR THE BONDING OF MILK HANDLERS WOULD APPEAR TO BE PROPERLY A MATTER THAT CAN BE HANDLED BY LEGISLATION. SIMILARLY, ARTICLE 4, SECTION 7, HAVING TO DO WITH WAGE RATES AND HOURS AND LIMITATIONS ON WORKING CONDITIONS OF FEMALES WOULD APPEAR TO BE TOTALLY OBSOLETE AND PREEMPTED BY FEDERAL LEGISLATION. FOR THIS REASON, I WOULD SUGGEST THAT THIS PROVISION SHOULD ALSO BE DELETED FROM THE CONSTITUTION.

THE LANGUAGE OF ARTICLE 19, SECTIONS 8 AND 14, AS THEY RELATE TO AGRICULTURE, WOULD APPEAR TO BE TOTALLY OBSOLETE AND INCONSISTENT WITH PRESENT DAY ECONOMIC CONDITIONS WITH REFERENCE TO TRAINING AND DEALING IN AGRICULTURAL COMMODITY FUTURES. IT IS MY OPINION THAT REGULATION OF THESE ACTIVITIES IN LARGE MEASURE HAS BEEN PREEMPTED BY FEDERAL LEGISLATION. TO THE EXTENT THAT LOCAL REGULATION IS NEEDED, IT CAN PROPERLY BE HANDLED BY THE LEGISLATURE.

THE PROVISIONS OF ARTICLE 14, SECTION 33, HAVING TO DO WITH AGRICULTURAL INDUSTRIAL BOARDS WOULD APPEAR TO BE A MATTER THAT MORE PROPERLY ADDRESSES ITSELF TO THOSE CONCERNED WITH LOCAL GOVERNMENT. I DO FAVOR ALL LEGISLATION POSSIBLE THAT WILL FOSTER INDUSTRIAL

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DEVELOPMENT AND THE AGRICULTURAL ECONOMY OF LOUISIANA. IT WOULD APPEAR THAT THIS PROVISION WHICH ENABLES LOCAL GOVERNMENTAL ENTITIES TO FOSTER AGRICULTURAL DEVELOPMENT SHOULD BE RETAINED IF IT IS THE WISH OF LOCAL GOVERNMENT TO DO SO.

THESE SUGGESTIONS TOUCH UPON SOME OF THE AREAS OF PRIME CONCERN IN THE AREA OF AGRICULTURE. CERTAINLY ADDITIONAL STUDY AND THOUGHT MUST BE GIVEN TO THEM AND I AND MEMBERS OF MY STAFF ARE AVAILABLE AT ALL TIMES TO CONFER WITH YOUR COMMITTEE OR ANY SUB COMMITTEE THAT YOU MIGHT DESIGNATE IN ORDER TO IMPLEMENT THE SUGGESTIONS I HAVE MADE TODAY.

MINUTES

Minutes of the meeting of the Executive Department
Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of
the Convention on March 27, 1973

State Capitol, Baton Rouge, Louisiana, Room 205

Monday, April 2, 1973, 9:00 a.m.
Tuesday, April 3, 1973, 8:30 a.m.

Presiding: Tom Stagg, Chairman of the Executive Department
Committee

Present on April 2:

Mack Abraham
Avery C. Alexander
Joseph E. Anzalone
Greg Arnette
Emmett Asseff
Hilda Brien
Moise W. Dennery
Stanwood R. Duval
Camille F. Gravel
Tom Stagg
James L. Stovall
Elmer R. Tapper

Others Present on April 2:

J. B. Lancaster
Former Legislative Auditor

Guy F. Lemieux, President
Orleans Levee District

Clebert E. Smith
State Banking Commissioner

J. Burton Angelle, Director
Wild Life and Fisheries Commission

Charles M. Smith, Jr., Executive Director
Department of Commerce and Industry

Raymond Oliver
State Fire Marshal

Gray Sexton, Attorney
Louisiana Commission on Governmental Ethics;
Louisiana Board of Ethics for State Elected Officials

James E. Mixon
State Forester

Senator F. E. Lauricella, Chairman
Joint Legislative Committee on Reorganization
of Levee Districts

James S. Riley
Former Commissioner of Administration

Edwin J. Krielow
Liquified Petroleum Gas Commission

The minutes of the committee meetings of March 26, and March 27, 1973, were adopted. The motion to adopt the minutes was offered by Representative Tapper, seconded by Dr. Asseff and approved. The minutes of the committee meetings of March 15, and March 16, 1973, were also adopted.

Chairman Stagg presented the committee with copies of an article from the Shreveport Times. A copy of that article is attached hereto, marked Exhibit A and made a part of these minutes.

A memo from Mrs. Norma Duncan, Research Director, addressed to all substantive committees, was read by the chairman. Mrs. Duncan requested that each committee discuss and decide which constitutional provisions fall within its purview. Discussion ensued followed by a motion from Mr. Tapper that the committee continue the discussion on Tuesday, April 3, 1973, at 8:30 a.m. The motion was seconded by Mr. Gravel and carried.

Chairman Stagg introduced Mr. J. B. Lancaster, former Legislative Auditor. A motion was offered by Mr. Gravel that the chairman invite questions rather than call on each member. The motion was seconded by Mr. Duval and approved.

Mr. Lancaster stated that he would submit a written statement to the committee at a later date. Mr. Lancaster urged the committee to retain the office of Legislative auditor in the new constitution. He also stated that he would submit to the committee a draft containing four short paragraphs of basic provisions. He stated that the functions of pre-audit and post-audit should be separate. Combining these two functions would not provide proper fiscal checks. He further stated that pre-audit is an executive function and post-audit is a legislative function. The committee members requested that Mr. Lancaster prepare suggested language for possible inclusion in the constitution.

Chairman Stagg introduced Mr. Guy F. Lemieux, President, Orleans Levee District. Mr. Lemieux stated that he would mail a written presentation to the committee. He recommended that levee boards remain in the new constitution, and have some type of fiscal constitutional protection. The primary function of the levee boards is involvement in long term capital improvements which must be budgeted far in advance. He stressed that levee boards are responsible for their own funds, and that the legislature should not have the power by simple vote to move these monies around.

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Chairman Stagg introduced Mr. Clebert E. Smith, State Banking Commissioner. Mr. Smith informed the committee that the State Banking Commission was created in 1888. The duties of the commission are to examine banks, building and loan associations, credit unions, and finance companies. The banking commission strictly checks the operations of these institutions to make certain that they operate within the law. Mr. Smith stated that, in his opinion, the office of state banking commissioner does not necessarily have to be included in the new constitution. Chairman Stagg made note that Mr. Smith was the first state office holder who did not mind if his office were omitted from the new constitution.

The Chairman introduced Mr. J. Burton Angelle, Director of the Wild Life and Fisheries Commission. Mr. Angelle submitted a written presentation to the committee, a copy of which is attached hereto, marked Exhibit B, and made a part of these minutes. Mr. Angelle stated that he would oppose any type of plan which would do away with the Commission's present system of operation. He also stated that he did not recommend combining the wild life and fisheries agency with any other department. Mr. Angelle informed the committee that all revenues are self-generated. The committee requested that Mr. Angelle submit an organizational chart of the commission.

Chairman Stagg introduced Mr. Charles M. Smith, Jr., Executive Director, Department of Commerce and Industry. Mr. Smith submitted a written presentation to the committee. A copy of the presentation is attached hereto, marked

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Exhibit C, and made a part of these minutes. The committee requested that Mr. Smith provide a list of tax sources and revenue generated by industry. Members of the committee also requested that Mr. Smith provide a list of other states which have departments of commerce and industry in their constitution.

The Committee on the Executive Department recessed at 12:15 and reconvened at 1:30 p.m.

Chairman Stagg introduced Mr. Raymond Oliver, State Fire Marshal. Mr. Oliver submitted a written statement to the committee, a copy of which is attached hereto, marked

Exhibit D, and made a part of these minutes. Mr. Oliver urged that the committee not combine the State Fire Marshal office with another office. He further stated that he would like to see the powers of the fire marshal increased. Mr. Oliver pointed out the following functions of the State Fire Marshal's office:

1. Review plans and specifications for all public buildings;
2. Investigate fires resulting from suspicious causes.

Chairman Stagg introduced Mr. Gray Sexton, Attorney for the Louisiana Commission on Governmental Ethics and the Louisiana Board of Ethics for State Elected Officials. Mr. Sexton presented a written statement to the committee, a copy of which is attached hereto, marked Exhibit E, and made a part of these minutes. Mr. Sexton noted several reasons for retaining the board and the commission

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in the new constitution. He stated that functionally, one agency could perform all administrative duties. He suggested that the preamble to the ethics acts could be deleted.

Chairman Stagg introduced Mr. James E. Mixon, State Forester. Mr. Mixon submitted a written statement to the committee, a copy of which is attached hereto, marked Exhibit F and made a part of these minutes. Mr. Mixon stated that the agency has been functioning well for the past twenty-eight (28) years and urged that it remain in the constitution. He noted that more fires are deliberately set in Louisiana than in any other state in the nation.

Chairman Stagg introduced Mr. James S. Riley, former Commissioner of Administration. Mr. Riley submitted a written presentation to the committee, a copy of which is attached to these minutes, marked Exhibit G, and made a part of these minutes. Mr. Riley stated that a strong governorship should be maintained. He also suggested that many of the details in the present constitution could be deleted. The committee requested that Mr. Riley submit recommendations on reorganizing any branch of the Executive Department.

The Chairman introduced Mr. Edwin J. Krielow of the Liquefied Petroleum Gas Commission. Mr. Krielow submitted a written statement to the committee, a copy of which is attached hereto, marked Exhibit H, and made a part of these minutes. Mr. Krielow read a letter from Mr. Wade O. Martin,

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Jr., a copy of which is attached hereto, marked Exhibit I and made a part of these minutes. Mr. Krielow stated that the commission is seventy-five percent self supporting. He recommended that the present structure of the agency be retained in the present constitution.

The Committee on the Executive Department recessed at 4:30 p.m. and reconvened on April 3, 1973, at 8:30 a.m.

All members were present.

Others Present:

William T. Taylor, Director
Department of Highways

Gladney Manuel, Chairman
Board of Highways

Dr. Charles Mary, Commissioner
Health, Social and Rehabilitation Services Administration

Dr. Ramson Vidrine
State Health Officer

Ray T. Sutton
Commissioner of Conservation

Colonel Karl J. Smith
Chief of Staff, Louisiana National Guard

Gordon Johnson, Chairman
Louisiana Tax Commission

Leon Tarver, Executive Director
Louisiana Commission on Intergovernmental Relations

Pat Ryan, Executive Director
State Planning Office

Joseph N. Traigle
Collector of Revenue

J. H. Burris
Legislative Auditor

Allison R. Kolb
Former State Auditor

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Discussion ensued concerning the memo from Mrs. Norma Duncan, Research Director. A motion was offered by Mr. Duval that the Committee on the Executive Department submit the Articles concerning the attorney general and the district attorney to the Coordinating Committee. The motion was approved.

Chairman Stagg introduced Mr. William T. Taylor, Director of the Department of Highways, and Mr. Gladney Manuel, Chairman of the Board of Highways. Mr. Taylor submitted a written statement to the committee, a copy of which is attached hereto, marked Exhibit J, and made a part of these minutes. Mr. Taylor recommended that salaries for board members be set in the new constitution. He stated that members serve staggered terms and suggested that reappointment of members be added to the new constitution. He also recommended deleting obsolete materials from the constitution, pertaining to the highway department.

Chairman Stagg introduced Dr. Charles Mary, Commissioner of Health, Social and Rehabilitation Services Administration. Dr. Mary recommended that a paragraph be included in the new constitution stating that everyone is entitled to the benefit of good health care. He further stated that it would not be necessary to include the department in the constitution. Dr. Mary stated that he would submit a written statement at a later date. Dr. Mary stated that civil service salaries present a problem to the department in securing a competent staff.

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Chairman Stagg introduced Mr. Ray T. Sutton, Commissioner of Conservation. Mr. Sutton presented a written statement to the committee, a copy of which is attached hereto, marked Exhibit K, and made a part of these minutes. Mr. Sutton urged the committee to include the Department of Conservation in the new constitution. He added that the language should be left exactly as is. Mr. Tom Winfield, Chief Engineer, stated that prior to 1944, the Department of Conservation was made up of several divisions which had no connection with each other. Mr. Sutton stressed that the office of director be appointive and not elective.

The chairman introduced Colonel Karl N. Smith, Chief of Staff, Louisiana National Guard. Colonel Smith submitted a written presentation to the committee, a copy of which is attached hereto, marked Exhibit L, and made a part of these minutes. Chairman Stagg noted that the Louisiana National Guard has survived in the constitution fifty (50) years without an amendment. A brief discussion followed Colonel Smith's presentation.

Chairman Stagg introduced Mr. Gordon Johnson, Chairman of the Louisiana Tax Commission. Mr. Johnson submitted a written presentation to the committee, a copy of which is attached hereto, marked Exhibit M, and made a part of these minutes. Mr. Johnson stated that the tax commission still serves a viable function in Louisiana. He urged the committee to retain the agency in the new constitution. He also stated that three (3) members serving on the committee

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are sufficient. Mr. Johnson stated that the tax percentage on real estate varies with each parish and that adjustments by the commission are made. Following Mr. Johnson's presentation, Mr. Anzalone made the following statement:

"One of the two burning issues of the Constitutional Convention just left that table. The Louisiana Tax Commission and the way that it reviews the assessment practices of the assessors of this state. To review the assessment practices as it pertains to the Executive Department of the State of Louisiana, and I assume that we started on time - 36 minutes - and for this committee to come up with a recommendation for the people of the State of Louisiana as to how this tax commission is to be performed in the executive branch of this government is one of the most assinine and ridiculous things that I have ever seen in my life."

The chairman stated that he would welcome a suggestion as to how to cure that problem at Mr. Anzalone's earliest possible convenience.

Chairman Stagg introduced Mr. Leon Tarver, Executive Director, Louisiana Commission on Intergovernmental Relations. Mr. Tarver submitted a written statement to the committee, a copy of which is attached hereto, marked Exhibit N, and

made a part of these minutes. Mr. Tarver stated that the State Planning Office is composed of six (6) senators, five (5) representatives, with five (5) others appointed by the governor. A study was taken of the reorganizational plans of twenty-three (23) states. Mr. Tarver stated that combining agencies would mean a great savings in the future for Louisiana.

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He also stated that blacks cannot be adequately employed under the present system. The committee requested that Mr. Tarver furnish a copy of his studies on reorganization.

Chairman Staggs introduced Mr. Pat Ryan, Executive Director of State Planning Office. Mr. Ryan stated that the agency reports directly to the governor. He also stated that there is an advisory commission consisting of one (1) member from the Senate, one (1) from the House, and three (3) appointed by the governor. He also stated that the agency provides a meaningful service to the Division of Administration by providing it with a review of agency planning. He recommended that the function remain statutory within the governor's office.

The chairman introduced Mr. Joseph N. Traigle, Collector of Revenue. Mr. Traigle stated that language now used in the present constitution relative to his agency is sufficient. He stressed the importance of the collector of revenue being appointed by the governor.

Chairman Staggs introduced Mr. J. H. Burris, Legislative Auditor. Mr. Burris stated that the legislative auditor should be included in the new constitution. Mr. Burris submitted a written presentation, a copy of which is attached hereto, marked Exhibit O, and made a part of these minutes.

The chairman introduced Mr. Allison R. Kolb, former State Auditor. Mr. Kolb submitted a written presentation, a copy of which is attached hereto, marked Exhibit P, and

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made a part of these minutes. Mr. Kolb recommended that the new constitution provide for an auditor general to replace the state comptroller, and a legislative auditor with the functions of auditing local governments. He suggested that the office of auditor general should be an elective office as it was from 1952 - 1956. He urged the committee to provide in the constitution a provision which would prevent the legislature from reducing a man's salary while he is in office.

Discussion ensued on the reply to Mrs. Norma Duncan's memo, requesting that each committee submit a list of those articles which fall under its purview.

A brief discussion was held on the schedule of speakers to attend the next meetings. A motion was offered by Mr. Gravel requesting the staff to formulate the agenda for the next three (3) meeting days and make it available

to the committee as soon as possible. The motion was seconded by Mr. Stovall and approved.

There being no further business, the Committee on the Executive Department adjourned at 5:00 p.m.


Tom Staggs, Chairman of the
Committee on the Executive
Department

DELEGATE EMMETT ASSEFF HAS REQUESTED THAT THE FOLLOWING STATEMENT BE INCORPORATED INTO AND MADE A PART OF THESE MINUTES.

When we vote in committee in the future, I would like to have a roll call vote unless the vote is unanimous or passed without objection. From the report I received that you made to the Chairman, it would indicate that we all approved it which is incorrect.

I opposed and am requesting that it be written into the minutes that we ask the Coordinating Committee to assign to us:

The Attorney General
District Attorneys
State Civil Service

Though I feel that all should be within the purview of our committee, I opposed because the RULES SPECIFICALLY ASSIGN THEM TO OTHER COMMITTEES and neither our committee nor the coordinating committee nor any other committee has the authority to change it. It was my suggestion that we ask the Convention to make the transfer when it reconvenes. I have no objection to our considering the above three if the committees concerned agree and our committee agrees to seek convention approval on July 5.

As I indicated, it would be pointless to have rules if we are going to violate a provision which is clear and specific. As you will recall, I suggested what you now want to the temporary rules committee (it followed the committee set up of the Project), but the committee ignored me.

NOTES
Editorial appearing in Shreveport Times, March 30, 1973, is omitted.



J. BURTON ANGELLE
DIRECTOR

WILD LIFE AND FISHERIES COMMISSION
400 ROYAL STREET
NEW ORLEANS, LOUISIANA 70130
April 2, 1973

PRESENTATION
TO
LOUISIANA'S CONSTITUTIONAL CONVENTION
by
JERRY G. JONES, CHAIRMAN
LOUISIANA WILD LIFE AND FISHERIES COMMISSION

Exhibit B

Article VI, Section 1 (A) of the Constitution established the Louisiana Wild Life and Fisheries Commission in 1952. This provision stipulates that the Commission shall consist of seven members, six of whom serve six-year terms, and one who serves a four-year term concurrent with the Governor. The members serve at large except the Constitution requires that three shall be from the coastal parishes and represent the commercial fishing and fur industries. No member is eligible for reappointment after serving the six-year term. Each member is paid \$25 per diem for each meeting day and actual expenses. During the past three years, the average per diem in expenses per year for all members was \$9,061.

The annual budget of the Louisiana Wild Life and Fisheries Commission runs over \$10 million, and out of this an expenditure of slightly over \$9,000 is involved in financing expenses and per diem of the seven-man Commission. The Commission-form of administration is a low-cost operation.

The Commission is a policy-making and budgetary board with no administrative functions. It meets at least once monthly and only in public to establish policy and make decisions pertaining to the management of the State's fish and wildlife resources and the State Boating Act. No decisions are official except those made during the course of the public meetings, and no single member of the Commission can take any action on his own relating to the operation of the Commission. The Commission appoints the Director whose principal job is to carry out the policies of the Commission.

Prior to the creation of the Commission, a study was conducted by the Wildlife Management Institute, a private conservation organization headquartered in Washington, D. C. The Institute recommended that the fish and wildlife management program in Louisiana could best be managed by a commission or board of businessmen rather than by a single executive director, which

Presentation to Louisiana's Constitutional Convention by
Jerry G. Jones, Chairman
April 2, 1973
page 2

was the procedure that was in use before 1952. After careful review and approval of the Institute's report by the various conservation groups in Louisiana, a Constitutional amendment was then approved by the people in 1952, creating the seven-man Louisiana Wild Life and Fisheries Commission. Some of the main thrusts of the Institute's report were that better budgetary controls would be effected, more continuity of programs would be realized, and political influence within the operations of the Department would be minimized. Since 1952, various Constitutional amendments have been voted on by the people of Louisiana either to do away with or drastically alter the Commission's form of administration; however, these were rejected.

In Louisiana there are approximately 400,000 people who hunt for sport; about 1 million who fish for sport; and there are tens of thousands who make all or a portion of their livelihood from commercial seafoods, shrimp, oysters, fish, and the fur industry. The Commission regulates both the recreational aspects of hunting and fishing as well as the commercial interests within the frameworks established by the Legislature. It has been estimated that this affects the economy of the State annually at approximately the \$200 million level.

The general public is invited to meetings of the Commission to make resolutions and submit requests regarding the management of the fish and wildlife resources in the State. In order that these can be maintained on a sustained-yield basis, the Commission depends heavily upon its trained staff of biologists to make recommendations.

The wildlife agents in the Commission are responsible for enforcing Legislative Acts relating to fish and wildlife and boating, as well as Commission regulations. The Commission constantly works with other agencies--Federal, State, and local--in providing information on the effects of construction projects on the environment.

The Commission employs between 750 and 800 people, most of whom work in the field as biologists or law enforcement agents. We would surely acknowledge that there is always room for improvement in any organization. It is the conclusion of the Louisiana Wild Life and Fisheries Commission that the present form of administration is still the best system for managing fish and wildlife resources in the State.

Some states have consolidated their natural resource agencies. On March 26, 1973, we talked with the President of the Wildlife Management Institute in Washington, D. C., in an effort to obtain information as to whether or not consolidation benefited fish and wildlife resource management at the state level. He advised that most of these consolidations only recently occurred,

Presentation to Louisiana's Constitutional Convention by
Jerry G. Jones, Chairman
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and it is too early to speculate if programs would be benefited. The National Wildlife Federation, also located in Washington, D.C., circulated a questionnaire in early February to determine the extent and effects that consolidation of natural resource agencies

in the various states is having. We are awaiting the results of their survey, which should be in shortly. There is a real danger that consolidation would result in watering down the fish and wildlife resource management programs, while increasing the cost of administrative overhead. To our knowledge, we have no problem of overlapping responsibilities in jurisdiction with any other State agency at this time.

Certainly, we have full confidence in the fact that the Constitutional Convention will not propose any changes in the Commission-form of administration unless a careful and thorough research has been made of all the available information from other states as well as Louisiana. There are hundreds of thousands of people in Louisiana who derive benefits either directly or indirectly from the presence of our abundant fish and wildlife resources.

Based upon the data we have on hand at this time, it would be the recommendation of the Louisiana Wild Life and Fisheries Commission that the current organizational structure be left basically as it is.

OF A
CONFIDENTIAL QUESTIONNAIRE
ON

ADMINISTRATION OF STATE FISH AND WILDLIFE PROGRAMS

(Note: Responding 17 states including replies from 13 affiliates and from 22 state wildlife departments or agencies)

What agency in your state has the primary responsibility for restoring, managing, and conserving the state's fish and wildlife?

A Fish and Wildlife Department - 30
A Game and Fish Division - 17

Is this agency a separate entity of government, or is it a division, section, or unit of a larger Department?

Separate Entity - 28 (4 by Constitutional Amendment)
Part of Larger Department - 19

If it is a separate fish and wildlife agency, does it have direct liaison on matters concerning fish and wildlife with the Governor, or a Wildlife Commission or board appointed by the Governor?

By Wildlife Commission or Board appointed by the Governor - 34
By Advisory Board only - 6
Through Department Head - 6
No Direct Liaison - 1

Do you know of any movement planned to reorganize or restructure your state government so as to create intermediate department heads that may result in removing your state fish and wildlife agency from direct liaison with the Governor and the people and placing it more in the "political" mainstream as opposed to maintenance of its independent non-political autonomy?

Pending, Yes - 22
Already Accomplished - 8
None Known - 22
Not Applicable - 2

If your fish and wildlife agency was recently consolidated into a Department of Natural and Economic Resources, or a similar department category, when did this occur and what was the principal reason given for the consolidation?

When:	10 Years Ago Or More	- 6	What:	Efficiency	- 3
	5 Years Ago (Approx.)	- 4		Coordination	- 7
	1 Year or 2 Years Ago	- 6		Economy	- 2
	Not Applicable	- 17		Better Conservation	- 1
				Give Governor Administrative And Political Control	- 7

6. If your fish and wildlife agency is a division, bureau, or section of a much larger Department having responsibility for other natural and economic resources as well as wildlife, when did this come about and is the head of this department in your opinion a "conservationist" or a "developer"?

Conservationist - 13
Developer - 5
Not Applicable - 17
Undecided - 5

7. Is the head of the Department trained or experienced in a particular field? What field?

Veter Management	- 2	Conservation	- 2
Public Health	- 1	Wildlife	- 20

*1. 10 June 1973
Bt of Directors
3/14/73
Exhibit B
Appendix of 1973
proceedings.*

Forestry	- 1	Geologist	- 2
Business and Economics	- 5	No Speciality	- 9
Water And Air Pollution	- 2	Not Applicable	- 4

8. Do you detect any movement to replace a "conservationist" with a "developer" as head of the Department in the foreseeable future?

Yes	- 10
No	- 30
Undecided	- 6
Not Applicable	- 4

9. Have subsequent studies made by reorganization committees shown that a saving in money expended for fish and wildlife programs was realized as a result of reorganization and restructuring to include the fish and wildlife agency under a Department system of government?

Yes	- 4
No	- 21
Doubtful	- 9
Unknown	- 4
Not Applicable	- 10

10. If the status of your fish and game department recently has changed to weaken its non-political independent status by combining its functions with other agencies of government (a move apparently taking place far too often in a number of states) would you venture an opinion as to whether such moves are part of a larger planned national conspiracy designed to reduce the effectiveness of traditional sportsman objections to certain development and exploitation schemes which invariably arise in conflict with conservation principles or would you feel that such organizational changes (all being promoted nationwide and state by state at this time) are merely coincidental?

Part Of A Planned Movement	- 15
Coincidental	- 11
Undecided	- 3
Not Applicable	- 11

11. If your answer to #10 above indicated your speculation that such changes are part of a planned orderly move to reduce the effectiveness of sportsman influence, then would you indicate where you felt such a move originated?

Industry And U. S. Chamber Of Commerce	- 5
National Governor's Conference and National Council of State Government	- 4
Protectionist Groups	- 8
S.C.S. And Corps of Engineers	- 2
Farm Bureau	- 1
Not Applicable	- 9

12. At this point, you may add any brief comments that you feel may be helpful to the tabulation and findings of this committee.

(1) "Working under a secretary of a larger department requires a greater proportion of time and is a much more demanding position because progress is accelerated, the public becomes a greater part of the overall policy making procedures and all projects are coordinated more closely with other sister agencies such as water, soil, air, parks, recreation, etc., resulting in that the major problems are solved within hours, as opposed to fighting other agencies via radio, newspaper, television, etc."

(2) "I think it's time we realized that is and has happened and put a stop to this so called re-organization."

(3) "Strong leadership in all state conservation commissions and active support by NWP affiliates and other concerned state conservation organizations is the key to use in resisting the departmentalization trend."

(4) "My greatest concern today is combatting the extremist or 'ecology nuts'."

(5) "I am very happy to submit this information and want to commend you and the NWP for the foresight of compiling this information, which might help us all to combat our foes."

-4-

(6) "The thrust of the questions, some being strongly argumentative, suggests to me a certain bias on the committee."

(7) "A super Department of Natural Resources lends itself to political manipulations and pressures more than our present commission."

(8) "The animal lovers are stronger than ever." (Protectionist??)

(9) "A questionnaire should ask a question, not philosophize."

(10) "Looks bleak."

(11) "Historically, conservation departments were once in their entirety politically orientated. In the 30's a large number became autonomous or were segregated and were generally placed under a commission operating under funds disconnected from general tax or appropriations. In the 40's and early 50's they became nearly professional through an upgrading of qualifications throughout the ranks. As they grew and became successful

and prosperous they drew the attention of the public, the politician and, unfortunately, the competitor. They began to draw fire from industries who feared their positions of power and thus the struggle for supremacy began. In at least some cases, State Wildlife Departments were placed back in the political arena due to their own failure to generate good public support for their programs. If the rest are to survive it will be due to public support of good public oriented programs."

(12) "I know most of the states are in a hubub with attempts to change the present systems."

Respectfully submitted,

Turner W. Battle

Special Fact Finding Committee

Committee on Executive Offices
By Charles M. Smith, Jr.
Executive Director
La. Dept. of Commerce & Industry
April 2, 1973

So that you gentlemen will understand the charter of Commerce and Industry, I will take a minute to explain the functions of the agency.

Presently we are set up as the Board of Commerce and Industry, a body of non-paid citizens, who administer the tax exemption law and other Constitutional and non-constitutional industry inducement laws.

The Department of Commerce and Industry, of which I am director is charged with the responsibility of promoting economic growth by locating new industry in Louisiana and encouraging existing industry to expand, thus creating additional jobs and payrolls for the citizens of the state. We also process and prepare tax exemption applications for submission to the Board of Commerce and Industry.

There are other activities in which Commerce and Industry is involved, such as research, international investments, training programs to increase the skills of Louisiana citizens and advertising and promotion. In the main, these are all geared toward expanding the state's industrial base and economic growth.

#

Now, insofar as this commission is concerned, there are two major points I wish to stress.

First, I know of no state-supported industrial development agency that can function effectively without an assured and permanent position of stature in the government. Also, I know of no industrial development program on a state level that operates with any degree of effectiveness without the full support and backing of the governor. In fact, there is no industrial development program that industry takes seriously unless it is backed by the state's governor and has a position of permanency in that government.

Secondly, business and industry in Louisiana pay more than 75 percent of all property taxes in the state. This is by far the largest percentage of any state in the nation. The national average is 39.5 percent.

This means that Louisiana is at a definite property tax dis-

advantage with every other state in the nation. Currently, it is estimated that there are nearly 20,000 groups of agencies competing for the 1,000 or so new industries that start up each year. If you averaged out this figure, it would mean 20 new plants would be built in each state annually.

Last year in Louisiana we located nearly one new plant each week, on the average. And one of the prime reasons we were able to do that was because of the tax exemption law administered by Commerce and Industry.

###

I feel, as do many others who are involved in industrial development and economic development, that because Commerce and Industry presently enjoys a position of stature and permanency and because it has a close working relationship with the governor we can continue to attract new money and new jobs into the state. As things stand now, and hopefully in the future, Commerce and Industry can mitigate some of the tax burden on new and expanding industry, therefore cutting down a portion of our disadvantage.

Today Louisiana gives industry some assurance that we are serious about industrial inducement. We have the confidence of industry because our laws are incorporated into the Constitution. Industry will surely voice alarm because the government wants to renege on the laws that attracted them to Louisiana in the first place.

###

Thank you. If there are any questions I will attempt to answer them

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Exhibit U



EDWIN EDWARDS
GOVERNOR

RAYMOND H. GILLER
STATE FIRE MARSHAL

DEPARTMENT OF
STATE FIRE MARSHAL
108 LOUISIANA STATE OFFICE BUILDING
NEW ORLEANS, LOUISIANA 70112

March 29, 1973

REASONS WHY THE STATE FIRE MARSHALS OFFICE SHOULD REMAIN IN THE CONSTITUTION OF THE STATE OF LOUISIANA INCLUDE BUT ARE CERTAINLY NOT LIMITED TO THE FOLLOWING BASIC THREE:

I.

THE RESPONSIBILITY OF THE STATE FIRE MARSHAL IS ONE OF THE TWO BASIC PURPOSES FOR WHICH STATE GOVERNMENT EXISTS, THE OTHER BEING POLICE PROTECTION. BOTH OF THESE RESPONSIBILITIES ARE OF THE HIGHEST PRIORITY, SECOND TO NONE, BECAUSE THEIR ESSENTIAL PURPOSE IS OF THE HIGHEST PRIORITY--AND THAT IS, OF COURSE, THE PROTECTION OF HUMAN LIFE.

II.

THE REQUIREMENT FOR THIS SERVICE SHOULD REMAIN IN THE CONSTITUTION SO THAT THE LEGISLATURE AT ALL TIMES, IN SPITE OF ANY VARIATIONS IN POLITICAL CLIMATE OR PRESSURES OF INDIVIDUAL SELF-INTEREST HAS A CONSTANT MANDATE THAT

-2-

THIS SERVICE BE MAINTAINED AT THE HIGHEST PRIORITY POSSIBLE.

III.

TO REMOVE THE REFERENCE WHICH EXISTS IN THE PRESENT CONSTITUTION WILL EFFECT NO SAVINGS IN TERMS OF BREVITY OF THE CONSTITUTIONAL DOCUMENT. IN FACT, WE RECOMMEND THAT THE MANNER IN WHICH THE OFFICE OF THE STATE FIRE MARSHAL IS ESTABLISHED IN THE PRESENT CONSTITUTION BE UTILIZED AS A MODEL FOR ALL OTHER OFFICES AND BOARDS OF EQUAL DIGNITY.

RECENT EVENTS SHOULD CLEARLY INDICATE THAT THIS OFFICE NOT ONLY SHOULD NOT BE REMOVED FROM THE CONSTITUTION OR LOWERED IN DIGNITY IN ANY WAY, BUT MUST BE RETAINED AND STRENGTHENED, A TASK TO WHICH WE ARE COMPLETELY AND FULLY DEDICATED.

Exhibit E



STATE OF LOUISIANA
LOUISIANA COMMISSION ON GOVERNMENTAL ETHICS
P. O. BOX 44111 CAPITOL STATION
BATON ROUGE LA 70804

April 2, 1973

Constitutional Convention of 1973
P. O. Box 44473
Baton Rouge, Louisiana 70804

RE: Louisiana Code of Governmental Ethics

Gentlemen:

Act 1964, No. 528, adopted November 3, 1964, amended Article 19 of the Louisiana Constitution to enact Section 27 authorizing the Legislature to establish a Code of Governmental Ethics and in connection therewith, to create the Louisiana Commission on Governmental Ethics and the Louisiana Board of Ethics for State Elected Officials.^{1/}

Thus, Louisiana became the second state in the Union to establish investigatory and regulatory agencies having general supervisory and plenary jurisdiction over the ethical propriety of virtually all State employees and elected officials.^{2/}

The Legislature, availing itself of this Constitutional mandate, by Act 1964, No. 110, adopted a Code of Ethics for State employees.

^{1/} Copy of Article 19, Section 27 attached.

^{2/} In 1963, the State of New York adopted a Code of Ethics covering only its non-elected State Officials.

Since their inception, the Commission on Governmental Ethics and the Board of Ethics have actively discharged their functions under the Code of Ethics and, together, have rendered approximately one hundred advisory opinions, have held over forty public hearings relating to charges of ethical improprieties and have levied disciplinary action in over two dozen instances including: a number of dismissals, suspensions without pay and on two occasions, have filed civil proceedings to recover monies received from the State in violation of pertinent provisions of the Code.

Section 27 of Article 19, approximately two printed pages in length, consists primarily of a preamble containing a declaration of policy and purpose as well as vehicles by which the Legislature is authorized to create and establish the Code of Ethics. In implementation thereof, Section 27 authorizes the Legislature to create and establish the Louisiana Commission on Governmental Ethics (having general supervisory jurisdiction over non-elected State employees and officials) and the Board of Ethics for State Elected Officials (having general supervisory jurisdiction over elected State officials).

It contains no lengthy or involved recitation as to what the Code of Ethics shall contain or the manner in which the Boards are to be constituted, the method by which their members are to be selected or the procedures to be employed by these two agencies. These matters are left entirely to Legislative discretion.

Compelling reasons existed in 1964 which prompted the redactors of the Code of Governmental Ethics to establish the Commission and the Board by Constitutional Amendment; the same compelling reasons exist in 1973.

Firstly, the Commission and the Board are statewide entities having general supervisory jurisdiction over all State officials;

Secondly, the Commission on Governmental Ethics has general supervisory jurisdiction over members of the Classified Service; as Article XIV, Section 15 of the Constitution entrusts the

Civil Service Commission with general plenary jurisdiction over members of the Classified Service, an amendment to the Constitution was necessary in order to grant concurrent jurisdiction over matters of ethical propriety dealing with Classified Employees to the Commission on Governmental Ethics;

Thirdly, and along a similar vein, the Board of Ethics for State Elected Officials has the power to investigate, regulate and to some extent discipline elected officials whose offices are for the most part constitutionally established. It was in 1964 and remains to this date the thought of those involved with the Board of Ethics for State Elected Officials that the Legislature cannot--without constitutional authority--impinge upon or otherwise delve into the ambit of authority with which State elected officials are clothed by the constitutional provisions establishing their office; thus, a delegation of authority to the Board of Ethics over constitutionally created elected offices must itself be constitutional in origin.

Fourthly, it must be remembered that the Board of Ethics for State Elected Officials has jurisdiction insofar as concerns ethical propriety of members of the Legislature itself; it is self-evident that if the Board is to remain a politically independent and viable body with meaningful authority over the Legislature, then its organic act and the authority for its establishment must supersede that of Legislative fiat and must be included in the Constitution itself.

In fine, the decision to seek Constitutional authority for the creation and implementation of the Code of Ethics was premised upon conditions and circumstances which are as real today as they were in 1964.

In the event the authority for the establishment of the Commission on Governmental Ethics and the Board of Ethics for State Elected Officials is removed from the Constitution, serious legal questions will arise as to whether or not its authority to supervise the ethical conduct of members of the Classified Service (over whom the Civil Service Commission has plenary jurisdiction) as well as over those State Elected Officials whose offices are created by the Constitution. Moreover, the Ethics Board will find itself in the unenviable position of attempting to regulate the ethical conduct over members of the Legislature under circumstances such that the Board's very existence will rest with the whim and pleasure of members of the Legislature.

Lastly, it should be noted that the present Constitutional proviso delegates to the Department of State Civil Service the responsibility to provide normal staff functions, carry out investigations and otherwise service both the Commission of Governmental Ethics and the Board of Ethics for State Elected Officials.

This delegation of responsibility has not worked an unnecessary hardship on the staff of the Department of Civil Service; it has enabled the Ethics Commission to readily avail itself of the records and reports of the Department of Civil Service; and it has avoided the incurring of additional expense to the State that would result in the event these two agencies were required to maintain their own separate staffs. It is recommended this provision be retained.

In conclusion, an essential principle underlying the staffing of our governmental structure is that public office not be used for private gain and that there be public confidence in the integrity of government officials and employees. These ends will be seriously jeopardized in the event this Convention declines to the Board of Ethics and the Commission on Governmental Ethics the authority and dignity and independency of constitutional inception.

Sincerely yours,

R. Gray Sexton
Attorney

NOTES
Text of Art.19,§27, La. Const. of 1921
in re "Governmental Ethics" is omitted.

Exhibit F

CONSTITUTIONAL CONVENTION STATEMENT
by
LOUISIANA FORESTRY COMMISSION
1973

Ladies and gentlemen, thank you for the opportunity to explain some aspects of Louisiana's forestry program and forests which occupy 15,000,000 acres covering 1/2 of the state; approximately 1/2 pine and 1/2 hardwood; and are 95% privately owned. These forests serve all of us in many forms and their existence is dependent upon public and private cooperation.

You have all heard the expression, "neither fish nor fowl". In trying to classify or categorize forestry, one soon finds that it is distinctive and complex in that it is really both and yet neither.

Trees are a crop -- but they are not an annual crop harvested each year from the same acres. They require years to reach maturity -- 20 to 60 years. They are a crop, but a long-term crop.

Trees are also a natural resource. But, they are different from almost all others classified as natural resources. They are renewable.

This means that under proper protection and management they are perpetual. Thus, they can continue to provide services and wood products for the consuming public on a permanent basis and at optimum levels.

Trees and forests are a vital habitat for wildlife. They provide outdoor recreation and are important to air quality. They contribute in conserving and improving water quality.

Trees are a fundamental part of an industrial complex. They were the basis of Louisiana's first industry -- logging and sawmilling of the first or virgin forest.

Today forests are still a major economic force in Louisiana. They constitute the foundation and raw material for a permanent, revitalized and expanding wood products industry -- a major and top ranking industry. It directly provides jobs for 40,000 families and another 40,000 in secondary industries. It generates annually in excess of 1 1/4 billion dollars of economic activity.

Because of these unique characteristics of the forest, the Louisiana Legislature and voters in 1944 established Louisiana's forestry program as a separate entity in order to best service the areas it encompasses.

Previously forestry had been a division within the old Department of Conservation. Under the altered arrangement the forest policy and program of Louisiana is governed and directed by a separate and single board of seven commissioners -- i. e. the Louisiana Forestry Commission. They serve without pay or per diem. (They meet quarterly and receive reasonable expenses for the meeting - namely a meal.) By law, two are ex-officio -- the Director of the L. S. U. School of Forestry; and, the Director of the Louisiana Wildlife & Fisheries Commission. The other five, appointed by the Governor, represent forest landowners, forest industries and the farming segment of Louisiana. The State Forester serves as chief administrator of the agency at the pleasure of the board. The terms of the commissioners are 5 years and staggered to provide continuity and stability of forest policies.

What has been the result? Through this continuity the Louisiana Forestry Commission has played a vital coordinating and contributing part in the well-known

Page 3

revitalization and expansion of the forestry program and management in Louisiana.

Louisiana has fared well. Forest industrial development has been very impressive with dramatic expansion of old and influx of new. Since 1956 over 700 million dollars has been invested in this expansion. Almost 13,000 in-plant new jobs have been provided plus more in the forest itself. Most of this has occurred in the rural areas. Many rural parishes depend almost entirely on forest industry for their economy. The annual value of forest products after manufacture is equal to that of all agricultural crops combined in Louisiana.

Forest fire protection has been modernized; reforestation of forest lands have quadrupled; woodland owners - large and small - have acquired faith in making long-term forestry investments -- investments insured by a trained and professional agency.

All of this development and expansion was not easily achieved, nor is it an accident. It is the result of a sound, successful and continuing forestry program in Louisiana over many years, since 1944. It could not have occurred without it. The Louisiana Forestry Commission, under a single and separate board, with Legislative and executive cooperation, has made outstanding contributions to this achievement. The challenge continues, because future

demand for wood products and services is predicted to double in the next 30 years -- with diminishing forest acreage.

The forestry program of Louisiana must meet this challenge. By forestry program, I mean ...

Intensive forest fire protection as insurance for all existing and new forests; adequate insect and disease protection to prevent catastrophic epidemics;

Page 4

professional and technical forest management advice and assistance to woodland owners, with specific attention to small owners; information and education to public and youth of Louisiana for future appreciation; increased production of forest tree seedlings aiming for super trees to continually reforest the forest lands as they are harvested; coordination and promotion of increased research programs to best meet the needs of the future; optimum achievement of the multiple values that accrue from the forest.

Where do we go from here? We submit certain criteria, which in my judgment, the structural framework of Louisiana's forestry program should meet.

One, it should assure a continuity of objectives and purposes.

Two, it should assure stability of operational program. Because of its long-term implications, investments in forestry can continue only in an atmosphere of governmental cooperation and encouragement.

Three, the structure should provide for continual guidance by a single board whose members are composed of a representative core of the citizenry most affected by the forestry program.

Four, there should be built-in safeguards to assure that career professionals continue to administer Louisiana's forestry program. Forestry is not a system -- it's a complicated science that demands professional competence. This also embraces career-oriented non-professional workers.

And five, it should have its own support services, such as radio communications and detection equipment. Direct service and immediate response is a necessity in a forestry agency.

Page 5

The Louisiana Forestry Commission, as presently designed, has met and meets these criteria. This is evidenced by the successful results achieved down through the years, since 1944. The Commission is accomplishing its objectives and programs with efficiency; economy; professional competence; career workers; and uncomplicated management -- the basic objective of this Constitutional Convention. The present system, structure, status of the Louisiana Forestry Commission should be continued.

We are ready to work and cooperate with you in any way we can!

Respectfully submitted by
Louisiana Forestry Commission
James E. Nixon, State Forester
April 2, 1973

FUNCTIONAL AND ORGANIZATIONAL CHARTS
OF THE
LOUISIANA FORESTRY COMMISSION

Exhibit F

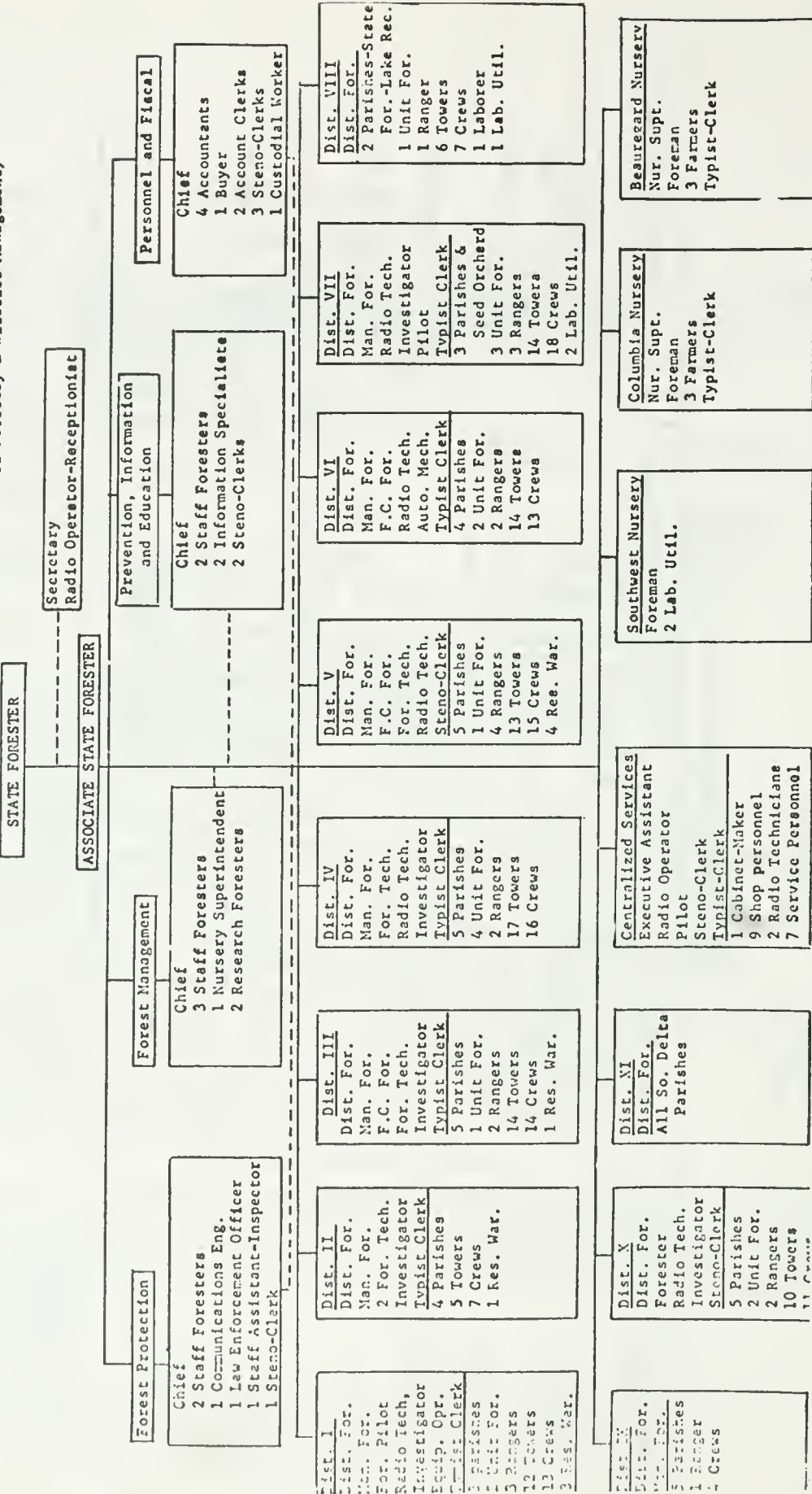
APRIL 1972

LOUISIANA FORESTRY COMMISSION FUNCTIONAL ORGANIZATION

Forest Fire Protection Functions:	Forest Management Functions:	Prevention Functions:	Personnel and Fiscal Functions:
<ul style="list-style-type: none"> Operations Detection Presuppression Control Suppression Wop-up Plans Regular Plans Emergency Plans Internal Disaster Cooperator Assistance Plans Operations Fire Behavior Fire Danger Weather Communications Radio-Telephone Electronics Law Enforcement Investigations Court Actions Air Operations Fire Detection Insect Patrol Operations-Maintenance Equipment Assignment Operation & Maintenance Surplus Property Special Cooperative Program Civil Defense State Campacts Personnel Factors Job Standards Training Safety Agreements & Leases Records and Data 	<ul style="list-style-type: none"> Resource Management General Forest Management Forest Silvics & Ecology Plantation Management Nursery Management Tree Improvement Seed Collection-Cone Production Areas Technical Forestry Landowner Assistance Custom Forestry Services Prescribed Burning Insects & Disease Management Prevention, Detection, Suppression Special Programs River Basin Studies RC & D Projects Small Watersheds-PL 566 Rural Development REAP Program Survey & Resource Data Collection Plantation Records Timber Volumes Ownership Records Survival Counts Finance & Taxation Research Pine Plantation Management Hardwood Regeneration & Management Forest Utilization & Marketing Alexander State Forest Timber Management 	<ul style="list-style-type: none"> Forest Fire Prevention Regular Special Projects Federal CFFP Program Sou. CFFP Program Education Adult Education-Schools & Adult Groups Youth Education - Youth Groups Information Press, Radio, TV Writing & Reports Public Relations Arts, Layout, Design Editing Cooperation with other Agencies & Organizations Environmental Quality Urban Forestry Recreation Tours & Demonstrations Exhibits, Photo, Slides Publications Alexander State Forest Recreation Management Wildlife Management 	<ul style="list-style-type: none"> Accounting State & Federal Accounts Financial Analysis, Records and Repo Controls and Procedure Appropriations and Income Budgeting State & Federal Budgets Unit Budgets Budget Control Disbursements Control of Expenditures Filing Payrolls Personnel earning records Leave and Retirement records Group Insurance Personnel Civil Service Transactions Personnel Control Personnel Problems Workmen's Compensation Property Control and Records Inventories Insurance Purchasing Rentals Seedling Sales Cost & Production Reports Statistics

LOUISIANA FORESTRY COMMISSION ORGANIZATIONAL CHART

COMMISSIONERS - (7)
 - 5 appointed by Governor on 5-year staggered terms
 2 Ex-Officio (Director, Wildlife & Fisheries; Head of L.S.U. School of Forestry & Wildlife Management)



April 2, 1973

Exhibit G

MEMO

Exhibit H

Statement by James S. Reilly
Shreveport before the Constitutional
Convention Committee on
the Executive Department

From the desk of:

EDWIN J. KRIELOW
Director

I am glad to meet with you at your invitation to give you some observations from a Senior Citizen and former aid to several Governors.

Since the Governor, whomever he might be, is the one and only officer that is directly responsible for the general welfare of the people and for the stability and continuity of the Government itself, I favor a strong Governor.

In my opinion, the Governor will naturally be the best informed person on the collective affairs of the State government and therefore be in the best position to know the needs of all the people from every section of the state.

Legislators generally, I think, are primarily interested in the wants and needs of their own Constituency.

Despite the fact that almost every new administration comes into power committed to reducing the cost of government, a glance at only two indices tells what actually happens on this score.

In 1964 there were less than 40,000 state employees. Now there are approximately 50,000.

Page 2

In 1964, the cost of operating the Government was in round numbers nine hundred million. Our next budget will be very close to 2 billion.

These realities, in the years ahead that the new Constitution will serve, will have to be dealt with.

With the prospect of declining revenue from severance and other natural resource taxes - a sound economic development program would seem to be the most satisfactory vehicle for producing new sources of revenue to support the rising expenditures that will be required to maintain existing services much less deal with the constantly increasing demands for new and expanding services.

I think a strong Governor and he alone can assure leaders of business and industry and labor leaders of the State's position with respect to their requirements for investments in our State.

It is my opinion that the Division of Administration is the most important agency directly serving the Governor, and is the one source of information relating to financial management, budgeting, accounting that is so essential to enabling the Governor to be the best informed of our state officers.

At this point, if I may, I would like to close this introduction and tell you briefly of the creation of the Division of Administration and my suggestion and make the remaining time available for your questions if any.

To:

Date:

The LP-Gas Commission was formed as a result of a bad explosion and fire in Crowley, Louisiana in 1936 in which 5 people were killed, many seriously injured, and numerous buildings destroyed.

In order for you to have a better understanding of the report I am about to read, I think it is necessary for you to know that the LP-Gas Commission absorbed the Anhydrous Ammonia Commission on January 1, 1973.

FUNCTIONS AND DUTIES

OF THE

LIQUEFIED PETROLEUM GAS COMMISSION

AS DEFINED IN

ARTICLE VI, SECTION 28

OF THE

CONSTITUTION

The Liquefied Petroleum Gas Commission has jurisdiction over approximately 500 Liquefied Petroleum Gas dealers, 700 bob-tail and transport trucks traveling throughout the State. Every public installation, bulk plant, transport and bob-tail must be inspected to meet safety requirements. Every employee must be given a test for a card of competency (approximately 2700) to handle LP-Gas as well as spot check for meeting safety requirements.

The Liquefied Petroleum Gas Commission was established under Article VI, Section 28, of the Constitution and the Legislature conferred such additional powers and duties that may be found under Louisiana R.S. 40:1841-1850.

The Commission has adopted and enforces such reasonable rules and regulations governing the storage, sale or transportation of liquefied petroleum gases over the public highways of the State, the installation of systems for the use of liquefied petroleum gases, and the use and installation of systems for the use of liquefied petroleum gases, and the use and installation of liquefied petroleum gas appliances as the Commission has deemed necessary in the interest of public safety.

"Liquefied Petroleum Gases" are defined in the Constitution as those gases derived from petroleum or natural gas, and are herein defined as those in the gaseous state at normal atmospheric temperature and pressure, and those maintained in the liquid state at normal atmospheric temperature by means of suitable pressure, exclusive of anhydrous ammonia.

The Commission conducts monthly hearings at which it ascertains the qualifications of individuals and firms to engage in the LP-Gas Industry in Louisiana, considers and rules on such violations as have been reported to it. The Commission issues permits which it has established into 11 classes covering all phases of the LP-Gas Industry and has set appropriate annual permit fees for each.

These fees are collected annually by the State Department of Revenue. For the fiscal year 1971-72, \$72,610.00 was collected and an estimated \$100,000.00 will be collected in 72-73. In addition the Commission issues and renews biennial cards of competency for all LP-Gas service and installation personnel and truck drivers in order that the Commission can verify that all personnel are qualified to handle LP-Gas.

Page 2, Liquefied Petroleum Gas Commission

The Commission at its monthly meetings in 71-72 approved 26 applications after hearings and received \$1450.00 in filing fees. The Commission held hearings on 19 violations in 71-72 and assessed penalties of \$1200.00. The Commission issued 2408 cards of competency in 71-72 and collected \$4416.00 in fees. It expects to handle approximately 1000 new examinations for cards during 72-73 due to the new class permit which will require having qualified personnel.

The Commission anticipates an increase in applications to 400 in 72-73 for the reason this Commission has ruled that all manufacturers as well as dealers who install piping and sell LP-Gas containers and appliances on mobile homes, motor homes, travel trailers, or any recreational vehicle must have a permit with this Commission. Due to the increasing number of explosions, fires, serious accidents and deaths, (according to our records, in one month alone, November 1972, 10 persons died in LP-Gas equipped mobile homes, and in the same year many were seriously injured, 12 mobile homes equipped with LP-Gas systems were destroyed by fire or explosion) the Commission through official action on 12-14-72 assumed jurisdiction of all mobile homes, motor homes, travel trailers and recreational vehicles equipped with LP-Gas systems sold within the State of Louisiana. As far as we can determine we are the first state to go to this extent for the protection of its citizens who live in this type home or who use recreational vehicles. We hope to minimize these accidents, explosions and deaths by strictly enforcing the LP-Gas Rules and Regulations.

The Commission and Staff constantly study and seek to determine proper procedures for the safe use, storage and transportation of LP-Gas and to that end often call on the expertise of the National Board of Underwriters, the National Fire Protection Association, U.S. Bureau of Mines, the U.S. Department of Transportation and LP-Gas regulatory bodies in other states.

The Commission and Staff work closely with the Louisiana LP-Gas Association in developing an educational program calculated to raise the safety standards of the LP-Gas industry.

The Commission through its director checks drawing of all tanks shipped into Louisiana and his staff maintains files which contain data on those tanks. The Director issues seals for the reinstallation all tanks in order to follow up on any tank which changes from its original installation. The Director

Page 3, Liquefied Petroleum Gas Commission

obtains reports on all LP-Gas installations made in the State and checks drawings which must be submitted for all LP-Gas installations made in places of public assembly, schools, churches, stores, clubs, etc.

The Director and his staff in 1971-72 obtained drawings and data on 1200 new tanks and issued 432 seals for the reinstallation of tanks. The Director approved 177 prints and sketches which had been submitted. He and his Staff expect a large increase in all of these areas. The Director in 1971-72 traveled 20,000 miles throughout the State at the direction of the Commission to assist and maintain contact with the inspectors in the field, to make spot-check inspections and to confer with those engaged in the LP-Gas Industry. He acts as a liaison between the Industry and the Commission on questions of policy, standards and enforcement. At the request of the Commission and the Louisiana LP-Gas Association the Director participates actively in Safety Schools conducted around the State

to up-grade safety standards in the LP-Gas industry. The Director generally handles all of the correspondence and official business of the Commission and keeps them informed on all matters related to the Commission.

The Commission through its inspectors instruct and give written examinations to personnel engaged in the LP-Gas Industry in Louisiana. They participate in Safety Schools as instructors and lecturers.

The inspectors investigate and report on all fires and accidents involving LP-Gas and thus are on call twenty-four hours a day, seven days a week. They inspect all underground tanks before they are installed as well as inspecting periodically all transport trucks and equipment used in the handling, storage and transportation of LP-Gas in Louisiana.

The inspectors in 71-72 conducted 524 examinations and made 3152 inspections, condemned 22 tanks and investigated 128 fires and accidents.

Anhydrous Ammonia Division

The Anhydrous Ammonia Division was created by the Legislature in 1948, Executive Session No. 15, Section I to enforce rules and regulations to safeguard the handling, storage, transportation and sale of anhydrous ammonia. The jurisdiction of the Division extends to the manufacturer, dealers,

Page 4, Liquefied Petroleum Gas Commission

and users of the product.

The major responsibility of the Anhydrous Ammonia Division is safety on the highways in dealer storage areas, farm storage areas, and in the field. The boiling point of Anhydrous Ammonia is 28°F., thus it is important to avoid contact with any part of the body with the liquid since it causes damage to skin tissues by freezing, caustic action and dehydration. Severe damage can and has been caused to the eyes, respiratory system and on areas of contact. We counsel with manufacturers in developing safer and more durable equipment. We supervise and assist with the inspection and tagging each year of all storage and transport tanks in use. We train and test dealer service personnel and farm users through service schools and constant visitation. We investigate applications for permits by dealers and approve location sites of storage installations. We maintain a constant safety surveillance on the movement of tanks, transports, and related equipment to assure safety compliance and that only licensed dealers sell to users.

In 1971-72 we had 36 dealers. We inspected 3310 tanks, and tagged the storage tanks.

Of equal importance to use of anhydrous ammonia in the State is increased production. There are at present 11 plants in Louisiana with a rated capacity of 3,780,000 tons per year. This represents 23% of the nation's production. Much of this volume is transported by trucks throughout the State. Inspection and constant safety surveillance are maintained on anhydrous ammonia transports moving throughout the State. This phase of inspection responsibility continues to increase in volume as a greater number of transports are being used. This is a growing field.

We are convinced at the present time the two Departments (Anhydrous Ammonia and Liquefied Petroleum Gas Commission) can be run more economically under one Commission. By effectively utilizing all our inspectors activities in both fields, the public will be assured of greater safety through increased inspection, surveillance, and investigation throughout the State, as well as reducing the cost of operating these Commissions by reduction of personnel and equipment previously used to operate the separate Commissions.

Page 5, Liquefied Petroleum Gas Commission

	<u>Work Load Data</u>		
	<u>Actual 71-72</u>	<u>Estimated 72-73</u>	<u>Estimated 73-74</u>
Examinations	524	1300	1500
Inspections	3152	3500	4000
Hearings on violations	19	50	150
Hearings on applications approved	26	700	150
New tanks installed	1400	2000	2000
Used tanks installed	432	250	250
Prints & sketches approved	177	250	250
Tanks condemned	22	50	50
Fires & accidents investigated	114	100	75

UNAVAILABLE FUNDS COLLECTED THRU DEPARTMENT

	Actual 71-72	Estimated 72-73	Estimated 73-74
Cards of competency	\$4416.00	\$2000.00	\$6000.00
<u>SELF-GENERATED FUNDS</u>			
Rules and regulations	\$285.00	\$700.00	\$500.00
Filing fees	\$1450.00	\$10,000.00	\$2,000.00
Penalties	\$1200.00	\$2,000.00	\$2,000.00

Recommendation from the Director of the Liquefied Petroleum Gas Commission: Edwin J. Krielow

After careful review of the duties and functions of the Liquefied Petroleum Gas Commission, and in the light of cooperating with the Constitutional Convention in its effort to reduce the number of Constitutional Commissions, I am convinced that the Liquefied Petroleum Gas Commission can operate effectively and efficiently under the Statutes.

I would strongly recommend that the present structure as to the operation of the Commission be retained. That is, the Liquefied Petroleum Gas Commission still be in the control of the Board of Commissioners, and the duties of the Commission be carried on through a Director with the necessary personnel under his supervision.

Edwin J. Krielow



STATE OF LOUISIANA
Secretary of State

March 28, 1973

WADE O. MARTIN, JR.
SECRETARY OF STATE

Exhibit I

300 0-01
R. B. 804 22 15
BATON ROUGE LA
70804

Mr. Edwin J. Krielow
Director
Liquefied Petroleum Gas Commission
Post Office Box 7149
Baton Rouge, Louisiana 70821

Dear Mr. Krielow:

In answer to your inquiry, this is to advise that I consider the Liquefied Petroleum Gas Commission to be one of the most vital and important regulatory agencies in the state. It has been my pleasure to serve on this commission for a long time, and in my opinion, under no circumstance should it ever be discontinued.

If there was any implication to the contrary in my appearance before the Constitutional Convention Committee on the Executive Department, it was wholly in error. In answer to a question posed by a member of the committee as to whether any duties or functions are now imposed upon the Secretary of State in an ex officio capacity which are not necessarily related to the other functions of the office, I listed the L-P Gas Commission membership among others in that category, but I did not recommend any change.

At least while I am Secretary of State I will make every effort to retain by membership on this important commission. This is especially true because of my long experience in this field of regulation. I cherish my membership on this vital board.

With best regards, I am

Sincerely,
Wade O. Martin, Jr.
Wade O. Martin, Jr.
Secretary of State

WOMjr/lg

Exhibit J

Board of Highways; Director; powers, duties and functions

The Board of Highways shall consist of nine members, one of whom shall be ex-officio the Governor. There shall be one

member from each Congressional District. Two of the members shall serve for terms of four years coinciding with the term of the Governor. The remaining six members shall each serve for terms of six years, the terms of office being staggered so that one new member is appointed each year. The members presently serving shall finish the terms for which they were appointed and may be reappointed.

The members of the Board shall elect one member, other than the Governor, to serve as Chairman of the Board, and one member, other than the Governor, to serve as Vice Chairman. It shall appoint its secretary and fix his compensation.

Thereafter any vacancy occurring in said board, by reason of the expiration of the term for which appointed, or by reason of death, resignation or otherwise, shall be filled by appointment of the Governor, from among residents of the same Congressional District as that of the members whose office was vacated.

Any succeeding member appointed to fill the term of a member leaving the Board, before the expiration of the term to which he shall have been appointed, shall be appointed to fill the unexpired term of such retiring or deceased member.

No member of the Board may be a member of the Legislature or hold any salaried public office or employment for compensation (other than per diem) existing under or created by the laws of the United States, the State of Louisiana, or any municipality or subdivision thereof.

No compensation for his services shall be paid to any member of the Board, but each member shall be paid a per diem fixed by the Legislature for each day and his actual expenses in traveling to and from and attending meetings of the Board and in attendance to his duties away from his domicile under assignment by the Board.

The Board shall hold an open meeting at least once each month. It may hold other meetings at its discretion, or on call of its Chairman. A majority of the members constitutes a quorum of the Board. In case of a tie vote, the Governor shall cast the deciding vote.

The Board shall have general control, management supervision and direction of the Department of Highways. It shall have authority to establish, construct, extend, improve, maintain, and regulate the use of the State highways and bridges. It may make such studies and investigations as it thinks necessary. It shall formulate the policies and may determine the wisdom and efficacy of the policies, plans and procedures of the department and execution of which may by it be delegated to the director and engineers within the scope of its functions.

The Board shall appoint the director of highways, the chief engineer, the maintenance engineer, and the general counsel of the department of highways. All other functions of the director, the chief engineer and the maintenance engineer may be exercised only under the supervision, direction and control of the board of

highways. No appointed member of the board may prescribe or direct the conduct of the department or the action of the executive officer of the department or any subordinate member thereof in any matter or case, unless first authorized by the Board.

The Board shall not take any action except by vote in public meeting assembled, and which shall be recorded in the minutes.

The Director of Highways is the executive officer of the Department. He shall be appointed by the Board of Highways. He shall serve at the pleasure of the Board. His salary shall be fixed by the Board of Highways. He shall serve on a full-time basis.

Under the direction, supervision and control of the Board of Highways, the Director has the management of the Department and shall exercise all of the functions of the Department through the Department organizations provided for by law, except those functions specifically assigned to the Board of Highways under the provisions of this Section. The Department cannot and shall not act otherwise than through the Board of Highways or the Director or through someone acting under authority of the Board or Director. Every lawful act of the Director performed in his official capacity is the act of the Department.

The provisions of this amendment shall be self-operative and shall require no further or other legislation.

Exhibit 5

When the Constitution of Louisiana was adopted in 1921, no provision was made therein for the kind of organization which the highway system should have, the entire matter being left to the Legislature. See Article VI, Section 19. Act 95 of the extra session of 1921 was adopted by the Legislature to provide for the system of highways, to establish an organization of engineers governed by a Commission of three electors appointed by the Governor and holding office in effect at his pleasure, and to establish the authority which that Commission would have with regard to the construction, maintenance and regulation of the state highway system.

Subsequent developments revealed that this form of organization was deficient; it was too subservient to the Governor, it was too easily influenced by individual legislators, it was too inefficient and unstable. It was disturbed by each new administration. Wholesome changes in personnel were made in 1928 and 1940. In 1940 and again in 1942 the Commission was abolished and replaced by a board created by statute, its members still holding office at the pleasure of the Governor. While this form worked well under one kind of governor, it performed poorly under a different kind of man. The 1948 Legislature abolished the Civil Service System and changed the board from a parttime group, paid a per diem for attending meetings, to a full time, salaried, advisory committee, each member of which was in charge of maintenance in his district. The result was chaos.

The need for stability and continuity to achieve greater efficiency of planning and management stimulated another change in

1952: placing the Highway Department organization in the Constitution, providing for staggered terms for the members of the Board, and vesting the control of policy and the selection of the Director, the Chief Engineer and the General Counsel of the Department in the Board of Highways. The object was to achieve corporate efficiency similar to that of private business through use of a similar structure of organization, through avoidance of the interruption of functions and loss of experience which had previously characterized changes of administration, and through placement of the organization structure in a position that would require the approval of the people before a change could be made. Too, it tended to reduce political influence in decisions. This action combined with civil service protection for employees, and the dedication of revenues to guarantee that funds would be available for maintenance, debt service, administration, matching of Federal contributions and construction, substantially improved the functioning of the Department of Highways. Two attempts have been made to remove the Department of Highways and its governing board from constitutional protection, but the people have refused to concur in the changes proposed by two different popular governors.

The placement of the Board of Highways in the Constitution was intended to give that Board a permanency of operation which had not existed while the Department of Highways was administered solely under statutory authority. Other agencies which had habitually been upset and revised by the Legislature during each change of administration also were placed under constitutional protection: the Civil Service Commission, the Institutions Board, the Wild Life and Fisheries Commission and the Welfare Board.

Over the course of many years preceding the action of the people in 1952, other boards and commissions, which were having troubles of a political nature or which were believed to be inefficient or the victim of corrupt management, had been placed in the Constitution, with great benefit resulting. Prime examples are the Board of Commissioners of the Port of New Orleans, the New Orleans Public Belt Railroad, and the Sewerage and Water Board of Orleans Parish.

The experience of the Board of Highways has not always been a happy one. Some governors and legislatures have refused to let it function as well as it should. Several members of the Board were addressed out of office in 1956 and others were threatened in 1950 so that they resigned rather than carry over into an unfriendly administration. Governor Edwards is the first Governor to allow more than one appointee of a previous administration to carry over into the succeeding term, so that often the experience which has been accumulated by individual members has been prematurely wasted.

The present constitutional board is characterized by a breadth of coverage of the State, a depth of understanding of the problems of the public with the highway system and equally an understanding of the problems of the Department of Highways. The

Board feels confident that its services are needed by the State and useful to the individual citizens, thousands of whom present their views to the individual members annually. Members talk to police juries, to school boards and to municipal governing bodies; they are in contact with the numerous special district governing bodies and other administrative agencies of the State.

The Constitution has always protected the elected officials in their offices from disturbance during their terms except for malfeasance; similarly the Constitution should protect the appointed officials so that they can exercise independence of judgment and the reasonable discretion necessary in carrying out their duties to the public during their terms of office. The Constitution should encourage persons of character to hold appointive office by freeing them from dependence on the Legislature and the Governor for their existence in office.

Attached is a suggested revision of the existing Constitutional provisions dealing with the Board of Highways.

W. T. TAYLOR, JR.
Director

NOTES

Remarks of Commissioner of Conservation R. T. Sutton are omitted. See below Natural Resources Committee Addenda, 3/23/73.

Exhibit L

BRIEFING OF EXECUTIVE COMMITTEE OF CONSTITUTIONAL CONVENTION '73 ON MILITARY DEPARTMENT AND LOUISIANA NATIONAL GUARD

THANK YOU FOR THIS OPPORTUNITY TO APPEAR BEFORE YOU ON BEHALF OF THE MILITARY DEPARTMENT AND THE NATIONAL GUARD.

CONSTITUTIONAL AUTHORITY FOR THE NATIONAL GUARD RESTS IN ARTICLE 1, SECTION 8, CLAUSES 15 AND 16 OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA, WHICH READS AS FOLLOWS:

CLAUSE 15: THE CONGRESS SHALL HAVE THE POWER TO PROVIDE FOR CALLING THE MILITIA TO EXECUTE THE LAWS OF THE UNION, SUPPRESS INSURRECTIONS AND REPEL INVASIONS.

CLAUSE 16: THE CONGRESS SHALL HAVE THE POWER TO PROVIDE FOR ORGANIZING, ARMING AND DISCIPLINING THE MILITIA AND FOR GOVERNING SUCH PART OF THEM AS MAY BE EMPLOYED IN THE SERVICE OF THE UNITED STATES, RESERVING TO THE STATES, RESPECTIVELY, THE APPOINTMENT OF OFFICERS AND THE AUTHORITY FOR TRAINING THE MILITIA ACCORDING TO THE DISCIPLINE PRESCRIBED BY CONGRESS.

THE FOREGOING ARE KNOWN AS THE MILITIA CLAUSES.

TITLE 32 UNITED STATES CODE ANNOTATED, IS ENTITLED "NATIONAL GUARD" AND PROVIDES FOR ITS ORGANIZATION, PERSONNEL, TRAINING, SERVICE, SUPPLY AND PROCUREMENT. IT ALSO ESTABLISHES THE GENERAL POLICY WHICH STATES IN SUBSTANCE THAT IN ACCORDANCE WITH THE

TRADITIONAL POLICY OF THE UNITED STATES, IT IS ESSENTIAL THAT THE STRENGTH AND ORGANIZATION OF THE ARMY AND AIR NATIONAL GUARD AS AN INTEGRAL PART OF THE FIRST LINE OF DEFENSES OF THE UNITED STATES BE MAINTAINED AND ASSURED AT ALL TIMES AND THAT WHEN CONGRESS DEEMS THAT MORE TROOPS ARE NEEDED THAN ARE IN THE REGULAR FORCES FOR NATIONAL SECURITY, THE ARMY AND AIR NATIONAL GUARD OR SUCH PARTS AS MAY BE NEEDED FOR A BALANCED FORCE SHALL BE ORDERED TO ACTIVE FEDERAL DUTY AND RETAINED AS LONG AS NEEDED.

TITLE 32 ALSO RESERVES TO THE GOVERNOR THE AUTHORITY TO APPOINT THE ADJUTANT GENERAL.

THE ORGANIZATION AND COMPOSITION OF BOTH SERVICES, ARMY AND AIR, SHALL BE THE SAME AS THOSE PRESCRIBED FOR THE ACTIVE FEDERAL MILITARY FORCES.

REVISED STATUTE 29, CHAPTER 1, ENTITLED "MILITARY FORCES OF THE STATE" PROVIDES THE GENERAL LAWS REGULATING THE MILITIA AND OTHER MILITARY FORCES. OF PARTICULAR INTEREST IS SECTION 1 CONSTITUTING THE MILITIA, DIVIDING IT INTO TWO CLASSES, ORGANIZED AND UNORGANIZED, WITH THE ORGANIZED CONSISTING OF THE NATIONAL GUARD AND OTHER ORGANIZED FORCES AUTHORIZED BY LAW. THE HISTORY AND SOURCE OF LAW, TO INCLUDE THE CONSTITUTIONAL PROVISIONS, ARE FOOTNOTED TO SECTION 1 OF TITLE 29.

-2-

THE VALUE OF THE MILITIA TO THE STATE CANNOT BE ESTIMATED IN DOLLARS AND CENTS BUT IN ITS VALUE IN THE PRESERVATION OF LAW AND ORDER, FLOOD, HURRICANES, SEARCH AND RESCUE AND COMMUNITY PROJECTS. SINCE 1959 WE HAVE BEEN CALLED ON SOME 59 TIMES TO PRESERVE LAW AND ORDER AND TO AID IN NATURAL DISASTERS, EXPLOSIONS, FIRES AND THE LIKE.

THERE ARE SOME CHANGES IN ARTICLE XVII WHICH WE FEEL ARE NECESSARY.

SECTION 1 NOW READS: A WELL REGULATED MILITIA SHALL BE MAINTAINED, AND THE LEGISLATURE SHALL PROVIDE FOR ITS ORGANIZATION, EQUIPMENT AND DISCIPLINE, WHICH SHALL CONFORM AS NEARLY AS PRACTICABLE TO THE ORGANIZATION, EQUIPMENT, AND DISCIPLINE OF THE REGULAR ARMY AND NAVY OF THE UNITED STATES.

WE FEEL THAT PART WHICH READS "AND DISCIPLINE OF THE REGULAR ARMY AND NAVY OF THE UNITED STATES" SHOULD BE CHANGED TO READ "AND DISCIPLINE OF THE REGULAR ARMED FORCES OF THE UNITED STATES." THE REASONING IS THAT THERE ARE MORE THAN JUST THE ARMY AND NAVY AND BY USE OF THE PHRASE "ARMED FORCES" IT WILL MEET THE NATIONAL CRITERIA MORE ADEQUATELY.

SECTION 2 READS: THE GOVERNOR SHALL BE THE COMMANDER-IN-CHIEF OF AND SHALL HAVE THE POWER TO CALL THE MILITIA INTO ACTIVE

-3-

SERVICE FOR THE PRESERVATION OF LAW AND ORDER, TO REPEL INVASION AND TO SUPPRESS INSURRECTION.

ALTHOUGH IT CAN STAND AS WRITTEN, IT IS BELIEVED THAT A SHORT PHRASE "AND AID IN NATURAL DISASTERS" SHOULD BE ADDED TO THE END. OUR LEGAL STAFF FEELS THAT "PRESERVATION OF LAW AND ORDER" COULD BE INTERPRETED AS COVERING AID FOLLOWING FLOODS, HURRICANES, TORNADOS, EXPLOSIONS, ETC., BUT FROM THE LAYMAN'S STANDPOINT, IT IS BELIEVED THAT IT SHOULD BE SPELLED OUT SO THAT THERE IS NO ROOM FOR MISINTERPRETATION.

SECTION 3 READS: AN ADJUTANT GENERAL SHALL BE APPOINTED BY THE GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AND SHALL DISCHARGE HIS DUTIES AT THE CAPITAL.

OUR ADJUTANT GENERAL, STAFF AND SENIOR MEMBERS OF THE GUARD FEEL THAT THIS SECTION SHOULD BE AMENDED SO AS TO NEGATE THE POSSIBILITY OF POLITICAL PRESSURE TO CHANGE THE QUALIFICATIONS OF A PROSPECTIVE CANDIDATE FOR ADJUTANT GENERAL. THIS HAS BEEN DONE IN THE PAST. FURTHERMORE, WE ARE STRONG IN OUR BELIEF THAT THE ADJUTANT GENERAL SHOULD BE AN INDIVIDUAL WHO HAS BEEN ASSOCIATED WITH THE GUARD FOR AT LEAST FIVE YEARS DURING WHICH TIME HE WOULD HAVE ACCUMULATED THE KNOWLEDGE NECESSARY TO SERVE IN THE POSITION AND ADVISE THE GOVERNOR ON ITS USE FROM AN OVERALL UNDERSTANDING OF ITS RESOURCES AND CAPABILITIES. THIS

-4-

CANNOT BE DONE BY SOMEONE WHO HAS NEVER BEEN AFFILIATED WITH THE GUARD. FURTHER, THAT HE SHOULD BE QUALIFIED FOR PROMOTION TO THE RANK OF COLONEL OR HIGHER. TO DO ANYTHING LESS WOULD BE DETRIMENTAL TO THE GUARD.

THE ADJUTANT GENERAL HAS HAD HIS OFFICE IN NEW ORLEANS FOR MORE THAN FORTY YEARS AND THERE IS NO NEED TO PLACE IN THE CONSTITUTION THE NAME OF THE CITY WHERE HE SHOULD BE LOCATED.

SECTION 4 RELATIVE TO MILITARY RECORDS, BANNERS, ETC. CAN BE DELETED AS IT IS STATUTORY IN NATURE AND NOT REQUIRED IN THE CONSTITUTION.

THIS CONCLUDES MY PRESENTATION. MY THANKS FOR YOUR PATIENCE. SHOULD YOU HAVE ANY QUESTIONS, I SHALL DO MY BEST TO ANSWER THEM OR SECURE THE ANSWER FOR YOU.

-5-

NOTES

Art. XVII, §§1-4, La. Const. of 1921, in re "Militia" are omitted.

PROPOSED CONSTITUTIONAL MILITIA PROVISIONS

Article XVII, Section 1

A well regulated militia shall be maintained, and the Legislature shall provide for its organization, equipment and discipline, which shall conform as nearly as practicable to the organization, equipment, and discipline of the Regular Armed Forces of the United States.

Article XVII, Section 2

The Governor shall be the Commander-in-Chief of and shall have the power to call the militia into active service for the preservation of law and order, to repel invasion, to suppress insurrection, and aid in natural disasters.

Article XVII, Section 3

An Adjutant General shall be appointed by the Governor by and with the advice and consent of the Senate from active or retired officers of the Louisiana National Guard who have had at least five years of federally recognized commissioned service therein and who are federally qualified for promotion to the rank of colonel or higher.

Article XVII, Section 4

Delete



C. GORDON JOHNSON Chairman
ROBERT C. BRADHURST Sr. Member
BLANCHE R. LONG Member
DONALD J. JOUANDOT Executive Secretary

BATON ROUGE OFFICE
215 CAPITOL ANNEX
P.O. BOX 44744

Louisiana Tax Commission

TEXT OF REMARKS BY

C. GORDON JOHNSON

CHAIRMAN

LOUISIANA TAX COMMISSION

FOR THE MEMBERS' COMMITTEE
ON THE EXECUTIVE DEPARTMENT
CONSTITUTIONAL CONVENTION

APRIL 3, 1973

LOUISIANA TAX COMMISSION

The Louisiana Tax Commission (formerly the Board of State Affairs) is created in the Constitution (Article X, Section 2). The provision provides that the Commission is to consist of three members appointed by the Governor, with consent of the Senate, for 6-year terms. Vacancies are to be filled by appointment. A constitutional salary of \$5,000.00 per annum has been increased by the Legislature, (R.S. 47 1832). The present salary of the Chairman is \$20,000.00 per annum and the Member's salary is \$16,000.00.

DOMICILE: The domicile of the Tax Commission shall be at the State Capitol, and immediately after the appointment of the members, the Governor shall designate the Chairman and they shall organize R.S. 47 1834.

CONSTITUTIONAL DUTIES The major Constitutional function of the Tax Commission is to "... exercise such authority in respect to

assessments taxation the State budget, and other matters" as prescribed by law. Other provisions further describe commission functions associated with tax assessments, however, these functions have been altered by recent legislative acts and court decisions affecting the state's property tax laws (Article X, Secs 4, 12, 16).

STATUTORY DUTIES The Commission also has a number of statutory functions associated with assessments (La. R.S. 47:1831-1836; 47:1951-2000).

REVIEW OF ASSESSMENTS BY COMMISSION The Tax Commission shall review all assessments made by the Assessors. May require individuals, companies, partnerships and corporations to make reports to the tax commission, giving trial balances, a full and complete description of all taxable property owned by them.
R.S. 47:1989.

-2-

The Tax Commission mails approximately 50,000 report forms, annually, to the taxpayers to be filled out and returned by April 1st of that year. These reports are checked against the assessments made by the Assessor and adjustments are made by the Commission, if found to be necessary.

The total assessed value of property in all parishes in the state for the year 1972 (Orleans Parish 1973) was \$6,084,637,584.00. A comparative statement attached shows this is an increase of \$263,975,222.00 over the previous year. This is the largest increase on record in any one year.

The Tax Commission directly assesses all property owned by public utilities, and these assessments are included in the above total. The total assessed value of these utilities amount to \$1,272,171,260.00 (See statement attached).

The state tax of 5 3/4 mills amounted to \$34,959,011.04 and parish taxes amounted to \$297,468,197.32, making a total of \$332,427,208.36. The 5 3/4 mills in Orleans Parish for 1973 is included in the above and this figure might change as there is some question about the collection of this tax. Of course, the state tax of 5 3/4 mills was repealed January 1, 1973.

CHANGES IN ASSESSMENTS BY COMMISSION The Tax Commission may change or correct any and all assessments of property for the purpose of taxation in order to make the assessments conform to true and correct valuation, not to exceed its actual cash value. These changes or corrections must be made before the taxes levied have actually been paid. R.S. 47:1990.

The Tax Commission makes many adjustments in assessments which are requested by the taxpayers and approved by the assessors and tax collectors, if found to be in order. Some requests are rejected and others are not given the full adjustment requested. A number of protests are made to the Commission by taxpayers after they have discussed their assessment with the assessor and have been unable to agree. When these protests are made, the Commission makes a thorough investigation, by checking the property itself, contacting the Assessor and taxpayer before a final decision is made.

-3-

PERSONNEL AND 1972-1973 APPROPRIATION There are 40 employees

in the Tax Commission and the 1972-73 state appropriation is \$515,997.00, plus federal funds of \$24,632.00. (Attached is Organizational Chart).

NEW MANUFACTURING ESTABLISHMENTS The state board of commerce and industry, with the approval of the Governor, may enter into contracts for the exemption of any new manufacturing establishment or an addition or additions to any manufacturing establishment already existing in the state upon such terms and conditions as the boards, with approval of the Governor, may deem to be to the best interest of the state. The terms 'manufacturing establishment' and 'addition or additions' as used in this paragraph mean a new plant or establishment or an addition or additions to any existing plant or establishment which engages in the business of working raw materials into wares suitable for use. No exemption shall be contracted for any new manufacturing establishment in any locality where there is a manufacturing establishment actually engaged in the manufacture of the same or closely competitive article with the written consent of the owner of such existing manufacturing establishment to be attached to and identified with the contract of exemption. (Article X, Section 4 of the Constitution).

The total amount of all 10-year tax exemptions covering manufacturing plants as of January 1, 1973, amounted to approximately \$6,500,000,000.00.

I think the Louisiana Tax Commission should remain as a constitutional agency. There needs to be a state agency to check state-wide properties, such as public utilities and common carriers. The taxpayer needs some one other than the assessor to hear appeals on discriminatory assessments.

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COMPARATIVE STATEMENT SHOWING TOTAL ASSESSMENTS BY PARISHES FOR THE YEAR 1971 - 1972 (1972 - 1973 in Orleans Parish)

Parishes	1971	1972	Increase
Acadia	\$ 74,129,510	\$ 76,293,640	\$ 2,164,130
Allen	19,774,240	21,192,110	1,417,870
Ascension	52,043,630	55,192,360	3,148,730
Assumption	25,108,650	27,444,440	2,335,790
Averyelles	29,455,860	30,134,460	678,600
Bouttegard	32,313,730	32,936,620	622,890
Calveville	27,561,670	29,957,560	2,395,890
Cassier	80,342,230	84,396,060	4,053,830
Cecoo	559,056,170	582,539,300	23,483,130
Celestieu	264,265,260	292,790,350	28,525,120
Calveville	14,813,430	15,204,910	391,480
Cameron	38,329,250	39,552,100	1,222,850
Catahoula	13,779,950	14,400,670	620,720
Clayborne	25,636,250	25,887,250	251,000
Concordia	17,935,920	18,723,055	787,135
DeSoto	23,213,710	24,300,650	1,086,940
East Baton Rouge	663,547,690	683,733,710	20,186,020
East Carroll	18,668,145	18,071,070	(597,075)
East Feliciana	15,413,270	17,556,770	2,143,500
Evangeline	36,235,320	36,044,100	(191,220)
Franklin	25,012,170	25,803,610	791,440
Grant	14,658,610	15,004,720	346,110
Iberia	71,576,010	73,717,610	2,141,600
Iberville	52,444,110	53,412,210	968,100
Jackson	20,727,310	21,200,670	473,360
Jefferson	341,126,770	360,700,730	19,573,960
Jefferson Davis	54,206,710	54,700,410	493,700
Lafayette	90,251,330	93,490,520	3,239,190

Lafourche	93,338,340	95,214,800	1,876,460
LaSalle	24,792,460	25,512,220	719,820
Lincoln	38,492,270	40,634,480	2,142,210
Livingston	22,440,350	23,551,140	1,110,790
Madison	21,405,085	22,685,540	1,280,475
Morehouse	58,061,100	61,882,160	3,821,060
Natchitoches	57,120,530	58,549,700	1,429,170
Orleans - 1st M.O.	364,752,530	405,958,060	41,205,530
2nd M.O.	179,283,350	187,010,840	7,727,490
3rd M.O.	358,346,915	370,000,645	11,653,730
4th M.O.	43,608,670	44,747,480	1,138,810
5th M.O.	78,524,520	85,769,580	7,245,060
6th M.O.	121,531,680	123,065,430	1,533,750
7th M.O.	74,795,280	75,300,430	505,150
Ouachita	189,137,840	205,285,590	16,147,750
Plaquemines	158,767,750	174,679,450	15,911,700
Pointe Coupee	25,747,050	27,282,550	1,535,500
Rapides	101,581,430	105,420,850	3,839,420
Red River	10,691,180	10,986,810	295,630
Richland	32,972,350	34,607,350	1,635,000
Sabine	18,728,625	20,669,383	2,140,758
St. Bernard	73,414,665	78,009,232	4,594,567
St. Charles	62,995,392	65,858,091	2,862,699
St. Helena	11,915,500	12,315,600	400,100
St. James	39,802,230	41,390,300	1,588,070
St. John the Baptist	24,355,151	24,652,904	297,753
St. Landry	94,870,620	98,997,160	4,126,540
St. Martin	27,447,620	28,140,580	692,960
St. Mary	150,747,955	154,278,135	3,530,180
St. Tammany	64,754,380	70,217,606	5,463,226
Tangipahoa	47,379,350	50,820,090	3,440,740
Texas	13,284,678	13,100,420	(-184,258)
Terrebonne	125,748,980	132,520,600	6,771,620
Union	21,437,550	22,342,640	905,090

Parishes	1971	1972	Increase
Vermilion	\$ 53,382,300	\$ 61,526,830	\$ 8,144,530
Vernon	24,809,750	25,622,120	812,370
Washington	49,414,900	51,021,730	1,606,830
Webster	53,448,140	54,499,237	1,051,097
West Baton Rouge	21,054,180	24,379,450	3,325,270
West Carroll	17,540,340	17,675,540	135,200
West Feliciana	18,587,795	19,667,632	1,079,837
Winn	17,237,890	17,662,730	424,840
Private Car Line	5,018,790	4,964,550	(-54,240)
TOTAL	\$ 5,820,662,362	6,084,637,564	263,975,222

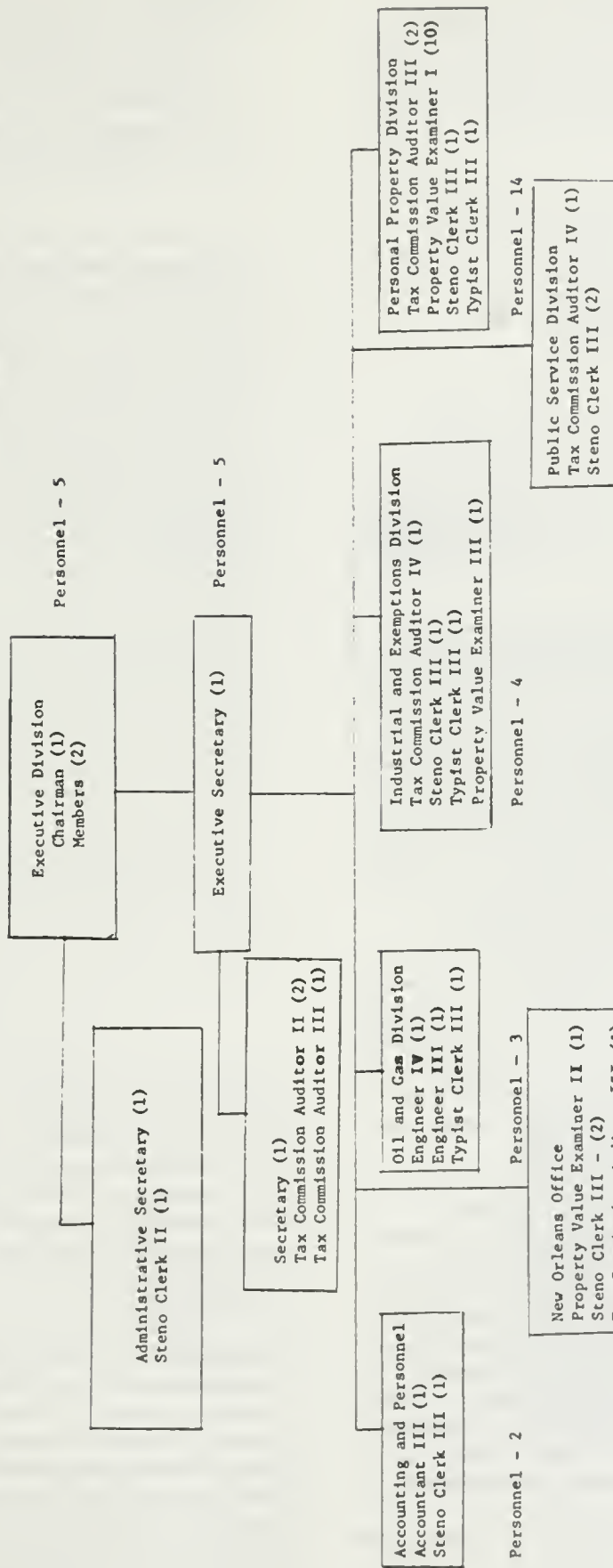
LIST OF PARISHES
71-100

Jefferson	59,793,450	62,820,840	3,027,390
Jefferson Davis	17,966,360	18,053,610	87,250
Lafayette	19,524,840	20,626,440	1,101,600
Lafourche	23,000,890	23,926,160	925,270
LaSalle	13,198,540	13,683,860	485,320
Lincoln	12,307,980	12,718,490	410,510
Livingston	7,246,730	7,567,240	320,510
Madison	8,510,720	6,501,570	9,150
Morehouse	17,799,300	18,075,290	275,990
Natchitoches	12,812,670	13,014,820	202,150
Districts—1st District	71,718,030	74,584,920	2,866,890
2nd District	16,229,740	16,389,430	159,690
3rd District	71,692,590	72,312,680	620,090
4th District	4,684,240	4,688,990	4,750
5th District	6,278,300	7,121,220	842,920
6th District	13,951,940	14,169,400	217,460
7th District	8,863,440	8,906,920	43,480
Quachita	41,917,230	42,660,620	743,390
Plaquemines	17,337,790	18,339,370	1,001,580
Pointe Coupee	9,034,390	9,358,870	324,480
Rapides	29,226,020	30,662,020	1,436,000
Red River	4,113,820	4,235,400	121,580
Richland	12,466,810	13,681,270	1,214,460
Sabine	6,862,140	7,086,420	224,280
St. Bernard	15,010,290	15,902,150	891,860
St. Charles	18,209,110	19,048,860	839,750
St. Helena	8,323,040	8,667,700	344,660
St. James	10,970,910	11,949,940	979,030
St. John the Baptist	5,783,700	5,859,840	76,140
St. Landry	23,382,590	23,678,850	296,260
St. Martin	7,917,900	8,702,640	784,740
St. Mary	27,725,530	29,121,740	1,396,210
St. Tammany	15,738,100	16,448,870	710,770
Tangipahoa	12,721,090	12,957,970	236,880
Texas	2,467,660	2,468,760	1,100
Terrebonne	25,808,110	28,016,800	2,208,690
Union	7,189,710	7,411,550	221,840
Vernilion	17,954,110	19,006,930	1,052,820
Vernon	7,079,470	7,365,040	285,570
Washington	12,248,930	12,507,670	258,740
Wehster	10,008,670	10,127,470	118,800
West Baton Rouge	5,855,890	6,203,590	347,700
West Carroll	8,626,360	8,695,490	69,130
West Feliciana	5,009,510	5,295,370	285,860
Winn	5,659,810	5,267,940	(-391,870)
TOTAL	\$1,222,791,430	\$ 1,272,171,260	\$ 49,380,880
NET INCREASE			\$ 49,379,630

PUBLIC SERVICE COMPARATIVE STATEMENT

PARISHES	1971 (1972)	1972 (1973)	Increase	Decrease
Arcade	\$ 23,453,820	\$ 24,715,640	\$ 1,261,820	\$
Allen	7,172,010	7,383,330	206,320	
Assension	12,624,130	13,623,960	999,830	
Assumption	7,382,430	8,143,460	756,030	
Avoyelles	7,527,280	7,626,450	101,170	
Beauregard	13,938,830	14,292,950	356,120	
Bienville	14,180,530	15,625,730	1,445,160	
Bossier	14,354,160	14,993,080	638,920	
Caddo	26,243,740	29,029,500	2,785,760	
Calcasieu	49,894,590	51,013,270	1,119,180	
Caldwell	8,146,980	8,240,260	93,280	
Cameron	12,171,610	12,727,880	556,270	
Catahoula	3,602,320	3,448,810	153,510	
Claborne	6,529,740	6,559,490	29,750	
Concordia	4,707,270	5,184,630	477,360	
DeSoto	7,207,390	7,293,730	86,340	
East Baton Rouge	96,838,780	97,574,430	735,650	
East Carroll	7,416,450	7,549,050	132,600	
East Feliciana	8,916,130	10,646,750	1,730,620	
Evangeline	18,090,740	18,367,510	276,770	
Franklin	10,116,350	10,171,700	55,350	
Grant	8,524,910	8,690,120	165,210	
Iberie	13,217,830	13,451,320	233,490	
Iberville	16,778,870	17,233,690	454,820	
Jackson	5,798,140	5,870,370	72,230	

I. A. ORGANIZATION CHART
LOUISIANA TAX COMMISSION



Personnel - 5

Personnel - 5

Personnel - 14

Personnel - 4

Personnel - 3

Personnel - 2

Personnel - 3

Personnel - 4

Total Personnel allocated, 1972-73 Fiscal year 41
 Less: 1 position cancelled (Typist Clerk II,
 New Orleans) - 1
 Present Personnel Allocation 40

NOTES

Act 20, 1967 Regular Session, [La. R.S. 49: 41-46] Intergovernmental Relations is omitted.
Act 746, 1972 Regular Session [La. R.S. 49: 50] Intergovernmental Relations is omitted.

April 3, 1973

Exhibit *D*

Report to
COMMITTEE ON THE EXECUTIVE BRANCH
Constitutional Convention of 1973

by
Legislative Auditor

The provisions for post-auditing in the 50 states of this nation fall generally into three categories. First, there are those states which provide that an officer in the legislative branch of government provide the post-auditing services. Secondly, there are some states which have an officer elected by the people performing post-auditing services. Thirdly, there are still a very few states which have the post-auditing activity performed by an executive appointee. I will discuss these very briefly in reverse order.

The State of Louisiana had post-auditing performed by an executive appointee for many years. With the exception of four years between 1952 and 1956, the auditing was so placed from the very beginning of Louisiana's post-auditing activities early in this century until 1964. Our experience with it was surprisingly good. Our change from the executive appointee arrangement to the legislative auditor arrangement was made as a good government measure in an atmosphere of cool deliberation rather than any heated controversy. However, it does not appear that the executive appointee theoretically has sufficient independence to adequately fulfill his duties. Obviously, the executive branch of government is the branch which administers most of the functions of government and, therefore, spends the largest amount of funds. It, therefore, enhances the independence of the auditor if he is not an executive appointee.

The arrangement for an elected state official to be the post-auditor was statutorily provided for in Louisiana during the period from 1952 to 1956. This arrangement, in my opinion, has a number of fatal disadvantages. Firstly, the elected official charged with the responsibility of post-auditing should never be concerned with obtaining campaign funds. Secondly, such an official should never be concerned with political alliances with other candidates for public office for which he has an auditing responsibility. Thirdly, such an official should be in a position to devote his total time and effort to his official duties and should not be concerned periodically with the necessity of engaging in a political campaign.

Louisiana transferred its post-auditing to the legislative branch by constitutional amendment in 1964, and it is unquestionably the arrangement which I prefer. I note that the provision is contained in Article VI relating to the executive branch, and it is probably misplaced in the arrangement of the constitution, but nevertheless, the constitution does now provide for post-auditing as a legislative function. The theory here is that the executive branch proposes programs and services to be performed by government. The legislative branch then makes appropriate changes in those programs and appropriates the funds by which they may be implemented. The executive branch administers the programs according to legislative authorization and intent and furnishes an accounting for the funds thus provided. It is only natural then that the legislative branch would be vitally concerned with determining the stewardship and accountability of the executive branch and the implementation of the legislative will and intent.

The West German Audit Authority in 1956 submitted to the second international Congress of Supreme Audit Institutions "Five Basic Freedoms" essential to the inde-

pendence of the auditor of governmental activities. The five freedoms which they list are quoted as follows:

1. Freedom from "Instructions."
2. Freedom from "Supervision."
3. Freedom to submit the audit department's own budget to Parliament.
4. Freedom of access to all information and records required in connection with the audit.

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5. Personal independence of members of the college (staff).

I have evaluated these freedoms and compared them with the arrangement for post-auditing activity in the State of Louisiana and, in my opinion, Louisiana measures up as well as any state with which I am familiar. Of course, there are improvements which can and should be made, some of which may be constitutional concerns and others of which may be concerns only of the legislative branch of government. Most certainly the Legislative Auditor should be responsive to the wishes of the legislative branch of government but should be provided with those appropriate freedoms which are essential to his performing a highly professional and objective service to the governmental units he is responsible for auditing and to the public. Although we in Louisiana have not experienced any improper or undue influence upon the Legislative Auditor from the other branches of government, it is important from the standpoint of writing a constitution that the separation of powers between the branches of government and the checks and balances which this provides should be uppermost in our minds. I have prepared for you and attach hereto a draft of proposed constitutional provisions which I would envision as being the most desirable from a standpoint of independence and performance of a highly professional activity. This draft is quite brief as compared to Article VI, Section 26, relating to the Legislative Auditor. It is my opinion that many of the provisions in that section of the constitution can and should be provided in the statutes and should be a matter for legislative determination. I will, however, point out to you the more important of the changes from the present provisions which I would propose.

In my draft I have eliminated Sections 1 through 6 of Section 26, Article VI. These sections deal with the duties and functions of the Legislative Auditor provided in addition to those which had already been provided in the statutes. In lieu thereof, I have placed a paragraph in the proposed constitutional provision which states that "the Legislative Auditor shall perform such duties and functions relating to auditing

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of state and local government and fiscal services to the legislature as the legislature shall require." This gives a great deal more flexibility to meet situations as they arise without entanglements of constitutional provisions which are often difficult to change when needed.

Also eliminated is the section dealing with the power to inspect and make copies of records of those agencies which the Legislative Auditor is authorized to audit. This should be a statutory provision and is probably already amply provided for in the statutes. However, it is most important, and I have eliminated it only for the sake of brevity.

I have also eliminated in my draft the provision that the Attorney General shall give assistance to the Legislative Auditor and render his opinion in writing on any subject requested by the Legislative Auditor. While it is my opinion that this should be, it probably is more appropriate to provide such in relation to the duties of the Attorney General, and perhaps statutorily. There may in the future be ample need for full-time legal counsel and assistance to the Legislative Auditor. The need for legal counsel is constantly increasing. While I have no strong feelings on the subject, I do feel that whether or not the Legislative Auditor employs his own legal counsel is a matter for the legislature to decide and that the constitution should be so flexible as to allow a reasonable solution to the problem.

You will note that Section 26 of Article VI of the present constitution does provide that the employees of the Legislative Auditor's office shall be classified under the Civil Service System. While I personally feel that the activities of my office may have been hampered somewhat by low salaries, particularly when compared to other governmental auditors, both state and federal, this is not the reason why I have deleted this particular item from my draft. The Department of Civil Service performs many personnel services which are most valuable to the Legislative Auditor.

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My principal reason for deleting this item is that it appears to be contrary to an appropriate separation between branches of government since the executive branch, under this arrangement, is responsible for approving the salaries which are to be paid within the legislative branch. To my knowledge, the Legislative Auditor's office is the only office in either the legislative or judicial branch whose employees fall within the services rendered by the Department of Civil Service. I personally would prefer to have the privilege of availing myself of the services rendered by Civil Service but do believe that this provision is somewhat in conflict with the principle of separation of powers among the branches of government.

Additionally, it is my feeling that the executive branch should not exercise budgetary control over the other branches of government. The legislative and judicial branches have a strong obligation to provide budgetary controls and services within their branches of government, just as does the executive branch have that obligation within its branch of government.

In closing, I would point out to you that Louisiana has had as of now two persons filling the post of Legislative Auditor. In both instances, the Legislature has chosen to select a professional career state employee who had for many years been involved in post-auditing for the State of Louisiana. Our present arrangement is an encouragement to this type of selection, and it is a credit to the Legislature that they have not chosen to make other political considerations of primary importance in making their selection of what they believe to be in the best interest of the State.

I certainly am not adept at drafting law but I do believe that with appropriate editing and revisions the draft which I have presented to you contains the best improvement which can be made under these circumstances, and I would urge you to favorably consider the principles which are therein contained.

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DRAFT

PROPOSED CONSTITUTIONAL PROVISIONS

Legislative Auditor

The Legislature shall provide for a Legislative Auditor, who shall be elected by concurrence of a simple majority of the members elected to each House. Said Legislative Auditor shall serve at the pleasure of the Legislature and may be removed only by the concurrence of two-thirds of the members elected to each House.

Any vacancy in the office of Legislative Auditor occasioned by death, resignation or otherwise, shall be filled on a temporary basis with the concurrence of the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, the Chairman of the House Committee on Appropriations, or any three of them, until such time as said vacancy is filled by the Legislature as herein provided.

The Legislature shall fix the compensation of the Legislative Auditor with a concurrence of a majority of the members elected to each house, and shall make such appropriations as may be necessary for the operations of the office of Legislative Auditor. The Legislative Auditor shall have authority to engage the services and fix the compensation of such personnel as may be necessary to perform the duties imposed upon him by the Legislature.

The Legislative Auditor shall perform such duties and functions relating to auditing of State and local government and fiscal services to the Legislature as the Legislature shall require.

The audit reports of the Legislative Auditor shall be subject to the laws providing for availability and inspection of public records.

Exhibit P

ALLISON R. KOLB
ATTORNEY AT LAW
P. O. BOX 2031
1364 NICHOLSON DRIVE
BATON ROUGE, LOUISIANA 70821

April 3, 1973

TELEPHONE 343 2878
AREA CODE 504

Mr. Tom Stagg
Chairman of the Committee on the
Executive Department
Constitutional Convention of 1973
State Capitol
Baton Rouge, Louisiana

Dear Mr. Stagg:

Pursuant to your letter of March 27, 1973, I am appearing today to submit an informal written memorandum of various views and suggestions with respect to the constitutional office of State Comptroller, formerly State Auditor, as well as the office of Legislative Auditor.

I was elected to the position of State Auditor in 1952 and served for four years. At the time, the office of State Auditor was charged with the duties of the supervision of public funds (now the Legislative Auditor), and by agreement with the Governor, the office of State Auditor also supervised the Budget office. As you are aware, there have been a number of changes in the office of Legislative Auditor. Now he is appointed by the Legislature. His duties are that of post auditing of all of the funds of state and local government, save and except cities and municipal corporations. I would like to suggest that a very logical reorganization would be as follows:

1. Retain the office of State Comptroller as an elective position but rename it "The Office of Auditor General". Provide that this be an elective office; that it modernize and maintain basic controls of the receipt and distribution of funds through the Treasurer's office; that

Mr. Tom Stagg
Page -2-
April 3, 1973

this officer must be either a Certified Public Accountant or have ten years or more experience as a senior auditor in that office or the office of the Legislative Auditor, and provide that this office is to post audit all of the Executive Departments of the State, under the supervision of the Governor, his appointees or other elected officials. He would audit the Highway Department, the Education Department, the State Colleges, L. S. U., the Welfare Department and all other agencies of the State Government.

2. That the Legislative Auditor's qualifications be the same as that of the Auditor General, but that his functions be limited to auditing of local government, such as: School Boards, Police Juries, Levee Board and Drainage Districts, Sheriffs, Assessors and all other local offices. This office should also audit municipalities of under ten thousand (10,000) inhabitants. While the reasoning for the above may seem obvious, I believe that it should deserve some comment:

- (a) The Legislative Auditor should not audit the books of the Executive branches. Frankly, I see very little difference in the auditor being appointed by the Legislature and being appointed by the Governor and everyone knows that one (the Governor) should not audit himself or his appointees. It should be an independent

Auditor. Therefore, a qualified Auditor, responsible only to the electorate, should be called upon to perform this duty.

Mr. Tom Stagg
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April 3, 1973

- (b) From a negative standpoint, the elected Auditor General should not be required to audit Sheriffs, Assessors, Police Juries, School Boards and other local governments for the very practical reason that if he is doing a good job, he has no chance of getting re-elected. So, the appointment by the Legislature would suffice to make this person independent of local government.

I would recommend that your Committee examine in detail what steps are being taken at the present time to audit the general funds of the State which are now controlled by the State Comptroller and the State Treasurer and what steps are being taken to verify frequently, securities held for the benefit of Pension Funds, State Retirement Systems, Insurance Companies, and others. Are there adequate internal controls? Are the persons who are responsible for the handling of the funds and the securities adequately bonded? These are the questions that an independent auditor would be asking, were he called upon to audit the two billion dollar per year expenditures of the State Government. Maybe you should consider an article in the Constitution to reflect these controls.

The above remark is not intended to infer that there would be any problems encountered, but is just a precaution.

By way of closing, I would like to say that I have had no occasion to look into these various problems for years, but I believe that if I were in your position, that I would certainly investigate the possibilities of proposing such changes to the people.

Very truly yours,

Allison R. Kolb
Allison R. Kolb

ARK:art

MINUTES

Minutes of the meeting of the Committee on
Executive Department of the Constitutional
Convention of 1973

Held pursuant to notice mailed by the Secretary
of the Convention on April 23, 1973

State Capitol, Baton Rouge, Louisiana

Monday, April 30, 1973, 9:00 a.m.
Tuesday, May 1, 1973, 9:00 a.m.
Wednesday, May 2, 1973, 9:00 a.m.

Presiding: Tom Stagg, Chairman of the Executive Department
Committee

Present on all days:

Mack Abraham
Avery C. Alexander
Joseph E. Anzalone
Greg Arnette
Emmett Asseff
Hilda Brien
Stanwood R. Duval
Camille F. Gravel
Tom Stagg
James L. Stovall
Elmer R. Tapper

Absent:

Moise W. Dennery

Others Present:

Honorable William J. Guste, Jr.
Mr. Ed Ware
Mr. Charles Tapp
Judge William J. Fleniken
Mr. Harry Howard
Harold Forbes
Roy Schaefer, Jr.
Mr. N. B. Hackett
Mr. Lyle C. Kyle
J. B. Keith
Honorable Edwin W. Edwards
Honorable Louis J. Michot

The roll was called and a quorum was present. Mr. Duval offered a motion that the minutes be approved. Mr. Abraham seconded the motion and it was carried.

A motion was offered by Mr. Anzalone that Sections 5, and 20, Article V, be marked as obsolete. Rev. Alexander seconded the motion and it was carried.

Mr. Gravel offered the motion that anyone wishing to oppose the provisions submitted by the staff as being obsolete say so at the next meeting. The motion was approved.

Dr. Asseff asked to be recorded as stating that he suggests striking every salary from the constitution except that of the governor.

Mr. Gravel offered the motion that the staff state specifically which provisions are self-operative and also stated substantially in the statutes, too. The motion was approved.

A motion was offered by Mr. Arnette that the committee refrain from any further discussion on Exhibit AE, handed out by the staff until the request of Mr. Gravel was furnished. After discussion, the motion was seconded by Mr. Tapper and approved.

The committee ensued on a discussion concerning the material distributed by the staff. Chairman Stagg advised each committee member to submit a recommendation to the staff on Article V, and present it to the committee at the next meeting.

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Mr. Anzalone offered a motion that the staff include in the proposal all constitutional elective state executive officials including their duties and functions. After discussion, the motion was approved.

Dr. Asseff offered the motion to recess for lunch. The motion was approved. The committee recessed at 12:00 a.m.

The Committee on Executive Department reconvened at 1:30 a.m.

Mr. Gravel offered the motion that on page 1 of CC/RS-202, after auditor general, the names of present constitutional executive offices be included. The motion was approved. Further discussion ensued on CC/RS-202.

Chairman Stagg introduced the Honorable William J. Guste, Jr., attorney general. Mr. Guste stated that in forty-two (42) states, the office of attorney general is an elective office. He recommended that the office of attorney general remain a constitutional elective office. He further stated that the office now has a broad range of authority and should remain so. He further stated that the office of attorney general should not be under any branch of government. Mr. Guste also stated he is in favor of a cabinet form of government. He also stated that he is in favor of a professional board of pardons. The attorney general could be an advisor to that group.

Dr. Asseff requested that Mr. Guste submit a specific statement on how the attorney general could supersede the

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district attorney.

Mr. Guste recommended that the justice of the peace be retained in the new constitution.

Chairman Stagg introduced Mr. Ed Ware, president of the Louisiana District Attorneys' Association. Mr. Ware stated that the office of district attorney should be an elective office. He further stated that the attorney general should have some authority to supersede the district attorney. Mr. Ware suggested that the language in the new constitution should be broad leaving the details to the legislature. He recommended that the qualifications for assistants be less strict, enabling them to be hired right out of law school instead of requiring three (3) years of law practice.

Chairman Stagg introduced Mr. Charles Tapp, director of Consumer Protection for the governor's office. Mr. Tapp stated that in 1972 the legislature passed an act for the office of consumer protection creating the consumer division within the office of attorney general. Mr. Tapp urged that the office not be included in the new constitution. He further stated that the office should be a political one. Also, he stated that the office should be answerable to the legislature under its budgetary process.

The committee requested that Mr. Tapp submit a draft of suggested language for the new constitution.

Mr. Arnette offered a motion that the public be asked to speak. The motion was approved.

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A lengthy discussion followed on the provisions under the purview of the Committee on Executive Department.

Mr. Tapper offered the motion to recess. The motion was approved. The committee recessed at 5:00 a.m.

The Committee on Executive Department reconvened on Tuesday, May 1, 1973, at 9:00 a.m.

Chairman Stagg recommended that the committee members submit their comments and recommendations on provisions they would like to amend.

The chairman introduced William J. Fleniken, judge, First Judicial District, Caddo Parish. Judge Fleniken stated that the system now being used for the Pardon Board is a good one. Judge Fleniken also stated that he would not be opposed to a professional pardon board. The Pardon board now consists of the attorney general, the lieutenant governor, and the sentencing judge. He further stated that the Pardon Board could be put in the statutes.

Chairman Stagg introduced Mr. Harry Howard, secretary of the Louisiana Board of Pardons. Mr. Howard presented the committee with a copy of rules governing applications for pardons. A copy is attached hereto and made a part

of these minutes. Mr. Howard stated that he has been secretary to the Board of Pardons for six (6) years. He commented on the general confusion between the Pardon Board and the parole system. He stated that the Pardon Board is an advisory board to the governor. Mr. Howard said that he does not feel that the board need have a professional staff. Mr. Howard stated the following functions of the Pardon Board:

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1. Granting an outright pardon;
2. Recommend that a person's sentence be commuted to time served;
3. Reducing sentence;
4. Recommend a consecutive sentence;
5. Parole eligibility after the governor signs for parole is handled by pardon board;
6. Certifies probation or unsupervised probation.

Mr. Howard stated that the law could be statutory.

Chairman Stagg introduced Mr. Harold Forbes, director of the State Civil Service Department. Mr. Forbes submitted a presentation to the committee, a copy of which is attached hereto and made a part of these minutes. Mr. Forbes recommended the article on civil service in the Projet in the new constitution. Mr. Forbes stated that a five-member board as it is now constitutionally written is the best approach. He also said that the provision could be shortened considerably.

The chairman introduced Mr. Roy Schaefer, Jr., director of the State Employees Retirement System.

Representative Tapper informed the committee members that less than thirty percent (30%) of the registered voters voted for civil service in 1952.

Chairman Stagg introduced Mr. N. B. Hackett, secretary-treasurer of the Teachers' Retirement System. Mr. Hackett submitted a written presentation, a copy of which is attached hereto and made a part of these minutes. The committee recessed at 12:00 and reconvened at 1:30 a.m.

The chairman introduced Mr. Lyle C. Kyle, director of

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Legislative Council of Denver, Colorado. A verbatim copy of Mr. Kyle's speech is attached hereto and made a part of these minutes.

Following Mr. Kyle's presentation, the chairman asked that Mr. Duval be recorded as stating that the staff should be complimented on the best witness heard in the convention.

Chairman Stagg introduced Mr. J. B. Keith, assistant regional director in the Southwest Federal Regional Council. Mr. Keith stated that he has worked on reorganization of government in Arkansas for a year. He also stated that the little agencies have caused the most problems in trying to reorganize. He informed the committee that resources of the regional council are available to the

committee. He stated that the legislature set up a "watch-dog" committee to monitor the program of the committee. There are presently thirteen (13) principal cabinet departments. He pointed out that the budget is not decreased because of reorganization.

Dr. Asseff offered the motion that the committee meet in the Senate Chamber on May 5, 1973, at 9:00 a.m. The motion was approved. A discussion ensued concerning provisions to be included in the article on the Executive Department. The committee recessed at 4:45 a.m.

The Committee on Executive Department reconvened on Wednesday, May 2, 1973, at 9:00 a.m. in the Senate Chamber of the State Capitol.

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The committee discussed changes as to the form, language, and style in different provisions of the executive article.

Chairman Stagg introduced the Honorable Edwin W. Edwards, governor of the State of Louisiana. Governor Edwards presented the committee with a recommended organizational chart. A copy is attached hereto and made a part of these minutes. Chairman Stagg asked that the records show that the governor, referring to Chairman Stagg, stated, "If there is a good Republican alive, it is he."

Mr. Arnette offered the motion for a recess. The motion was approved and the committee recessed at 11:30 a.m.

The committee reconvened at 1:30 p.m. The chairman introduced the Honorable Louis J. Michot, superintendent of education. Mr. Michot suggested the following;

1. That there be one elected board;
2. That there should be a chief administrative officer appointed by the board;
3. That advisory boards could be appointed.

Mr. Michot further stated that the people would prefer to elect the superintendent of education.

The committee resumed discussion and changes of provisions on worksheets.

The committee discussed and drew up an agenda for May 9, 10, and 11, 1973.

There being no further business, the committee adjourned at 4:40 p.m.


Tom Stagg, Chairman

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THE EXECUTIVE BRANCH
ARTICLE V
The Executive Department

Section 1. Composition; cabinet
The executive department of government shall consist of a governor, lieutenant governor, comptroller, superintendent of education, treasurer, secretary of state, register of the land office, commissioner of agriculture, commissioner of conservation, commissioner of insurance, custodian of voting machines, auditor general, and attorney general. These officials shall constitute an executive cabinet which shall meet on call of the governor, and the governor shall serve as presiding officer.

Comment: The provision is an adaptation of the Florida provision which provides for a cabinet-form of state government composed of elected officials. The selection of elected officials is purely arbitrary with some thought for tradition and fiscal checks.

Alternatives:

- Add to or delete from the constitutional offices.
- Delete the provisions relative to a cabinet of elected officials.

Extend the composition of the cabinet to include heads of administrative departments.

Other

References: Florida Constitution, 1968 as amended, Art. IV, Sec. 4. Louisiana Constitution, Art. V, Section 1. Projet, Art. V, Section 1. (Vol. I, Part I, p. 26; Vol. II, pp. 428-435). Council of State Governments, Cabinets in State Government, 1969.

Section 2. Qualifications

No person shall be eligible for election to the office of governor, lieutenant governor, comptroller, superintendent of education, treasurer, secretary of state, register of the land office, commissioner of agriculture, commissioner of insurance, custodian of voting machines, auditor general, and attorney general who is less than thirty years of age, or who has not been, for at least the ten years preceding his election, a citizen of the United States and of this state, or who holds office under the United States at the time of election.

Comment: The above qualifications are verbatim with those presently in the 1921 constitution for governor and lieutenant governor, but are applied here to all elected officials in the executive department.

Alternatives:

Projet. ("...each of whom must have been a citizen of the state for more than ten years and must not be less than thirty years of age at the commencement of his term.")

Lower (raise) age requirement.

Lower (raise) citizenship requirement.

Extend prohibition against dual office holding to include public offices held in other states and/or any other public office held in Louisiana.

Other

References: Louisiana Constitution, Art. V, Sec. 3, para. 1. Projet, Art. V, Sec. 1 (A) (Vol. I, Part I, p. 26; Vol. II, pp. 428-435).

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Section 3. Election, terms.

A. The governor, lieutenant governor, comptroller, superintendent of education, treasurer, secretary of state, register of the land office, commissioner of agriculture, commissioner of insurance, custodian of voting machines, auditor general, and attorney general, and none other, shall be elected each for a term of four years, by the qualified electors of the state, at the time and place of voting for representatives in the legislature.

B. Each official in the executive department, except the governor, shall be eligible as his own immediate successor without regard to limitations on the number of terms.

Comment: The provisions of (A) relative to terms and time of election are the same as in the 1921 constitution. Use of the phrase "and none other" in (A) is to prevent the creation of other state-wide elective positions outside of the executive branch.

The provision in (B) is based on Art. V, Sec. 19 of the 1921 constitution which allows the treasurer to succeed himself.

Alternatives:

Add to or delete from the list of elective officials, in keeping with provisions of Section 1.

Change terms for one, some, or all officials.

Change time of electing officials.

Projet. ("Each, except the auditor, shall be elected at a general state election for a term of four years." The auditor is elected for 6 years at the general election for members of U.S. House of Representatives "next preceding the beginning of the new term").

Other

References: Louisiana Constitution, Art. V, Sec. 18, 19. Projet, Art. V, Sec. 1 (A), 6 (A). (Vol. I, Part I, pp. 31; Vol. II, pp. 428, 429, 438, 496, 498).

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Section 4. Time of taking office; election returns.

A. The term of office of each elected official shall begin on the second Monday next following the election, provided that in the case of a tie vote, the candidate shall assume office when elected by the legislature.

B. The returns of the election of these officers shall be transmitted by the election commissioners to the secretary of state, who shall promulgate them in the manner provided by law. The persons having the greatest number of votes for each office shall be thereby elected.

C. If the highest number of votes cast for any one of the offices is a tie vote, the legislature upon convening in regular or special session called for that purpose, shall proceed forthwith in joint session to elect one of the two candidates receiving the highest number of votes for the office, and the candidate who has been so elected by the legislature shall be by the joint session of the legislature declared to be duly elected to the office.

Comment: These provisions are taken verbatim from the Projet, except that the last section is designated by the letter (C).

Alternatives:

Louisiana Constitution. (Provides that the governor and lieutenant governor shall take office "on the first day following the announcement by the legislature of their election." It also provides for tabulation of votes for these two offices by the legislature.)

Other

References: Projet, Art. V, Sec. 1 (B) and (C); Vol. I, Part I, pp. 26-27; Vol. I, Part II, pp. 765-767; Vol II, p. 438. Louisiana Constitution, Art. V, Secs. 2, 4.

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Section 5. Assistants

The governor, lieutenant governor, comptroller, superintendent of education, treasurer, secretary of state, register of the land office, commissioner of agriculture, commissioner of insurance, custodian of voting machines, auditor general, and attorney general shall each appoint and remove at pleasure an assistant, who, in the absence of his chief, or in case of his inability to act, or under his direction, shall have authority to perform all the acts and duties of the office.

Comment: This provision it is now written in the 1921 constitution, except that it is made applicable to all elected officials. The Projet provision is substantively the same, although the language is different.

This section should be reconciled with the following section on the filling of vacancies.

Alternatives:

- Authorize the assistant to act only on direction of the elected official.
- Define terms "absence" and "inability to act."
- Allow the assistant to succeed to vacancies in the office and combine this section with the following one on "vacancies"
- Other

References: Louisiana Constitution, Art. V, Sec. 18, para 2.
Projet, Art. V, Sec. I (E). (Vol. I, Part I p. 27; Vol. II, pp. 446-447).

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Section 6. Vacancies

In case of a vacancy, for any cause, in any of the elective positions, other than that of governor, the governor shall fill the same by appointment, by and with the advice and consent of the Senate.

Comment: The above provision is the same as the provision of the 1921 constitution which allows the governor to fill vacancies in elective offices other than his own, the attorney general, and the lieutenant governor.

The Projet permits the governor to fill vacancies in all elective offices whether constitutional or not by and with the advice and consent of the Senate, except where special nominating procedures are provided.

(For Recess Appointments, See Section 14.)

Alternatives:

- Vacancies to be filled by special election; governor to make temporary appointments.
- Vacancies to be filled by assistants:
 - until a special election is called, or
 - to end of the elected term.
- Define "cause" to include death, resignation, disability, or other.
- Empower a governmental officer or agency to declare that a vacancy exists.
- Other

References: Louisiana Constitution, Art. V, Section 9, 18; Art. VII, Section 56.
Projet, Vol. I, Part I, p. 28; Vol. II, pp. 475-478

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Section 7. Compensation

The compensation of elected officials shall be fixed by the legislature and no other compensation shall be allowed them. The fees fixed by law to be charged by

any of said officers shall be paid into the State General Fund.

Comment: The above provision is the same as in the Projet except that the Projet refers to a "State General Revenue Fund". Another section of the Projet provides that increases become effective at the end of terms during which the increase is provided.

The 1921 constitution sets specific salaries for elected officials, provides for increases by the legislature, and prohibits elected officials from receiving any "fees or perquisites of office". Salaries are payable on the warrant of the officer concerned. The legislature is also required to appropriate funds for office expenses of elected officials.

Alternatives:

- Add a provision to the above requiring the legislature to provide funds for the salaries (and office expenses) of elected officials.
- Keep 1921 provisions.
- Set base salaries in constitution with a formula for automatic increases and decreases.
- Other

References: Louisiana Constitution, Art. V, Sec. 5, 10; Art. XIX, Sec. 10.
Projet, Art. IV, Sec. 8; Art V, Sec. 1(d); Vol. I, Part I, pp. 21, 27; Vol II, pp. 341-343; 427, 444, 446.)

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THE GOVERNOR

Section 8. Supreme executive power

The supreme executive power of the state shall be vested in the governor who shall see that the constitution and laws of the state are executed faithfully.

Comment: The provision is substantively the same as comparable provisions in the 1921 constitution and the Projet. The Projet places the "execution of laws" function in the section granting the power to call out the militia; the 1921 constitution places this function in the section devoted to extraordinary sessions of the legislature. The "supreme executive power" provision is combined in the Projet with a restriction on the governor's term; in the 1921 constitution it is placed in the section devoted primarily to the method of electing the governor and lieutenant governor.

Alternatives:

- 1921 Constitution
- Projet
- Other

References: Louisiana Constitution, Art. V, Secs. 2, 14.
Projet, Art. V, Sec. 2 (A), (C). (Vol. I, Part I, p. 27; Vol. II, pp. 450, 451, 453-459).

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Section 9. Term

Any person shall be eligible as a candidate for nomination, election or re-election to the office of governor for two consecutive terms, but no person including the governor in office at the time of the adoption of this amended section, shall be eligible as a candidate for nomination, election or re-election to the office of governor for the term immediately following the second consecutive term to which he was elected as governor.

Comment: The provision is exactly as it now reads in the 1921 constitution.
(See Section 3 of this draft for length of term.)

Alternatives:

- Act 608 of 1960. ("... nor shall any person elected Governor be eligible as a candidate for nomination, election, or re-election to the office of Governor in the election immediately following that in which he was elected as Governor.")
- Projet. ("No person elected governor shall be eligible to be his own immediate successor")
- Other

References: Louisiana Act 608 of 1960, amending Louisiana Constitution, Art. V, Sec. 3.
Louisiana Constitution, Art. V, Sec. 3, Para. 2.
Projet, Art. V, Sec. 2(a); Vol I, Part I, p. 27; Vol II, pp. 450-452).

Section 10. Vacancy; succession; absence; disability

A. In the event of a vacancy in the office of governor or governor-elect, due to impeachment, temporary or continuous absence, disability or death, or any other reason, the lieutenant governor or the lieutenant governor-elect shall become governor. The order of succession, thereafter, shall be as prescribed by the legislature.

B. Disability or inability of the governor to serve shall be determined in a manner prescribed by law, and in the absence of such a law, shall be determined by the Supreme Court under such rules as it may adopt.

C. If the governor should leave the state, he shall prior to his departure, file with the secretary of state a written declaration of the time of the beginning of his absence, and upon his return to the state he shall immediately file with the secretary of state notice of his return.

D. While serving in the place of the governor, the succeeding or acting officer shall have the powers and duties and receive the compensation of the governor.

Comment: Paragraphs (A) and (B) are provisions suggested by the CC/73 staff. Paragraphs (C) and (D) are taken verbatim from the Projet.

Alternatives:

- La. 1921 Constitution. (Order of succession in event of vacancy or inability: lieutenant governor, president pro tempore, secretary of state.)
- Projet. (Order of succession in event of vacancy or incapacity of governor or governor-elect: lieutenant governor, president pro tempore, secretary of state.)
- Model State Constitution. (Order of succession:
 - (a) Failure of governor-elect to assume office: presiding officer of the legislature, outgoing governor, special election.
 - (b) Impeachment, disability or continuous absence: presiding officer of the legislature temporarily, followed by declaration of a vacancy.
 - (c) Vacancy: presiding officer of the legislature for unexpired terms of less than one year; special election when unexpired term is longer than one year. (Supreme Court to determine absence, disability, vacancy.)
- Florida Constitution. (Order of succession: lieutenant governor, and thereafter, as prescribed by law; incapacity determined by Supreme Court, procedure given.)
- Illinois Constitution. (Order of succession: lieutenant governor, attorney general, secretary of state; procedures provided, with Supreme Court deciding disability in the absence legislatively prescribed procedures.)
- Federal Constitution, Amendment XXV. (Vice President to succeed to presidency; procedure given.)
- Other

References: Louisiana Constitution Art. V, Secs. 6, 7, 9.
Projet, Art. V, Sec. 2(g,h); Vol. I, Part I, p. 28; Vol. II, pp. 467-475.
Model State Constitution, Art. V, Sec. 5.08.
Florida Constitution, Art. IV, Sec. 3.
Illinois Constitution, Art. V, Sec. 6.
Federal Constitution, Amendment XXV.

Section 11. Removal, impeachment

A. All state and district officers, whether elected or appointed, shall be liable to impeachment for high crimes and misdemeanors in office, incompetency, corruption, favoritism, extortion, or oppression in office, or for gross misconduct, or habitual drunkenness.

B. All impeachments shall be by the House of Representatives, and shall be tried by the Senate, whose members shall be upon oath or affirmation for that purpose, and two-thirds of the senators elected shall be necessary to convict. When the governor is on trial the chief justice or an associate justice of the Supreme Court shall preside. The Senate may sit for said purpose whether the House be in session or not, and may

adjourn as it thinks proper. Judgement of conviction in such cases shall remove and debar the accused from holding any office under the state, and shall disqualify any judge or district attorney, or attorney general from practicing law, but whether of conviction or acquittal, shall not prevent prosecution and punishment otherwise according to law. Such proceeding shall suspend any officer, except the governor or acting governor, and the office shall be filled by the appointing power until decision of the impeachment.

Comment: The above provision is taken verbatim from the 1921 Constitution, with styling changes in use of capitalization.

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Alternatives:

- Projet. (Impeachment procedure entirely changed, and as of the date of research, unlike proceedings of any other state; provides impeachment trial in special court on charges brought by three or more representatives and approved by majority of members elected to House and Senate.)
- Other

References: Louisiana Constitution, Art. IX, Secs. 1, 2. Projet, Art. V, Sec. K; (Vol. I, Part I, pp. 29-30; Vol. II, pp. 482-488).

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Section 12. Executive Clemency.

The governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses and may delegate such powers, subject to such procedures as may be prescribed by law.

Comment: This provision is verbatim with the executive clemency provision of the Model State Constitution.

Alternatives:

- La. 1921 Constitution. (Governor may grant reprieves for all offenses; pardons, commutation of sentences, remission of fines and forfeitures to be granted by governor on recommendation of pardon board; automatic pardons for first offenders on completion of sentences; governor may grant temporary reprieves for treason.)
- Projet. (Governor may grant six month reprieves to persons sentenced for violation of state laws and temporary reprieves for treason.)
- Florida Constitution. (Governor authorized to grant sixty day reprieves and suspend collection of fines and forfeitures; pardons granted by governor on approval of three cabinet members; temporary pardons for treason; creation of a parole and probation commission permitted.)
- Illinois Constitution. (Governor granted general authority to grant reprieves, commutations, and pardons "on such terms as he thinks proper"; procedure for applying "may" be set by law.)
- Other

References: Louisiana Constitution Art. V, Sec. 10. Projet, Art. V, Sec. 2(E); (Vol. I, Part I, p. 28; Vol. II, pp. 462-463) Model State Constitution, Art. V, Sec. 5.05. Illinois Constitution, Art. V, Sec. 12.

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Section 13. Appointive Power

A. The governor shall nominate and, with the advice and consent of the Senate, appoint all officers whose nomination, appointment, or election is not otherwise provided for.

B. The governor shall appoint heads of all administrative departments, provided, however, that no member of the legislative branch shall serve by appointment or otherwise in executive or administrative positions in agencies, or on boards or commissions of the state.

Comment: Paragraph (A) is similar to the Projet, the 1921 Constitution, and the Illinois provisions. It differs from the 1921 constitutional provision in that the power to appoint extends to all officers whether statutorily or constitutionally created; it differs from both the Projet and the 1921 Constitution in that no reference is made to the power of the legislature to determine the method of filling vacancies in positions created by it.

Paragraph (B) is modeled after the concept of gubernatorial appointment in the Model State Constitution and in the Florida and Illinois constitutions. The last provision was added to meet recent criticisms of the practice of allowing legislators to serve in executive positions.

Alternatives:

- La. 1921 Constitution. (Governor is authorized to nominate, with senatorial confirmation, all constitutional officers whose election or nomination is not provided for in the constitution; the legislature, however, can provide the manner of filling legislatively created offices.)
- Projet. (Governor may appoint any officer, constitutional or otherwise, if his appointment or election is not otherwise provided for, but where the constitution provides for a particular nominating procedure, senatorial confirmation is not necessary; also, the legislature can provide the mode of filling offices which it creates.)
- Model State Constitution. (Governor required to appoint and remove administrative department heads; other administrative positions filled "as provided by law.")
- Florida Constitution. (Appointments to statutory offices to be filled by gubernatorial appointment subject to confirmation by senate or cabinet members; officers or board members administering executive departments may be appointed by governor.)
- Illinois Constitution. (Similar to recommended provision except that the Illinois provision contains additional information on senatorial confirmation of appointments and appointment to vacancies.)
- Other

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References: Louisiana Constitution, Art. V, Secs. 11, 12. Projet, Art. V, Sec. 2(I); (Vol. I, Part I, p. 28; Vol. II, pp. 475-478). Model State Constitution, Art. V, Sec. 5.07. Florida Constitution, Art. IV, Sec. 6(a). Illinois Constitution, Art. V, Sec. 9.

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Section 14. Removal power

In addition to any other means of removal from office which this constitution may provide, the governor may remove without cause any executive officer whom he appoints. Removal of any other officers appointed by the governor shall be as provided by law.

Comment: Neither the La. 1921 Constitution nor the Projet seem to have a general authorization for the governor to remove those whom he appoints to administrative positions. The above provision is an adaptation of a similar provision in the Model State Constitution.

Removals in both the 1921 Constitution and the Projet appear to be confined generally to impeachments, legislative address, recall and removal by suits in district courts.

Alternatives:

- La. 1921 Constitution. (Provides for removal by impeachment, legislative address for cause, suits to remove, and recall; governor may suspend fiscal officers.)
- Projet. (Provides for removal by impeachment, legislative address for cause, suits to remove, recall, and for gubernatorial suspension of fiscal officers found in arrears.)
- Model State Constitution. ("The Governor shall appoint and may remove the heads of all administrative departments.")
- Florida Constitution. ("When provided by law, confirmation by the Senate or the approval of three members of the cabinet shall be required for...removal from any designated statutory office." The governor is authorized to suspend state officers and the suspended official may be reinstated by the governor or the Senate.)
- Illinois Constitution. ("The Governor may remove for incompetence, neglect of duty, or malfeasance in office, any officer who may be appointed by the Governor.")
- Other

References: Louisiana Constitution, Art. IX, Sec. 6.
Projet, Art. VIII, Secs. 1,2,3,6,7,8,9. (Vol. I, Part I, pp. 53-54. Vol. III, pp. 109-125.)
Model State Constitution, Art. V, Sec. 5.07.
Illinois Constitution, Art. V, Sec. 10.
Florida Constitution, Art. IV, Sec. 6.

Section 15. Filling of vacancies, recess appointments

If not otherwise provided for in this constitution, the governor shall have the power to fill by appointment any vacancy in any state, municipal, and parochial office. Commissions for such appointments shall expire at the end of the next regular session of the Senate, unless the appointee is sooner approved or rejected by the Senate or unless the vacancy has been filled by election. The failure of the governor to send to the Senate at the next regular session thereof the name of any persons so appointed shall be equivalent to a rejection. No person who has been nominated for office and rejected by the Senate shall be appointed to the same office during the recess of the Senate.

Comment: The above provision is taken verbatim from the Projet. It is very similar to the 1921 constitutional provision, but references to offices concerned, and conditions under which commissions expire are more specifically worded in the Projet provision.

The governor's power to fill vacancies also derives from Article VII, Section 69 of the 1921 Constitution and from statutory law (La. R. S. 42:371-374). The general constitutional provision in Section 15 above should not conflict with other constitutional provisions on the filling of specific vacancies, or with provisions controlling conduct of special elections to fill vacancies.

Alternatives:

- Federal Constitution. ("The President shall have power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the end of their next Session.")
- Other

References: Louisiana Constitution, Art. V, Sec. 12; Art. VIII, Sec. 69.
Projet, Art. V, Sec. 2(J); (Vol. I, Part I, p. 29; Vol. II, pp. 478-482)
La. R. S. 42:371-74.
Federal Constitution, Art. II, Sec. 2, para. 3.

Section 16. Administrative departments, reorganization, meetings

A. The governor shall have sole authority to organize all executive and administrative functions of government into not more than twenty administrative departments, such departments to include appropriate organizations for the administration of health, education, welfare, natural resources, agriculture, transportation, tax collections, elections, employee retirement systems, and such other executive functions as the governor deems necessary.

B. It shall be the sole prerogative of the governor to merge and consolidate all administrative departments of state and otherwise to reorganize the executive branch of government as he deems necessary, and to convene departmental administrators into executive meetings for the purpose of conducting the state's business.

C. The governor's power to organize and reorganize shall not extend to constitutionally elective positions and their constitutional functions.

Comment: The above provision is an improvisation of the CC/73 staff. The Louisiana Constitution (1921) provides for reorganization by the legislature. The above section is a marked departure from the present practice in that it gives the governor exclusive power to reorganize the executive branch.

The Projet deleted the constitutional section permitting the legislature to reorganize state government, but it retained the concept that reorganization is a legislative function. (See Vol. I, Part II, p. 794)

Alternatives:

- Require legislative approval of executive reorganization plans at the next regular session.

- Exclude quasi-judicial and certain regulatory agencies from the limitation of 20 departments.
- Increase the number of departments.
- La. 1921 Constitution. (Legislative reorganization)
- Model State Constitution. (Twenty principal departments; regulatory, quasi-judicial, temporary agencies excluded from limitation; legislative as well as executive reorganization, with legislative approval of executive changes.)
- Florida Constitution. (Twenty-five departments exclusive of constitutional offices.)
- Illinois Constitution. (Executive reorganization with legislative approval of changes which contravene statutes.)
- Other

References: Louisiana Constitution, Art. III, Sec. 32, Art. V, Sec. 1. Projet, Vol. I, Part II, pp. 794-919; Vol. II, pp. 188-189. Model State Constitution, Art. V, Sec. 5.06. Florida Constitution, Art. IV, Sec. 6. Illinois Constitution, Art. V, Sec. 11.

Section 17. Reports and Information.

The governor may at any time require in writing or otherwise from any officer of any department or agency of the state, information upon any subject relating to such department or agency.

Comment: The above provision is verbatim with the Projet provision, except that "the governor" replaces the word "He". The 1921 Louisiana constitutional provisions were not used since they seem to limit the governor's power to requiring reports from executive agencies only.

Alternatives:

- La. 1921 Constitution. (Requires reports from "executive departments," and from "instrumentalities of the Executive Branch---including levee boards and commissions,---.")
- Other

References: Louisiana Constitution, Art. V, Sec. 13; Art. VI, Sec. 39. Projet, Art. V, Sec. 2(D). (Vol. I, Part I, pp. 27-28; Vol. II, pp. 460-461).

Section 18. Executive budgets, financial reports

A. The governor shall have sole authority to prepare an executive budget for the state, and shall transmit copies thereof to the legislature as provided by law. On adoption by the legislature, this budget shall be executed and administered by the governor.

B. The governor shall cause to be prepared an annual financial statement showing the complete financial condition of the state for submission to the legislature prior to its convening in regular sessions, as provided by law.

Comment: This provision is presently not in the Louisiana Constitution, nor was it recommended by the Projet. It is a modification of Louisiana statutory law and is somewhat similar to a comparable provision in Hawaii's constitution relative to the executive budget. The language attempts to prevent legislative participation in the budget making process and to preserve this function for the chief executive.

Alternatives:

- Delete.
- Other

References: La. R.S. 39:41,59,61. Hawaii Constitution, Art. VI, Sec. 4.

Section 19. Proposals, reports to the legislature

The governor shall at the beginning of each session of the legislature, and may at other times, make reports and recommendations and give information to the legislature concerning the affairs of state.

Comment: This provision is verbatim with the Projet provision on this topic. The 1921 Louisiana Constitution contains substantively the same provision. The Projet provision is more specific about when the reports are to be made.

Alternatives:

- 1921 Louisiana Constitution. (The governor is required to give the legislature information from time to time, and to recommend measures for its consideration.)
- Other

References: Louisiana Constitution, Art. V, Sec. 13. Projet, Art. V, Sec. 2(B). (Vol. I, Part I, p. 27; Vol II, pp. 452-451.)

Section 20. Signature of bills; veto

A. Every bill which shall have been passed by both houses shall be presented to the governor. If he approves it, he shall sign it; if not, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large in the journal, and proceed at once to reconsider the bill. If, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered, and if passed by two-thirds of the members elected to that house it shall be law; but in such cases the votes of both houses shall be taken by yeas and nays, and the names of the members voting for or against the bill shall be entered in the journal of each house, respectively.

B. The governor shall have ten calendar days after any bill shall have been presented to him within which to approve or veto it; any bill approved or not vetoed within said period shall be law, notwithstanding the term of the legislature has expired. The date and hour when the bill is delivered to the governor shall be endorsed thereon. Such bills as become effective after adjournment of the legislature by reason of failure to veto, or by approval of the governor, shall be deposited in the office of the secretary of state, which officer

shall then give notice by publication in the official journal of the approval or failure to veto said bills, and shall promulgate the same; and the governor shall report thereon to the next session of the legislature.

Comment: The above provision is verbatim with the veto provision found in the Executive Article of the 1921 Louisiana Constitution. Another provision relative to the veto appears in the Legislative Article. The Projet recommendation was not substantially different from the 1921 provision.

This provision should be read with any provisions for veto powers which will be placed in the new constitution by the Committee on the Legislative Department.

Alternatives:

- Change legislative vote required to override governor's veto.
- Change number of days within which the governor must act.
- Pocket veto. (A bill does not become law if governor fails to sign.)
- Place provision in Legislative Article.
- Other

References: Louisiana Constitution, Art. III, Sec. 8.2; Art. V, Secs. 15, 16.
Projet, Art. III, Sec. 26. (Vol. I, Part I, p. 16,17; Vol. I, Part II, pp. 940-964; Vol. II, pp. 151-153).
Model State Constitution, Art. IV, Sec. 4.16.

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Section 21. Appropriation bills; item veto

The governor shall have the power to disapprove of or reduce any item or items of any bill making appropriations for money, embracing distinct items, and the part or parts of the bill approved shall be law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed for the passage of other bills over veto.

Comment: The above provision is the same as in the 1921 Constitution except for the insertion of the words "or reduce" after the words "to disapprove of."
The Projet made no substantive change in the 1921 constitutional provision.

Alternatives:

- 1921 Louisiana Constitution and Projet. (Same as Section 20 of this draft except that reduction of items is not permitted.)
- Include provision as part of previous section. (Section 20 of this draft)
- Place provision in Legislative Article.
- Other

References: Louisiana Constitution, Art. V, Sec. 16.
Projet, Art. III, Sec. 27. (Vol. I, Part I, p. 17; Part II, pp. 940-964; Vol. II, pp. 157-160).
Model State Constitution, Art. V, Sec. 4.16(B).
Illinois Constitution, Art. IV, Sec. 9(d).

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Section 22. Extraordinary sessions of legislature

A. The governor may, on extraordinary occasions, convene the legislature at the seat of government, or, if that should have become dangerous from an enemy, or epidemic, at a different place. It shall become his duty to convene the legislature in extraordinary session whenever petitioned to do so by two-thirds of the members elected to each house. The petition shall be filed with the secretary of state, who shall immediately deliver a certified copy of it to the governor, and shall mail or deliver a certified copy to the lieutenant governor and to the speaker of the House of Representatives, and shall file return of such service with the original petition. If the governor should fail to issue, within five days after a certified copy of the petition is delivered to him, his proclamation convening the legislature in accordance with the petition, then either the lieutenant governor or speaker of the House, or both of them shall give notice in the official journal, not less than ten days before the day fixed in the petition for the session, that by virtue of the petition signed by two-thirds of the members elected to each house the legislature will convene in extraordinary session, at noon on the day, for the purposes, and for the period of time stated in the petition.

B. The power to legislate, under the penalty of nullity, shall be limited to the objects specially enumerated in the proclamation of the governor, or petition and notice,

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convening such extraordinary session and the session shall be limited to the time named therein, which shall never exceed thirty days.

C. Whenever the governor on his own initiative desires to convene the legislature in extraordinary session in addition to the requirements hereinabove set forth the governor shall be required in his proclamation to fix the date of the commencement of said extraordinary session and shall have given five days notice in writing to each member of the legislature that he will call said extraordinary session on the day fixed in the proclamation and which date shall be not less than five days subsequent to the date on which said notice to said legislature was mailed, except on such occasions as epidemics, attacks by the enemy, or public catastrophe.

Comment: The above provision is unchanged from the 1921 constitutional provision except for changes in capitalization and lettering of paragraphs. (Provisions of this section should be coordinated with other proposed provisions on legislative sessions.)

Alternatives:

- Projet. (Governor permitted to call sessions "when he deems necessary"; secretary of state to issue call when sessions are convened on call of the legislature; official notice of legislative calls to be five days; 30-day limit retained.)
- Grant governor the right to call special sessions in Article V; place procedure in legislative article.

Model State Constitution. (General provision for governor or legislature to convene special sessions; no details.)

Other

References: Louisiana Constitution, Art. V, Sec. 14.
Projet, Art. III, Sec. 3 (Vol. I, Part I, pp. 10-11; Vol. II, pp. 74-81).
Model State Constitution, Art. IV, Sec. 4.08.

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Section 23. Acts not requiring governor's signature

Orders, votes, and resolutions of either or both houses of the legislature, affecting the prerogatives and duties thereof, or relating to adjournment, to amendments to the constitution of this state or of the United States, to the investigation of public officers, and the like, shall not require the signature of the governor; and such resolutions, orders and votes may empower legislative committees to administer oaths, to send for persons and papers, and generally make legislative investigations effective.

Comment: The above provision is verbatim with the 1921 Louisiana constitutional provision, with changes in capitalization. The Projet provision made no substantial change in the present constitutional provision.

Alternatives:

Place in Legislative Article

Other

References: Louisiana Constitution, Art. V, Sec. 23.
Projet, Art. III, Sec. 28. (Vol. I, Part I, p. 17; Vol. II, pp. 160-161)

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LIEUTENANT GOVERNOR

Section 24. Nomination and election

A. The lieutenant governor shall be nominated in the manner provided by law for nominating candidates for other elective offices.

B. In the general election the votes cast for a candidate for governor shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.

Comment: The above provision is taken from the Alaska Constitution, and was approved by the voters of that state in 1970. The purpose of the provision is to provide for joint (team) election of the governor and lieutenant governor, a procedure followed in 18 states and recommended by the National Conference of Lieutenant Governors.

Alternatives:

Delete the provision.

Governor chooses a lieutenant governor as a running mate, with team election in the primary.

Other

References: Council of State Governments, The Lieutenant Governor: The Office and Its Powers.
Alaska Constitution, Art. III, Sec. 8.

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Section 25. Duties

The lieutenant governor shall succeed to the office of governor at such times and in such a manner as provided for in this constitution and as may be further provided for by law. He shall be a full-time executive officer, shall hold membership on every statutory, intrastate committee, board, and commission on which the governor serves, and shall perform such other duties as the governor and the legislature may assign.

Comment: The above provision is based on certain recommendations of the National Conference of Lieutenant Governors; it does not embrace all of the conference recommendations.

Alternatives:

Retain the present practice of having the lieutenant governor serve as presiding officer of the Senate.

Add or detract from the above stated functions.

Delete the office altogether.

Other

References: Council of State Governments, The Lieutenant Governor: The Office and Its Powers, 1973.

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SECRETARY OF STATE

Section 24. Nomination and election

Section 26. Duties

The secretary of state shall be the custodian of the records, documents, and papers of the state, all of which shall be available at all reasonable times to the citizens of the state for inspection. Unless otherwise provided by law, certified copies of any such records, documents, or papers shall be furnished by him upon payment of reasonable fee therefor. He shall have such other duties as may be prescribed by law.

Comment: The above provision is taken from the Projet. However, it deletes the expression "except as otherwise provided in this constitution" and adds the sentence "He shall have such other duties as may be prescribed by law." The Columbia Index to State Constitutions indicates that most state constitutions prescribe no general duties to the secretary, but leave these to specific constitutional or statutory laws. Constitutionally prescribed duties among the states vary widely, and no pattern is established, except that in recent years the secretary in a number of states has been given constitutional duties relative to reapportionment.

Alternatives:

- Specify other duties, such as election functions, reapportionment functions, etc.
- Specifically require that fees collected by the secretary be paid into state treasury.
- Require bond.
- Other

References: Columbia Index to State Constitutions, 1967.
Projet, Art. V, Sec. 4. (Vol. I, Part I, p. 30; Vol. II, pp. 492-493.)

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TREASURER

Section 27. Duties

A. The state treasurer shall be custodian of all state funds and shall be responsible for the receipt, custody, and disbursement of such funds, including all taxes, licenses, fees, operating receipts, federal funds, private grants, and collections, all of which shall be paid into the state treasury by all state instrumentalities immediately upon receipt.

B. The treasurer shall annually report to the governor and the legislature on its receipts and disbursements and on all other fiscal transactions performed by that office.

Comment: The Columbia Index to State Constitutions was consulted for comparative constitutional provisions on the duties of state treasurers. A majority of states provide that the duties shall be as provided by law. The Missouri Constitution and recommendations from the present Louisiana treasurer served as guides for the above provision.

Alternatives:

- Duties to be "as prescribed by this constitution or other law."
- In addition to the above, provide that the treasurer shall be chairman of an investment council responsible for investing all public funds.
- Projet. "A. The treasurer shall be the head of the department of finance. He shall receive directly or through designated state depositories and have custody of and be responsible for the safekeeping of all moneys, securities, and funds belonging to the state or for which the state is responsible. He shall keep accounts and records of all such moneys, securities, and funds and shall disburse them as may be provided by law. He shall be the investment agent of the state and shall manage its investments, subject to the direction of the governor. He shall be responsible for the safekeeping of all bonds and other securities owned by the state or for which it is responsible and, subject to the direction of the governor acting in a manner not inconsistent with the requirements of law, for all sales, redemptions, payments, and retirements of state bonds and other securities and obligations. He shall report quarterly to the governor

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and to the auditor and shall render a report to the legislature one month in advance of the first day of each of its regular sessions.

B. He shall maintain an accurate, current, indexed record of all bonds and funded debt issued by the state and by each of its political corporations, and of all property of the state, other than public lands."

Other

References: Columbia Index to State Constitutions, 1967.
Projet, Art. V, Sec. 5(A). (Vol. I, Part I, pp. 30-31; Vol. II, pp. 493-496).
Missouri Constitution, Art. IV, Sec. 15.

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Section 28. Qualifications, duties

The auditor general shall be a certified public accountant licensed to practice in the state of Louisiana. He shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of the state, whether created by the constitution or not. He shall have no duties other than those herein prescribed.

Comment: The Columbia Index to State Constitutions was consulted for comparative data on functions of auditors. The above language, modeled after the Michigan Constitution, seemed appropriate for ensuring that the auditor general perform as his sole function the post audit of state agencies, but not of local governments.

Alternatives:

- Projet. "(A) The auditor shall be elected at the general election for members of the United States House of Representatives in the year of _____ for a term of six years. His successor shall be elected at the general election for members of the United States House of Representatives next preceding the beginning of the new term. Vacancy in the office for any cause shall be filled by election at the next general election for members of the United States House of Representatives held in the state, and in the meantime the assistant auditor shall serve as acting auditor.
- (B) He shall audit at least annually the records of all officers and employees of the state and of its political corporations who handle funds belonging to the state or in which the state has an interest. He shall have access at all times to their records. He shall file a detailed written audit report with the governor and with the secretary of state upon the completion of each individual audit, and if requested to do so by the legislature, he shall file a copy of each audit report with the legislature. He shall retain in his office exact copies of all audit reports; these copies shall be public documents available for inspection at all reasonable times by the citizens of the state. Certified copies of the whole or any part of audit reports shall be furnished by him to any citizen upon payment of a reasonable fee."

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- Delete, in preference for a legislative auditor.
- Add to, or delete from, functions.
- Other

References: Columbia Index to State Constitutions, 1967.
Michigan Constitution, Art. IV, Sec. 53.
Projet, Art. V, Sec. 6. (Vol. I, Part I, pp. 31-32; Part II, pp. 496-503.)

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ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

Section 29. Creation

There shall be a department of justice consisting of an attorney general, a first and a second assistant attorney general, and other necessary assistants.

Section 30. Duties

The department of justice shall attend to and have charge of all legal matters in which the state has an interest or to which the state is a party, with power and authority to institute and prosecute or to intervene in any suit or other proceeding, civil and criminal, as it may deem necessary for the assertion

THE BOARD OF DIRECTORS OF THE COMPANY SHALL HAVE THE POWER TO MAKE SUCH BY-LAWS AS MAY BE NECESSARY TO CARRY INTO EFFECT THE POWERS AND OBJECTS OF THE COMPANY AND TO ALTER OR AMEND THE SAME FROM TIME TO TIME.

THE BOARD OF DIRECTORS SHALL HAVE THE POWER TO MAKE SUCH REGULATIONS AS MAY BE NECESSARY TO REGULATE THE BUSINESS OF THE COMPANY AND TO ALTER OR AMEND THE SAME FROM TIME TO TIME.

THE BOARD OF DIRECTORS SHALL HAVE THE POWER TO MAKE SUCH PROVISIONS AS MAY BE NECESSARY TO REGULATE THE BUSINESS OF THE COMPANY AND TO ALTER OR AMEND THE SAME FROM TIME TO TIME.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 1st day of January, 1900.

JAMES M. HARRIS, JR.
PRESIDENT

MARY E. HARRIS
SECRETARY

WITNESSES:
JAMES M. HARRIS, JR.
MARY E. HARRIS

STATE OF MISSISSIPPI
COUNTY OF HARRIS

JAMES M. HARRIS, JR.
PRESIDENT

MARY E. HARRIS
SECRETARY

FILE NUMBER APPLICATION NO. 1000 100
A SECOND REPORT 100

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SECTION 17. THE BOARD OF DIRECTORS SHALL HAVE THE POWER TO MAKE SUCH REGULATIONS AS MAY BE NECESSARY TO REGULATE THE BUSINESS OF THE COMPANY AND TO ALTER OR AMEND THE SAME FROM TIME TO TIME.

1. The Legislature
2. The Judiciary
3. The Governor's Office
4. The Civil Service Commission
5. The Department of Civil Service
6. The Agency heads and their assistants
7. The Agency personnel officers
8. The State Personnel Council

Each of these groups and units is an integral part of the Civil Service System and perhaps it would be well for me to comment briefly on each of them in turn, starting with the people of the State.

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THE PEOPLE

The whole purpose of government is to care and rule for the whole people of the State for the benefit of the people.

Many years ago we had a system that is called called the Civil Service System. During those times the government was almost completely in the hands of the elected and appointed political officials and the people had no voice in their government other than to elect them and to elect other ones as they might be able to influence the Legislature every two years.

The people were paying for the government, of course, and they came to believe that they were not getting as much for their money as some of adequate and public services.

Therefore, in 1861 they placed a Civil Service provision in the Constitution saying that this money would give them some relief, which is not in some extent.

But that system had one big defect because the people made the mistake of allowing the Legislature to amend or repeal the Constitutional provision in a 20 year. The Legislature exercised that privilege in 1881 by repealing the Constitutional provision and establishing a political merit system, which the Federal Government requested it to do in order for the State of Louisiana to continue to receive Federal grants which were being made to a hundred of agencies. Then Governor Earl K. Long said in effect that the Civil Service System was a very good system because it was not strong enough.

The people reacted somewhat violently to the Legislature's repealing action, and in short order - in 1892 - they put another Civil Service provision

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in the Constitution. This time though, the Legislature is made somewhat enough to understand what the Legislature and the Governor. They believe that if anything was going to change the Civil Service system, it was going to be them.

It is believed that one of the things that happened in 1911 was the people had been not had some conditions for the enactment of the present Civil Service Law.

From the various laws and orders that were passed government, such as:

- a. The Civil Service Commission
- b. The Department of Civil Service
- c. Employment rules
- d. Selection plan
- e. Rules for public employees
- f. Employment regulations
- g. And some others.

would be examined in their judgment and as to the judgment of the Legislature and to the Governor and

2. Second, with the agreement of the people, the people of the law to maintain the whole possible measure of such laws as to be used in their day-to-day work and conditions. This proposed to introduce that law by placing the making power in the Civil Service Commission or other laws which are getting consideration in the Legislature in exchange for the new special conditions, remaining approved by the Governor.

The authorities did as they were instructed and the people agreed with them and voted the Civil Service Law into the Constitution. That was in 1911.

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over 21 years ago - and since then the people have continued almost in substance to amend the law.

And as the people are a part of the Civil Service System because they voted it and are paying for it with the tax of about 10 to 15 cents on every dollar spent, which is approximately \$100,000,000 a year.

THE LEGISLATURE

The Legislature is also a part of the Civil Service System, because it has the power to make, amend and change the system.

These changes and resolutions when they do not conflict with the working and intent of the Civil Service Law, must be considered and such are made by the Civil Service Commission and the Department of Civil Service just as they are in all other cases when that applies.

The Civil Service Rules are especially amended to reflect the public policies expressed by statutes and resolutions.

THE JUDICIARY

The Judiciary is necessarily a part of the Civil Service System, because employees who have been discharged or dismissed or otherwise not added toward the Civil Service Commission in the State Courts of the State.

Appeals can be pushed up to the State Supreme Court, but the Courts can only make in questions of law, not of fact.

THE GOVERNOR'S OFFICE

Historically, when a Governor was elected he was handed a machine made up of employees and paid for by the people. The system was not

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and that is a different one.

Consequently, the machine was not very good, and the people were not getting the best of the machine. The machine was not

then proceeded to "turn over" most or many of them; and this resulted in hiring new employees

1. Who were not fully qualified for their jobs.
2. Who were not trained in carrying out the programs and projects to which they were assigned.
3. Who did not possess the vital knowledge of what had gone before in their projects and programs.
4. And who owed him their political loyalty, but did not necessarily owe the people their operational loyalty.

The old type of machine also resulted in some other things, such as political favoritism, widespread deadheadism, unequal treatment of the employees, inefficiency, unsatisfactory service to the people, etc.

Today the new Governor is handed a machine which is made up of employees

1. Who have been tested and found best qualified for their jobs.
2. Who have been given in-service and on-the-job training.
3. Who have been non-politically appointed, in the main.
4. Who are familiar with their supervisors, who in turn form a strong chain of command from the top official on down.
5. Who have chosen State Service as their career.
6. Who know the history and present status of their programs.
7. Who have established lines of communications leading to scores of people and hundreds of sources which can assist them in their work.

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8. Who have good morale when their working conditions are reasonable.
9. And who owe their operational loyalty - but not their political loyalty - to the people and to him.

The Governor can still persuade the Legislature to enact statutes and adopt resolutions supporting his personnel management policies; and he still possesses his power of Executive Order in that functional area.

Additionally, he has the Civil Service Commission to implement his policies through the use of its rule-making powers, to the extent that they do not conflict with the wording and intent of the Civil Service Law; and he has the Department of Civil Service to advise him on personnel management matters, conduct surveys and studies, and audit agencies for compliance with his policies.

The Director of the Department of Civil Service is a staff adviser to the Governor and his Cabinet.

THE CIVIL SERVICE COMMISSION

Our present Civil Service Law, which of course is a part of the Constitution, establishes two separate and distinct units of the government.

One of these is the State Civil Service Commission; and the other is the State Department of Civil Service.

The Civil Service Commission is a five member body whose duties are somewhat limited, but nevertheless very important. The duties consist of

1. Adopting uniform pay plans for classified employees, following public hearings. Such pay plans do not become effective until they are approved by the Governor.

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2. Adopting uniform classification plans to maintain the proper relationships and alignments between the some 1600 and 1700 different types of jobs we use in the service. The classification plan sets out the duty and responsibility content of each type of job, as well as the qualifications required to be possessed by the incumbents; and therefore it is an essential part of the uniform pay plan.
3. Adopting rules, following public hearings, to implement the wording and intent of the Civil Service Law and of applicable statutes. The rules have the effect of law; and only those rules which establish hours of work for the employees must be approved by the Governor before becoming effective.
4. Hearing and deciding appeals filed by employees who have been disciplined for one reason or another. These appeals are heard at public hearings, where evidence can be offered and witnesses can be examined and cross examined under oath. Decisions of the Commission following public hearings can be appealed to the Civil Courts of the State by either party.
5. Conducting investigations of alleged or suspected violations of the Civil Service Law or Rules. Such investigations are conducted by public hearings; following which the Commission can apply sanctions if they are justified by the evidence.
6. Hiring the Director of the Department of Civil Service and the State Examiner and the Deputy State Examiner of the Municipal Fire and Police Civil Service.
7. Hearing and deciding charges which might be filed against the Director of the Department of Civil Service or against the State Examiner or the Deputy State Examiner of the Municipal Fire and Police Civil Service. The Commission has power to dismiss or otherwise discipline these officials if such action is justified by the evidence.
8. Overtopping these duties is the larger duty which they support. The Civil Service Commission's supreme duty is to provide the people of the State with the most efficient, productive, and stable work force possible at all times; to fashion - and refashion whenever necessary - a system of policies and actions which will produce this result; and to then safeguard that system against the attacks by political or other special interest individuals or groups.

To successfully discharge this supreme duty, the Commission must - and must be free to - protect not only the people themselves

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and their governmental services, but also to protect the employees of the government. The Commission furnishes the employees this protection

- (a) By guaranteeing their tenure so long as they perform their work in a competent manner;
- (b) By providing them qualified co-workers, so that they will not have to do their neighbor's work in addition to their own;
- (c) By providing fast and effective methods by which incompetent and unsuitable fellow employees can be removed from the scene;
- (d) By providing policies which will permit them to compete for promotions;
- (e) By guarding them against compulsory political contributions or personal services;
- (f) By equating their rates of pay as closely as possible to the rates being paid other employees who are doing substantially the same level of work;
- (g) By providing machinery for them to air their grievances;
- (h) By providing them an avenue of appeal from removals and other acts of discipline which they believe to be undeserved, excessive, capricious, or illegally discriminatory;
- (i) Etc.

In essence, those are the Commission's duties. It is able to discharge them successfully because of the flexibility provided it by its rule-making powers. The Rules it adopts, however, must be solidly foundationed and must

reflect the wording and intent of the Civil Service Law and of applicable statutes, legislative resolutions, and Executive Orders.

The individual Commissioners can be removed from office for cause; and the Commission's Rules and actions can be challenged in the courts.

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Therefore, while the Commission is not responsible to the Legislature or the Governor, it is responsible to the people and the Courts.

The Commission discharges its duties through its operational arm, the Department of Civil Service. The Commission has no staff of its own.

THE DEPARTMENT OF CIVIL SERVICE

The Director of Personnel is the executive and administrative head of the Department of Civil Service and serves as the Commission's Secretary.

He is appointed by the Commission, with or without competitive examination; and is a classified employee. He may be removed from office for cause.

The Director, with the consent of the Commission, appoints such employees, experts, and special assistants as may be necessary to carry out the Department's program.

He directs and supervises all of the activities of the Department, including

1. Establishing and maintaining rosters of all classified employees and of certain unclassified employees of the State.
2. Formulating and prescribing procedures, consistent with the Civil Service Law and Rules, governing the personnel management activities of the State agencies.
3. Developing and administering training and educational programs for the employees of the State.
4. Making and publishing annual and special reports.
5. Refereeing appeals filed by employees.
6. Manufacturing and conducting Civil Service examinations.

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7. Maintaining lists of eligibles and certifying qualified persons to the State agencies for appointment.
8. Preparing budgetary requests to support the operations of the Civil Service Commission, the Department, the Board of Ethics for State Elected Officials, and the Commission on Governmental Ethics.
9. Conducting investigations to enforce the provisions of the Civil Service Law and Rules and to determine the qualifications and suitability of applicants for State employment.
10. Establishing grievance procedures within each State agency.
11. Acting between meetings on matters requiring Commission approval.
12. Allocating and reallocating positions in the State agencies.
13. Making continuous pay studies and recommending needed changes in the Uniform Pay Plan.
14. Becoming aware of needed changes in the Civil Service Rules occasioned by agency needs, national policies, statutes, legislative resolutions, Executive Orders, decisions of State and Federal Courts, etc.; and drafting such changes for consideration by the Commission.
15. Furnishing advice and interpretations of law and Rules to the State officials, the employees, and the public.

16. Furnishing legal advice to the Commission.
17. Auditing personnel change actions proposed by the State agencies.
18. Etc.

The Director serves as the Executive Secretary of the Louisiana Board of Ethics for State Elected Officials and as the Secretary of the Louisiana Commission on Governmental Ethics; and furnishes staff support to those bodies.

The Director also serves as the supervisor of the Louisiana Civil Defense Merit System.

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The Department is in constant daily contact with the officials and agencies of the State and with the general public; and is in frequent contact with other Civil Service Systems throughout the nation.

The Department is the central personnel agency for the State and specializes in personnel management. Its Director attends the Governor's periodic cabinet meetings.

THE DEPARTMENT HEADS

The Department heads are either elected or appointed; and all but two or three of them are in the unclassified service and have chief assistants who are also in the unclassified service.

Almost all of the Department heads, however, employ classified personnel; and to that extent they become a part of the Civil Service System. Their classified staffs are governed by the Civil Service Rules.

The Department heads, whether elected or appointed, are governed by applicable Constitutional Law, legislative statutes and resolutions, and Executive Orders; and they generally cooperate with the Governor in the furtherance of his policies and programs.

Thus, they have substantially parallel relationships with the Governor's Office, the Civil Service Commission, and the Department of Civil Service. This arrangement further strengthens the connection between the Governor's Office and the rest of the Civil Service System.

Neither the Civil Service Commission nor the Department of Civil Service has any authority to specify the number of persons which any State

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agency (other than the Department of Civil Service) can employ. The agency head makes this decision, subject to any controls or restrictions placed upon him by Constitution, Law, the Legislature, the Governor, or the Division of Administration.

Therefore, if, for example, a given agency head decides to employ 100 additional engineers, the Civil Service Commission and the Department of Civil Service will not challenge his authority to do so, nor will they attempt to substitute their judgment for his. The Department of Civil Service will, however, classify the positions by assigning a name tag and a place tag to each one, as is its responsibility, in order to guarantee the integrity of the uniform classification and pay plans.

Middle management and supervisory personnel of agencies which utilize classified personnel are also subject to the Civil Service Law and Rules, and they receive guidance from both those sources and their Department heads.

THE PERSONNEL OFFICERS

Each State agency of any significant size employs a Personnel Officer.

These officers occupy a dual role: they are employed and paid by the particular agencies for which they work and they concern themselves with the administrative policies of their agencies, but they are also extensions of the Department of Civil Service - the central personnel agency - and concern themselves with the Civil Service Law and Rules.

Thus, they are firmly welded into the Civil Service System and provide a constant and open channel of communication between the Department of Civil Service and their Department heads and on to the Governor's Office and the elected officials.

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The agency personnel officers are the main connecting links between the Civil Service Commission and the Department of Civil Service on the one hand, and the agency heads and agency employees on the other hand.

THE STATE PERSONNEL COUNCIL

The State Personnel Council is a professional group made up of personnel officers of the Departments, agencies, boards, and commissions of the State of Louisiana. It is not controlled by the Civil Service Commission or the Department of Civil Service.

The Council meets periodically to discuss operational problems and their solutions, to assess developing trends in the field of personnel management, and to alert the Department of Civil Service to such trends by suggesting or proposing changes in the Civil Service Rules.

The Council studies and evaluates, in advance of their consideration by the Civil Service Commission, all Rules changes drafted and proposed by the Civil Service Department; and where advisable, suggests modifications of the proposals on the basis of the operating experiences of its members.

After Rules changes have been adopted by the Civil Service Commission and made operational, the Council assesses the results on a continuing basis and reports any developing problems to the Department of Civil Service.

The Council thereby represents the group evaluation agent of the several agency personnel officers insofar as the practical effect of the Civil Service Rules upon daily operations is concerned.

THE EMPLOYEES

The classified employees are a part of the Civil Service System because they are governed by the provisions of the Civil Service Law and Rules.

... by counsel ... public ...

Nevertheless, the evaluation indicates that their competency, proficiency, and dedication to duty equals or exceeds that of their counterparts in private industry.

The classified staff has been significantly upgraded in terms of abilities and qualifications over the past 20 years and is beginning to make State Service a desirable career. In fiscal year 1953-1954, one out of every three applicants for a State job, obtained a State job. In fiscal year 1972-1973, with higher standards, a projected 11,700 appointments will be made from 120,700 applicants. Many of the appointees will leave the service within three years, however, because their pay will not match their abilities.

As a group, the classified employees are underpaid in comparison with their counterparts in the Federal Service and in private industry. Nevertheless, they are a part of the Civil Service System and they persevere in the performance of their duties.

CONSTITUTIONAL PROVISIONS FOR THE STATE CIVIL SERVICE SYSTEM AS PROPOSED BY THE LOUISIANA DEPARTMENT OF STATE CIVIL SERVICE AND THE LOUISIANA CIVIL SERVICE COMMISSION

§ 32. State Civil Service

A. The State Civil Service includes all officers and positions of trust or employment in the employ of the state, or any department, independent agency or other agency, board or commission thereof, and all officers and positions of trust or employment in the employ of joint state and federal agencies administering state or federal funds, or both; joint state and municipal agencies financed by state or municipal funds, or both, except municipal boards of health; joint state and parochial agencies financed by state or parochial funds, or both; irrespective of whether the pay for such offices and positions of trust or employment is to be paid with state, municipal, or parochial funds or with funds contributed jointly by the state and municipalities or parishes involved.

The State Civil Service is divided into the "unclassified" and the "classified" service.

B. The classified State Civil Service shall include all officers and employees in the State Civil Service except (1) officers elected by the people, and persons appointed to fill vacancies in such offices; (2) principal executive department heads appointed by the governor; (3) members of state boards and commissions; (4) one attorney, one principal assistant, and one person holding a confidential position to any officer, board, or commission mentioned in 1, 2, and 3 above, except the Department of State Civil Service; (5) members of the military or naval forces; (6) the teaching and professional staffs, and administrative officers of the schools, colleges and universities of the state and bona fide students of such institutions employed by any state agency; (7) administrative officers and employees of courts of record, of the legislature, of the offices of the governor, of the lieutenant governor, and of the attorney general; (8) commissioners of elections, and watchers; custodians and deputy custodians of voting machines; (9) all persons employed and deputies selected by sheriffs, clerks of court, police juries, assessors, coroners, state tax collector for the city of New Orleans, district attorneys, and school boards; (10) registrars of voters and one chief deputy for each registrar of voters.

Additional exceptions may be made and revoked by rules adopted by the commission.

All persons excepted from the classified service are in the unclassified service of the state.

C. There is hereby created a State Civil Service Commission composed of five (5) members who are electors of this state, three (3) of whom shall constitute a quorum. Their term of office shall be for six (6) years, provided an appointment to fill an unexpired term shall be only for the unexpired term. The domicile of the commission shall be the city of Baton Rouge, Louisiana.

The president of Louisiana State University and Agricultural and Mechanical College, Loyola University of the South at New Orleans, Centenary College at Shreveport, Tulane University of Louisiana at New Orleans, and Louisiana College at Pineville, shall each nominate in the order of preference three (3) persons. One (1) member of the commission shall be appointed by the governor from the three (3) persons nominated by each president. Vacancies by expiration of the term of office or otherwise shall be filled by appointment in

accordance with the procedure governing the original appointment, and from the same source. Upon the occurrence of a vacancy it shall be the duty of the president concerned to submit the required nominations within thirty (30) days thereafter. The governor shall have thirty (30) days after nominations have been submitted to make his appointments. Should the governor fail to appoint within thirty (30) days, the nominee whose name is first on the list of nominees shall automatically become a member of the commission.

No member of the State Civil Service Commission shall be removed except for cause, after being served with written specifications of the charges against him and after public hearing on such charges in the Nineteenth Judicial District Court.

Each person who on the effective date of this amendment is a member of the State Civil Service Commission as constituted under the former Section 15 of Article XIV of this Constitution shall continue in such position for the remainder of the term to which he was appointed.

D. There is hereby created and established in the state government a Department of State Civil Service, the administrative head of which shall be the director of personnel. The State Civil Service Commission shall appoint the director of personnel, with or without competitive examination. The director of personnel, upon appointment, shall become a classified civil service employee. He shall appoint such personnel, have such powers, and perform such duties as authorized and delegated to him by the commission.

E. Permanent appointments and promotions in the classified State Civil Service shall be made only after certification by the Department of Civil Service under a general system based upon merit, efficiency, and fitness as ascertained by examinations which, so far as practical, shall be competitive, and employees and officers in the classified service shall be employed from those eligible under such certification. The commission shall adopt rules for the method of certification of persons eligible for appointment and promotion and shall provide for appointments defined as emergency and temporary appointments where certification is not required.

No person having gained permanent civil service status in the classified State Civil Service shall be subjected to disciplinary action except for cause; nor shall any classified employee be discriminated against by reason of his political or religious beliefs or by reason of race, sex, national origin, or any other non-merit factor. Any classified employee so discriminated against

or subjected to such disciplinary action shall have the right of appeal to the State Civil Service Commission.

The burden of proof on appeal, as to the facts, shall be on the employee.

F. No member of the State Civil Service Commission and no officer or employee in the classified service shall participate or engage in political activity or be a candidate for nomination or election to public office or be a member of any national, state or local committee of a political party or faction, nor make or solicit contributions for any political party, faction, or candidate, nor take active part in the management of the affairs of a political party, faction, or candidate or any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner or official watcher at the polls and to cast his vote as he desires. No person shall solicit contributions for political purposes from any classified employee or official nor use or attempt to use his position in the State Civil Service to punish or coerce the political action of such person.

The commission may adopt rules having the effect of law to declare and define additional prohibited political activities by persons in the classified service or prohibited political activities toward such persons by others, not inconsistent with the provisions of this subsection.

G. The commission is vested with broad and general rule-making power for the administration and regulation of the classified State Civil Service including, but not limited to, regulation of employment, promotion, suspension, reduction, removal, certification, qualifications and all other personnel matters and transactions, the adoption of a uniform pay and classification plan, employment conditions, compensation and disbursements to employees, and generally to carry out and effectuate the objectives and purposes of the merit system of civil service as herein established. The Commission's rule-making power shall be exclusive, and its rules shall have the effect of law.

The commission is authorized to make investigations into violations of the provisions of this section and the rules or laws adopted pursuant hereto. The commission may impose penalties for their violation in the form of but not limited to demotion in, or suspension or discharge from, position with attendant loss of pay.

H. Any person who wilfully violates any provision of this section or of the laws adopted by the legislature pursuant hereto shall be guilty of a misdemeanor and shall upon conviction, be punished as prescribed by provisions of statutes enacted by the legislature.

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J. The Commission shall have the exclusive power and authority to hear and decide all removal and disciplinary cases with subpoena power and power to administer oaths. It may appoint a referee to take testimony with subpoena power and power to administer oaths to witnesses. The decision of the commission shall be final on the facts, but shall be subject to review on any question of law upon appeal to the Court of Appeal, First Circuit, State of Louisiana, upon application filed with the commission within thirty (30) days after its decision becomes final. The court shall promptly follow the procedure to be followed in taking and filing such an appeal.

J. Beginning with the regular session that commences in the year 1977, the legislature of the state shall then, and at each regular session and special session, make an appropriation to the State Civil Service Commission and to the Department of Civil Service for the next succeeding fiscal year of a sum equal to not less than seven-tenths (7/10ths) of one (1) percent of the aggregate payroll of the state classified service for the twelve-month period ending on the first day of March preceding the next regular or fiscal session as certified to by the State Civil Service Commission.

K. Upon the effective date of this amendment, all officers and employees of the state who have civil service status in the classified service of the state shall retain said status in the position, class, and rank that they have on such date and shall thereafter be subject to and governed by the provisions of this amendment and the rules and regulations adopted under the authority hereof.

STATE OF LOUISIANA

LOUISIANA STATE EMPLOYEES' RETIREMENT SYSTEM

P. O. BOX 44313 CAPITOL STATION

BATON ROUGE, LOUISIANA 70804

Telephone 389-3876



ROY B. SCHAEFER, JR.
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The present constitution contains two provisions with regard to our retirement system. One, Act 18, Section 9, provides for a Retirement Fund for aged and incapacitated officers and employees of the State and the other, Act 19, Section 25, that a 30-day notice of the intent to amend or change the existing laws.

There are other references to other retirement systems that may be better explained by those concerned since I was not commissioned to speak for them.

Our system would like to have the constitution contain the following provisions

"The rights to and equities in benefits provided at the time a member has a vested right in the Retirement System provided by the Legislature shall not be abridged and the funds for the payment of such retirement benefits shall be guaranteed by the full faith and credit of the State of Louisiana." This statement in my opinion is concise and affords the Legislature flexibility. The benefits could be modified to provide increased benefits or reduced benefits depending on the financial condition of the system and living standards but once a member has a vested right in these benefits, they cannot be denied. Vesting in itself is flexible since it can be defined by the Legislature in the Retirement Law. You have a vested right on the day you are given an irrevocable right to a future pension. Our law defines vested right to mean when a member obtains retirement eligibility as to age and service.

"Please include member's Social Security Number with all correspondence"

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There are a number of bills in Congress with varied vesting provisions and some of these bills apply to public retirement systems. Should Congress impose vesting that would conflict with our State law, it would only require an act of the Legislature to comply with the Federal Law.

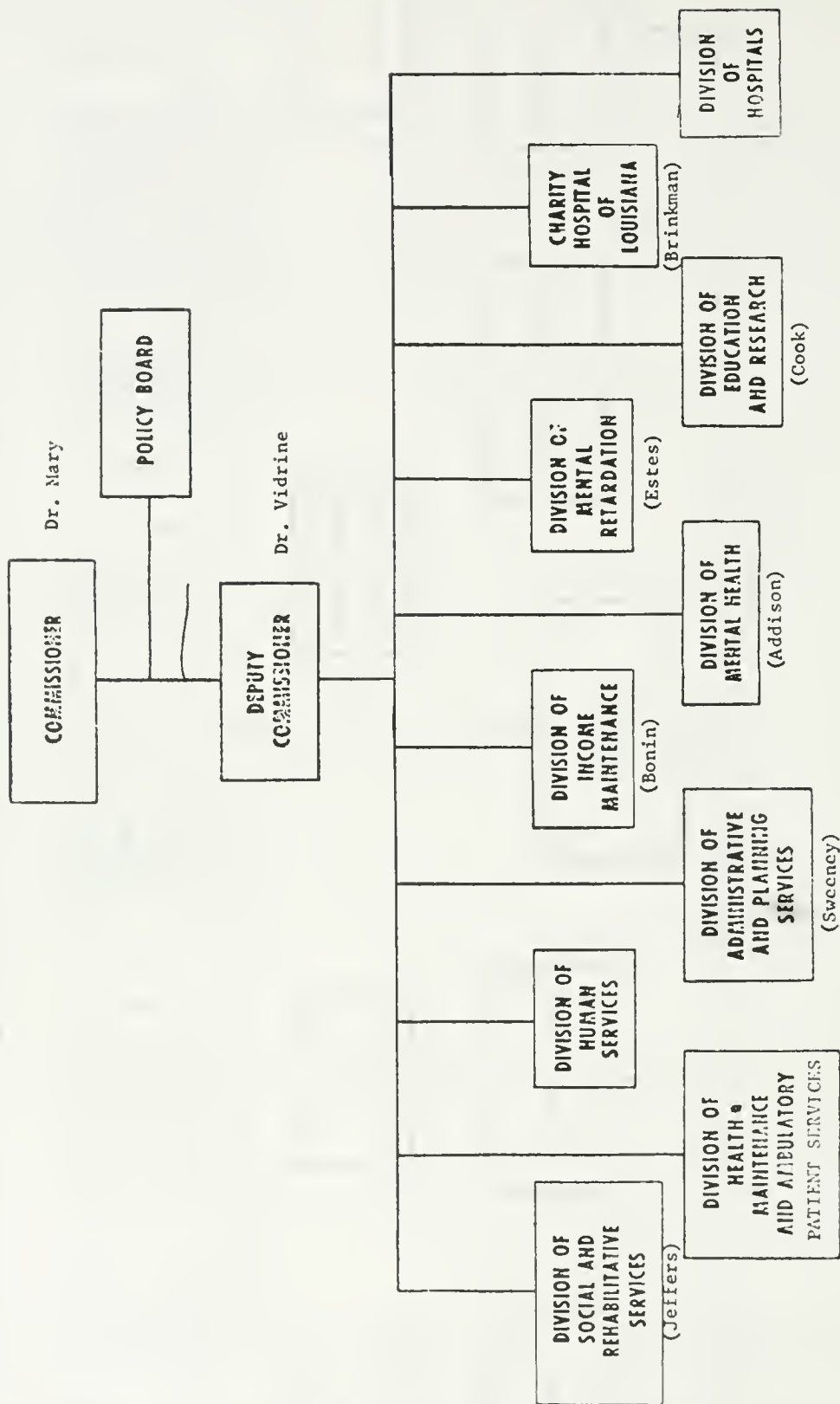
The guarantee of the full faith and credit of the State of Louisiana would assure the members that the State will meet its obligation. Also, it would assure the Congress that the State will meet its obligation and not require Federal legislation requiring the State to pay reinsurance premiums. Reinsurance is a plan in at least two bills in Congress whereby the retirement systems pay a premium to the Pension Benefit Insurance Corporation. Then in the event a plan is terminated for reasons of financial

difficulty or bankruptcy, the Corporation is given the authority to investigate and pay claims. Congress is very concerned that all retirement systems meet their obligations to their members at the time of retirement.

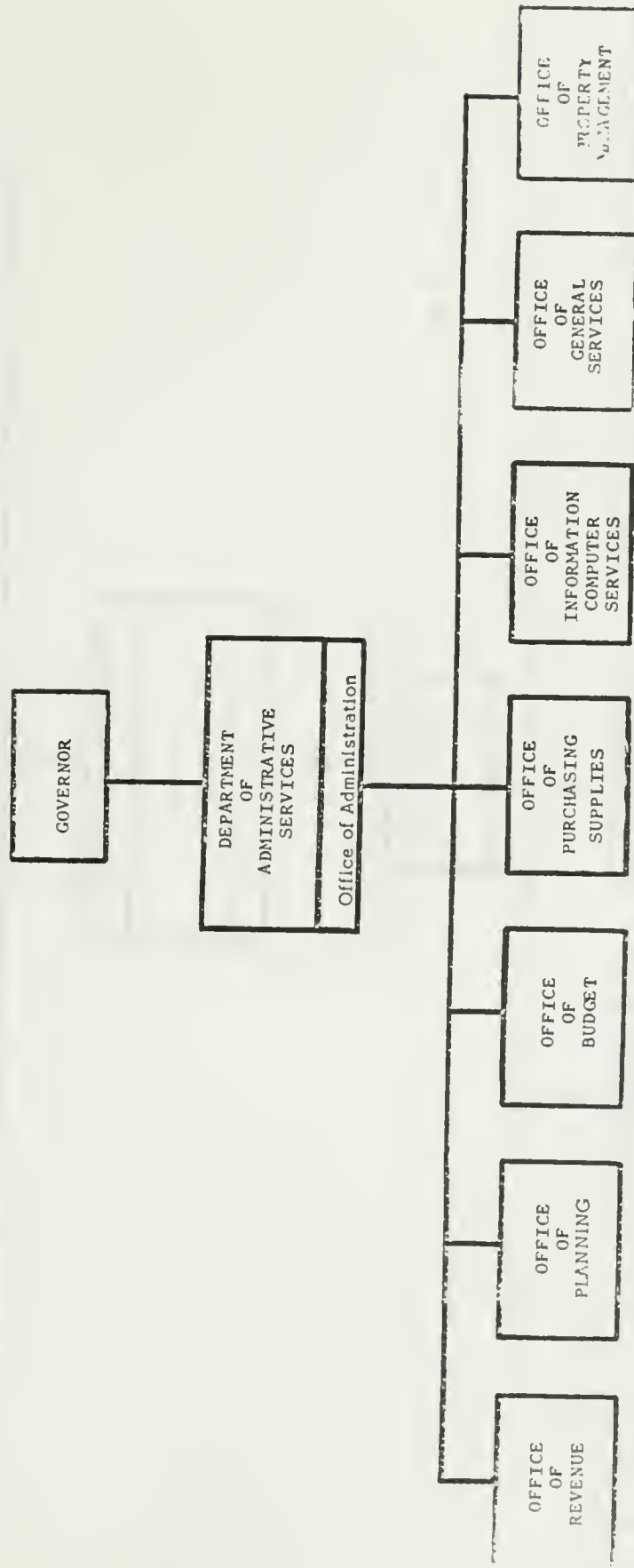
The section of the constitution covering the intent to amend or change the existing laws be advertised 30 days prior to the session is good in principle but is not always the practical solution. The advertisement may be vague and not serve the real purpose. Then, the bill may be amended to the extent that there is no relation to the advertisement. This section could be better defined and controlled by Legislative act.

In conclusion, the only reference to retirement that is required in the constitution concerning our system is the above statement.

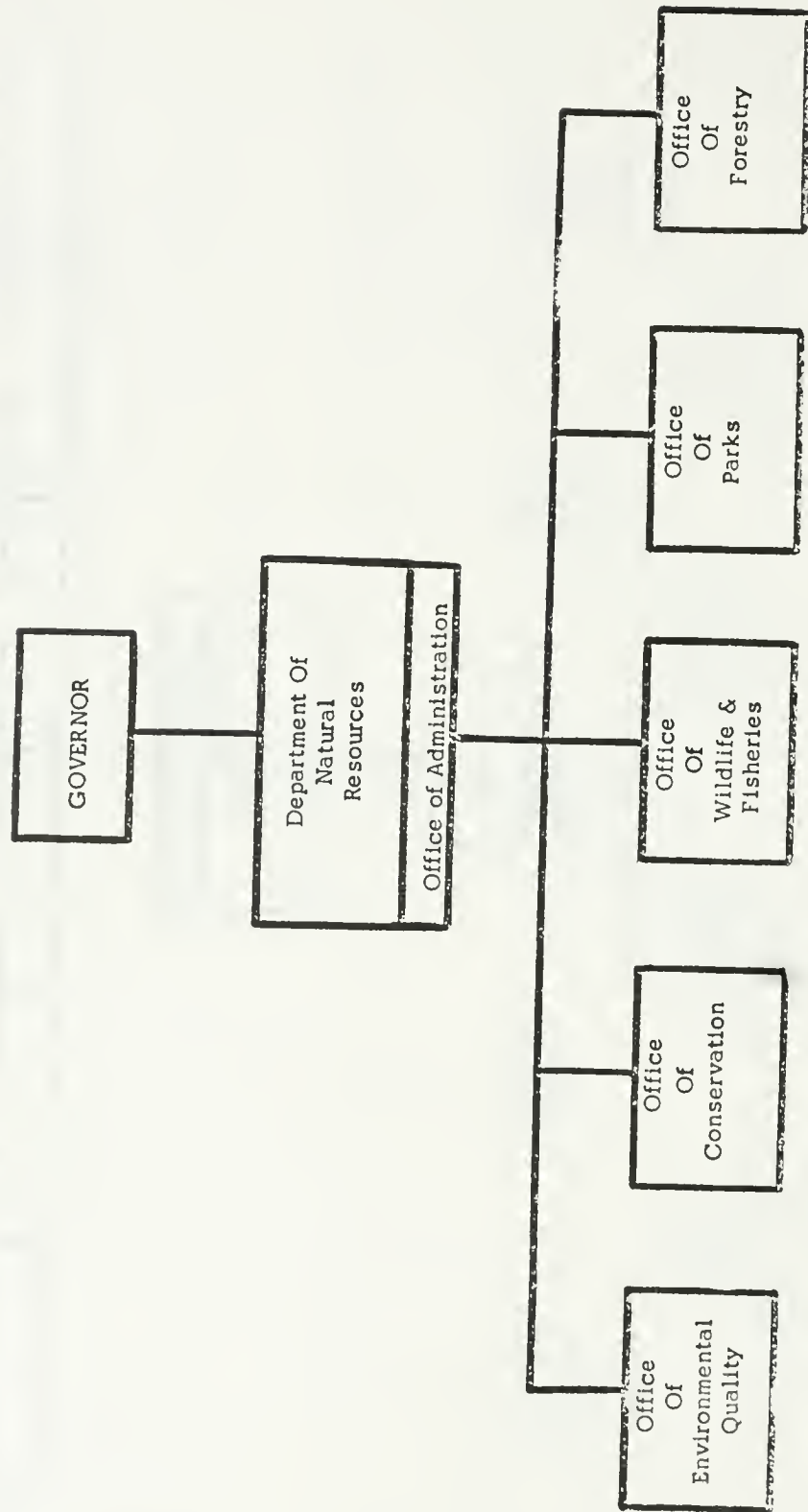
LOUISIANA HEALTH AND SOCIAL AND REHABILITATION SERVICES ADMINISTRATION



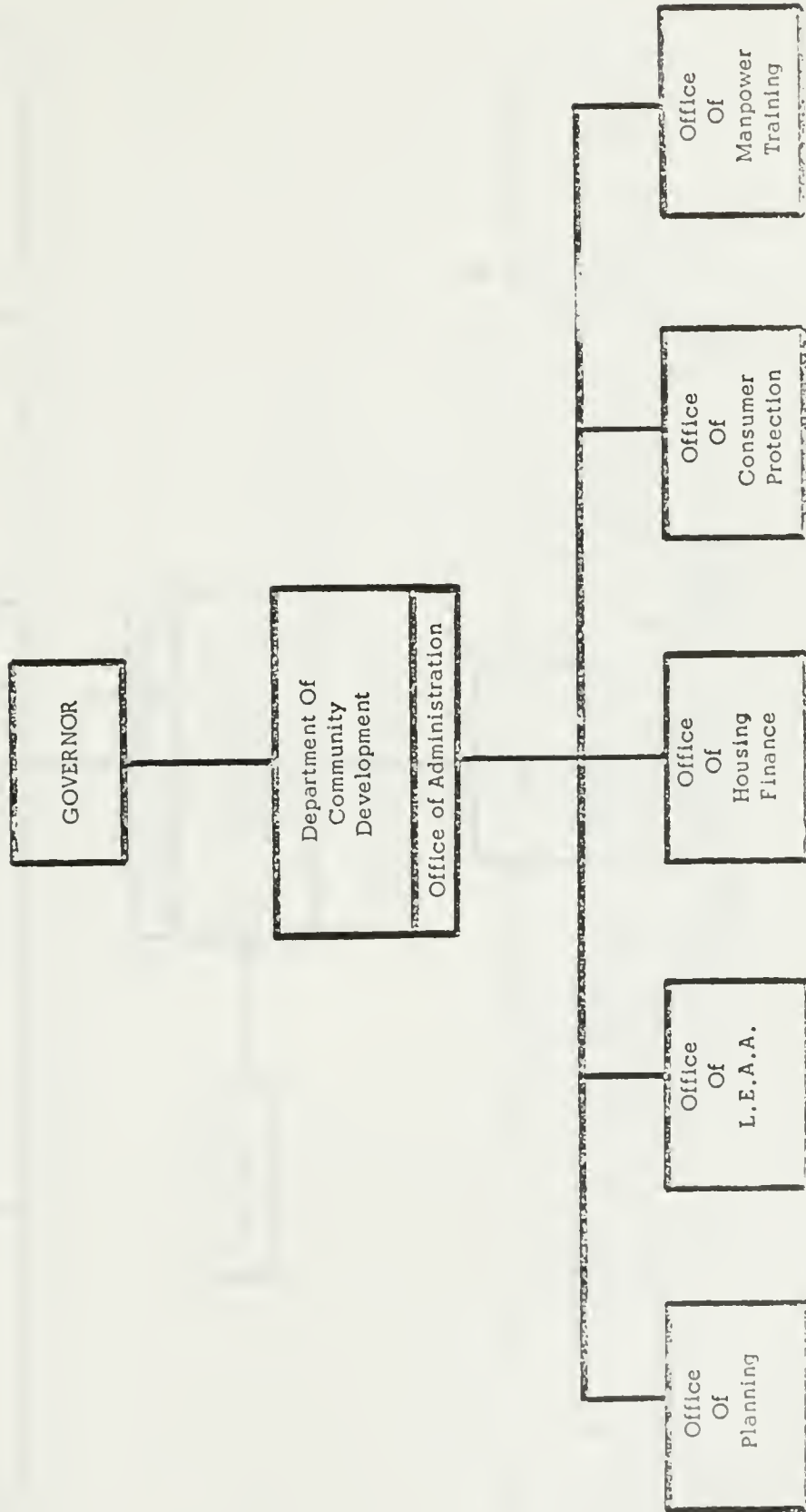
ADMINISTRATIVE AND SUPPORT SERVICES



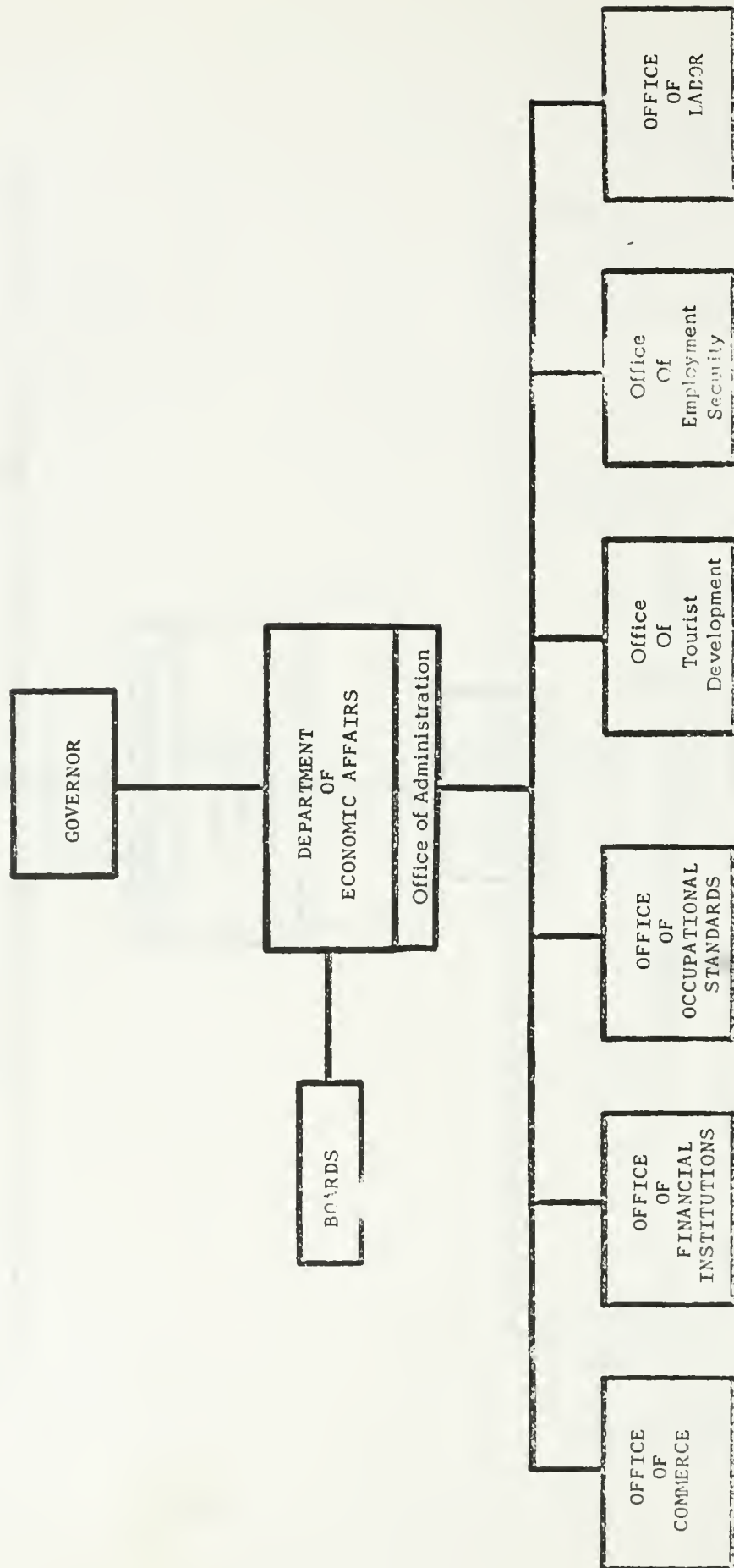
NATURAL & ENVIRONMENTAL RESOURCES PROGRAMS



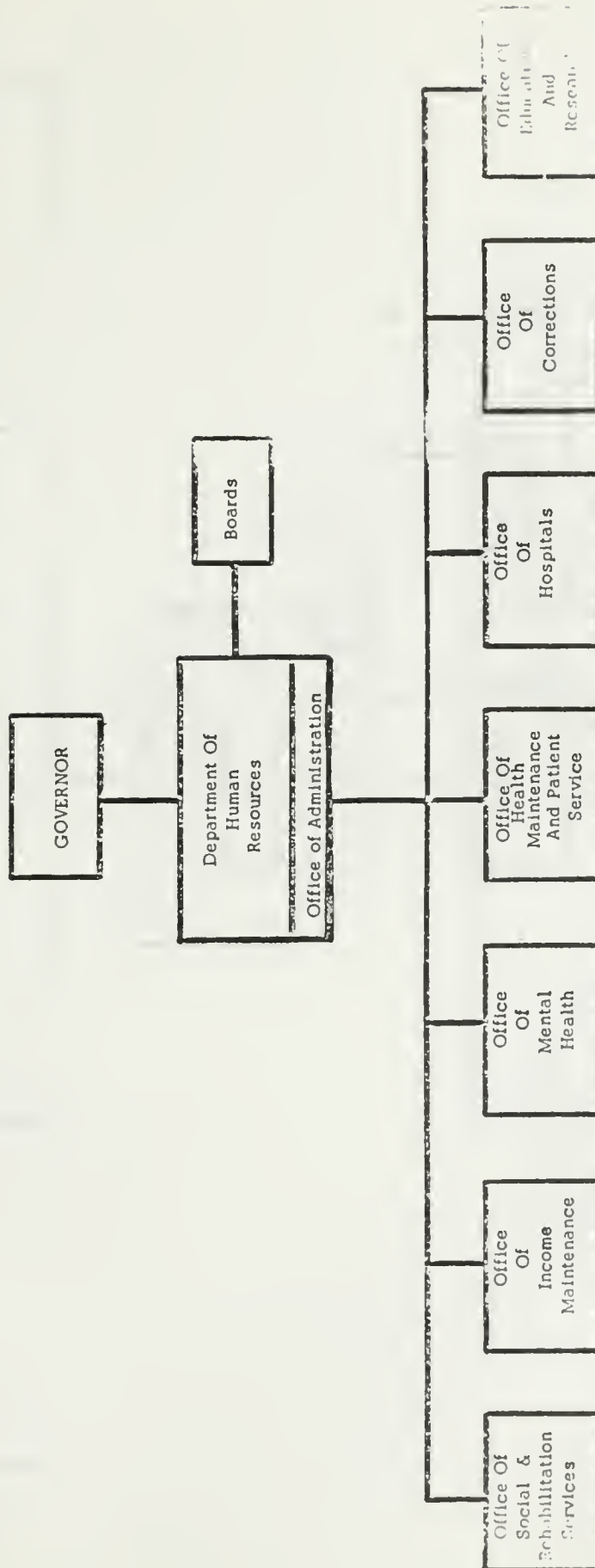
COMMUNITY DEVELOPMENT PROGRAMS

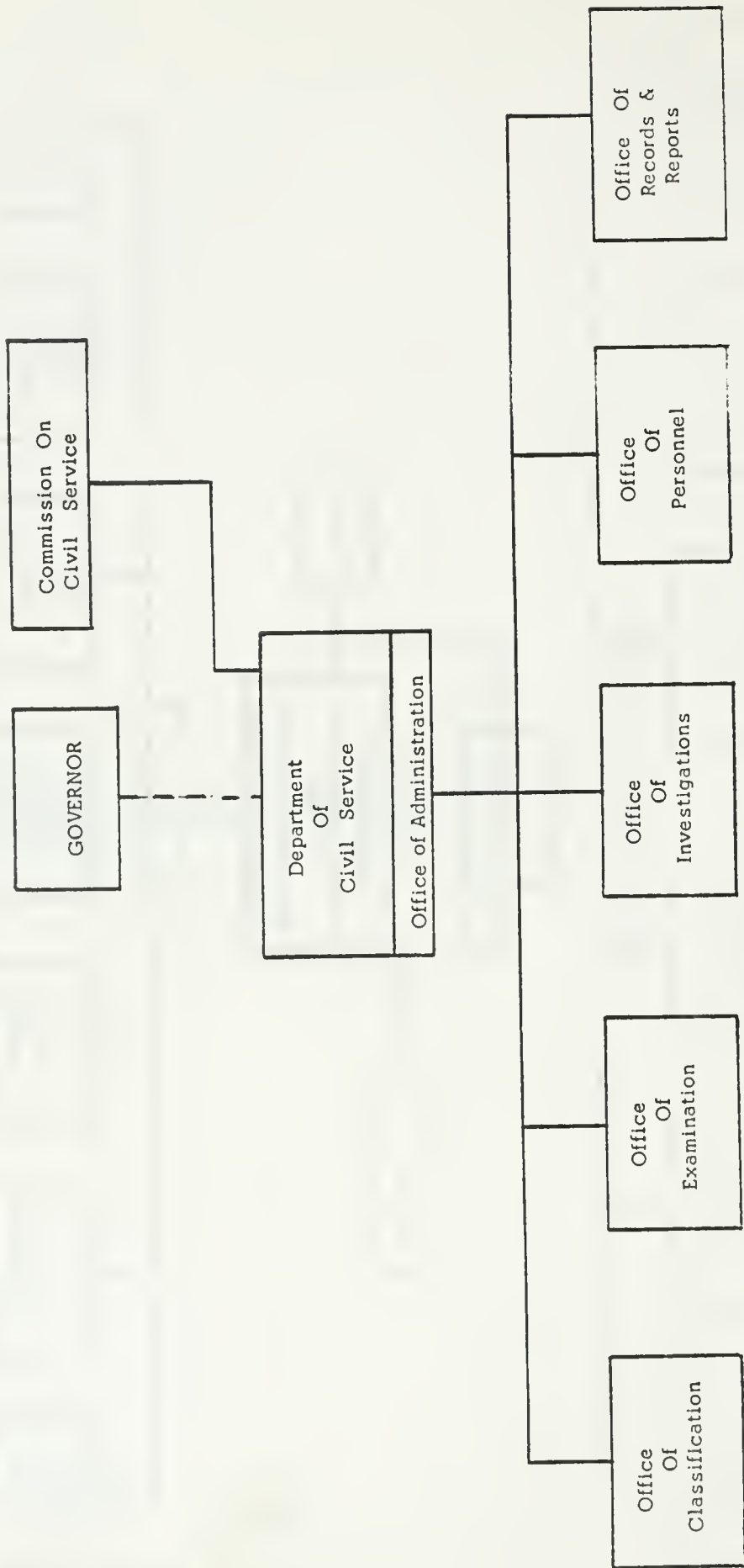


ECONOMIC DEVELOPMENT PROGRAMS

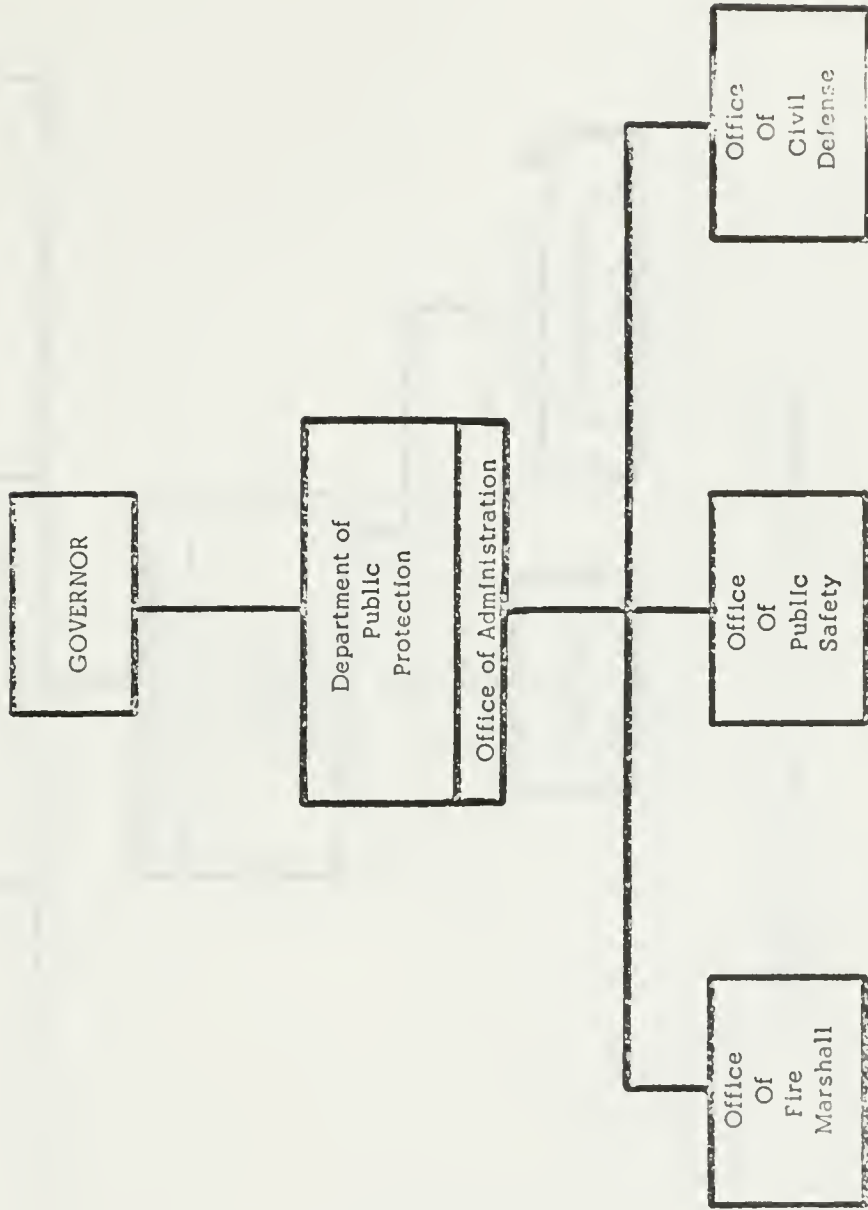


HUMAN RESOURCES PROGRAMS

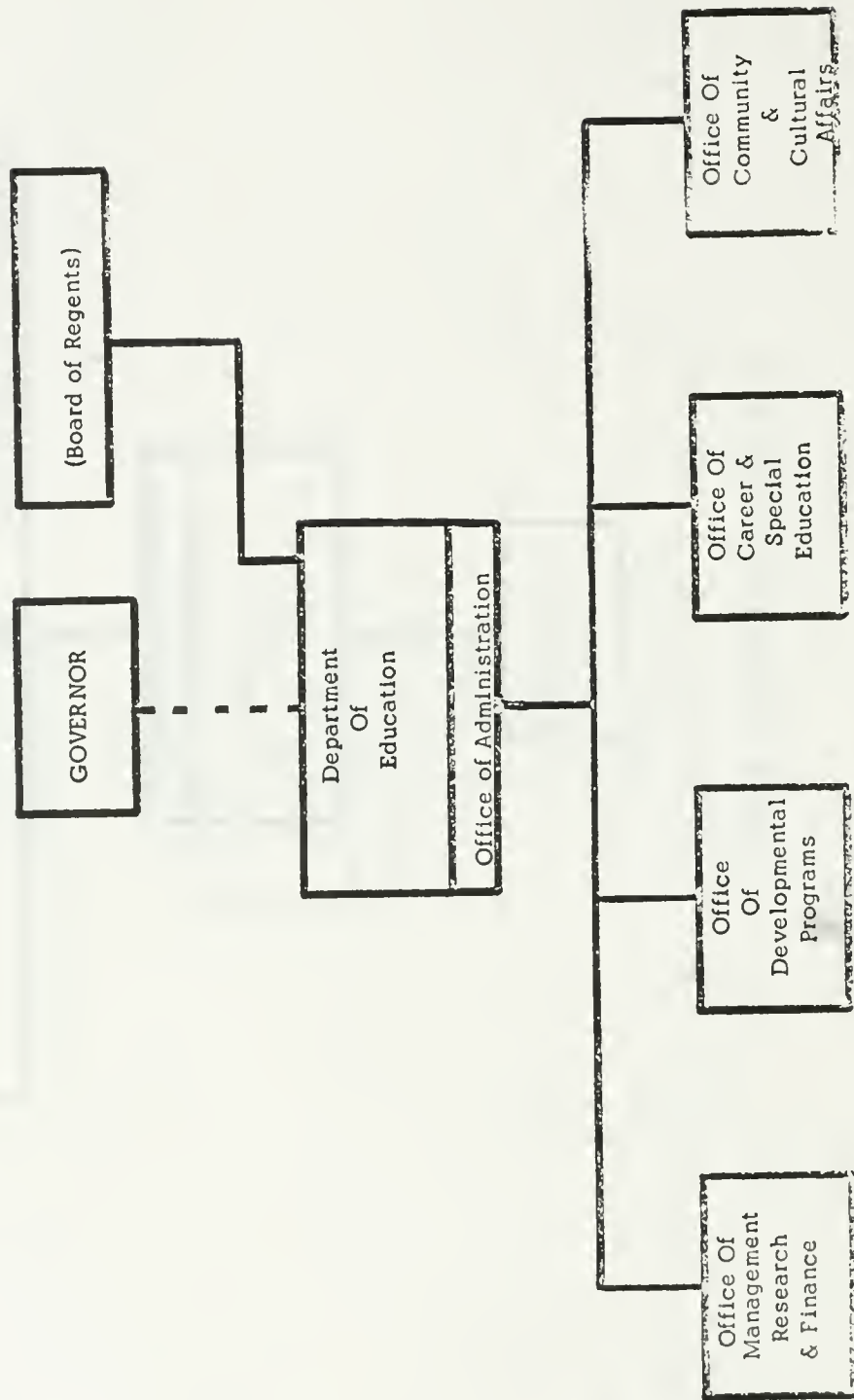


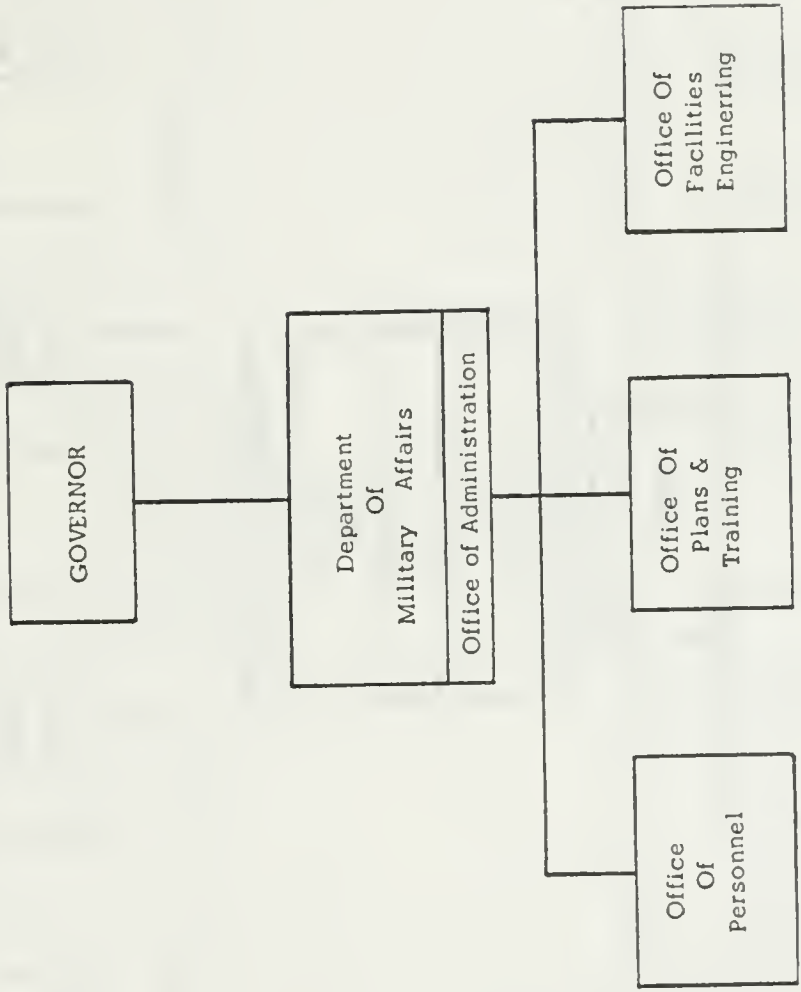


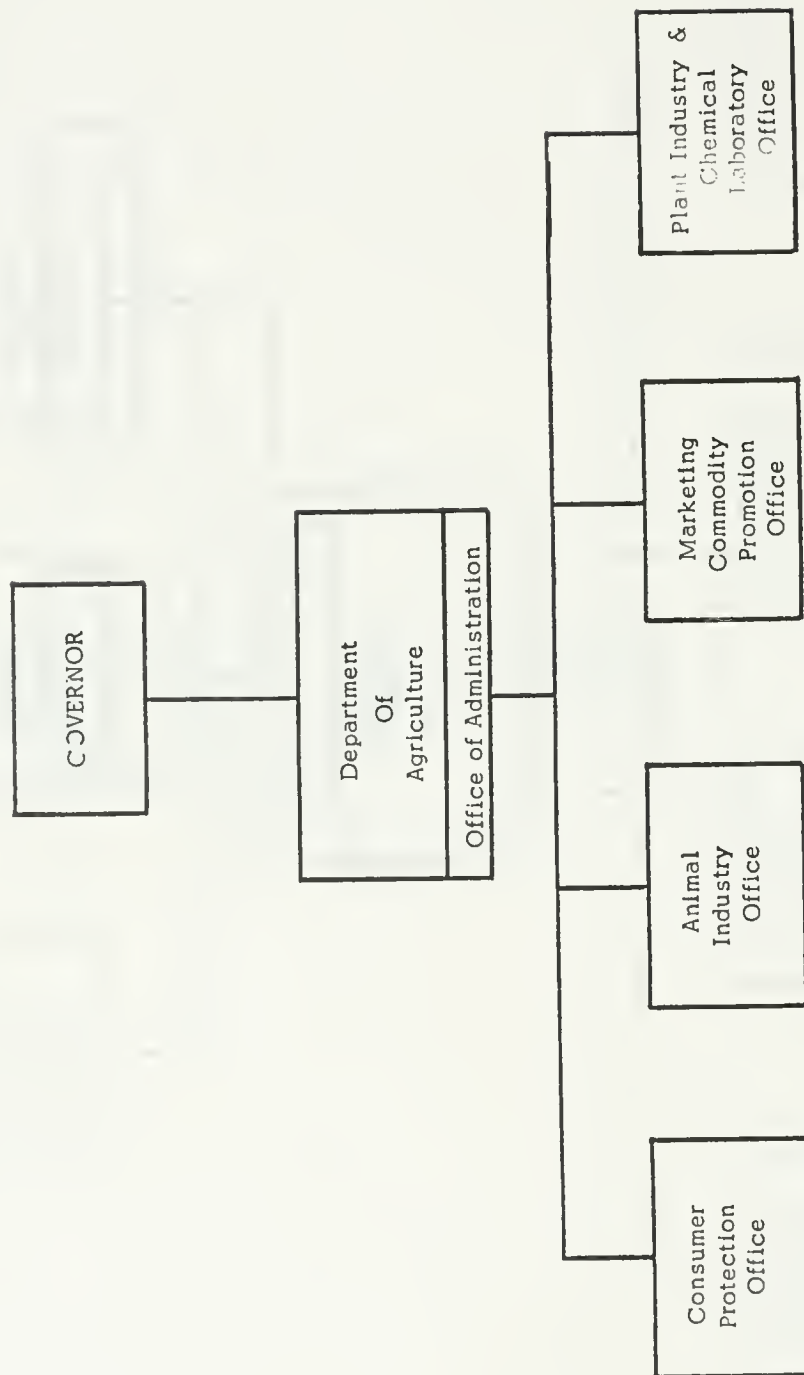
PUBLIC PROTECTION PROGRAMS



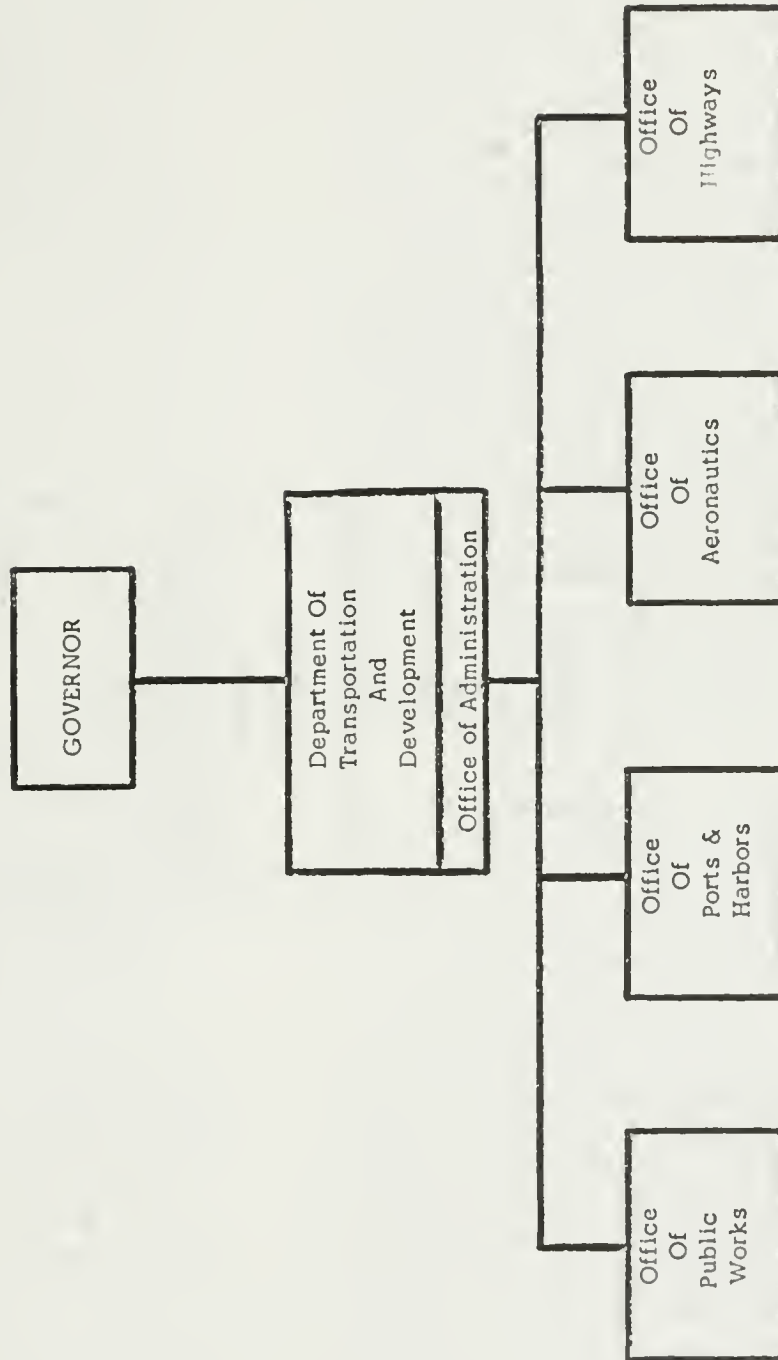
EDUCATION AND CULTURAL PROGRAMS

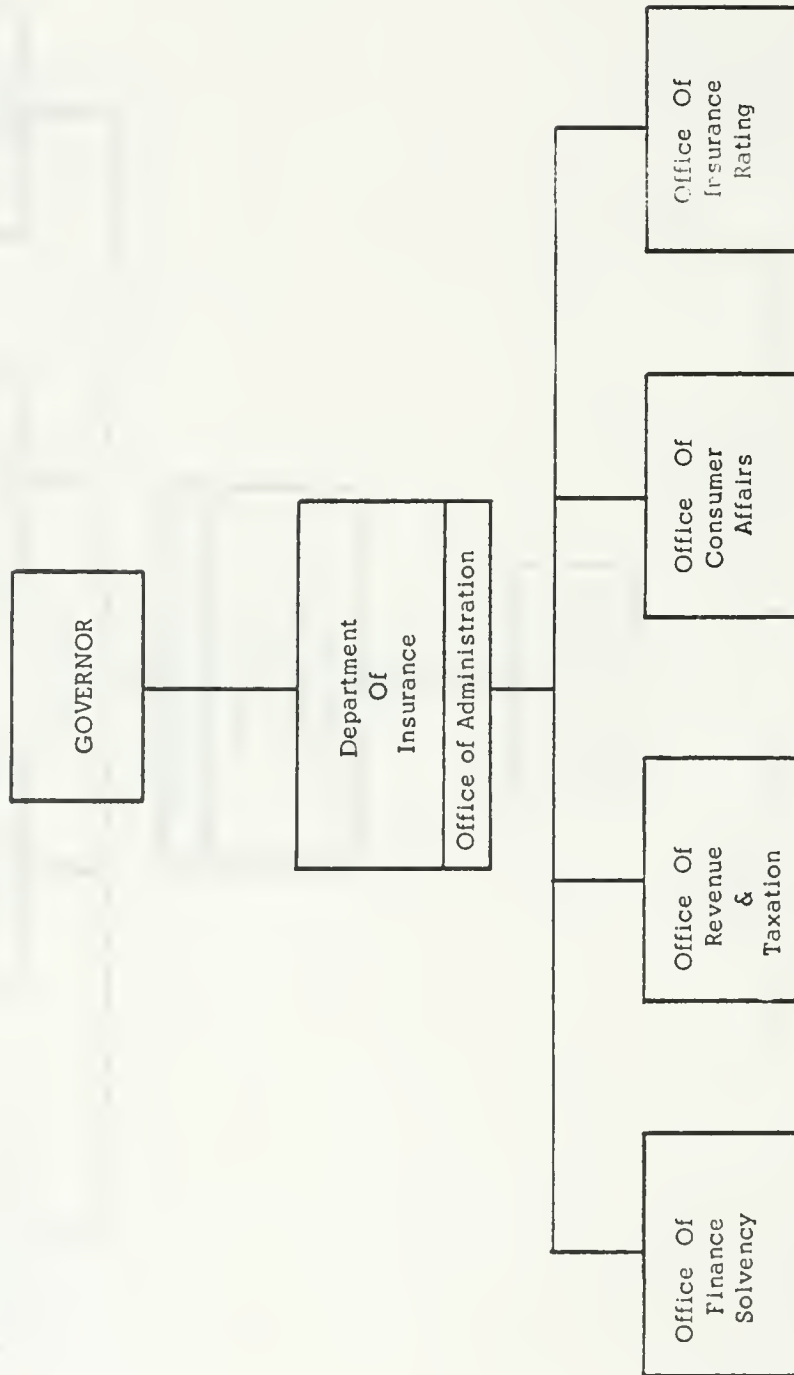






TRANSPORTATION AND DEVELOPMENT PROGRAMS





VERBATIM OF MR. LYLE C. KYLE
DIRECTOR OF THE LEGISLATIVE COUNCIL
DENVER, COLORADO

I appreciate this opportunity to visit with you. I graduated from college in 1949 and got my master's degree from the University of Kansas in political science. I started my career in the research department of the Kansas Legislative Council in 1949. I spent three years there being involved at that time with the reorganization of the executive branch of Kansas. I spent two and one-half years at the University of Kansas at the Governmental Research Center and then I spent three and one-half years as Secretary of the Taxpayers' Association in Sioux City, Iowa, and I became involved with the director of the Colorado Legislative Council in 1958.

Now, if you don't mind, I'm kind of folksy, I feel much more comfortable that way, that's the reason I prefer to remain seated. I don't mind at all if you want to interrupt me although you may have to help me get my train of thought back. I don't have a prepared set of remarks to give to you. I visited with a number of states on the experiences that we have had with the constitutional reorganization that we had in Colorado. And as I have done this, they always seem to enjoy some of the little sidelights.

I think it's important that you get the perspective on the whys and wherefores that got us where we are in Colorado. I don't think that reorganization of state government is something that you ever reach. I think it's a continuing process that goes on each and every year because things do change. We have a new fad that comes along just about every year. One of the things you have to guard against, I think right now, is the environmentalist; everybody wants to change the whole structure of state government to take care of that current fad. Two years from now it may be something else, and I don't think you can reorganize the executive branch every time a fad comes along.

Every governor, and I think every legislator, in the last fifty years in Colorado has come to the conclusion that the Executive Branch prior to 1968 was not a very workable creature. The governor had tremendous responsibilities. The people elect the legislature, of course, and members thereof. They also elect the governor. But generally, if something goes wrong, the governor is the guy that catches the heat first and perhaps then members of the legislature as they campaign for re-election.

In the early 1940's, Griffenhagen and Associates were brought into Colorado on a contract to come up with a reorganizational plan, and we took advantage of the report that group had made, to quote precisely from their report in 1968 when we issued another report. And the same things that Griffenhagen said in '41, were still true in 1968. Now Griffenhagen couldn't come back and say that today. In 1959, the General Assembly passed a joint resolution directing one of our commissioners to look at the organizational structure of state government.

This was assigned to what we call our joint budget committee, because that committee is involved in writing appropriation measures. It frankly didn't do a great deal and the chairman of that committee came to me two years later, prior to the 1961 legislative session, and said, "Lyle, would you draft us a report?" And I looked at him rather quizzically, and I asked him, "Well, what am I going to put in it? Because I have not met with your committee, I don't know what you have done." And then he said, "We haven't done anything." And I said "Well, how am I going to write a report if you haven't done anything?" And he said, "That's one of the reasons why I came to you." So, I put together a brief report. One of the things that I suggested in that was that reorganization was not one of the things that you accomplish in one shot. It is constant, year in and year out, just as you do a budget. Consequently, that committee ended up recommending that the legislative council establish, more or less, a permanent committee on the organizational structure of the executive branch of state government. That was done by the legislature in the 1961 session, and for three years thereafter we had a committee of the council made up of members of the legislature. It was largely the same membership for several years. The leadership participated in this. It was a small committee, but it had the legislative power to follow through once we provided for it. For three years we had great fun. We had one agency head come in and point out to us that another state agency should be abolished, and it happened to be one on veterans' affairs, and this is a committee on educational

training of veterans. And he said that if that one is abolished, then mine ought to be abolished. Well, we obliged them both, and got rid of two. In those three years, the legislature, as a result of activities of this committee, abolished twenty-two separate and distinct agencies of the executive branch of government.

I sat down with one of my staff members one day, it wasn't news to us, but we had to make it dramatic before the committee, to get the committee to realize it, so we prepared a memorandum and pointed out to our committee that twenty-three new, separate, and distinct state agencies had been created while we were abolishing twenty-two, so we had a net loss of one as far as our objectives were concerned. This brought the committee then, to start thinking seriously about how we could more or less draw a fence around the legislature. I don't mean this, I work for the legislature. I have a high regard for the members thereof, or I would not be a part of it, but as a member of the legislature strives to pass a bill to resolve a problem that has arisen in state government, he's got enough problems in passing that bill to the legislature, without having to fight the battle of saying where does he belong in the organizational structure. That comes after the fact. So, our committee came to the conclusion that we would

follow the Michigan example, and propose a constitutional amendment to the electorate which would limit the number of departments in the executive branch of Colorado state government. Now, let me back up here just a little bit, and indicate more

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or less a sidelight. But after we had come to the conclusion that we were making no headway in the piecemeal approach that we had chosen, a couple of staff members and myself sat down in our offices one day and said, "If we could push the magical button and reorganize the executive branch ourselves, how would we do it? What would it look like?" So we got us a big roll of brown wrapping paper, that stuff that's three feet wide, and we had one twenty-four feet long and we concocted an organizational chart that as students of public administration, that we would put together if we could. Well, as members of that committee dropped by the office we would show them this chart and they became intrigued with it. But, if the press will pardon me, if the press is here, we didn't want to stir the animals up, because, you know, if you get all of the agency heads barking at you and the press barking at you and all the constituents barking at you, you never seem to accomplish anything. And we decided that it would be nice to have a little steak fry out at my house, and after a couple of elbow bends, we went down in my basement. I've got a wall that I can put this chart on and I played professor in all reality.

Mr. Abraham: Excuse me, who was at this steak fry?

All of the members of the committee. And I should emphasize that this was not the legislature acting without counseling with the governor or vice versa. The governor was also invited that night, along with the lieutenant governor, but neither of them were able to make it. But we spent time going over this,

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and what we got was this. Every governor that occupied the office said something had to be done and they usually zeroed their attentions on the fact that all of our department heads were under civil service. Those civil servants just ignore the elected officials, whether it be the legislature or the governor. Well, that was not quite the case, but that was the scapegoat. And so, every governor would attempt to reorganize by lumping a rewrite of the civil service article into reorganization and getting a little cabinet system all at the same time and the people would vote it down and had voted it down three consecutive times that it had been placed on the ballot. So, we tried to point out that there were three separate and distinct problems that the executive branch had. Number one was the span of control. I understand you have in excess of two hundred separate and distinct agencies. We had one hundred and thirty-eight. We tried to make the point that with 138 people supposedly directly responsible to the governor, that how

could he manage such a structure? We just simply calculated that if the governor would spend just ten minutes with each of those department heads once a week that it would take more than half of his working hours to meet with them and what could you do in ten minutes, other than say hello and goodbye?

Now what was happening, the reason why those civil servants were doing what they wanted to do instead of what the governor wanted to do is the only time the governor ever saw them was when they got in trouble, and then he would call them in and say why did you do that? Well, the legislature, when it creates

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a function and establishes an organizational structure assigns statutory duties. You're the head of that statutory agency or I'm the head of it and the boss man hasn't let me know what his policies are, then I'm going to carry out the statutory duties. If I don't, then I should be removed from office because I'm not doing what the statute tells me I should be doing. So, we got this point across; and I hope you'll excuse me for using the personal pronoun too loosely, because I don't want you to get the idea, and I want you to know for darn sure that it wasn't Lyle Kyle, it was a committee and the governor working very closely together that resulted in all of this being adopted. But I'm telling you the story through my eyes so that's why I'm using that pronoun rather loosely.

The second point that we were trying to make concerns the role of boards and commissions. You know, this comes I guess, from the people coming to this country from Europe in an era and a fear of the king. Because if there's anything that seems to be rather apparent around this nation in terms of legislative bodies, whether it be congress or any of the fifty state legislative bodies, whenever we create something, we seldom give the governor the authority to go along with the responsibility of carrying the function out. We set up the boards and commissions or something else to make sure that the governor go off here and carry out something and be held responsible for it but he can't carry it out. So, we pointed out how many boards, commissions, committees, and councils we had and there were almost as many as we had departments, or so-called departments, because we don't trust the governor, and this is one that legislators constantly argue with themselves

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about. Whether they really want to give the governor that much authority. They still want to keep that grassroots input, but what happened, the guy that is appointed to run that department ends up and if he doesn't like what the governor says he goes to the council and says, you know, "The governor's not doing what he really should be doing for the state. You guys had better try to back me up here." If he doesn't like what his advisory, committee board, or council says, then he goes to the governor and says, "That

bunch of clowns you appointed over here don't know what they're doing, so you better countermand them." Well, the director does what he damn pleases. He doesn't pay attention to the governor or the board or the committee. Then the third act was whether department heads ought to be under civil service, and I maintain that it's really not that important if you resolve the first two problems, if you give the governor a manageable standard of control and if you clarify the role of boards and commissions, and minimize them as far as I'm concerned. Then whether the department head is under civil service or not, politically, it's very attractive to have department heads appointed by the governor, and if I were going into the governor's chair, I'm sure I would probably feel that way. I use the illustration as the director of the legislative council of Colorado. I am not responsible to the governor, I am responsible to the legislature, but I made the point that night in my basement. If the governor-elect had called at that very moment and asked me, "Would you come to the office or to

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the little white house," whatever you want to call it, the mansion, "I need to talk to you about something." I would have excused myself and gone. I think that's a courtesy that any department head owes the chief executive. Now you can't tell me that if a guy is under civil service that he wouldn't go if the governor said, "Come."

But anyway, the committee decided then, at that meeting, that the route they were going to go as to submit the constitutional amendment to first resolve the standard control problems, and this was when we copied the Michigan constitutional provision. We simply say that the general assembly shall be organized, the executive branch of Colorado state government shall have no more than twenty (20) principal departments by June 1, 1968.

We put that time limit in there, because there was an excellent chance not by any deliberate attempt not to fulfill the requirements of it, but the real question as to whether the legislature could arrive with an agreement. So we put the June 30, 1968, deadline on it. This was voted on in the November, 1966, election and approved by the electorate by something like a three-to-one margin. By the way, in the process of trying to draft the implementing legislation there were several times that all of us asked, "What's the penalty if we don't get it done?"

Gravel: What was the time span? I missed it. The first day, January 1, 1968, was the...How long was the period?

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Two years. The electorate passed it in the November, 1966, election and the committee was established by the legislature in its 1967 session. That meant we had to have this proposal ready for the '68 session. We only had six months, because

the legislature lasted until almost July 1st of '67, and we had twenty-two solid, long days of committee meetings to arrive at the recommendation that we submitted to the general assembly in the form of Senate Bill 1 of the 1968 legislative session. And that was adopted by the legislature and in carrying this mandate out, we didn't use the original chart we had on brown paper, and by the way, I should back up, if I may, for a moment, to indicate that after we had the session out at my house, the next morning we called and asked for an appointment with the governor, and the full committee went to the governor's office. He didn't have a wall big enough, so we laid it out on the floor and the governor paced back and forth looking over that chart for the better part of two hours, visiting with the committee. And he thought it out, and he said, "I wouldn't say that I can agree 100% with what has been put here on paper, but the concept makes sense." He said, "I would certainly agree with you that we need a constitutional amendment to limit all of us and force us that every time we create a new function of state government, that we stop and give thought as to where it belongs in the organizational structure." So, the governor and his opposition candidate of the 1966 election both supported this. The members of the general assembly supported it; it passed by something like over a three-to-one majority. Now,

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as we started in a series of committees to implement the constitutional amendment, the members of the committee, and this was largely the leadership of both parties of both houses, strictly a bipartisan committee. Four senators, four house members, two democrats, two republicans from each house. An eight-member committee, so you had to reach agreement, and one of the first things they agreed to do was, unless they had a majority of the committee even though they could operate with one, unless five members of those eight agreed on a recommendation, that they would not submit it.

We spent three or four of those twenty-two meetings trying to do the whole thing at once, the functional structure and everything else, but we slowly came to the conclusion. By the way, we prefaced this activity by sending a letter, not only to the governor and lieutenant governor but to every one of those 138 department heads, and we asked them, "Now that we have the mandate, we have to do it. Will you tell us where in the twenty-department layout you think you would best fit?" "What are other related functions in the executive branch that you think fit together?" You would be amazed, once we had that fence drawn around us, how close the final outcome resembled what those department heads suggested in terms of their relationships. The smaller the agency the more likely the department head would answer, "Well, I should just be one of those principal departments, once you put everything else together." We finally came to the conclusion that there

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was no way that we were going to be able to identify every specific function performed by the executive branch, and to then decide by shuffling, that here are fifteen functions that belong in this department and here are fifteen functions over here, and so forth, so we came up with what we call a structural reorganization, where we took the boxes on the reorganization chart and fit them together leaving functions largely within the existing framework. We came up with seventeen principal departments and we debated for a while. Finally, we concluded there is no logic to having twenty immediately. One of the big arguments at the time was whether the personnel function should be a separate department or whether it should be lodged within budgeting, accounting, purchasing as a department of finance and administration. In the proposal that was submitted and adopted by the legislative session of 1968, we put personnel as a division within the department of administration. We came to that conclusion then, submitted that bill to the legislature in the 1968 session; it was adopted with a lot of persuasion used. Both the governor and the lieutenant governor, of opposite political parties, supported the bill. It was not a partisan issue at all.

One of the continuing debates is whether we should build a substructure. Most members of the legislature as well as the governor feel that you should not have that substructure in the statutes. We should leave the chief executive with authority; his department head and the chief executive be able to reorganize within a department, not across a department, but

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within a department to make it as manageable as possible. Now that doesn't mean that the chief executive would or should have the authority to discontinue or shift a statutory function that the legislature has specifically designated. Take the public utilities commission as an example, where specific statutory powers are lodged with that commission. That was transferred by what we call a Type One transfer. We use Type One, Type Two, and Type Three transfers. Type Three meant that the legislature simply eliminated that function or eliminated the body that was performing that function. Type Two left it up to the governor and his department head if they wanted to later abolish it they could. Type One was one where we transferred something in toto to another department, lock, stock, and barrel. The governor and the department head could not alter it. Take the department of highways, for example, where we transferred the state patrol in as a division. The executive director of the department of highways could not alter that substructure without statutory changes. Now we gave in this bill budgeting, purchasing, and related management activities. But we transferred those that gave the executive director authority over all of these, whether it was Type One, Type Two, or Type Three transfers, over budgeting, purchasing, and over related management functions, so that he could have the say-so in that.

Now I don't want to tell you that this is the panacea. We've had difficulty in getting enthusiasm, because that took a monumental effort to get that far, and we felt that after passing that bill in the '68 session, we felt that the governor

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and his department heads ought to have a shake down cruise, a year or a year and a half to try out the new structure, to see, because we knew we had made errors. For example, we had one department that we should have labelled miscellaneous because that was where we put everything that was left over after we finally arrived at sixteen. But we've had a difficult time creating the necessary will to go ahead with the functional follow-up. After a year we sent a letter to the governor and to each of the new seventeen principal departments, and we asked them, "Now that you've had a chance to operate for a year, what functional changes would you recommend that we make or structural changes?" We got one letter back that suggested some changes. That director had given some thought to it. I'm not sure the others had, because they wrote back that everything was going great. Well, I just know it isn't working that well, maybe they were just afraid to stir the animals up again. Following that, we then submitted still two other constitutional amendments that originated with this reorganization committee and again the legislature is the one that took the lead here, but with the blessing and the cooperation of the delegates all through it, and we've had the same governor through this same period as well. The employees' association had long argued and fought for a modernization of the so-called civil service article of our constitution and the veterans' affairs part needed straightening out. We had a "rule of one." If all of us took a test in this room under the provisions of the constitution, whoever came out number one got the job. He was the one appointed.

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The governor had no choice. And this would just hamstring people. We have now changed it to a "rule of three," where the top three who come out ahead can be chosen.

There are a number of things that needed to be revised, that both the employees and the legislature, as well as the governor have agreed on. When we set up our seventeen principal departments, and I don't mind telling you, that by every device we could find in that constitution, we tried to get those seventeen department heads out from under civil service. The constitution had long said that the governor was entitled to five, exempt employees in his office, in his immediate office. Now we interpreted that broadly, to allow the director of revenue, director of purchasing, and the director of institutions to be exempt. Well, we interpreted it even more broadly after we reorganized and we added two

more. So we took five of the seventeen out from under civil service by using that mechanism. And then there was a very well-hidden provision in the constitution that referred to something about a deputy labor commissioner that could be exempt and we took that; so that made six. And then another provision of the constitution said that every elected official could have a deputy out from under civil service. Well, we had never used that for the governor, or for the secretary of state or for the treasurer, so we used that one, that gave us seven. And then there was something about the commissioner of mines who could be exempt. That was way down on the substructure chart in the

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new department of natural resources, so we used that one and that gave us eight. We had three elected officials, so that was eleven. Eleven out of the seventeen, leaving six under civil service.

All during this whole process of reorganization either the governor, the lieutenant governor, or members of their staff met with the committee, even though they did not have a vote, they participated actively in the meetings. After we came to the conclusion to take that many out from under civil service, the Public Employees' Association finally just said that if you push this too far, we will take this to court and sue you. One of the committee told them to go ahead and do it, and they did and they won. Consequently, our department heads went back under civil service. But, I think this was a mistake on the part of the Public Employees' Association because it did influence public opinion. Employees had always argued before if you take 138 department heads out from under civil service, then you create a spoils system. But it was kind of hard to convince the public that if you had seventeen, including three elected officials, out from under civil service that you were destroying the personnel system of the state. Consequently, two constitutional amendments were submitted to the electorate - and I believe it was in '68; it may have been in '70 - one to rewrite the civil service article itself to give the employees the changes that they wanted in that article, and the second one was a simple addition to this original amendment that says that those principal department heads shall be

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exempt from civil service. The employees' association did support the rewrite of the civil service article. They did not support the exemption from civil service, but they also did not fight it. Both amendments passed by a sizeable margin something like three and one-half to one.

We now have eighteen principal departments, three of which are headed by elected officials, namely the attorney general, secretary of state, and the treasurer. So, we are now in the process year-by-year of taking a department or a function at a time and reviewing it through this same committee.

Also, we have looked very closely at the role of boards and commissions on an individual basis; for example, we have a three-member tax commission that supervises "assessment administration of real property." We abolished the tax commission and substituted a part-time board of assessment appeals and put one man in the department of local affairs. Same way with the personnel board, we had a three-member civil service committee full-time and they couldn't accomplish anything, so we got rid of that and set up a part time personnel board with a department head over some personnel functions. We've got a lot to go, no question about that, but we are going to undergo a major effort in this line starting as soon as this legislative session is over, and the governor and his staff and the department heads have all agreed that we do need to follow up on this. I think this time when we ask for their opinions, that we are going to find a great number of suggestions

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I'm sorry I've taken so long, but I hope I have done what you asked me to do. Also, we required the governor and lieutenant governor to run on the same ticket as a team.

A question and answer period followed with Representative Tapper leading:

Rep. Tapper: Mr. Kyle, you mentioned that there were five constitutional offices.

Mr. Kyle: Yes, attorney general, secretary of state, governor, lieutenant governor, and the treasurer are elected.

Rep. Tapper: I think you made a comment about the latitude should be taken up.

Mr. Kyle: It was general agreement that first of all that we have a philosophy that we don't try to get the whole loaf bread at once, but we take a slice at a time; it digests better that way. My own guess is that the next elected official will be the secretary of state. We've taken just about everything except election administration and bingo away from the secretary of state. They use to regulate liquor and the regulations thereof, but we transferred that to the department of revenue for reorganization. My guess is that, sooner or later, the state treasurer will become an appointed position. I don't really know if we need an elected state treasurer, it ought to be under the department of finance.

Rev. Stovall: Is it correct that five of the eighteen department heads were elected and the other thirteen were

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appointed by the governor?

Mr. Kyle: Yes, except for the department of education which supervises secondary and elementary

education which has a state board. That state board appoints a commissioner of education, with the state board itself being elected by congressional districts. There is also a commission on higher education which appoints the director of the department of higher education but the commission members are appointed by the governor.

Mrs. Brien: Should the boards and commissions have legislative or judicial controls only?

Mr. Kyle: They should not be administrative but ought to be quasi-judicial, but not be involved in the day-to-day administrative affairs.

Mr. Arnette: Has this brought about a financial savings; has it been an economy move?

Mr. Kyle: No.

Mr. Arnette: What about the auditing function?

Mr. Kyle: We have the preaudit function. It is performed in our department of administration in the executive budget agency and the state comptroller office. The postaudit function, and again I forgot to tell you, we submitted a constitutional amendment to the people about eight years ago. We use to have an elected state auditor that performed the postaudit function. We abolished

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that and the legislature now appoints a legislative audit committee which in turn recommends to the legislature the appointment for a five-year term of a post auditor, who is a legislative auditor.

Mr. Anzalone: Are there only five elected officials?

Mr. Kyle: Yes.

Mr. Anzalone: In your opinion, do you think that two of them should be abolished?

Mr. Kyle: I see little reason to elect a secretary of state or a treasurer.

Mr. Anzalone: Is there any reason why this abolition was not included in the plans for reorganization?

Mr. Kyle: Yes, you're just trying to minimize the number of enemies you have.

Dr. Asseff: What you're really saying is that they were leaving it to the legislature itself rather than doing it in the convention. You've actually given us the tricks of the trade, the methods by which you accomplished your reorganization plan in the state of Colorado. But what worked in the state of Colorado will not necessarily work in the State of Louisiana. In other words, a general statement directing which you yourself conceded is not enforceable, that's about all you have suggested for the constitution. You have

suggested how to reorganize the statutory laws, but did the legislature do it on its own without

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any penalties?

Mr. Kyle: The legislature initiated this from the very beginning but it was in cooperation with...

But if I had to put my finger on the place where it was originated, it was in the legislature.

Dr. Asseff: What I mean is, that you tried to bring everybody into it in order to minimize your opposition.

Rev. Alexander: Does your plan, when you changed the system, require that the governor and the lieutenant governor run on the same ticket to more or less avoid having a democratic governor and a republican lieutenant governor in a two-party state?

Mr. Kyle: I lived there fifteen years, and this is the first time that the state had elected the two from the same party.

Rev. Alexander: Were the departments set up according to structure or according to function?

Mr. Kyle: They were originally set up according to structure and then we were in the process of eliminating some of those 138 departments by simply consolidating functions since that time. But that's what we are still working on, and we will continue working on, because we are not going to accomplish it tomorrow or five years from now; it's a continuing process.

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Rev. Alexander: Unlike Colorado, we have a racial problem in Louisiana, and I wonder why they changed, from the rule of one to the rule of three in Colorado. We have the rule of three in Louisiana, and it has worked against blacks.

Mr. Kyle: One of the things that concentrated attention on this specific problem was after the court decision which said that we couldn't use those devious routes to hassle non civil service department heads. One of the people that had been a misfit as assistant budget director started taking tests, and he came out number one on about five different department headings. People began to see how ridiculous it was; a guy could do good on the test, but he had had the opportunity in the administration to prove whether he could do the job, and he couldn't. And the question you are raising, was raised there as a possibility that it could happen if we changed to the "rule of three", but it could be used against the

minority to always exclude one of the three, the black or the Mexican. We have a very strong civil rights commission. We have real problems, and it was one of the arguments used in changing from the "rule of one" to the "rule of three" because it could very well be used against them.

Mr. Abraham: Does your commissioner for lower education and your commissioner for higher education fit into

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the executive department as two separate departments?

Mr. Kyle: Yes, and they are considered executive department heads.

Mr. Abraham: What was the purpose in having the lieutenant governor and the governor run on the same ticket? What duties would you give the lieutenant governor, and if there were no duties for him, do you need him at all?

Mr. Kyle: The lieutenant governor and the governor ran on the ticket the last race and won, so this was an accomplished fact. Secondly, the lieutenant governor is the presiding officer over the senate, but there is really no answer as to whether a lieutenant governor is really needed.

Mr. Abraham: Does the newly-created personnel board cover all state employees, whether classified or not?

Mr. Kyle: It covers primarily those under the classified service. We have a separate personnel system for the judiciary. Legislative employees are not under classified service. University employees are not either.

Mr. Abraham: I noted that when you were talking about grouping the various departments together you said you did it structurally rather than functionally and you weren't real clear on what you meant.

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Mr. Kyle: Visualize an organizational chart with the 138 departments labelled to combine them into eighteen principal departments, we did not try to go into the statutory functions of each department and try to combine them solely by functions.

Verbatim Statement of Governor Edwin W. Edwards
May 22, 1973

is charged with the responsibility of writing the new constitution. And it is this convention and not to me that the people of the state are looking to for a successful task. However, as governor of the state, as one who has served in all three levels of government, eight years in city government, a portion of a term in the state senate, four terms in National Congress, and now governor of the state, I think it would be less than appropriate if I didn't afford this committee and reiterate to the people of the state some things that I said during the campaign. May I point out that I probably say that I, more than any other candidate running for governor in the last gubernatorial race, emphasized repeatedly the need for a new constitution. I did so aware of the fact the polls at the time and my own feedback from talking to people left me with the definite impression that a very small minority of people in Louisiana were aware of the need, were aware of the problems that we have with the constitution, and I did so recognize them but it really was not a campaign issue because of the small number of people who were aware of the problem, but I made it an issue because I felt like a new constitution was a must in the last third of the twentieth century. And because I'm totally dedicated to a principle that I have said many times before and it is simply this--that the system by which we govern this state is not working, and will not work adequately for a state of four million people; and one that has moved from primarily an agricultural state as it existed in 1921 when the last constitution was written, to the complex economic and social structure we now have in Louisiana today, and which will get more complex in the thirty years between now and the next millennium. I do not have an easy, popular, acceptable answer to the problem of restructuring state government. Any change is bound by fifty years of tradition and which has entrenched groups of people, organizations, and vested interests in the system is going to be resistant. I was impressed by an article in one of the newspapers of the state which pointed out simply that the more resistance there would be and the more human pride in the adoption of the new constitution, the more it will probably respond to the public interest. Because if there is no opposition and no resistance, and people who do the talking in the state, and who occupy the positions of responsibility and power, are basically satisfied with it then the chances are it will only be a carbon copy or replay of what we already have. What I point out is that any meaningful change is going to be resisted by people who are satisfied with the system we now have. I am not, I never have been, I was not satisfied in 1964 when I served in this chamber as a state senator, I am less than satisfied as governor. I think the people of this state are entitled to deserve and get better. I sometimes say jokingly that I went around the state for eighteen months campaigning for governor talking about how bad things were, and one of the things that shocked me most is that after I became governor I found out I was right--they were bad. Alright, I believe first of all that we have too many officials elected on a statewide basis. Certain functions of government now being supervised or under the control of elected officials, in my opinion, should be consolidated with other functions of government, and the need to elect a statewide official for that function doesn't exist. I refer specifically to the office of comptroller which as you know has been abolished effective at the end of this administrative term. The office of insurance commissioner, the office of state land, the office of agriculture and the office of superintendent of education. Now let me point out again that any time you make that kind of a statement you are inviting mockeries, but it is not the first time I have made it. I made it repeatedly during the campaign to hundreds of people in person and to thousands by television. Apparently no one was listening, because it wasn't until the general election that all of a sudden people who didn't like the idea began to oppose it. But I made it then and believe it was in the public interest and I reiterate the statement for the same reason, although I might be better off politically if I availed myself of a cloak of secrecy and say to everyone, "Well, that's the convention's job but not mine. Let them do what they wish." You've asked my opinion and I've expressed it. I believe that the state could best be run by a system of five elected officials and I'm not married to that number--it could be six or it could be seven. But I circulate among you a break-

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If I may reiterate and point out, I am very pleased to be here. But I am here at the invitation, and I might say it's almost the insistence, of the chairman who called me prior to the time you wrote the letter. I make that observation because I want to make it perfectly clear to this committee and to the convention and to the people of the state, that it is this convention, and not I, that

down of "a" and I repeat "a" possibility--a system by which I think we could better govern ourselves. I envision election of a governor, a lieutenant governor, a secretary of state, an attorney general, and a treasurer. Underneath

these five elected officials a department, an agency, a board of regents, a cabinet system-- of twelve principle departments to be created in and under the executive department--could be twenty, could be fifteen, could be eighteen, there's no magic number. I just, in my own experience talking to people who have looked at this problem with me during the last twelve months since I have been governor, came up with a draft which has twelve department heads. All of these department heads would be appointed and selected by the governor, with the exception of the superintendent of education who would be selected by the Board of Education, and all of them would be subject to confirmation by the state Senate. And let me be the first to say that I doubt seriously if anybody who has the intelligence and the ambition and the drive to become governor, would demean himself to appoint someone who wouldn't be ratified or confirmed by the Senate. But nevertheless, I think that it's a psychological safeguard, if nothing else, in that the people know that the dictates of one man alone would not control the men who head these various departments, and there will always be a counterbalance or check with the state Senate. In my plan, the governor will also have the authority to remove a department head, and I must say that I have changed my opinion on this. There was a time during the campaign when I took a different view, and said that once appointed, the governor would no longer have the power to appoint or remove. I do not believe that would be in the public interest at this time. My view now is that the governor should retain the power to control a department head who does not respond properly. Now, may I point out, that one of the many things wrong with our system is that--for good or bad, right or wrong--the governor is in the minds, the thinking of a vast majority of the people in the state, responsible for everything that goes on. He claims credit for the good and is given blame for the bad, but in the minds of people everything good and bad that goes on in state government is the responsibility of the governor. Yet, I have no constitutional or legal authority over a large amount of the functions of government. They are subject to the control and direction and discretion of elected officials who, as I, were elected to public office to serve their constituents, and I can no more tell the comptroller or the insurance commission or the secretary of agri-

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culture or the superintendent of education, what he should do with his functions than can any other citizen. I do have some budgetary control, but then it would not be an appropriate function of government for a governor who can not otherwise control an elected official to say to him that if you don't do my bidding and follow my thinking I will do violence to you at the time the budget comes up--that's just not a proper system of government. Hence, I find myself as governor with the responsibility of everything, but having little authority in your area--that's very important to people, education being one of them, probably one of the most important. I'm very pleased to say, and I want to make it very clear, that I have had no basic philosophical differences with any of the elected officials, with the exception of the insurance commissioner, who as everyone knows was wrong, (and that, of course, I say jokingly) that was resolved as soon as I sat down with him and explained to him that I had no intention of running his department--how he ever got that notion, I don't know. But that's not the purpose of my testimony here, the point that I want to make is that in education for instance, I have met with Louis Michot, superintendent of education. He will tell you that there has not been a time that he has come to me and asked for my help, that I didn't say whatever involves education I will follow your lead, you tell me what you need and how I can help you and I will do it. I have done the same thing with other elected officials, and I think the official family works very well together and the criticism that I have of the system is not to be confused with criticism of any of the individual people now working within the system. Now I've had some experience that I'm going to pass on to you which I think is important in two areas. 1) The most visible effect of effective consolidation that we have by experience of the state in the limited time I have been governor, relates to the field of health, education, and welfare. I mean health and welfare. We consolidated by legislative fiat about 59 of the various agencies working in health and welfare. A very capable group of people involved in the consolidation at this time. I read a report yesterday from Dr. Mary which indicates that the 22,000 employees in the total umbrella, something like 1,000 positions have already been vacated by attrition and not filled, and the report indicates

that at least a 5% reduction in employees to operate the same functions of government in the consolidated agency. We already have some experience of savings, they are copying and xeroxing these things. There's

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an annual savings already projected of about 60 to 80,000 dollars a year. A small amount within a very small area. In the area of purchase of medicines-- 6 million dollars of the total budget--it is expected that a 10% savings can be effected under the consolidated plan. The point I'm making is even if you're not saving money, and you are, we believe the results I think show that consolidation can render a more effective service to people, and make it more easy for people to relate to government, to understand it and see it. So I suggest as a guideline or as a suggestion, but not necessarily the one that you should or must adopt, a system as the one that I have proposed, subject to whatever obligations and changes no matter how drastic you think they are to be. If I were given the authority, and I don't have it, to make a final decision, I would come pretty close to adopting a plan such as the one I have circulated before you. The other thing that I want to close with - the past several months as governor I've met on a monthly basis with department heads, now subject to my appointment, superintendent of state police, director of public works, head of division of administration, and people of that category. The meeting fills a room, but it's only a small fraction of the 200-odd people that I still have to appoint who have various commissions and boards throughout the state. We have found that these meetings are very productive and has resulted in savings in consolidating some functions of government in letting each agency know what functions each are involved in and has provided, I think, a very wholesome cabinet-type arrangement for government. I believe that the experience that we have witnessed in this particular field under this bad system can be translated into, again, an argument in favor of this type of a departmentalized or executive-type system of government under the leadership of the governor. Because I think that if you had twelve or fifteen or twenty department heads under whose jurisdiction all these other functions of government now involved in about 200 agencies used to be 267, if you had twelve or fifteen or twenty department heads appointed by the governor and subject to his direction or control, it would be very easy for the governor on a regular basis every two weeks, every week if necessary, to meet with these people and provide a very good dialogue between the department heads for real, effective functioning of government and to get programs down to people and to coordinate the activities. It is impossible for a governor to meet on any meaningful basis with everyone who now has some jurisdiction and discretionary part in state government. I do it as often and as much as I can, but some of

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these people have a difficult time even getting to me because of the press of time and the obligations that I have to meet with any and everybody who has a problem in state government. I merely say that based on my own experience working with these department heads, any kind of a self-oriented cabinet system of government, in my experience, has and I think they would all tell you, that has been most helpful, and it has made it easier and better and more efficient for us to render a service even under the system of laws that we now operate. I close on this note, simply this--my feelings are that a minority of people in the state recognize, even at this time, the pressing need that we have for a new constitution, but those who have exhibited some interest and who have some awareness of the problem, I think by large majority, subscribe to the theory that we should keep the constitution as devoid of extraneous irrelevant and legislative type-matter as possible, and that the constitution to be submitted should be as concise as possible. Now when I say concise I don't mean short because length is not sacramental. Conciseness is, in my opinion, I do not believe we should place in this constitution things which can be handled by a legislative body. I don't think we should try to write a constitution which regulates our lives or which provides a system which is rigid and which cannot be changed, except by constitutional amendment, because as times and attitudes change we're going to find out those things we've done in the past 50 years, that is submitting multiple amendments every two years to the people for consideration, we should try to get away from-- simply speaking. The more we leave out of the constitution which can be handled on a legislative

basis, the easier it will be to deal with these problems as circumstances and attitudes change. I was asked whether or not we should put in the constitution a provision to fix salaries of state officials, and, of course, the answer is no--something like that does not belong in the constitution--because salaries must change depending on economic conditions, and other conditions which certainly cannot be reflected in the constitution. I merely point out that to the extent that you can't, take my advice, you should try to keep the constitution as concise as possible, and devoid of as many matters as can be handled on a legislative basis, so that we can deal with them on a year by year, decade by decade basis, without agonizing over constitutional amendments because if you don't do that you will end up twenty years from now with another complicated, heavily amended, conflicting constitution similar to the one we now have. Now I'll be very pleased to engage in a dialogue and try to

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respond to questions that you have in mind.

Rev. Alexander: How would reorganization of the Executive Department affect existing agencies, boards, etc.?

Governor Edwards: Oh, there would definitely be some left out of the functions fused with the functions of other boards, for the simple reason when I became governor we had 267 state agencies. Only 8 states in the nation had over 100, and the average state had 40. And with 267 we had by far the most. We succeeded in abolishing or consolidating about a 100, which left about 167. Admittedly some of the 100 we abolished were nonfunctioning, but, nevertheless, they were there on the books. I think that any meaningful, effective change in government is going to require the elimination completely of a large number of minor agencies.

Rev. Alexander: The next question revolves around civil service. Now civil service in the state has been accused of a policy of the exclusion of blacks-- (tape failure) whether that is true, I am not saying, however, civil service has been accused, the appointing department executive has been accused, and, of course, there have been suggestions about remedial changes in the constitution and legislative acts to correct the problem. What do you see possibly that we can do to correct this problem of exclusion of blacks, especially of being hired responsible positions and then upward mobility after they have been hired?

Governor Edwards: The most unpopular statement I'll probably make is that civil service does not belong there, nor does anything of that nature belong in the constitution. It should be handled by legislative act, but I'm practical enough to recognize that those who are wedded to an archaic system of civil service and the one we have is archaic, in that respect, would never support a constitution that didn't have civil service in it. Therefore, I would recommend to this convention at least the concept of civil service be retained in the constitution simply for the sake of getting it passed. Sort of kill the cow to save the cat. I repeat, my general philosophy is that that kind of thing doesn't belong in the constitution. But I know the attitude of the people and they're scared to death of the politicians

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who would kill it the first chance they have. And of course I know better than that, but that's the attitude of people. Rather than jeopardizing passage of the constitution I would suggest that the concept of civil service be kept in the constitution. Some would simply say there shall be a civil service system and then establish how the commission shall be formed. But that's what's the matter with the thing now. When it was put in the constitution it was provided how the civil service commissioners would be appointed and they're appointed by the governor on recommendations of the presidents of the white universities of the state and by design or accident, lists submitted to the governor never contain the black. As you may know, the first commissioner was subject to appointment by the president of LSU, and I asked them by letter and by telephone call to list the black on his recommended list so that I could appoint one--the first one in the history of civil service. Now I

want to say two things about the exclusion of blacks. 1) everyone and no one is to blame, but I would say that more than anybody that the hiring heads, through the decades since civil service became the system, and the public is equally responsible. They're responsible because an attitude developed that didn't avail the black to take a civil service examination because no matter what kind of qualifying scores you make; no one would consider them for the position. For example, and in the same vein, I would not qualify for pope because I know no one's going to consider appointing me pope. Many blacks who wanted civil service positions through the years said what's the use in taking the examinations, wasting my time--no one's going to appoint me. That attitude developed against civil service lists. So we are married or locked into a rigid system which the present commission does not want to change. I publically advocated and I do so again, moving away from the top three rules. I do that for several reasons. 1) There is no need for it. It isn't fair to tell a person who happens to be lucky enough to go take the civil service examination in a week when only three people take it. And if he just makes 72 he's in the top two, and the next week his brother goes to take it and that week just because it happens to be the Easter holidays thirty people take it and he makes 85 and he is number six on the list. Well he can't be considered even though he made a high score and somebody else made a lower score and is in the top three on another list. Contrary to my critics the

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suggestion to move away from the top three rule does not depreciate the value of civil service and it doesn't lower the qualifications. If an examination is given to a person to qualify him for a job, then if he passes it, he is qualified, that's what the examination is for. And he is not qualified once he makes a grade that puts him in the top three. If the examination doesn't qualify him then there's something wrong with the examination and it should be changed so that if he passes it he is qualified. And once he is qualified then I think he should be entitled to consideration for appointment because there are many factors other than a grade to determine a person's qualifications. I know some people who could make 100 on the state examination, but I wouldn't dream of giving them a recommendation to state police to be a state trooper, because they do not know how to deal with people, and would lose their cool in an emergency situation. There are others who would have a difficult time passing the examination who are making better than 75 who have the ability to handle an emergency situation who are far more qualified, to be a state trooper than the guy who made a 100. That's one example of the difference. Now rather than advocate complete disregard of the contribution with an effort to compromise I have asked that it be changed to where instead of saying the top three persons would be subject to consideration it would be the top 20% of those scoring. In other words if thirty people took it then the top six could be considered, but certainly anyone who is in the top 20% of any examination level is certainly qualified for appointment. I think anyone who passes the qualifying examination is considered, but nevertheless, I don't think it is going to go that far down the line. But I think you should move it away from the fact that it's only the top three, any person with any certain percentage. That way it is fair to everybody whether you're taking the examination with fifty people or with just two people, since you have a better opportunity of getting a score for consideration for appointment. Needless to say the Civil Service Commission doesn't share my view and editorial writers do not share my views or public officials do not share my views. But I tell you one thing you better get out there with the people on it and listen to their complaints and hear what people think about civil service, they would change it.

Greg Arnette: I noticed there were no mentions of regulatory boards, such as the Board of Public Service. Is this because you do not consider them in the executive branch?

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Governor Edwards: I do not consider them in executive branch.

Arnette: Do you favor keeping Public Service Commission?

Governor Edwards: Yes, and I also favor expanding it. The number of commissioners should be increased from two, but not more than say five or seven because of the purposes of the Public Service Commission, greatly expanded and will continue to be expanded.

Arnette: Well, do you think possibly the duties could be expanded to include such things as regulation such as the Conservation Commission does now, utilization Board things like this, or possibly another elected regulatory agency?

Governor Edwards: It would be a concept that I would have no trouble with if you provided specifically for that function for the retaining by the Public Service Commission. There are qualified people to handle that function. I'm not married to any particular concept as to how you get these things formulated through a limited number of working agencies. I see no problem.

Mack Abraham: One thing we have been wrestling with is the role of lieutenant governor, where does he fit in, and what duties should he have, should he run on the same ticket as the governor? Can he be given specific duties within his organization, such as chief aide of the governor, administrative aide, something like that?

Governor Edwards: He is certainly given specific duties, and I think the functions of the lieutenant governor should be greatly expanded, I know he isn't going to appreciate my saying so, but I don't think he should continue presiding over the Senate. I think that's a waste of his talented time. I think that the president pro tem of the Senate or someone elected from its membership should preside because they have to be here for deliberations and there is no need for him to be--I don't think he should be voting in the event of a tie, because he is not in the legislative branch in that sense. But again I'm not all uptight

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about that and the state will not rise and fall on that issue. You ask and I tell you, I think he should be insulated from the work of the Senate, and he should spend more of his time as an administrator in the executive branch working with the governor. Whether or not he runs on the ticket is something that I have no fixed opinion about at all. I don't think the attitude of the people is such, they would like to see that required. Many capable people want to run for governor and they want to run for lieutenant governor and do not want to align themselves with a particular candidate for the other offices. I would prefer in day and age of independent voters and independent candidates to allow him to run on his own. I think any two people who are elected to positions of that category will work well together and certainly the lieutenant governor and I did not run together, but I couldn't imagine any person easier to work with and more effective in helping me and vice versa than Jim Fitzmorris. Definitely he could be placed in charge of many of these departments and given supervisory responsibility, directional responsibility to relieve the governor of that, because it is an inhuman task being governor under this particular situation.

Mrs. Hilda Brien: Governor, do you think that a governor could provide a policy of systems that could consist of like financial (tape failure) broad function category--federal, state (tape failure)?

Governor Edwards: Absolutely, as a matter of fact to the extent that I could in budgetary limitations, I have Kelly Nix on my staff, people working under him whose sole functions relate exactly to funding.

Rev. James L. Stovall: Governor, you mention these five elected officers; you do not mention the function of auditing. What would you think of a general auditor for the state being elected? Do you feel that the function of auditing might be taken care of through a legislative auditor?

Governor Edwards: I definitely think it should be a legislative auditor. I think this is not going to be popular, because people like to think that the elected person is totally responsible, but I think that the person who is elected auditor, if he did the kind of

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job that's expected of him he couldn't get re-elected in four years. If he didn't do the kind of job he would not be serving the proper function. Now Mr. Lancaster, who was the auditor for many years, is sitting back there. I don't have any idea what his opinion is, but I think he should be someone appointed--someone under the system we have now, which gives him the maximum independence, insulated from political pressure, and the ability to do a job that is kind of an ombudsman for the people of the state, checking on how funds are spent. I don't think that--they might come up with a better system, I don't know, but I think electing an auditor on a statewide basis would be a bad mistake, because you would end up with people who would get elected, necessarily obligated to a large number of people who help finance campaigns, and get involved in campaigns. Mr. Lancaster may disagree with me but it would be awfully difficult for a person who's facing reelection to go to a police jury and stigmatize them or criticize them for practices which he knows are wrong. It would take a devil of a strong man to do this.

Dr. Asseff: Governor, since I'm considered the unpredictable one, I'm liable to say almost anything and I don't want to ruin my reputation at this point. I am delighted that you are here. You did raise some questions whether you should be here. As far as I'm concerned I feel that as the chief executive it is your duty to be here and give us your recommendations. I certainly hope that we will be free to send memos to your office and ask for your opinion, if we may. That doesn't mean the committee has to observe. Now my question is this--I'm always accused of consistence. As I recall one of the newspapers accused you of controlling the vote. Now I'm not asking the question on that. I'm making a point. Now on the other hand, if we recommend that the board be abolished we'll be accused of strengthening your power. Now my question is this, what is your feeling toward boards to head an administrative agency--to be specific the Department of Highways and such and such?

Governor Edwards: I think the recent example to which you refer is a real good example. I'm accused of controlling the board. What I'm trying to say is, it doesn't matter what the board decides on a controversial matter, I'm always the fellow who people say made the decision. A state representative, a very good friend of mine who knows better, went up there and made a statement that I know where the pressure is coming

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from. Well, the truth of the matter is, if I'd used any pressure, there wouldn't have been three votes against him. It would have been unanimous, and had I been the kind of person to use pressure and made some kind of a back-door deal I would not have made a public statement in support of a controversial action by the board. I would have just met with them in some dark room somewhere and said, "o.k., fellows, you vote this way and you vote that way and you vote this way and don't tell anybody I said anything to you about it," and I would have stayed out of it. But that's not my way of doing business. Controversial though it may be, I thought the contract was in the best interest of the state and of the Department of Highways, therefore, I took a public position supporting it and didn't hide from it or try to insulate myself from it. What you're talking about points out what I'm referring to, the governor is blamed or blessed for everything that happens; and therefore shall have an opportunity to work with people of his selection so that they can counsel together and make a determination as to what should be done.

Asseff: Well, let me give you my position, governor. That's why I wanted your reaction, so far as I am concerned. An administrative agency, highways for example, is a function of government as far as I'm concerned, and should be headed by a director, appointed by you. Now my question, sir, is that your position?

Governor Edwards: I agree with you entirely. You know all those board members are personal friends of mine and highly respected businessmen. That highway department could function just as well without them.

Stanwood Duval: Governor, one of the problems we have with a cabinet is to draft it so that it's not encompassed. Now do you suggest, asking your opinion, we at the committee discussed several ways like maybe questioning a limited number of agencies in the

proposed draft, a limited number of departments and not specify the departments, and give a certain time for the executive and/or the legislature to spend the money. Do you think we should be specific or not?

Governor Edwards: That's beautiful, and I'm sure glad you asked that because I was reluctant to make that

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suggestion very candidly--which should be done. You decide whether you want these five people elected statewide and what their functions will be. You know I'm not married to five but there's a great deal of public sentiment for making the secretary of agriculture elected. I don't think that is necessary. I think that on all of these positions specifically like the superintendent of education shall be a person who has a master's degree in education, has been a school teacher for five years, a principal for two years, a working administrator. Spell out his qualifications from which the state board can make the appointment. Now, getting back specifically to your question. Once you decide how many of these people are to be elected, and I'm not married to these five, I think you should then in a simple statement direct the legislature, within a one-year period or two-year time period, to come up with a system, a cabinet system, a department system, an agency system, call it what you will--of not more than fifteen, twenty, or thirty departments and to submit the plan to the governor who may either veto it or approve it. If it's vetoed then it goes back to the legislature. Or if you want to, just say that the legislature will come up with a plan. By the time most of this really begins to grab hold, I'll no longer be governor, so I would gladly give up any hope that I have for another term if it resulted in a good workable constitution for this state. And I will never put the possibility of a second term over the value of a new constitution for the people of this state. And if when it comes time to get this thing ratified, and I think it's a good constitution and I come to the conclusion that people would ratify it if they knew I would not be governor of the state for another four years I would publicly announce, "If you ratify this constitution somebody else will be the next governor not I." If I thought that was necessary to get it passed. I believe that strongly in this concept, but I suggest that you make a very good point. Simply say that the rest of the functions of government a cabinet system, a department system, of not more than x number of departments to be provided for by the legislature would be prior to July the 20th of 1975. And that way if you say twenty they may come up with eighteen and leave two vacant slots, for ten years or fifteen years. On the other hand, they could come up with twenty and call them departments a,b,c,d,e. Five or ten years from now the legislature may determine they want to call them 1,2,3,4,5 and would be able to change it without running back to the people with a complicated misunderstood amendment. And you would also avoid many of the pitfalls of the controversy in getting the right constitution ratified, as people

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look at what you have suggested and say, "Well, I don't like this particular sentence, therefore, I'm against the constitution." And you're going to have a lot of it.

Camile F. Gravel: Governor, do you have a suggestion or recommendation as to what changes if any might be made with respect to pardon boards and the governor's role in giving the pardons?

Governor Edwards: Number one, the governor has no business being a part of the pardon. Let me tell you what happens from a practical standpoint. I go home at 11:00, 12:00 at night and among the things that I have to do is to review fifteen or twenty applications for pardons or paroles which have been approved by the pardon and parole board. Most of the time files are one-fourth inch thick. I usually have to make an arbitrary decision whether the pardon or parole board voted for this, therefore, I just sign them. Or I have to sit there as I do and review each case, and then sign or disapprove them. It is a function that I don't have the time to do, and I don't have the knowledge and I certainly shouldn't make a decision that important to the life of one person to society in general--based on reviewing the whole file. The least that a man has an ultimate responsibility to do is spend a half an hour

talking with the fellow, because a lot of times he can get his feelings off of people, not all people, but sometimes you can get a feeling as to how sincere he would be. I repeat, the governor has no business signing pardons or paroles; it is a function that shouldn't be relegated to him. You should have, in my opinion, a professional board working on a continuing basis with parole officers, probation officers, the knowledge of sociologists, psychiatrists those involved in the system who themselves will make final decisions. If this board ultimately determines that this man should or should not be pardoned, that decision should be final. That's been an unpopular position, but now decisions are made by the attorney general, lieutenant governor and the judge who happens to sentence a person. I don't think the sentencing judge should be involved in the determination on whether a man has an early release. The sentencing judge had his shot at the fellow when he sentenced him, and at that time could determine whether he should be in the penitentiary for ten years or three years. So it's inappropriate for a judge who sentenced a man to ten years when he could have given him three in the first instance four years later to have to determine whether or not his sentence should be cut

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to four years. Besides, I don't think it's a responsibility of the judge and I think we should remove the system from all of that and provide for a board which would come from categories--a businessman, a housewife, a psychiatrist, a sociologist, a penologist, and they would make a decision.

Mr. Gravel asked a question relative to the structure of board (Pardon) and the functions of the board; whether to include this in the constitution.

Governor Edwards: For goodness sakes, don't put that in the constitution. It's one of the hundreds of things that I have read about being considered by the convention. And I shouldn't say this, but it shouldn't be considered as constitutional material. The pardon board doesn't belong in the constitution. I don't care whose pardon board it is. The pardon system doesn't belong in the constitution, because ten years from now there will be as much change in attitude about pardons and paroles as there's been in the last two hundred years. And if we're locked into a system in the constitution we're going to have to go back to a million and one-half voters to determine whether we need a changed system and that isn't too good.

Mr. Anzalone: Governor, we have heard some proposals concerning the possibility of placing certain things in the constitution, which are taken out of the constitution and which would require, say not a majority rule of the legislature, but some percentage in excess of that, for a particular section without being in the constitution. How do you feel about that?

Governor Edwards: The most controversial and the one that's best known is the two-thirds vote for raising taxes, I would leave it in the constitution, because I don't think you can pass the constitution if it's not in it. However, it doesn't belong in the constitution. A system where one-third of a deliberative body can impede two-thirds--it's bad. We operate this country by a majority. We decide whether people get killed by majority rule, we decide whether twenty million people in the last two hundred years have been drafted to go and put their lives on the line by a majority rule; yet we have a system here one-third can stop two-thirds from raising taxes. It's a bad rule, but you better leave it in because we'll never get the constitution passed. Now, other than that I don't think there should be any impediments to the deliberations of the legislature in the constitution.

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Reverend Stovall: Governor, I have a question that has not been covered to this point concerning the veto power of the governor--whether it should be modified, and what length of time would you suggest (having been through one legislative session) that you should have to consider the lower bills that come to the governor's desk, the day the legislature adjourns?

Governor Edwards: The time by which the governor can veto assigned bills after the last day of the legislative session should be extended to at least thirty days. It would give the governor more time to consider the effect of the legislation.

It would give the public more time to react to proposed legislation. In other words, it would kind of provide a buffer area where controversial legislation could be considered by the public. The governor would have an opportunity to get feedback in helping him make decisions as to the attitude of people and that would be especially true in a local bill. But more important, I think it would give him a greater amount of time to make an in-depth search of what the legislation provides for and to look for any inconsistencies and lapses and overlaps. Insofar as the veto power is concerned, since you do not have a continuing body as the National Congress operates, I don't know how you can work it any different than the way you work it now. In the system of things, whether it's sixty days or thirty days, a flood of bills reaches the governor's desk in the last days of the session. If he sat down and vetoed them all the moment they got to his desk, there would be no time to have the legislature reconsider them. And I don't know of another way to do it except something to let the legislators do themselves, as they do now, a system called the veto session where they veto a bill. That is a very impractical way of doing it, but I don't know of any other substitutions; but I'll be pleased to hear from anyone who has any opinions on it personally. I think that if you had a continuing session where bills were passed and sent to the governor and the legislature was in session for another thirty, sixty, or ninety days you could amend the law to provide for a veto while they're still in session, so I'll simply say, for want of a better system, I think basically the system we now have on veto and overriding vetoes is as good as any. And I would say there are some changes which should be made on the legislative level. I think that if you strip the constitution of unnecessary matter, we can do it legislatively. For instance, the archaic

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rule that a bill should be read three times, as Dr. Asseff knows (he worked with the Legislative Council eighty-seven years) that came up in 1921 possibly, when a fella had a bill he would write it off on the back of an envelope or a scrap of paper and go hand it to the clerk. In order for people sitting out here to know what it said, have to have it read to them by the clerk, and in order to make sure everybody knew about it, they read it two more times. But now when a bill is filed copies are instantly available to members of the legislature. There's a digest of what it says and what it provides for and a very good digest of what effects it would have. And there's absolutely no reason at all to have a bill read to the members of the house; and there's no need to have it read--it's a waste of time. Another rule is the five-day rule for appropriations. I suppose there was a time when the governor and the legislature needed five days to look at the budget and figures and to compile everything and decide whether or not the appropriation on the governor's desk was consistent with a balanced budget. But those days are no longer with us. We have computerized services now, and we know from moment to moment how much money we're using and how much we're in the red. Although we've been in the black for the past ten months, it isn't necessary for a governor to have an appropriation bill on his desk five days before the end of the session. It's an archaic rule that has no business in our present day of operations.

Mr. Stagg: Governor, how soon before the legislature meets should the governor be sworn into office in your opinion?

Governor Edwards: At least sixty days. Now, I'll explain that. Anybody who has been governor will tell you that one of the worst things is to stick your right hand up and then have to shake hands with one hundred and forty-four members of the legislature. It's a very bad system.

Mr. Anzalone: Governor, we have had some discussion as to just what you're talking about. Now of course, on call of the act of the legislature, if it is in continuous session, the term of governor, the term of any elected official, could not be specified in the constitution. How do we go about this, and specifically, to change the time of election?

Governor Edwards: What I would do if I were in this convention is recommend that the constitution contain

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a provision directing and authorizing the legislature to adopt a new election code. There's a very bad system of elections in this state, and we toyed with the idea of trying to change it. It would require about seventeen constitutional amendments and about forty different acts of the legislature. We have a stack of bills about this tall, and finally decided it was just too cumbersome a task to try to change it by amending statutes and by amending constitutional provisions. And if that were possible, then I think the legislature could adopt a modern election code to provide a new system of elections, which should include, incidentally, in my opinion, a moving away from the primary system we have and the general election system we have and providing simply for some type of open primary. This would shorten the time of campaigning, shorten the cost of campaigning, cut down the bitterness that follows in the week of the primaries and I think make it possible to fit into a time slot the change-over in administrative position. Since you would do away with general election; you could have that three-months period which now exists between the second primary and the first primary or whatever period of time it is. You could have that period for the new governor and the new state officers to take office sixty days or ninety days before the legislature.

Dr. Asseff: First, I want to say that I said it, not you, because that happened before. I'm in complete agreement with one exception--that the constitution should not fix salaries. However, with my years of experience, I doubt very seriously that any governor is going to sign a bill increasing his salary of fifty thousand dollars because I do not feel that any person in this state who works under the governor should receive a salary in excess of that. Now other than that, I wouldn't even say that, Governor, except I feel the governor won't sign it.

Governor Edwards: Well, I tell you for the next seven years the governor wouldn't sign it.

Dr. Asseff: We could make it effective for the next....

Governor Edwards: If you were to do that I would suggest that you set the governor's salary shall not be less than fifty thousand dollars because thirty years from now fifty thousand dollars may be equivalent to---and I would make it a floor rather than a ceiling, in other words a minimum rather than a maximum--but please point out in all of these deliberations that these people listen to, that the

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present governor does not want an increase in salary.

Reverend Alexander: Mr. Governor, I think the citizens of the state have come to the point where they are willing to accept equal rights for which we have been fighting for a long time. I have reference to one or two areas where there is still discrimination, where the black cannot go into a barroom outside of New Orleans legally, but most people know that. Now there are no intrastate fair housing areas. We have complained repeatedly in the state as a separate document opposes itself. But here we have an opportunity in this convention for the first time in fifty years to correct some of these inadequacies. We need some kind of system to guarantee rights to live where they can afford to rent or purchase property, to have access to accommodations, to remedy discrimination, possibly private and public. I don't know how. This is my question, that if the general statement is made to that effect that no citizen be deprived of certain inalienable rights.....

Governor Edwards: First of all, I question whether or not that would have the laudatory effect that you seek. I think experience has shown us that the passage of hundreds of federal acts fair-housing is one of them, public accommodations is the other, doesn't bring results, however, any statement in the constitution to the effect there should be no discrimination against race, creed, color, sex; I think it would be appropriate. We're going to continue opposition whether you do it or whether you don't. The supporters of Equal Rights Amendment are going to fight the constitution no matter what else it says, unless the ERA provision is in it. And the opponents say they're going to fight it no matter what else it says if the ERA provision is in it. So what are you going to do? We're going to all be in trouble unless we can find some way of pacifying that particular thing. The point that I'm making to them is that the constitution should not be ratified or concerned on one single issue alone, but rather total effect. I merely say that

a clause guaranteed through the equal protection of the law is in my opinion a proper provision of the bill of rights.

Mr. Arnette: You mentioned a while ago in the reorganization plan how the legislature wanted to do it. Do you think that the legislature should do that or do you favor possibly the executive committee to veto...

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Governor Edwards: If I had my druthers, I would rather the governor do it, because I think he's in a better position to make decisions. I think he'd be more sellable - of course that's something you can work under. People thought the legislature, and I might say the press reported one comment not subject to the civic code, I don't think it really makes much practical difference because under either system, I think the governor would have a strong say-so.

Mr. Abraham: Should the treasury be responsible for revenue inflation rather than the department where you have it?

Governor Edwards: It really doesn't make much difference. I would prefer to see it stay under the leadership of the governor, but I'm not married to any particular concept.

Mr. Abraham: Now you show on your department of insurance you show that a separate department than you have under there than in the office of consumer affairs but might not that better be a department of consumer affairs in which you would place insurance regulations, public service-type commissions, regulations, this type of thing?

Governor Edwards: Probably as a concept it would be better. But as an item of selling to people, I think an insurance office is important because insurance rates are much in the minds of people....

Mr. Abraham: You would have it in office, but it would be an office under a particular department of consumer affairs?

Governor Edwards: It's probably a neater way of doing it.

Mr. Abraham: One more question...If you had a separate pardon and parole board, a professional board, wouldn't that be an office under the department of human resources?

Governor Edwards: Yes sir.

Mrs. Brien: Governor, you talked about election, about how much a campaign costs. There was a recommendation that the governor's term should be only two years. What is your feeling about this?

Governor Edwards: I think that the four year term is a minimum, and I think that the present system of limiting the governor to one term succeeding himself is a good one. Saying it another way, there are arguments to be made in every direction, but if I had the authority to make the decision I would say the governor's term should

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be four years and he should be allowed to succeed himself one time. And I think much of the opposition that comes to the four year term and the succession for one term would be watered down under a system where there would be a dissemination of his power.

Representative Tapper: Governor, insofar as veto power the governor now has, do you feel the governor should have veto power....district appropriation bills on top of another legislation that would affect financial status of the state. All other bills, other than those, do you think the governor should have veto power?

Governor Edwards: Yes, I do, but probably I'm in a minority with the legislature on that. I think the governor, unlike an individual member of the legislature, is elected at large and can look at the piece of legislation from a total involvement or with total impact on the state as distinguished from a legislator. You and I know a legislator with a large number of friends and who is very persuasive can sometimes get legislation passed, because many members of the legislature are not really concerned about it and their people in their areas are not concerned about it and so its an accommodation of the legislator, for many reasons, all good. A decision is made to pass it and the governor, on the other hand, serves as a safety valve against that sort of thing. I'm not suggesting that it happens often or deliberately or against the public interest or in some

kind of a criminal atmosphere, but I do think that one person elected statewide who has the responsibility of the governor, should have that last final say-so on legislation. I wouldn't lose sleep if it was taken away from the governor, for instance, if you limited say the legislation, passed by more than 60% of both houses, cannot be vetoed. You know if you limited--or took it away, I wouldn't lose sleep by it, but I think the system of veto in the governor, as the president has, is a good one.

Rep. Tapper: Do you feel the same way about purely local legislation?

Governor Edwards: I feel that way especially about local legislation, because, that's the easiest time for a member to get it passed without regard to the total impact of the state, because a legislator can go easily to other members of the legislature...it just affects my parish and all my people want it and there's an inclination for other legislators to say, "Well, it's just St. Mary's Parish,----let her rip, I don't care." But many times local legislation or special legislation won't mesh with the total picture of the state.

Reverend Stovall: Governor, would it be wise to elect the governor and the other statewide officials at a time other than the national elections?

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Governor Edwards: Yes, sir. That's my judgment. Many states do it at the same time, but I think the importance of the state offices and the legislature, police juror, and the number of candidates, the number of positions that we have are such that it's enough to command the full attention of the electorate, and I think confusing it with national elections would not be in the public interest.

Reverend Stovall: Should we write a constitution that will draw opposition from people who oppose good government or those who are afraid of it? Or to say it another way, should we write the kind of constitution that will be the lowest common denominator or one that will really embody what we feel should be in the constitution for the future of the state?

Governor Edwards: I think you should write a constitution that does two things and two things only; (1) provide the basic guarantees that are due people in an organized society similar to the bill of rights in the federal constitution and (2) to establish a system by which we can govern ourselves. Nothing else, no pardon board and none of the multiple provisions of highway districts and how many roads we can have in the state, whether or not Galliano will have a port authority and how much the jurisdiction limit of the city court in Shreveport will be. It doesn't have any business in the constitution, and I think if we could move in that area, those two basic concepts that (1) we would engender some opposition from the people who like the system as it is, and from others who are afraid of losing what they have. Tax exemptions for instance, should not be in the constitution. That's a matter which could change from year to year or decade to decade depending upon the circumstances and the economies; but people who have tax exemptions now in the constitution are going to want to keep it in the constitution. But I would oppose it if I were in this convention on the basis that it doesn't belong in it. It's not whether it's a good exemption or not, but it should not be in the constitution. I would say that you adopt a bill of rights and adopt a system of government, mine, or like mine, or one that you come up with, or one that you think responds to the needs of people; and then provide that all constitutional matters not covered here by or relegated to statutory authority be operation of this constitution. Then the legislature over a period of years could begin to knead it out, deal with it, consolidate it, and repeal a large amount of it. Now all those things would remain in the statutory law. Exemptions on property, which the legislatures could from time to time look at. I think it's the best way to do it, and I think if you get too far away from that concept you'll never get it ratified.

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Dr. Asseff: My question is this---you did state that we should retain the two-thirds vote, not because you thought it ought to be that way, but rather because it would jeopardize ratification. Am I correct, sir?

Governor Edwards: Yes

Dr. Asseff: My question is this---do you feel that we should put in it what we think is best; or should we put in it what we think is best, but to be certain we put nothing in it that will jeopardize ratification?

Governor Edwards: Well, I am so committed to the need for a new constitution, I would urge you to compromise. You cannot have a perfect constitution. If you do, it won't get ratified, and we're going to have to make some concessions. I have to make compromises, and you're going to have to make compromises. As I said before I don't believe the two-thirds rule in civil service and a dozen other things belong in the constitution, but if they're not in it I don't think you could get it ratified. And the need for a new constitution far transcends the principle that you should keep the constitution devoid of this material.

Dr. Asseff: Well let me be specific, I don't think length is involved. Let me just state two things because I agree that we should shorten it. For example, I am under a mandate...tape failure...one sentence and I don't mean putting you on the spot and also on a homestead exemption, now I'm giving those as examples of what I would feel. Maybe I don't think they should be in the constitution, but in my opinion, they would jeopardize ratification of the document just as much as you stated the two-thirds vote would.

Governor Edwards: I know the homestead exemption, if it were not in the constitution, would probably jeopardize ratification. I don't know about the \$3.00 license plate, it's not my judgment...

Dr. Asseff: No, sir, I'm asking your general opinion as to whether we should be careful to go as far as we can go to bring reorganization-good government-to Louisiana, but not at the same time jeopardize ratification?

Governor Edwards: That's a good way of putting it.

Mr. Duval: There's been some discussion about when we submit this constitution to the people, but, there are maybe a very few select alternate proposals I'd like to get your thoughts on that.

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Governor Edwards: I think that's a good concept, I think you're going to have to have that in order to get it ratified. Now some of them were controversial things. I suggested to the ERA, and the opponents of the ERA, that is one area where there should be an alternate proposal. Don't make the constitution rise and fall on something that's that limited in scope. I would suggest if you're going to consider it rather than put or not put an ERA provision in the constitution since there's such agitation for and against it, that it be put on an alternate basis.

Question: Does the treasurer really need to be elected or could the treasury department be merely an appointment within the executive branch?

Governor Edwards: Easily.

Reverend Alexander: I wonder if you have available any document that shows the ratio of blacks throughout the government in the past?

Governor Edwards: I have and I'll be very happy to provide this.

MINUTES

Minutes of the meeting of the Committee on
Executive Department of the Constitutional
Convention of 1973

Held pursuant to notice mailed by the secretary
of the convention on May 3, 1973

Presiding: Tom Stagg, Chairman of the Committee
on Executive Department

Present: Mack Abraham
Avery C. Alexander
Joseph E. Anzalone
Greg Arnette
Emmett Asseff
Hilda Brien
Moise W. Denncry
Stanwood R. Duval
Camille F. Gravel
Tom Stagg
James L. Stovall
Elmer R. Tapper
Absent on May 11, 1973:
Camille F. Gravel
James L. Stovall

The roll was called and all members were present. A motion was offered by Mr. Arnette that the minutes be adopted. Mr. Gravel seconded the motion and it was approved.

A lengthy discussion ensued on the worksheets handed out by the research staff.

The committee took tentative nonbinding votes on the following sections in Article V of the 1921 Louisiana Constitution:

Section 1:

Mr. Abraham submitted his recommendations for those articles under the executive department. A copy is attached hereto and made a part of these minutes.

Mr. Arnette offered the motion that the governor be retained as an elective position. The motion was unanimously carried.

Mr. Abraham offered a substitute motion that "the executive branch shall consist of a governor, lieutenant governor, secretary of state, an attorney general, and such other elected officers of state." After discussion, Mr. Abraham withdrew his motion.

Reverend Alexander offered the motion that the office of lieutenant governor shall be retained in the constitution and be elective. The motion carried.

Mr. Gravel offered the motion that the offices of treasurer, secretary of state, and attorney general be retained as statewide elected offices in addition to the governor and lieutenant governor as approved. After discussion, Mr. Gravel withdrew his motion.

Mr. Abraham offered the substitute motion that the secretary of state and attorney general be retained as elective offices. Dr. Asseff objected to the substitute motion stating that it was out of order.

Reverend Stovall offered the motion that the office of comptroller be eliminated as an elective office. The

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motion carried. Dr. Asseff and Mr. Anzalone voted against the motion.

A motion was offered by Mr. Abraham that the office of treasurer be eliminated as a statewide elective office. Mr. Gravel offered the substitute motion that the office of treasurer be retained as a statewide elective office. After discussion, the substitution motion was carried.

After a lengthy discussion, a motion was offered by Dr. Asseff that the superintendent of education be eliminated as a statewide elective office. Dr. Asseff recommended that the office be an appointed one. A substitute motion was offered by Mr. Anzalone that the superintendent of education be retained as a statewide elective office.

Mr. Gravel stated that practically all of these offices should be retained as statewide elective offices, subject

to whether or not they will be acted on by the legislature, and then he is willing to change his position. Mr. Asseff stated that he will vote to reflect the view of his people, however, if the incumbent himself suggests that he be appointed, then he would go along with it if he agrees.

Mr. Anzalone offered the motion that the office of superintendent of education remain elective. The motion failed. Dr. Asseff offered a substitute motion that the office of superintendent of education not be an elective one. The substitute motion carried with a vote of eight (8) for and two (2) against.

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Mrs. Brien offered the motion that the office of secretary of state remain elective. The motion was approved.

A motion was offered by Mrs. Brien that the register of state land office be eliminated as an elective office. A substitute motion was offered by Mr. Anzalone that the office remain elective. The original motion was approved.

Mrs. Brien offered a motion that the commissioner of agriculture be eliminated as an elective office. Representative Tapper offered a substitute motion that the office be retained as an elective one. The original motion was approved. Dr. Asseff is recorded as voting for an elective commissioner of agriculture.

A motion was offered by Dr. Asseff that the commissioner of conservation be an appointed office. The motion carried.

Mrs. Brien offered the motion that the commissioner of insurance be an appointed office. A substitute motion was offered by Mr. Anzalone that the commissioner of insurance remain a statewide elective office. The original motion by Mrs. Brien was approved. Mr. Anzalone and Dr. Asseff voted for the office to remain elective.

Mr. Dennery offered a motion that the custodian of voting machines be an appointed office. A substitute motion was offered by Mr. Anzalone that the office be retained as a statewide elective office. The original motion by Mr. Dennery was approved with a vote of eight (8) for and two (2) against. Dr. Asseff is recorded as voting for the office to remain elective and stated that it should be

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combined with the secretary of state.

Mr. Abraham offered a motion not to consider further the office of auditor general. Mr. Gravel seconded the motion and it was unanimously approved.

Reverend Stovall offered a motion that the attorney general be retained as a statewide elective office and placed in the executive branch of government in the constitution. The motion was unanimously approved.

Mr. Gravel offered the motion that the commissioner of

agriculture, commissioner of insurance, and superintendent of education be placed in the executive department of government as statewide offices subject to the right of the legislature to change the method of selection, to consolidate those offices, or to abolish those offices. Chairman Stagg suggested that Mr. Gravel bring his motion in writing to the committee at a later date.

Mr. Dennery offered a substitute motion that the staff be directed to bring a draft of a provision such as Mr. Gravel has suggested and that a vote be taken on Mr. Gravel's motion. The motion carried.

A lengthy discussion ensued on Mr. Abraham's recommendations. Discussion ensued on general concepts of reorganization of state government.

The number of departments in the executive branch was discussed following which Mr. Arnette offered a motion that there be no more than twenty (20) principal departments in

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the executive branch. Mr. Gravel offered the motion that the committee recess and resume the discussion after lunch. The motion carried and the committee recessed at 12:00 noon

The committee reconvened at 1:30 p.m.

Mr. Arnette amended his previous motion to read that all functions of state government shall be in twenty (20) departments except for the governor's office and the lieutenant governor's office and those functions.

Mr. Anzalone offered a substitute motion that the governor, or the legislature, shall allocate all executive department functions other than those delegated under this constitution to elective offices among and within no more than twenty (20) principal departments. The substitute motion failed with a vote of three (3) for and six (6) against.

Mr. Gravel offered a substitute motion that the executive branch shall consist of a governor, a lieutenant governor, a secretary of state, an attorney general, a treasurer, and such other officials and departments as provided by law. There shall be no more than twenty (20) departments in the executive branch. The substitute motion carried with a vote of seven (7) for and three (3) against. Dr. Asseff stated that had the elective offices been omitted, he would have voted for Mr. Gravel's motion.

Reverend Stovall offered a motion that the power to reorganize the executive department be given to the governor subject to the approval of both houses of the legislature.

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A substitute motion was offered by Mr. Tapper that the power to reorganize can originate either with the governor or the legislature. The substitute motion failed with a vote of two (2) for and six (6) against.

A substitute motion was offered by Mr. Dennery that the governor can reassign functions, but if in doing so, it violates the legislature, it be the decision of the legislature. The substitute motion failed with a vote of two (2) for and eight (8) against. Dr. Asseff was opposed to the substitute motion.

Mr. Anzalone offered a substitute motion that authority to reorganize be vested in the legislature, subject to gubernatorial approval. The legislature would have eighteen months to reorganize and, failing to act, the governor could, by executive order, reorganize the executive department by executive order. The substitute motion carried with a vote of six (6) for and five (5) against.

Mr. Arnette offered a motion to discuss duties and responsibilities of elected state officers that were passed on earlier. Mr. Tapper seconded the motion and it carried.

Section 2. Qualifications

After discussion, Mr. Gravel offered the motion that the governor shall be at least twenty-five (25) years of age at the date of election, be a citizen of the United States and this state for at least five (5) years preceding the day of election, and shall hold no other public office. Reverend Stovall seconded the motion and it carried. Dr.

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Asseff was opposed to the motion.

A motion was offered by Mr. Dennery to delete any mention of the years of practice. Reverend Stovall seconded the motion. Mr. Dennery offered an amendment to the motion to state that all offices require that the office holder be at least twenty-five (25) years of age, a citizen of this state for at least five (5) years, and hold no other public office. The motion was seconded by Reverend Stovall and carried.

Mr. Gravel offered a motion that all statewide elected officers be permitted to serve as many terms as the people will let them, but that the governor be limited to two consecutive elective terms; also, that all public officers will serve four (4) year terms. The motion was unanimously carried.

A motion was offered by Mr. Arnette that the lieutenant governor be allowed to serve only one term if he serves over one-half of a full term. The motion carried with a vote of nine (9) for and two (2) against.

Reverend Stovall offered the motion to recess. The motion was approved and the committee recessed at 5:00 p.m.

The committee reconvened on Thursday, May 10, 1973, at 9:00 a.m. in Room 205 of the State Capitol, Baton Rouge, Louisiana.

After a lengthy discussion, Mr. Duval offered the motion that a first assistant be appointed by the secretary of state, treasurer, and attorney general subject to the approval of the Senate. The first assistant shall succeed to that office

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until the next state election. The motion was seconded by Mr. Abraham and carried with a vote of seven (7) for and two (2) against. Mr. Dennery abstained.

Mr. Gravel asked that the motion be amended to read "shall serve until the official promulgation of the results of the next statewide election." The amended motion was accepted.

Mr. Arnette offered a substitute motion to appoint a first assistant who will succeed to the office without any confirmation whatsoever. The substitute motion failed with a vote of two (2) for and eight (8) against. Dr. Asseff and Mr. Arnette voted for the substitute motion.

Mr. Gravel offered a motion that in the event of a vacancy in the office of governor or governor elect, the order of succession shall be the following elected officials:

1. Lieutenant Governor
2. Secretary of State
3. Attorney General
4. State Treasurer
5. President Pro-Tempore of the Senate
6. Speaker of the House of Representatives
7. In the absence of those above to succeed, the legislature decides.

The motion carried.

Mr. Anzalone offered a motion that the lieutenant governor, in the event of succession to the chair of governor, be given the right to appoint a successor with the advice of the Senate.

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A substitute motion was offered by Mr. Abraham to defer any action until after powers and duties of lieutenant governor are discussed. The motion was approved. Mr. Anzalone voted against the motion.

Compensation

A motion was offered by Dr. Asseff that the governor shall receive an annual salary of not less than \$50,000 and his salary shall not be increased or diminished during the term of office in which he is elected.

Chairman Stagg asked that Mr. Dennery act as chairman pro tempore so that he could speak his views concerning salary of the governor. The motion was offered by Mr. Gravel, seconded by Reverend Stovall and carried.

Mr. Stagg stated, "No mention of dollars should appear anywhere in this document. If we give to the legislature the authority to set compensation on the governor, we then are going to be consistent in doing what this convention wants us to do; write a new and modern constitution. Modern constitutions do not provide for dollars and cents for state officials."

A substitute motion was offered by Mr. Arnette that no dollar amounts shall be stated whatsoever in the constitution and that the legislature fix the compensation of

ected officials. The motion carried with a vote of five (5) for and four (4) against.

A motion was offered by Mr. Gravel that the staff be directed to draw up tentative language to the effect that compensation for the five (5) statewide elected officials be

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fixed by the legislature and shall not be increased or diminished for the term of election. Also, include police jury if any compensation is paid by the state. The motion was unanimously carried. A motion was offered by Mr. Dennerly that all proposals of compensation be put into one article. The motion was approved.

Section 8.

Mr. Gravel offered a motion to delete everything after the word "governor." The article shall read, "The governor shall be the chief executive officer of the state and shall fully support the constitution and laws of the state." The motion carried with a vote of nine (9) for and two (2) abstentions. Mr. Dennerly offered the motion to recess. The motion carried and the committee recessed at 12:00 noon.

The committee reconvened at 1:30 p.m.

Vacancy

A motion was offered by Mr. Dennerly that disability or inability to serve shall be determined after notice and hearing by the supreme court. The motion carried by a vote of six (6) for and three (3) against.

Removal and Impeachment

A motion was offered by Mr. Gravel that the chair appoint a subcommittee to prepare and recommend to the full committee, articles that would relate to impeachment of the governor and other state officials; that probation and parole also be included in the subcommittees work. Dr.

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Asseff seconded the motion and it was approved with a vote of six (6) for and three (3) against.

Executive clemency - to include pardons

A motion was offered by Mr. Anzalone that the basic inherent power be with the governor himself to grant reprieves and pardons after conviction. The motion carried. Dr. Asseff voted against the motion.

Section 13 - Appointive Power

Mrs. Brien offered a motion that the governor may appoint any officers, constitutional or otherwise, if his appointment or election is not otherwise provided for, but where the constitution provides for a particular procedure, senatorial confirmation is not necessary; also the legislature can provide the mode of filling offices which it creates.

Mr. Duval offered a substitute motion that the governor shall have the power to remove at his pleasure those department heads whom he appoints. The substitute motion was unanimously carried.

A motion was offered by Mr. Duval that all legislative or constitutional boards that are appointed by the governor as a result of some form of nominating procedure not be subject to his removal at his pleasure. The motion carried with a vote of nine (9) for and one (1) against. Representative Tapper abstained.

Mr. Arnette offered a motion that if the governor appoints someone for a term, he cannot be removed. The motion passed

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with a vote of nine (9) for and one (1) against.

A motion was offered by Mr. Gravel that in any instances where the constitution or the laws of this state provide that persons shall be appointed by the governor from lists, or in cases of constitutional offices where appointments are to be made by the governor, whenever it is provided the appointments are subject to confirmation by the Senate, the governor does not have the power to remove appointees so confirmed. The motion carried with a vote of seven (7) for and two (2) against.

Mr. Dennerly offered the motion that the governor shall not remove a person so appointed without approval of the Senate. The motion carried with a vote of six (6) for and one (1) against.

A motion was offered by Mr. Anzalone that the creating authority of boards be directed to provide for appointment and removal of said members. The motion failed with a vote of seven (7) for and two (2) against.

Mr. Duval offered a substitute motion that the creating authority shall have the right to set forth the removal procedure if it so desires, otherwise, it should be set forth in the other concepts. The substitute motion failed with a vote of four (4) for and five (5) against.

Filling of Vacancies

Reverend Stovall offered a motion to exclude filling vacancies in any parochial office. The motion was carried.

A motion was offered by Mr. Dennerly that if not other-

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wise provided for in this constitution or by statutes, the governor shall have the power to fill any of the offices. The motion was unanimously carried. It was decided that Section 16 had been adequately discussed.

Section 17

A motion was offered by Mr. Gravel to add to present provision "every officer shall furnish to the governor any information requested by him." The motion was unanimously carried.

Dr. Asseff offered the motion to recess. The committee recessed at 5:00 p.m.

The committee reconvened on Friday, May 11, 1973, at 8:00 a.m. at the State Capital in Room 206.

Section 18

Mr. Dennery suggested that the chairman need not give up the chair to express his opinions and to vote. It was the consensus of the committee that Chairman Stagg be able to vote without giving up the chair. Mr. Abraham offered the motion to delete the words "sole authority" from Section 18 and insert that the governor "will prepare the budget of the state." The motion carried with a vote of seven (7) for and one (1) against.

Section 20

Chairman Stagg presented members with a copy of information from PAR on vetoes. Discussion followed. Mr. Duval offered a motion that the governor have the right to veto. The motion was unanimously carried.

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A motion was offered by Mr. Duval that all bills passed twelve (12) days prior to the legislature adjourning, that the governor have ten (10) days to veto from the time it is presented to him. The vote was unanimously carried.

Mr. Duval offered a motion that bills passed during the last twelve (12) days of the session, the governor have fifteen (15) days after legislature adjourns to veto these kind of bills.

A substitute motion was offered by Mr. Abraham to change the original motion to read thirty (30) days after submitted to the governor. The substitute motion failed with a vote of two (2) for and five (5) against.

Mr. Dennery offered a substitute motion to change the original motion to read twenty (20) days from the end of the session. The substitute motion carried with a vote of seven (7) for and two (2) against.

A motion was offered by Mr. Duval not to consider the legislature's right to override the veto; leave it up to the Committee on Legislative Powers and Functions. The motion carried. Mr. Anzalone noted that the above motions are subject to change if the legislature goes into continuous session.

Section 21. Appropriation Bill

Mr. Arnette recommended an item type veto and it was unanimously carried. A substitute motion was made by Mr. Dennery that the governor should have the power to disapprove and reduce any item or items. The substitute motion failed by

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a vote of six (6) for and two (2) against.

Section 22

Mr. Arnette offered the motion that the governor has the power to call a special session of the legislature. The motion was unanimously carried.

A motion was offered by Mr. Anzalone that extraordinary sessions called by the governor shall be limited to the subject matter called therein. The motion carried with a vote of seven (7) for and one (1) against. A substitute motion was offered by Mr. Duval that the time limit of the legislative session be thirty (30) days. The motion carried with a vote of six (6) for and two (2) against.

Section 24. Lieutenant Governor

Mr. Duval offered a motion that the governor and the lieutenant governor run as a team in the general election but not in the primary.

Dr. Asseff offered an amendment to the motion that the governor and lieutenant governor be elected on the same ticket in the first primary or not at all. It was then decided that the duties of the lieutenant governor be discussed.

Section 25. Duties of Lieutenant Governor

Reverend Alexander offered a motion to change the duties of the lieutenant governor from legislative to executive and that the Committee on Legislative Powers and Functions be notified. The motion was withdrawn.

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A motion was offered by Mr. Abraham to discuss duties of lieutenant governor other than that of presiding over the senate. The motion carried.

A motion was offered by Mr. Duval to adopt the Abraham language for lieutenant governor. Mr. Dennery offered an amendment to include the language in draft section 25. Both motions were unanimously carried.

Mr. Anzalone offered a motion that the lieutenant governor run as an independent candidate from the governor. The motion carried with a vote of seven (7) for and one (1) against.

A substitute motion was offered by Reverend Alexander that the governor and lieutenant governor run on a dual ticket from the primary level. The substitute motion failed with a vote of one (1) for and seven (7) against.

Secretary of State

A motion was offered by Mr. Duval that the secretary of state be the head of the department of state. The motion carried with a vote of nine (9) to one (1).

Section 26. Duties of Secretary of State

Dr. Asseff offered the motion that portions of the

suggested language offered by the secretary of state including him as a department head be adopted. The motion carried with a vote of six (6) for and two (2) against.

The committee recessed at 12:00 noon.

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The committee reconvened at 1:30 p.m.

Section 27. Treasurer - Duties & Powers

Mr. Maciasz of the treasurer's office reported that the language submitted by his office submitted for inclusion in the constitution did not embrace retirement funds.

Mr. Duval offered a motion that all state agencies, including nonbudget agencies, will deposit those funds in the treasury. The motion was unanimously carried with one (1) abstention.

A motion was offered by Mr. Stagg that there shall be a treasurer who will be the head of the department of treasury. The motion was unanimously carried. Powers and duties of the treasurer were discussed and Mr. Abraham's written recommendation was accepted.

Attorney General and Department of Justice

A motion was offered by Chairman Stagg that the attorney general shall be the head of the department of justice. The motion carried by a vote of six (6) for and one (1) against. Reverend Alexander offered a motion that in concept, the attorney general and only the first assistant shall be bound by the five (5) years practice of law and his other assistants not be so encumbered. The motion was approved.

A motion was offered by Mr. Dennery that the attorney general will be in charge of state legal matters unless otherwise prescribed in the constitution. Mr. Duval asked that the motion be amended to read "as otherwise provided

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by law." The amended motion carried with a vote of six (6) for and five (5) against. A motion was offered by Mr. Arnett that there should be some grounds for the attorney general to supercede the district attorney. The motion carried with a vote of six (6) for and four (4) against.

Motions were taken on the following constitutional agencies referring to whether they should be retained or deleted in the new constitution:

Adjutant General, Military Department
Reverend Alexander offered the motion to delete. The motion carried with a vote of six (6) for and two (2) against. Mr. Arnette voted against the motion.

Banking, State Commissioner and Department
Dr. Asseff offered the motion to delete. The motion carried with a vote of eight (8) and one (1) abstention.

Commerce & Industry, State Board and Department of
Mr. Abraham offered the motion to delete. The motion carried with a vote of eight (8) and one abstention.

Ethics, La. Commission on Governmental
Ethics for State Elected Officials, La. Board of
Mr. Dennery offered the motion that it shall remain in effect until amended by the legislature and refer it to the schedule.

The motion carried with a vote of six (6) for and three (3) against. Mr. Arnette and Representative Tapper voted against the motion.

Fire Marshall, State
Mr. Abraham offered the motion to delete. The motion carried with a vote of seven (7) for the motion with Mr. Anzalone and Mr. Dennery abstaining.

Health, State Board of and State Health Officer
Mr. Duval offered the motion to delete. The motion carried with a vote of eight (8) for and two abstentions by Mr. Anzalone and Dr. Asseff.

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Highways, Board and Department of
Mr. Duval offered the motion to delete. The motion carried with a vote of six (6) and two abstentions by Mr. Dennery and Dr. Asseff.

Liquified Petroleum Gas Commission
Mrs. Brien offered the motion to delete. The motion carried with eight (8) votes and one abstention by Mr. Anzalone.

Museum, Board of Managers of the Louisiana State (Consolidated)
Reverend Alexander offered the motion to delete. The motion carried with nine (9) votes and one abstention by Mr. Anzalone.

Pardons, Board of
Dr. Asseff recommended that it be retained in the constitution but with a change in membership. He is also opposed to giving any governor unlimited power to pardon. He recommended that the parole and pardon boards be combined.

Public Service Commission
Refer to a subcommittee.

Public Welfare, State Board, Commissioner and Department of (Consolidated)
Mr. Abraham offered the motion to delete. The motion carried with a vote of six (6) and two (2) abstentions by Mr. Anzalone and Dr. Asseff.

Revenue, Collector and Department of
Mr. Abraham offered the motion to delete. The motion carried with nine (9) votes. Dr. Asseff was in favor of the motion but opposed removing limitation on income tax.

Stadium and Exposition District, Louisiana
Mr. Abraham offered the motion to delete. The motion carried with nine (9) votes and one abstention by Representative Tapper.

Tax Commission, Louisiana
Mr. Duval offered the motion to defer to Committee on Revenue, Finance and Taxation. The motion carried with eight (8) votes and one abstention by Mr. Dennery.

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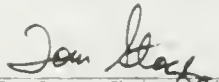
Public Service Commission
Reverend Alexander offered the motion that it remain an elective body. The motion carried with a vote of nine (9) for and one (1) against. Dr. Asseff offered the motion to defer to a subcommittee. The motion carried with a vote of eight (8) for and one (1) against.

Forestry, Commissioner of Conservation, Wildlife and Fisheries
Mr. Dennery offered the motion to assign to a subcommittee. The motion carried. Mr. Arnette was opposed to the motion.

Chairman Stagg assigned members to subcommittees.

A list of members of subcommittees is attached hereto and made a part of these minutes.

There being no further business, the Committee on Executive Department adjourned at 5:00 p.m.


Tom Stagg, Chairman of Committee
on Executive Department

MACK ABRAHAM

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Article V. The Executive Branch

Section 1. Composition.

A. The executive branch shall consist of a governor, a lieutenant governor, a secretary of state, an attorney general, and such other executive and administrative offices and agencies as provided by law, which shall be allocated among and within not more than sixteen principal departments.

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Section 2. Election and Terms

- A. The governor, lieutenant governor, secretary of state, and attorney general shall be elected each for a term of four years by the qualified electors of the state, at the time and place of voting for representatives in the legislature.
- B. The governor shall appoint, subject to approval of the senate, the heads of the other principal departments, and may remove them at his pleasure.
- C. Each official in the executive department, except the governor and lieutenant governor, shall be eligible as his own immediate successor without regard to limitations on the number of terms. The governor and lieutenant governor shall be eligible to serve not more than two (2) consecutive terms.
- D. No other offices shall be elected state wide, except as provided by this Constitution.

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Section 3. Qualifications

A. No person shall be eligible for election to the office of governor, lieutenant governor, secretary of state, and attorney general who is less than thirty (30) years

of age, or who has not been, for at least ten years preceding his election, a citizen of the United States and this state, or who holds office under the United States at the time of election.

- B. The qualifications for office of the principal department heads shall be as provided by law.
- C. The attorney general shall have practiced law or served as a judge of a court of record in this state for a combined total of at least five (5) years preceding his election.

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Section 4. Commencement of Office

- A. The terms of office of each elected official shall begin on the fourth Monday next following the election, provided that in the case of a tie vote, the candidate shall assume office when elected by the legislature.
- B. The returns of the election of these officers shall be transmitted by the election commissioners to the secretary of state, who shall promulgate them in the manner provided by the law. The persons having the greatest number of votes for each office shall be thereby elected.
- C. If the highest number of votes cast for any one of the offices is a tie vote, the legislature upon convening in regular or special sessions called for that purpose, shall proceed forthwith in joint sessions to elect one of the two candidates receiving the highest number of votes for the office, and the candidate so elected by the legislature shall be by joint session of the legislature declared to be duly elected to the office.

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Section 5. Compensation

The compensation of elected officials shall be fixed by the legislature, and no other compensation shall be allowed them.

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Section 6. Powers and Duties of Governor

- A. The supreme executive power of the state shall be vested in the governor, who shall be responsible for the faithful execution of the constitution and the laws.
- B. He shall have authority to organize all executive and administrative functions of the principal departments of the executive branch, and to revise such organization as necessary for efficient government, subject to approval of the senate.
- C. He may at any time require in writing or otherwise from any officer of any department or agency of the state, and such officer shall be required to furnish, information upon any subject relating to such department or agency.
- D. He shall be commander in chief of the armed forces of the state, except when they are called into service of the federal government. He may call out the armed forces to execute the laws, to suppress insurrection, or to repel invasion.
- E. He shall nominate and, with the advice and consent of the

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Section 6. Continued.

senate, appoint all officers whose nomination, appointment, or election is not otherwise provided for.

- F. He shall prepare an executive budget for the state, and shall transmit copies thereof to the legislature as provided by law. Upon adoption by the legislature, he shall execute and administer the budget.
- G. He shall prepare an annual financial statement showing the complete financial condition of the state, and shall transmit copies thereof to the legislature as provided by law.
- H. He shall at the beginning of each session of the legislature, and may at other times, make reports and recommendations

and give information to the legislature concerning the affairs of state.

- 1. He shall consider all bills presented to him by the legislature, and shall within thirty (30) days approve it, veto it, or return it with his objections to the house in which

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Section 6. Continued.

it originated. Any bill approved, or not vetoed within the prescribed period, shall be law.

- J. He shall have the power to veto any item or items of any appropriation bill embracing distinct items; the items approved shall be law, and the items vetoed shall be void unless repassed as prescribed for the passage of other bills over a veto.
- K. He shall have the power to convene the legislature in extraordinary session, and it shall be his duty to convene the legislature into extraordinary session upon petition of two-thirds (2/3) of the members of each house of the legislature, under such terms and conditions as prescribed by law.

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Section 7. Powers and Duties of Lieutenant Governor

- A. The lieutenant governor shall succeed to the office of governor at such times and in such manner as provided for in this constitution or as may be prescribed by law.
- B. He shall serve as the chief aide to the governor and shall perform such duties as may be assigned by the governor, or as prescribed by the legislature.

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Section 8. Powers and Duties of Secretary of State.

- A. The secretary of state shall serve as the state's chief elections officer, and as such shall administer the

election laws, voting machines, and other voting devices as prescribed by law. He shall be custodian of the official seal, records, documents, and papers of the state, and shall perform such other duties as may be prescribed by law.

B. He shall appoint an assistant secretary of state, subject to approval of the senate, and may remove him at his pleasure.

C. The assistant secretary of state shall succeed to the office of secretary of state at such times and in such manner as provided for in this constitution or as may be prescribed by law.

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Section 9. Powers and Duties of Attorney General

- A. The attorney general shall be the chief executive officer of the department of justice.
- B. He shall attend to and have charge of all legal matters in which the state has an interest or to which the state is a party, with power and authority to institute and prosecute, or to intervene in any suit or other proceeding, civil or criminal, as he may deem necessary for the assertion on protection of the rights and interests of the state.
- C. He shall exercise supervision over the district attorneys throughout the state, and perform such other duties as prescribed by law.
- D. He shall appoint an assistant attorney general, subject to the approval of the senate, and may remove him at his pleasure.
- E. The assistant attorney general shall succeed to the office of attorney general at such times and in such manner as provided for in this constitution, or as may be prescribed by law.

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Section 10. Limitations

- A. No member of the legislative branch shall serve by ap-

pointment or otherwise in an executive or administrative or any other position in any office of the executive branch, or on boards or commissions of the state.

- B. Orders, votes, and resolutions of either or both houses of the legislature, affecting the prerogatives and duties thereof, or relating to amendments to the constitution of this state or of the United States, to investigation of public officers, and the like, shall not require the signature of the governor.

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Section 11. Vacancies and Succession

- A. A vacancy shall occur in the office of governor, lieutenant, secretary of state, and attorney general due to death, impeachment, disability or inability to serve, or continuous absence.
- B. Disability or inability to serve shall be determined in a manner prescribed by law.
- C. In the event of a vacancy in the office of governor or governor-elect, the order of succession shall be (1) the lieutenant governor or lieutenant governor elect, (2) president of the senate, (3) speaker of the house, (4) as may be determined by the legislature in regular or special session.
- D. In the event of a vacancy in the office of secretary of state, the assistant secretary of state shall succeed to the office.
- E. In the event of a vacancy in the office of attorney general, the assistant attorney general shall succeed to the office.

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Section Powers and Duties of Treasurer

- A. The state treasurer shall be custodian of all state funds, and shall be responsible for the receipt, custody, and disbursement of such funds. All funds of the state collected by all state boards, commissions, agencies and departments shall be paid into the state treasury immediately upon receipt.
- B. He shall invest all available funds as prescribed by law.

- C. He shall report quarterly to the governor and legislature on the treasury's receipts and disbursements and on other fiscal matters pertaining to the office.
- D. He shall make no disbursement from the treasury except in pursuance of specific appropriations prescribed by law.
- E. He shall appoint an assistant treasurer, subject to approval of the senate, and may remove him at his pleasure.
- F. The assistant treasurer shall succeed to the office of treasurer ~~at shall succeed to the office of treasurer~~ at such times and in such manner as provided for in this constitution or as may be prescribed by law.

Subcommittee No. 1 - Reorganization; Vacancies, Succession, Absence, and Disability; and Impeachment

Asseff
Brien
Dennery
Tapper (Chairman)

Subcommittee No. 2 - Powers and Duties of Governor; Qualifications; Term of Office and Election; Time of Taking Office; and Compensation

Abraham (Chairman)
Alexander
Arnette
Gravel

*Executive Clemency
Veto -
Budget -
Reports from Dept.
Recommendations to
Legislature -*

Subcommittee No. 3 - Powers and Duties of Other Elective Officials; and Boards and Commissions

Anzalone
Duval (Chairman)
Stagg
Stovall

*Consumer Commission -
Public Service Commission
Wildlife & Fisheries Comm.
Forestry Commission
Dual office holding*

MINUTES

Minutes of the meeting of the Committee on Executive Department of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on June 6, 1973

LSU Law School, Baton Rouge, Louisiana

Thursday, June 14, 1973, 9:00 A.M.
Friday, June 15, 1973, 9:00 A.M.
Saturday, June 16, 1973, 9:00 A.M.

Presiding: Tom Stagg, Chairman of the Committee on Executive Department

Present:

Mack Abraham
Avery C. Alexander
Joseph E. Anzalone, Jr.
Greg Arnette, Jr.
Emmett Asseff
Hilda Brien
Moise W. Dennery
Stanwood R. Duval, Jr.

Absent:

Camille F. Gravel, Jr.
Absent on June 14, 1973

Camille F. Gravel, Jr.
Tom Stagg
Jamea L. Stovall
Elmer R. Tapper

Mr. Duval offered the motion to approve the minutes of the previous meeting. Dr. Asseff seconded the motion and the motion carried. The minutes of the subcommittees were approved and a copy is attached hereto and made a part of these minutes.

The Subcommittee on Powers of Governor, Qualifications, Term of Office, Salaries presented its report. Each section was thoroughly discussed and the following motions were offered:

Section 1. (A) Mr. Abraham offered the motion to adopt. The staff was directed to clarify the comment. Also, the staff was requested to clarify if the five (5) elective offices are included in the twenty (20) departments.

(B) A substitute motion was offered by Mr. Dennery that section 1 (B) be tabled until the committee reviewed the subcommittee report CC-3. Mr. Duval seconded and the motion was approved.

Reverend Stovall offered a substitute motion to change the language in Section 1 (A) by deleting "as provided by law" on line 13, and on line 12 change "such" to "all".

When asked "Where does the all go?", Mr. Duval answered,

Dr. Asseff offered the substitute motion that on line 12 after "treasurer" include "comptroller, register of land office, commissioner of agriculture, commissioner of insurance, custodian of voting machines..." The motion failed with a vote of two in favor and six against, with Dr. Asseff and Mr. Anzalone voting in favor of the motion. Reverend Stovall offered the motion to close debate and call for the question. The motion carried with a vote of nine in favor and two against the motion with Dr. Asseff and Mr. Duval voting against the motion.

Mr. Dennery offered the substitute motion that on line 6 the word "state" be inserted before "government."

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The motion carried.

Section 2. Qualifications. Mr. Abraham offered the motion to adopt Section 2. Several motions were offered and withdrawn. Mr. Dennery offered the motion to recess. The motion carried and the committee recessed at 10:00 a.m. The committee reconvened at 10:15 a.m. resuming the discussion of Section 2.

Mr. Anzalone offered the substitute motion that the word "also" on line 8 be deleted and "as an additional qualification" be inserted in its stead. The substitute motion failed with a vote of 8 in favor of the motion and 2 against.

Mr. Abraham offered the substitute motion that "in

addition to the above qualifications" be inserted on line 8 before "the attorney general". The substitute motion failed with a vote of 5 in favor and 3 against the motion.

Mr. Dennery offered the motion that the words "shall also" on line 8 be reversed to read "also shall". The motion was adopted with a vote of 7 in favor and 2 against the motion.

A substitute motion was offered by Reverend Stovall that Section B read "The attorney general also shall have been admitted to the practice of law in this state for at least five years preceding his election." The substitute motion failed with a vote of 3 in favor and 6 against the motion. Dr. Asseff voted against the substitute motion. Mr. Anzalone moved to call the question. The substitute motion carried with a vote of 6 in favor and 3 members abstained. The question was called on the above motion.

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Mr. Abraham moved that Section 2 (B) be reconsidered to perfect the language. The motion carried unanimously.

Section 3. Elections and Terms. Mr. Abraham offered the motion to adopt Section 3.

Mr. Anzalone offered the substitute motion that on line 34 the word "members" be substituted in lieu of "representatives" and on line 35 "of" be substituted for "in". The substitute motion carried with a vote of 6 in favor and 3 against the motion.

Mr. Dennery offered the substitute motion that on lines 1 and 2 the words "or acting governor" be deleted. The substitute motion carried.

Reverend Stovall offered a motion that on line 1 of page 3 the words "or but for resignation would have" be deleted. The motion carried with a vote of 8 in favor, with Mr. Arnette opposing the motion.

Mr. Arnette offered a substitute motion that lines 3 and 4 read "consecutive terms shall not serve as governor during the next succeeding term." The substitute motion failed with a vote of 3 in favor and 5 opposing.

Mr. Abraham offered the motion to approve Section 3(A) as amended. The motion carried.

Section 3 (B). Mr. Abraham offered the motion to strike "by the election commissioner" on line 6, page 3. The motion carried.

Reverend Alexander offered the motion that on line 5 the word "offices" be changed to read "officers". The motion carried.

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Mr. Dennery offered the motion that on line 8, the word "persons" be changed to read "person". The motion carried.

Dr. Asseff offered the motion that on line 7, before the "secretary of state", the words "and be promulgated by

the secretary of state in the manner prescribed by statute." be inserted. The motion carried.

Mr. Anzalone offered the motion that on line 9, page 3, "thereby" be stricken and "declared" be inserted.

Mr. Abraham offered the motion to approve Section 3 (B) as amended. The motion carried with a vote of 7 in favor with Mr. Anzalone opposing the motion.

The committee recessed at 12:00 noon and reconvened at 1:30 p.m.

Dr. Asseff offered the motion regarding the drawing of lots whereas two or more persons having an equal or the highest number of votes for an office, should draw lots to determine the results; election contests shall be decided by the courts as provided by statute. The motion carried with a vote of 5 in favor and 4 against the motion.

Section 3 (D). Mr. Abraham offered the motion to adopt. The motion carried unanimously.

Section 3 (E). Mr. Anzalone offered the motion to delete. The motion failed with a vote of 1 in favor and 8 against.

Reverend Stovall offered the motion to adopt. The motion carried with a vote of 8 in favor and 2 against.

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Dr. Asseff and Mr. Anzalone opposed the motion.

Section 4. Compensation. Mr. Anzalone offered the motion that "each" be stricken and "these" be substituted on line 17 of page 4.

Mr. Abraham offered the substitute motion that on lines 17 and 18 "each elected official within the executive branch" be substituted in lieu of "each statewide elected official". The votes were tied with 4 in favor and 4 against the motion. Chairman Stagg voted in favor of the motion to break the tie.

Dr. Asseff offered the motion that Section 4 also include that the governor receive a salary greater than anyone else. Dr. Asseff stated "There is no other way to pay the governor adequately other than by placing a provision in the constitution. This is an exception to the rule of not placing salaries in the constitution." Dr. Asseff withdrew his original motion of placing a fixed salary for the governor in the constitution and offered a substitute motion that "no public official in Louisiana shall receive a salary in excess of that paid the governor." The substitute motion carried with a vote of 5 in favor and 4 against the motion.

Section 5 (A). Powers & Duties. Mr. Abraham offered the motion to approve. The motion carried with a vote of 6 in favor and 2 against.

Section 5(B). Mr. Abraham offered the motion to adopt. The motion was unanimously carried.

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Section 5 (C). Mr. Abraham offered the motion to adopt. Mr. Duval offered the substitute motion that the provision read somewhat as follows: "All department heads shall provide the governor with reports and information in writing or otherwise requested by him on any subject relating to their respective departments, excepting matters relating to investigation of the governor's office." The substitute motion carried with a vote of 6 in favor and 2 against. Mr. Dennery and Dr. Asseff opposed the substitute motion.

Section 5 (D). Mr. Abraham offered the motion to adopt. Mr. Duval offered the substitute motion that the title be changed to "Operating Budget" and there be a section entitled "Capital Budget". Also, insert "annual operating" on line 8 before "budget"; insert "on or before the first day of each annual session" after "legislature" on line 9; and strike "law" on line 9 and insert "statute". The substitute motion carried with a vote of 5 in favor and 3 against the motion. Dr. Asseff opposed the substitute motion.

The staff was directed to develop a Capital Budget provision. That provision is attached hereto and made a part of these minutes.

Section 5 (E). Pardons. Mr. Abraham offered the motion to adopt. Mr. Anzalone offered the substitute motion that the governor shall have the power to grant reprieves after conviction and pardons for all offenses; such authority may in addition be otherwise delegated as provided by statute.

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The substitute motion carried with a vote of 3 in favor and 1 against the motion.

Mrs. Brien offered the substitute motion that after the word "offenses" on line 23 the words "and may delegate such powers subject to procedures as may be prescribed by statute." be inserted. The substitute motion failed with a vote of 2 in favor and 4 against.

Section 5 (F) and (G). The staff was directed to check the subject matter differences of the Committee on Legislative Powers and Functions against that of the Committee on Executive Department and the section would be discussed at a later time.

Section 5 (H) The committee agreed that the title should be "Appropriation Bills". It was suggested that the word "distinct" on line 32 be stricken and "line" be inserted. It was then decided that the provision would be discussed at a later time.

Reverend Stovall offered the motion to recess. The motion carried. The committee recessed at 5:15 p.m.

The committee reconvened on June 15, 1973, at 9:00 a.m.

Discussion resumed on Pardons. Reverend Stovall offered the motion to delay discussion until the afternoon session when Mr. Gravel would present a suggested provision. Dr. Asseff seconded and the motion carried.

Section 5 (F). Signature on Bills. Mr. Abraham offered the motion to approve.

Mr. Gravel offered the motion that on line 35 the word "hour" be deleted and "time" be inserted; on line

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1 page 7, delete "ten" , insert "30"; on line 2, after the word "it" delete remaining sentence, line 3, 4, and the first word on line 5; after "it" on line 5, insert "; if he disapproves, he shall veto it, giving his reason therefor. If he fails to veto it within the time otherwise provided by this constitution, it shall become law." The substitute motion carried with a vote of 6 in favor and 4 against.

Section 5 (G). Veto. Mr. Gravel offered the motion that the staff work into Section G the idea that if the governor vetoes a bill while the legislature is in session, it shall be immediately returned, with his objections, within 24 hours after veto to the house in which it originated. The motion carried with a vote of 7 in favor.

Section 5 (H). Appropriation Bills. Mr. Abraham offered the motion that on line 29, the words "the items approved shall be law, and" be struck, and on line 31, the word "repassed" be struck and "the veto is overridden" be inserted in its stead. Also, add "veto" after the word "a" on line 31. The motion was unanimously carried.

Section (H) 2. Mr. Abraham offered the motion to approve. Mr. Duval offered the substitute motion to delete line 33 and add "or use other means provided in the bill or reduce all appropriations by an equal percentage as may be provided in the bill." The substitute motion carried with a vote of 5 in favor and 4 against.

Section 5 (I). Appointments. Mr. Abraham offered the motion to approve. Dr. Asseff offered the substitute motion that on line 13, immediately after "for" add "by this

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constitution or by statute." The substitute motion was unanimously carried.

Mr. Dennery offered the motion that on line 11 after "all", the word "constitutional" be inserted, and on line 13 after "for" the words "in this constitution" be inserted. The motion carried.

Mr. Arnette offered the motion to recess for lunch. Dr. Asseff seconded the motion and it carried. The committee recessed at 12:00 noon and reconvened at 1:30 p.m.

Section (I) (1). Mr. Dennery offered that motion that the provision read "The governor shall appoint, subject to confirmation by the Senate, 1) the heads of all departments in the executive branch whose election is not provided for by this constitution; and 2) all members of boards and commissions in the executive

branch whose appointment or election is not otherwise provided for by this constitution." The motion carried with a vote of 7 in favor of the motion.

Mr. Abraham offered the motion for the provision to further read:

"(2) Should the legislature be in session, the governor shall submit for confirmation by the Senate the names of those appointed within 48 hours after the appointment is made. Failure of the Senate to confirm an appointment prior to the end of the session shall be equivalent to rejection.

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(3) Should the legislature not be in session the governor may make interim appointments which shall expire at the end of the next session of the legislature.

(4) A person not confirmed by the Senate shall not be appointed to the same office during any recess of the legislature."

The motion carried with a vote of 6 in favor of the motion.

Section J. Removal. Mr. Abraham offered the motion to adopt. Mr. Dennery offered the substitute motion for the provision to read as follows: "The governor may remove from office those whom he appoints, except those appointed for a term fixed by this constitution or by statute." The substitute motion carried with a vote of 5 in favor and 3 against.

Section K. Commander in Chief. Mr. Gravel offered the motion to adopt. The motion carried with a vote of 7 in favor of the motion.

Section L. Extraordinary Session. Mr. Arnette offered the motion that the committee work on the concept that the governor give at least five days notice of all subject matter of special sessions. The motion failed with a vote of 3 in favor and 5 against it.

Mr. Gravel offered the motion that the committee work on the concept that the governor would have the right either to amend the proclamation or provide that the proclamation be read on the day of the session so that the governor can supplement the objects of the call. There was a tied vote of 5 in favor and 5 against the motion.

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Mr. Gravel offered a substitute motion that five days notice be given; the notice can be amended up until two days before the calling of the special session. The motion was unanimously carried. It was requested that the staff or the subcommittee perfect the language.

The committee began discussion of the proposal submitted by the Subcommittee on Powers of Statewide Elective Officials, Boards and Commissions, Dual Office Holding, and Code of Ethics.

Section 1. Lt. Governor; Powers. It was suggested that on line 15 the word "law" be omitted and "statute" be inserted.

Mr. Duval, chairman of the subcommittee, offered the motion to adopt Section 1.

Mr. Anzalone offered the substitute motion that on line 12, the word "statutory" be deleted. The motion carried.

Mr. Dennery offered the motion that on line 11 the word "as" be stricken and the words "as a" be inserted after "ex officio". The motion carried.

Mr. Gravel offered the motion that on line 15 the words "in the executive branch" be inserted after "functions" and "executive" be deleted after the word "other". The motion carried. Mr. Dennery offered the motion that "as may be provided by statute" be inserted in all sections in lieu of "as provided by law." Representative Tapper suggested that the term "as may be provided by statute" be defined in the new constitution.

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Mr. Duval offered the motion to adopt as amended. The motion was unanimously carried.

Section 2. Secretary of State; Powers. Mr. Duval offered the motion to adopt. Chairman Stagg suggested that in line 27 and 28 the words "primary and general" be stricken.

Mr. Abraham offered the motion that the word "laws" be deleted in line 31 and "statutes" be inserted. The motion carried.

Mr. Anzalone offered the motion to delete in line 28 the words "administer the", all of line 29 and 30 and "statute" of line 31. The motion failed with a vote of 2 in favor and 6 against the motion. Dr. Asseff and Mr. Anzalone were in favor of the motion.

Mr. Duval offered the motion to adopt as amended. The motion carried with a vote of 6 in favor and Dr. Asseff and Mr. Anzalone opposing the motion.

Section 3. Attorney General; Powers. Mr. Duval offered the motion to adopt. Chairman Stagg offered the substitute motion that the words "may be" be inserted on line 18 after "otherwise" and the word "law" be stricken and "statute" be inserted.

Mr. Gravel offered the motion that the following language be adopted:

"There shall be a department of justice headed by the attorney general who shall be the state's chief legal officer. As may be necessary for the assertion or protection of the rights and interests of the state, the

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attorney general shall have the authority to:

1. institute, and prosecute or intervene in any legal actions or other proceedings, civil or criminal;

2. exercise supervision over the several district attorneys throughout the state, and

3. for cause, supersede any attorney representing the state in any civil or criminal proceeding.

He shall have such other powers and perform such other functions as may be provided by statute."

The motion carried with a vote of 10 in favor, 1 against, and Dr. Asseff abstaining.

Section 4. Treasurer. Mr. Duval offered the motion that the following provision be adopted:

"There shall be a department of treasury which shall be headed by the state treasurer who shall be responsible for the custody, investment, and disbursement of the public funds of the state. He shall report annually to the governor and the legislature one month in advance of the regular session on the financial condition of the state and shall have such other powers and perform such other duties as may be provided by this constitution or by statute." It was requested that the staff add in the Comment that retirement funds are exempt from this provision. The motion was adopted unanimously.

Dr. Asseff offered the motion to recess. The motion carried. The committee recessed at 5:30 p.m.

The committee reconvened on Saturday, June 16, 1973, at 9:00 a.m.

Mr. Duval offered the motion that the above provision

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be adopted in regard to the secretary of state. The motion was unanimously carried.

Section 5. Public Service Commission. Mr. Duval offered the motion to adopt. After thorough discussion, Mr. Gravel offered the motion that on line 18 after "elected" the words "at the time fixed for congressional elections" be inserted, and on line 19 the words "as may be" be inserted before "established". The motion carried unanimously. Lines 20, 21, and 22 were also deleted.

Section 5 (B). Chairman; Employees. The following technical amendments were made: on line 9, delete "who" insert "which", on line 11, insert "as may be provided by statute" after "employees".

Mr. Gravel offered the motion that Section 5 (B) be combined with Section 5 (A) to read "The commission shall annually elect a chairman from one of its members." The motion was unanimously carried.

Section 5 (C) Authority. It was suggested that the title be changed to "Powers and Duties". The following technical amendment was made: on line 23, after "functions" insert "as may be provided by statute". A motion was offered that the provision read as follows: "Except as otherwise provided by this constitution, the commission shall regulate all common carriers and other public utilities. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge

of its duties, and have such other powers and perform such other duties as may be provided by statute." The motion carried.

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Section 5 (D). Limitation. Mr. Duval offered the motion to adopt the following language:

"The commission shall have no power to regulate any class of common carrier or public utility owned, operated, or presently regulated by the governing authority of any one or more political subdivisions, except by the consent of a majority of the electors voting in an election held for that purpose." He further suggested that the staff include somewhere in the provision that the process can be reversed. The motion carried with a vote of 8 in favor of it.

Section 5 (E) Decision on Rate Proposal. Mr. Gravel offered the motion to adopt the following language:

"The commission shall render its decision on a proposed rate schedule within six months from the date of filing, otherwise, the proposed schedule shall be deemed to be tentatively approved and, pending final determination, may be put into effect subject to such protective bond or security requirements as may be provided by statute. If no final decision is rendered by the commission within twelve months of filing, the schedule shall be considered to be finally approved. If the commission disapproves the proposed schedule, in whole or in part, the carrier or utility may place or continue the schedule in effect under bond or security, subject to any appeal and final action by a court of last resort to recover any refund that may be finally directed. Refund suits may be filed only within one (1) year after such final action."

16

Section 5 (F). Appeals. Mr. Duval offered the motion to adopt. Dr. Asseff moved that lines 26 through 28 be deleted and that a new concept be taken in which appeals from the orders of the Public Service Commission must be filed with the district court, at the domicile of the Public Service Commission, with a direct appeal to the supreme court, as a matter of right. The substitute motion carried with a vote of 8 in favor and 3 against the substitute motion.

Section 6. Dual Office Holding. Mr. Duval offered a motion that the following provision be adopted:

"No person holding any office, except in an ex officio capacity, provided for in this constitution or by statute of either emolument or honor under the government of the United States or of this state, shall at any time hold any other such office.

No individual shall hold office either elective or

appointive in more than one of the branches of state government or in any of its political subdivision, except the office of notary public or services of the armed forces, except as is otherwise provided by this constitution.

The legislature may waive the foregoing as to membership on boards or commissions created for special purposes for limited periods of time and which exercise advisory functions." It was requested that the staff research the provision further.

Section 7. Code of Ethics; Board of Ethics. Mr. Duval offered the motion to adopt.

17

Mr. Dennery offered the substitute motion that on line 5 the word "functions" be omitted and "powers and duties" be inserted. The substitute motion carried with a vote of 5 in favor of the motion. It was asked that the record show that Mr. Anzalone and Mr. Gravel voted for the same issue.

Mr. Gravel offered the motion that the following be included in the dual office-holding provision:

"No person holding office or employed by the United States or any other state, territory, or foreign power shall hold any office created by this constitution or by statute." The above motion was not voted on. After thorough discussion, the committee requested that the staff rewrite the above provision and draft in a separate bill. A copy of that provision is attached hereto and made a part of these minutes.

The committee began discussion on the proposal of the Subcommittee on Reorganization; Vacancies, Succession, Absence and Disability; and Impeachment to the Committee on Executive Department.

Vacancies

Section 1. Governor. Mr. Dennery offered the motion to adopt. Dr. Asseff offered the substitute motion that on line 14 the word "elected" be deleted before "lieutenant governor". The substitute motion failed with a vote of 2 in favor and 5 against.

The following technical amendments were offered: on line 18 insert "as may be provided by statute"; on line 19

18

insert "remaining" before "term"

Section 2. Governor-elect. Mr. Dennery offered the motion to adopt. Mr. Abraham offered the substitute motion to delete Section 2. The substitute motion carried with a vote of 6 in favor and 2 against, with Dr. Asseff opposing the motion.

Section 3. Lieutenant Governor. Mr. Dennery offered the motion to adopt. The motion was unanimously carried.

Section 4. Other Statewide Elective Offices. Mr. Dennery offered the motion to adopt. The following technical amendments were offered: on line 19 and 20, strike remaining sentence; line 19 after "serve" insert "for the remainder of the term." The motion with amendments was unanimously carried.

Section 5 (A) Other Vacancies. Mr. Dennery offered the motion to adopt Section 5 (A). Mr. Gravel offered the substitute motion for the provision to read as follows:

"Where no other provision therefor is made in this constitution, by statute, by local government charter, or by ordinance, the governor shall have the power to fill any vacancy occurring in any elective office. If, at the time a vacancy occurs in such office, and the unexpired portion of the term of office is more than one year, the vacancy shall be filled at an election within six months, as may be provided by statute. The appointment provided for herein shall be effective only until a successor is duly elected and qualified." The

19

substitute motion carried with a vote of 7 in favor and Dr. Asseff opposing the motion.

Mr. Dennery offered the motion to adopt Section 5 (D) which shall be changed to 5 (B). The motion carried with a vote of 6 in favor and 3 against the motion.

Section 6. Definition of Vacancy. Mr. Dennery offered the motion to adopt new language as follows:

"A vacancy, as used in this constitution, shall occur in the event of death, resignation, removal by any means, or failure to take office for any reason." The motion was unanimously carried.

Section 7. Declaration of Disability. Mr. Dennery offered the motion to adopt. The motion was unanimously carried.

Section 8. Determination of Disability. Mr. Dennery offered the motion to adopt. After discussion, a substitute motion was offered by Dr. Asseff to table. The substitute motion carried with a vote of 6 in favor and 2 against.

Section 9. Absences; Compensation. Dr. Asseff offered the motion to adopt. Mr. Abraham offered the substitute motion for a division of the question and that Section (B) be changed to Section 10. The substitute motion carried unanimously.

Section 10. Mr. Abraham offered the motion to strike. The motion failed with a vote of 5 in favor and 2 against.

The committee began discussion on Proposal CC-3 entitled Impeachment.

20

Section 1 (A). Dr. Aseff offered the motion to adopt. Mr. Gravel offered a substitute motion that on line 13 the word "misdemeanors" be deleted and "malfeasance" be inserted; on line 14 that after the word "corruption", everything be deleted and "or for gross misconduct" be inserted. The substitute motion carried with a vote of 6 in favor with Dr. Aseff and Mrs. Brien opposing the motion.

Section 1 (B). Dr. Aseff offered the motion to adopt. Mr. Gravel offered the substitute motion that the last sentence of Section (B) be deleted. The motion carried unanimously. Other amendments made were as follows: on line 22 insert "in his absence" after "or"; and on line 22 after "justice" strike "of" and insert "designated by".

Decision on Rate Proposal. Mr. Gravel offered the motion to reconsider. The motion carried with a vote of 5 in favor and 2 against. Discussion ensued and the language earlier noted in these minutes was adopted.

Pardons. Mr. Gravel offered the motion to adopt the following language:

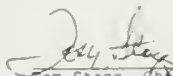
"Except in cases of conviction upon impeachment, the governor may relieve, may grant commutation of sentence, and may pardon those convicted of offenses against the state and may remit fines and forfeitures imposed for such offenses. Other remedies for those convicted of offenses may be provided by statute". The motion carried with a

21

vote of 6 in favor of the motion and Dr. Aseff abstaining.

A copy of the final proposal submitted by the committee is attached hereto and made a part of these minutes. All other references are also attached and made a part of these minutes.

Mr. Gravel offered the motion to adjourn. There being no further business, the committee adjourned at 8:15 p.m.


Tom Stagg, Chairman of the
Committee on Executive
Department

CC-

1 Constitutional Convention of Louisiana of 1973
2 DELEGATE PROPOSAL NUMBER
3 Introduced by
4
5 A PROPOSAL
6
7 For prohibition against dual officeholding.
8 Be it adopted by the Constitutional Convention of Louisiana of 1973:
9

ARTICLE ____.

Section ____ . Language Suggested for a Dual Office--
holding Law

Section ____ . (A) Any person holding an office, position,
or employment under the United States or any other state,
territory, or foreign power shall be ineligible to hold any
office, position, or employment under this state.

(B) Any person who is elected, appointed, employed, or
otherwise engaged to serve in a civil office or position of
this state or one of its political subdivisions, or who holds
a public contract for services rendered, shall be ineligible
to hold by election, appointment, employment, public contract
or otherwise, a second civil office or position in the state
or one of its political subdivisions. Acceptance of a
second office or position in violation of this provision
shall immediately vacate the first office or position, and
no public funds shall then be disbursed for services rendered
in the first office or position.

(C) Provisions of this section do not apply to positions
held in an ex officio capacity, to services rendered in
temporary, nonpecuniary advisory positions, or to notaries
public.

CC-

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

4

A PROPOSAL

6

7 For prohibition against dual officeholding.

8 Be it adopted by the Constitutional Convention of Louisiana of 1973:

9

ARTICLE ____.

Section ____ . Dual Officeholding, Prohibition

Section ____ . No person holding any office or employment

of emolument, honor, profit, or trust under the government of
this state shall at the same time hold any other such office or
employment whether under government of the United States or
any other state, nor shall a person hold one such office or
employment under the government of this state or its political
subdivisions and hold such other office or employment of
trust, honor, profit, or emolument under the government of
this state or its political subdivision, except that of notary
public or officer of the armed forces. For purpose of this
section, membership on a board or commission having only advisory
functions shall not be deemed an office.

24

25 Comment: That a position is a public office when it is created
26 by law, with duties cast on the officeholder, which involve an
27 exercise of some portion of the sovereign power and in the
28 performance of which the public is concerned, and which also

29 are continuous in their nature and not occasional or inter-
30 mittent; while a public employment, on the other hand is a
31 position which lacks one or more of the foregoing elements.

CC-

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For prohibition against dual office holding.

6 PROPOSED SECTION:

7 Article _____, Section _____. Dual Office Holding;

8 Prohibition

9 Section _____. No person holding any office or
10 employment of either emolument or honor under the
11 government of this state shall at the same time
12 hold any other such office or employment whether
13 under government of the United States or any other
14 state, nor shall he hold more than one such office
15 or employment under the government of this state or
16 its political subdivisions except that of notary
17 public or officer of the armed forces. For purposes
18 of this section, membership on a board or commission
19 having only advisory functions shall not be deemed
20 an office.

CC-

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Delegate

4 A PROPOSAL

7 Making provision for a capital budget.

8 Be it adopted by the Constitutional Convention of Louisiana of 1973:

9
10 Article _____, Section _____. Capital Budget

11 Section _____. The governor shall prepare annually a five-
12 year capital program and shall submit to each regular session
13 of the legislature a proposed capital budget act implementing
14 the first year of the five-year program. All capital projects
15 approved by the legislature shall be made a part of the capital
16 budget, and the operating budget for each year shall provide
17 for amortization of the cost of each such capital project.

CC/RS

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide for capital expenditures.

6 PROPOSED SECTION:

7 Article _____, Section _____. Capital Expenditures

8 Section _____. Appropriations for capital projects
9 to be financed by the creation of indebtedness of the
10 state shall be embodied in a capital outlay budget
11 which shall contain a pledge of the full faith and
12 credit and unlimited taxing power of the state. Any
13 such appropriation that is in addition to or exceeds
14 the capital appropriations submitted to the legislature
15 by the governor shall provide for a tax, direct or
16 indirect, sufficient to pay the debt service required
17 thereby, to be levied and collected as prescribed in
18 the supplementary appropriation bill.

19
20 Source: New

6/29/73

PROPOSAL BY MACK ABRAHAM

(E) Capital Outlay Budget. The governor shall
prepare the annual capital outlay budget of the state
for the ensuing fiscal year and the succeeding four
fiscal years, and shall transmit copies thereof to
the legislature on or before the first day of each
annual session as may be provided by statute.
Proposed expenditures shall not exceed anticipated
revenues, as determined by the governor. Upon
adoption by the legislature, this budget shall be
executed and administered by the governor.

MINUTES

Minutes of the meeting of the Committee on
Executive Department of the Constitutional
Convention of 1973

Held pursuant to notice mailed by the Secretary
of the Convention on June 18, 1973

LSU Law School, Baton Rouge, Louisiana

Friday, June 29, 1973, 12:00 Noon
Saturday, June 30, 1973, 9:00 a.m.
Sunday, July 1, 1973, 1:00 a.m. *

Presiding: Tom Stagg, Chairman of the Committee on
Executive Department

Present

Mack Abraham
Avery C. Alexander
Joseph E. Anzalone, Jr.
Greg Arnette, Jr.
Emmett Asseff
Hilda Brien
Moise W. Dennery
Stanwood R. Duval, Jr.
Camille F. Gravel, Jr.
Tom Stagg
James L. Stovall
Elmer R. Tapper

Absent

James L. Stovall, on
Sunday, July 1, 1973

Mr. Dennery offered the motion that the approval of
the minutes be deferred until the meeting on the following
day. The motion carried.

Discussion ensued on the following provisions:

Extraordinary Session. Mr. Dennery offered the motion to adopt the provision in the second draft. The motion carried unanimously.

Section 6. First Assistants. Mr. Gravel offered the motion to adopt the provision as it is written in the second draft.

Mr. Anzalone offered a substitute motion that the provision include any statewide elected officials. After discussion, Mr. Anzalone withdrew his substitute motion.

The original motion offered by Mr. Gravel was approved with Mr. Anzalone and Dr. Asseff abstaining.

Section 20. Determination of Disability. Mr. Dennery offered the motion to adopt the provision in the second draft.

Mr. Gravel offered the substitute motion that on line 12 the words "for just cause" be inserted after "whenever", and on line 32 the words "two-thirds" be omitted and the word "majority" be inserted.

Chairman Stagg recommended that all words in brackets be included in Section 20.

Mr. Gravel withdrew the first part of his substitute motion and added to his previous substitute motion that on line 13, page 14, the word "such" be included after "other".

Mr. Dennery offered an amendment to the substitute motion to add "such" in lieu of "the" when referring to elected officials, and to also include this amendment for lines 13, 17, 22, 23, 30, and 34. Mr. Gravel accepted the amendment.

Dr. Asseff offered the motion to adopt his proposal on Determination of Disability. After discussion, the staff was directed to prepare a new concept. Dr. Asseff withdrew his motion.

Page 2

The committee decided to take up other business until the new draft was completed for discussion.

Section 23. Reorganization. Representative Tapper offered the motion that Mr. Arnette's proposal on Mandatory Reorganization be adopted. Dr. Asseff offered an amendment that lines 14, and 15, the words "departments, offices, and other" be included in lieu of "executive and administrative offices, agencies, and", and on line 22 the word "promptly" be deleted. The amendment was accepted by Mr. Arnette.

Mr. Duval offered an amendment that the provision specify that the governor has six months in which to act. The amendment was approved and the motion as amended carried with a vote of eight (8) in favor and three (3) against.

Section 23 A. Reorganization. Mr. Dennery offered the motion to adopt the provision adding the word "substantively" before "amend" line 15, page 16, and on line 7, delete "while in session, and on the first day of such session"

and insert "on or before the first day of any session".

Dr. Asseff offered an amendment that on line 14, the word "its" be deleted and "the" be inserted, and after the word "members", the words "of each house" be inserted. The amendment was accepted by Mr. Dennery.

Reverend Stovall moved to call for the question. The motion carried with a vote of six (6) in favor and four (4) against.

Page 3

The motion, as amended, carried with a vote of ten (10) in favor of it.

Capital Outlay Budget. Mr. Dennery offered the motion to adopt the provision amending the title to read "Capital Budget".

Mr. Tapper offered the substitute motion that the provision not be included in the constitution. Dr. Asseff seconded the substitute motion. The substitute motion failed with a vote of four (4) in favor of it and six (6) against it.

Mr. Gravel offered several amendments to the Dennery motion, all of which were accepted by Mr. Dennery. The motion carried, as amended, with a vote of eight (8) in favor and one (1) against. Dr. Asseff opposed the motion.

Section 1(B). Composition. Mr. Abraham offered the motion to adopt the present provision in the second draft, deleting "by law" on line 18. The motion carried unanimously.

Mr. Gravel offered the motion that on line 14, the word "other" be inserted before "instrumentalities". The motion carried with a vote of six (6) in favor and Dr. Asseff and Mr. Anzalone opposing the motion.

Section 2. Qualifications. Mr. Anzalone offered the motion to omit the words "during the term for which he is elected" and insert "during his tenure in office". The motion carried unanimously.

Section 5(F). Signature on Bills. Mr. Dennery offered the motion to strike the first sentence; on line 22 strike the word "him", insert "the governor"; on line 22, after "bill", insert "passed by the legislature"; and incorporate

Page 4

Section(G). Veto into Section (F) Signature on Bills. Also, insert after last word on last sentence "and if the legislature is in session, he shall return it to the house in which it originated within twenty-four hours. If he fails to veto within the time otherwise provided by this constitution, it shall become law." The motion carried unanimously.

Section 5(L). Extraordinary Session. Reverend Stovall offered the motion to change the title to Special Session. After discussion, the motion was withdrawn.

Mr. Dennery offered the motion to adopt the provision with the amendment that on line 27 the words "for a

period of" be deleted and "until" be inserted. The motion carried unanimously.

Section 13. Code of Ethics; Board of Ethics. Mr. Anzalone offered the motion to delete paragraph B. The motion failed with seven against it and Mr. Anzalone and Dr. Asseff opposing the motion.

Section 13 (B). Mr. Dennery offered the motion that on line 3 the word "perform" be deleted and the word "have" be inserted and "powers and duties" be inserted after "other". Also, on line 4, the word "functions" be deleted. The motion carried with a vote of nine (9) in favor and one (1) against the motion.

The committee recessed at 5:30 p.m.

Page 5

The committee reconvened on Saturday, June 30, 1973, at 9:00 a.m.

Mr. Gravel offered the motion to approve the minutes. Mr. Stagg offered an amendment to the motion to strike the fifth paragraph on the second page. The amendment was accepted and the minutes were approved. Mrs. Brien abstained from voting on the motion.

Mr. Gravel offered the motion to defer working on the provision on Disability. The motion carried.

Dual Officeholding. Mr. Gravel offered the motion for a dual officeholding provision with amendments offered by Representative Tapper which Mr. Gravel accepted. A roll call vote was taken. The motion carried with nine (9) in favor and three (3) against the motion. Those opposing the motion were Mr. Abraham, Mr. Anzalone, and Mr. Duval. The provision adopted is included in the final Article which is attached hereto and made a part of these minutes.

The committee recessed at 12:15 p.m. and reconvened at 1:30 p.m.

Reverend Alexander offered the motion to reconsider the provision on Disability. The motion carried with a vote of six (6) in favor and four (4) against it.

Dr. Asseff submitted a proposal on disability to the committee and offered the motion for its adoption.

Mr. Dennery submitted a proposal for disability and offered a substitute motion for its adoption. The substitute motion failed with a vote of one (1) in favor and nine (9)

Page 6

against the motion.

Reverend Stovall offered a substitute motion, that a subcommittee be assigned to draft the proposed language.

The substitute motion carried with a vote of nine (9) in favor of it and Mr. Arnette opposing the motion.

A subcommittee was appointed consisting of Mr. Abraham, Mr. Anzalone, Mr. Dennery, and Mr. Gravel.

Reverend Stovall offered the motion to proceed with other matters of business. Mr. Tapper seconded the motion. The chair overruled the motion. The committee was in recess for one hour.

The committee reconvened and began discussion on the proposal submitted by the subcommittee. Mr. Abraham offered the motion to adopt the language.

Mr. Tapper offered the substitute motion that the entire subject matter be tabled. The substitute motion failed with Mr. Tapper, Dr. Asseff, and Mr. Duval in favor of the substitute motion, and seven (7) against it.

The substitute motion offered by Mr. Abraham was voted on and failed with a vote of five (5) in favor and six (6) against it.

Mr. Tapper offered the substitute motion that his proposal be adopted in which a medical board is required to determine disability. The substitute motion failed with a vote of three (3) in favor and six (6) against it.

Mr. Arnette submitted a proposal to the committee and offered the motion for its adoption. The substitute motion failed with a vote of two (2) in favor and seven (7) against. Mr. Anzalone abstained.

Page 7

Mr. Gravel offered the substitute motion to defer the matter until the next day. The substitute motion carried with a vote of eight (8) in favor of it.

Mr. Abraham offered the motion to reconsider Section 11(D) , Decision on Rate Proposal. The motion carried with a vote of seven (7) in favor.

After thorough discussion, the committee agreed that members having any objections to the present Article as amended may offer amendments at the next meeting.

Mr. Tapper offered the motion to recess. The committee recessed at 6:00 p.m.

The committee reconvened on Sunday, July 1, 1973, at 1:00 p.m.

Mr. Gravel submitted a proposal on Disability and offered the motion to adopt. Amendments were offered by Reverend Alexander, Mr. Arnette, and Mr. Dennery. All amendments were accepted by Mr. Gravel and the motion was voted on. The motion carried with a vote of eight (8) in favor of it. Reverend Alexander voted in favor of the motion but with reservations because of the absence of a medical board. Mr. Abraham was opposed to the motion. Representative Tapper asked to go on the record as being vehemently opposed because of the absence of medical advisors.

Section 4. Compensation. Mr. Anzalone offered the motion to delete the last sentence on lines 5 and 6. Dr. Asseff spoke against the motion. The motion failed with a vote of four (4) in favor and five (5) against.

Section 11. Public Service Commission. Mrs. Brien

Page 8

submitted a proposal and moved for its adoption.

Mr. Abraham offered a substitute motion that the committee shall render its decision on a proposed rate schedule within six months from the date of filing.

Mr. Duval offered an amendment that in the event the commission does not render a decision within six months, their salaries will be terminated. Mr. Abraham accepted the amendment. The substitute motion failed with a vote of eight (8) in favor and two (2) against it.

Mr. Dennery, Mr. Tapper, and Mr. Abraham offered amendments to Mrs. Brien's motion, all of which she accepted. The motion carried unanimously.

Dr. Asseff was excused from the remainder of the meeting and did not vote on the following matters.

Mr. Gravel offered the motion to proceed with the agenda. The motion was approved by the chair.

Mr. Abraham offered the motion that the following changes be made in Section 5 I(2):

- 1) on line 21, insert "or by statute" after "constitution"
- 2) on line 16, omit "1)"
- 3) on line 17, after "election", insert "or appointments"
- 4) on line 18, omit "2)"
- 5) on line 20, change "appointment or election" to "election or appointment"

Without objection, the chair so ordered the above changes.

Mr. Abraham offered the motion that in Section 5 I (3), lines 30 through 32 be deleted. Mr. Gravel objected.

Page 9

Mr. Dennery offered the substitute motion that on line 32, after "legislature", the words "unless submitted to and confirmed by the Senate" be inserted. The substitute motion carried with a vote of five (5) in favor and two (2) against it.

Mr. Dennery offered the motion that in Section 6, line 8 page 7, the words "The secretary of state, attorney general, and treasurer" be deleted and the words "Each statewide elected official except the governor and lieutenant governor" be inserted. Mr. Gravel offered the amendment that the words "procedures and" be inserted before "limitations". Mr. Dennery accepted the amendment.

Mr. Abraham offered the substitute motion to leave the provision as is. The substitute motion failed with a vote of two (2) in favor and four (4) against it.

The motion offered by Mr. Dennery carried with a vote of six (6) in favor of it and one (1) against.

Mr. Dennery offered the motion that in Section 8, line 8, a period be inserted after the word "oaths". Also, on line 10, after the word "statute" insert "or by reorganization under executive order". Mr. Gravel offered the amendment that on line 9 after "be" insert "authorized by this constitution or". Mr. Dennery accepted the amendment and included the Gravel amendment in Sections 7, 8, 9, and 10. The motion carried unanimously.

Mr. Dennery offered the motion that in Section 24(A), on line 21, page 17, after the word "corruption" the words "in office" be inserted.

Page 10

Mr. Arnette offered the substitute motion that on line 21 after the word "for" the words "the following actions during his term of office" be inserted. Mr. Gravel offered the amendment to omit "incompetence and corruption". The amendment was accepted. The substitute motion failed with a vote of three (3) in favor and five (5) against.

Mr. Gravel offered a substitute motion that the following language be adopted:

"Any state and district official, whether elected or appointed, shall be liable to impeachment for commission or conviction of felonies or malfeasance during his term of office, or for gross misconduct." The motion carried.

Mr. Dennery offered the motion that in Section 24(B), delete everything after the period on lines 27 and 28 and all before the period on line 29. Also, on line 31, the word "judgment of" be deleted and on line 26, after the word "and" the words "a vote of" be inserted. There being no objection, the chair so ordered the above amendments.

Mrs. Brien submitted a proposal and moved for its adoption. Mr. Anzalone and Mr. Arnette offered amendments to the motion and Mrs. Brien accepted the amendments. The motion carried unanimously.

Section 5(E). Mr. Duval offered the motion that lines 15 and 16 be deleted and the following words be inserted: "The legislature may provide additional methods whereby persons convicted of offenses may be pardoned or

Page 11

granted commutation of sentence. Other postconviction sentences also may be provided by statute."

Mrs. Brien submitted copies of language to the committee on pardons and moved for its adoption. The substitute motion failed with a vote of one (1) in favor and seven (7) against it.

Mr. Arnette offered a substitute motion that lines 15 and 16 be deleted. The substitute motion failed with a vote of two (2) in favor and five (5) against.

Mr. Abraham offered a substitute motion that on lines 15 and 16, language be adopted to provide for the legislature providing additional methods for the foregoing and other postconviction remedies. The substitute motion carried unanimously.

Mr. Tapper offered the motion that in Section 3, on line 7, after the word "elected", the word "statewide" be inserted. Also, on line 8, strike the word "each" and on line 7, after the word "shall", the word "each" be inserted. The motion carried unanimously.

Mr. Tapper offered the motion to adopt the Article as amended. Mr. Gravel seconded the motion.

Mr. Duval offered the substitute motion that Section 5(H), on page 5, be reconsidered. The substitute motion carried with a vote of nine (9) in favor and one (1) against.

Mr. Duval offered the motion to delete everything in the above Section except line item vetoes.

Mr. Abraham offered the substitute motion to delete line 8 and insert "use other means as may be" in its stead.

Page 12

The substitute motion carried with a vote of eight (8) in favor and one (1) against it.

Representative Tapper offered the motion to adopt the Article as amended. Chairman Stagg noted that all members reserve the right to file minority reports.

The Article was adopted. Mr. Anzalone opposed the adoption of the Article.

A copy of the final Article is attached hereto and made a part of these minutes.

Mr. Dennery offered the motion to adjourn. The motion carried unanimously.

There being no further business, the committee adjourned at 5:00 p.m.

* In an informal session Sunday morning, July 1, 1973, a quorum of the committee met and adopted changes in style which are not reflected in these minutes.


Tom Stagg, Committee on
Executive Department

AMENDMENTS TO MINUTES OF MEETINGS OF June 29, 1973, June 30, 1973, and July 1, 1973:

On page 5, line 6, close quotes

On page 3, note that Mr. Arnette did not accept the amendment by Mr. Duval but the amendment was approved.

SECOND DRAFT
DRAFT PROVISIONS BEING CONSIDERED
BY COMMITTEE ON THE EXECUTIVE DEPARTMENT
(To be considered June 29, 30, and July 1, 1973)

CC-

- 1 Constitutional Convention of Louisiana of 1973
- 2 COMMITTEE PROPOSAL NUMBER
- 3 Introduced by Tom Stagg on behalf of the Committee on the
- 4 Executive Department.
- 5 A PROPOSAL
- 6 Making provisions for the executive branch of state govern-
- 7 ment and necessary provisions with respect thereto.

8 PROPOSED SECTIONS:

9 Article _____, Section 1. Composition

10 (A) The executive branch shall consist of a governor,
11 lieutenant governor, secretary of state, attorney
12 general, treasurer, and all other executive offices,
13 agencies, and instrumentalities.

Hold 14 (B) All offices, agencies, and instrumentalities
15 of the executive branch of state government and their
16 respective functions, powers, and duties, except for the
17 offices of governor and lieutenant governor, shall be
18 allocated by law according to function, among and with-
19 in not more than twenty departments.

20
21 Source: La. Const. Art. V, §1; Art. VII, §55 (1921).

22
23 Section 2. Qualifications

24 (A) To be eligible for the office of governor,
25 lieutenant governor, secretary of state, attorney general,
26 or treasurer a person must have attained the age of
27 twenty-five years by the date of his election and be
28 a citizen of the United States and of this state for at
29 least the five years immediately preceding the date of
30 his election. [He shall hold no other public office,
31 except by virtue of his office, during the term for which
32 he is elected.]

Recon- sider

33 (B) The attorney general also shall be an attorney and
34 shall have practiced law or served as a judge of a court
35 of record in this state for a combined total of at least

-2-

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1 five years preceding his election.

2

3 Source: La. Const. Art. V, §3; Art. VII, §56 (1921).

4

5 Section 3. Elections and Terms

6 (A) The governor, lieutenant governor, secretary of
7 state, attorney general, and treasurer shall be elected
8 each for a term of four years by the electors of the
9 state, at the time and place of voting for members
10 of the legislature. A person who has served as governor
11 for more than one and one-half terms in two consecutive
12 terms shall not be elected governor for the next succeeding
13 term.

14 (B) The returns of the election of these officers
15 shall be transmitted to and be promulgated by the sec-
16 retary of state in (a) manner as may be (provided) by statute.
17 The person having the greatest number of votes for each
18 office shall be declared elected.

19 (C) If two or more persons have an equal, and the
20 highest number of votes for an office, they shall draw
21 lots to determine the result. The secretary of state
22 shall arrange for the drawing of lots within ten days
23 after the election results are promulgated, and his
24 decision as to the winner shall be final and conclusive.
25 Election contests shall be decided by the courts as may be
26 provided by statute.

27 (D) The term of office of each elected official shall
28 begin on the second Monday in March next following the
29 election

10 (E) No other officer shall be elected statewide,
31 except as provided by this constitution.
32
33 Source: La. Const. Art. V, §§2, 3, 4, 18 (1921).

-3-

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1 Section 4. Compensation
2 The compensation of each elected official within the
3 executive branch shall be fixed by the legislature and
4 shall not be increased or decreased for the term for
5 which the official is elected. No public official shall
6 receive a salary in excess of that paid to the governor.

8 Source: La. Const. Art. III, §34; Art. V, §§5, 20 (1921).

10 Section 5. Powers and Duties of Governor

11 (A) Executive authority. The governor shall be the
12 chief executive officer of the state and shall faithfully
13 support the constitution and laws of the state.

15 Source: La. Const. Art. V, §2, 14 (1921).

17 (B) Legislative reports and recommendations. The
18 governor shall at the beginning of each regular session
19 of the legislature, and may at other times, make reports
20 and recommendations and give information to the legis-
21 lature concerning the affairs of state, including its
22 complete financial condition.

24 Source: La. Const. Art. V, §13 (1921).

26 (C) Reports and information. All department heads
27 shall provide the governor with reports and information in
28 writing or otherwise requested by him on any subject re-
29 lating to their respective departments excepting matters
30 relating to investigations of the governor's office.

32 Source: La. Const. Art. V, §13; Art. VI, §39 (1921).

34 (D) Operating budget. The governor shall prepare the
35 annual operating budget of the state, and shall transmit

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1 copies thereof to the legislature on or before the first
2 day of each annual session as may be provided by statute.
3 Proposed expenditures shall not exceed anticipated revenues
4 as determined by the governor. Upon adoption by the
5 legislature, this budget shall be executed and adminis-
6 tered by the governor.

8 Source: New.

9 Add: Capital Outlay Budget.

10 (E) Pardon, commutation, reprieve, remission. Except
11 in cases of conviction upon impeachment, the governor may
12 reprieve, may grant commutation of sentence, and may par-
13 don those convicted of offenses against the state and may
14 remit fines and forfeitures imposed for such offenses.
15 Other remedies for those convicted of offenses may be pro-
16 vided by statute.

17
18 Source: La. Const. Art. V, §10 (1921).

19
20 (F) Signature on bills. Every bill passed by the legis-
21 lature shall be presented to the governor. The date and
22 time when the bill is delivered to him shall be entered
23 thereon. He shall then have thirty calendar days within
24 which to act on it. If he approves it he shall sign it;
25 if he disapproves (it), he shall veto it giving his reason
26 therefor. If he fails to veto it within the time otherwise
27 provided by this constitution, it shall become law.

29 Source: La. Const. Art. V, §15 (1921).

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31 (G) Veto. If the governor disapproves a bill, he
32 shall veto it and if the legislature is in session, he shall
33 return it within twenty-four hours with his objections to
34 the house in which it originated.
35

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1 Source: La. Const. Art. V, §14 (1921).

2

3 (H) Appropriation bills. (1) The governor may veto any
4 line item in an appropriation bill. The items vetoed shall
5 be void unless the veto is overridden as prescribed for the
6 passage of any bill over a veto.

7 (2) The governor shall either veto line items,
8 use other means provided in the bill, or
9 reduce all appropriations by an equal percentage as may be
10 provided in the bill, in order that total appropriations
11 for the year shall not exceed anticipated revenues for the
12 year.

13 Source: La. Const. Art. V, §§11, 12 (1921).

14

15 (I) Appointments. (1) The governor shall appoint, sub-
16 ject to confirmation by the Senate, 1) the heads of all
17 departments in the executive branch whose election is not
18 provided for by this constitution; and 2) all members of
19 boards and commissions in the executive branch whose ap-
20 pointment or election is not otherwise provided for by
21 this constitution.

22
23 (2) Should the legislature be in session, the governor
24 shall submit for confirmation by the Senate the names of
25 those appointed within forty-eight hours after the appoint-
26 ment is made. Failure of the Senate to confirm an appoint-
27 ment prior to the end of the session shall be equivalent to
28 rejection.

29
30 (3) Should the legislature not be in session, the gover-
31 nor may make interim appointments which shall expire at the
32 end of the next session of the legislature.

33
34 (4) A person not confirmed by the Senate shall not be
35 appointed to the same office during any recess of the legislature.

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1 Source: La. Const. Art. V, §511, 12 (1921).

2
3 (J) Removal. The governor may remove from office
4 those whom he appoints, except those appointed for a
5 term fixed by this constitution or (as may be fixed) by
6 statute.

7
8 Source: New

9
10 (K) Commander-in-chief. The governor shall be
11 commander-in-chief of the armed forces of the state,
12 except when they are called into service of the federal
13 government. He may call out the armed forces of the
14 state to preserve law and order, to suppress insurrection,
15 to repel invasion, or in other times of emergency.

16
17 Source: La. Const. Art. XVII, §2 (1921).

18
19 (L) Extraordinary session. (1) The governor may
20 convene the legislature into extraordinary session by
21 issuance of a proclamation to the legislature at least
22 five days prior to the convening of the session. The
23 proclamation shall state the specific subjects to be
24 considered, the date and time the legislature is to
25 convene, and the number of days for which the legislature
26 is convened. The subject matter of the session may be
27 amended, by proclamation to the legislature, for a
28 period ^{up to} ~~of~~ forty-eight hours prior to the hour at which
29 the legislature convenes. The power to legislate, under
30 the penalty of nullity, shall be limited to the subjects
31 specially enumerated in the latest proclamation convening
32 such extraordinary session. The session shall be limited
33 to the time named therein, and shall not exceed thirty days.

34
35 (2) The governor may convene the legislature in

CC-

1 extraordinary session without prior notice or proclamation
2 on occasions of public emergencies caused by epidemics,
3 attacks by the enemy, or public catastrophe.

4
5 Source: La. Const. Art. V, §14 (1921).

6
7 Section 6. First Assistants

8 The secretary of state, attorney general, and
9 treasurer shall each appoint a first assistant, subject
10 to confirmation by the Senate and may remove him at his
11 pleasure. The first assistant shall possess the same
12 qualifications as those required for election to that
13 office.

14
15 Source: New.

16
17 Section 7. Powers and Duties of the Lieutenant Gov-
18 ernor

19 Section 7. The lieutenant governor shall serve ex
20 officio as a member on every committee, board, and com-

21 mission on which the governor serves, exercise the powers
22 delegated to him by the governor, and have such other
23 powers and perform such other ^(duties) functions in the execu-
24 tive branch as may be provided by statute.

25
26 Source: New

27
28 Section 8. Powers and Duties of the Secretary of State

29 Section 8. There shall be a department of state
30 which shall be headed by the secretary of state, who
31 shall serve as the chief elections officer and adminis-
32 ter the election laws; administer the laws relative to
33 voting machines or other voting devices as now or may be
34 hereafter provided by this constitution ^{as may be provided} or by statute;
35 administer the state corporation and trade mark laws;

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1 serve as keeper of the Great Seal of the State of
2 Louisiana and attest therewith all official laws, docu-
3 ments, proclamations, and commissions; administer and
4 preserve the official archives and records of the
5 state; promulgate, publish, and retain the originals
6 of all laws enacted by the legislature; countersign
7 all commissions and keep an official registry of same;
8 administer oaths; and he shall have such other powers
9 and perform such other functions as may be provided
10 by statute.

11
12 Source: New

13
14 Section 9. Powers and Duties of the Attorney General

15 Section 9. There shall be a department of justice
16 ~~(which shall be)~~ headed by the attorney general who shall
17 be the state's chief legal officer. As may be necessary
18 for the assertion or protection of the rights and inter-
19 ests of the state, the attorney general shall have
20 authority to:

21 (1) institute, and prosecute or intervene in any
22 legal actions or other proceedings, civil or criminal;

23 (2) exercise supervision over the several district
24 attorneys throughout the state; and

25 (3) for cause, supersede any attorney representing
26 the state in any civil or criminal proceeding.

27 He shall have such other powers and perform such
28 other ^(duties) functions as may be provided by statute.

29
30 Source: La. Const. Art. VII, §§55, 56 (1921).

31
32 Section 10. Powers and Duties of the Treasurer

33 Section 10. There shall be a department of treasury
34 which shall be headed by the state treasurer who shall
35 be responsible for the custody, investment, and

CC-

1 disbursement of the public funds of the state. He
2 shall report annually to the governor and the legisla-
3 ture one month in advance of the regular session on

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4 the financial condition of the state, and shall have
5 such other powers and perform such other functions as
6 may be provided by statute.

8 Source: New

10 Note: Committee intent: retirement funds to be exempt from
11 investment authority of treasurer.

13 Section 11. Public Service Commission

14 Section 11. (A) Composition; term. There shall be
15 a public service commission which shall consist of five
16 members elected at the time fixed for congressional
17 elections from separate districts as may be established
18 by statute for overlapping terms of six years. The
19 commission annually shall elect a chairman from one of
20 its members.

22 Source: La. Const. Art. VI, §§3, 8 (1921).

24 Note: The Schedule will provide for dates of staggered terms.

25 (B) Powers and Duties.
26 ~~(B) Powers and Duties.~~ Except as otherwise provided by this
27 constitution the commission shall regulate all common
28 carriers and other public utilities. It shall adopt
29 and enforce reasonable rules, regulations, and pro-
30 cedures necessary for the discharge of its duties, and
31 shall have such other powers and perform such other
32 (duties)
33 functions as may be provided by statute.

34 Source: La. Const. Art. VI, §4 (1921).

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1 (C) Limitation. The commission shall have no power
2 to regulate any class of common carrier or public utility
3 owned, operated, or presently regulated by the governing
4 authority of any one or more political subdivisions, ex-
5 cept by the consent of a majority of the electors voting
6 in an election held for that purpose; provided, however,
7 that such political subdivision may reinvest itself with
8 such regulatory power in the same manner as it was sur-
9 rendered.

11 Source: La. Const. Art. VI, §7 (1921).

13 (D) Decision on Rate Proposal. The commission shall
14 render its decision on a proposed rate schedule within six
15 months from the date of filing; otherwise, the proposed
16 schedule shall be deemed to be tentatively approved and,
17 pending final determination, may be put into effect sub-
18 ject to such protective bond or security requirements as
19 may be provided by statute. If no final decision is ren-
20 dered by the commission within twelve months of filing,
21 the schedule shall be considered to be finally approved.
22 If the commission disapproves the proposed schedule, in
23 whole or in part, the carrier or utility may place or con-
24 tinue the schedule in effect under bond or security, sub-
25 ject to any appeal and final action by a court of last

26 resort to recover any refund that may be finally directed.
27 Refund suite may be filed only within one year after such
28 final action.

30 Source: New

32 Note: (1) Intent: the committee intended that any consumer
33 adversely affected by rates would have right of mandamus
34 to order the PSC to take action.

35 (2) The committee discussed additional language on im-

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1 peachment proceedings against PSC for failure to act with-
2 in the given time limitation.

4 (E) Appeals. Appeals from the orders of the Public
5 Service Commission must be filed with the district court,
6 at the domicile of the Public Service Commission, with a
7 direct appeal to the supreme court, as a matter of right.

9 Source: La. Const. Art. IV, §5 (1921).

11 Section 12. Dual Office-Holding

12 Section 12. No person holding any office, except in
13 an ex officio capacity, provided for in this constitution,
14 as may be provided
15 or by statute, or by local government charter or ordinance,
16 of either emolument or honor under the government of the
17 United States or of this state, shall at any time hold
18 any other such office.

19 No individual shall hold office either elective or
20 appointive or be employed in more than one of the branches
21 of state government or in any of its political subdivisions,
22 except the office of notary public or offices of the armed
23 forces, except as is otherwise provided by this constitu-
24 tion.

25 For the purposes of this Section the legislature may
26 waive the foregoing as to membership in constitutional
27 conventions, and on boards or commissions created for
28 special purposes for limited periods of time and which
29 exercise advisory functions.

30 Source: La. Const. Art. XIX, §4 (1921).

32 Section 13. Code of Ethics; Board of Ethics

33 Section 13. (A) The legislature shall enact a code of
34 ethics prohibiting conflict between public duty and pri-
35 vate interests of all state employees and elected officials.

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1 (B) The legislature shall create a board or boards
2 of ethics which shall investigate all allegations of
3 violations of such a code, and shall perform such other
4 (duties)
5 functions as may be provided by statute.

6 Source: La. Const. Art. XIX, §27 (1921)

8 Section 14. Vacancy in Office of Governor

9 Section 14. The order of succession in the office of
10 governor in the event of vacancy shall be (1) the elected
11 lieutenant governor, (2) the elected secretary of state,

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12 (3) the elected attorney general, (4) the elected treasurer, (5) the president pro tempore of the Senate, (6) the speaker of the House of Representatives, and then as may be provided by statute. Successors shall serve the remainder of the term for which the governor was elected.

18 Source: La. Const. Art. V, §6 (1921).

20 Section 15. Vacancy in Office of Lieutenant Governor

21 Section 15. Whenever there is a vacancy in the office of the lieutenant governor, the governor shall nominate a lieutenant governor who shall take office upon confirmation by a majority vote of the elected members of each house of the legislature.

27 Source: La. Const. Art. V, §9 (1921).

29 Section 16. Vacancies in Other Statewide Elective Offices

30 Section 16. The order of succession in any other statewide elective office, in the event of a vacancy in such office, shall be the appointed first assistant in such office. Successors to such offices shall serve for the remainder of the term for which the official was elected.

Hold

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1 Note: "Successors" means only first assistants.

3 Source: La. Const. Art. V, §18; Art. VII, §56 (1921).

5 Section 17. Other Vacancies

6 Section 17. (A) Where no other provision therefor is made by this constitution, by statute, by local government charter, or by ordinance, the governor shall have the power to fill any vacancy occurring in any elective office. If, at the time a vacancy occurs in such office, and the unexpired portion of the term of office is more than one year, the vacancy shall be filled at an election within six months, as may be provided by statute. The appointment provided for herein shall be effective only until a successor is duly elected and qualified.

16 (B) Nothing in this Section shall be construed as changing the qualifications for the various offices involved, and all appointments must be of persons who otherwise would be eligible to hold offices to which appointed.

21 Source: La. Const. Art. III, §8; Art. V, §§5, 18; Art. VI, §§19.2, 26; Art. VII, §69; Art. X, §2; Art. XII, §§4, 7 (1921).

25 Section 18. Definition of Vacancy

26 Section 18. A vacancy as used in this constitution shall occur in the event of death, resignation, removal by any means, or the failure to take office for any reason.

31 Source: New

33 Section 19. Declaration of Disability

34 Section 19. Whenever a statewide elective official transmits to the president pro tempore of the Senate and

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1 the speaker of the House of Representatives a written declaration that he is unable to discharge the powers and duties of the office, and until he transmits to them a written declaration to the contrary, the person succeeding to the office in the event of a vacancy shall assume the powers and duties of the office as acting official.

9 Source: La. Const. Art. V, §§6, 18 (1921).

11 Section 20. Determination of Disability

12 Section 20. (A) Whenever [for just cause] a majority of the statewide elected officials [determine that any other official is unable to discharge the duties of his office, they may then] transmit to the president pro tempore of the Senate and the speaker of the House of Representatives a written declaration that [the said] statewide elected official is unable to discharge the powers and duties of his office, the constitutional [successor] to the office shall immediately assume the powers and duties of the office as acting official.

22 (B) Thereafter, when the elected official transmits to the president pro tempore of the Senate and the speaker of the House of Representatives his written declaration that no disability exists, he shall resume the powers and duties of his office; provided that should a majority of the statewide elected officials transmit within four days to the president pro tempore of the Senate and the speaker of the House of Representatives a second written declaration that the elected official is unable to discharge the powers and duties of the office, the issue shall be determined finally by a two-thirds vote of members elected to the state supreme court under such rules as it may adopt, and after due notice and hearing. The elected official may not for a period of six months thereafter file another

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1 declaration stating that his disability has ended.

3 Note: The subcommittee considered the following language as an alternate:

5 "...the issue shall be determined finally by a resolution of the legislature passed by a two-thirds vote of the elected members of each house meeting in regular or special session."

10 Source: New

12 Section 21. Absences

13 Section 21. In the event of a temporary absence of the governor from the state, the lieutenant governor shall act as governor. In the event of a temporary absence of

16 a statewide elected official from the state, the appointed
17 first assistant shall act in his absence.

18
19 Section 22. Compensation

20 Section 22. The lieutenant governor when acting as
21 governor shall receive the same salary as the governor,
22 and an appointed assistant when acting as an elected
23 official shall receive the same salary as the elected
24 official.

25
26 Source: La. Const. Art. V, §56, 18 (1921).

27
28 Section 23. Reorganization

29 Section 23. The legislature, by a proposal originating
30 in the House of Representatives, may reallocate by law the
31 functions, powers, duties, and responsibilities of all
32 executive and administrative offices, agencies, and in-
33 strumentalities of the executive branch, except those
34 functions, powers, duties, and responsibilities allocated
35 by this constitution among and within not more than

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1 twenty departments

2
3 Source: La. Const. Art. III, §32; Art. V, §1 (1921).

4
5 Section 23A. Reorganization

6 Section 23A. The governor may propose to the legisla-
7 ture, while in session, and on the first day of such
8 session, a plan of reallocation of the functions, powers,
9 duties, and responsibilities of all executive and admin-
10 istrative offices, agencies, and instrumentalities of the
11 executive branch, except those functions, powers, duties,
12 and responsibilities allocated by this constitution,
13 among and within not more than twenty departments. The
14 legislature, by a majority vote of its elected members,
15 may disapprove such plan, but may not amend it.

16
17 Source: La. Const. Art. III, §32; Art. V, §1 (1921).

18
19 Schedule. Reorganization

20 Schedule. The legislature, by a proposal originating
21 in the House of Representatives, on or before eighteen
22 months after the effective date of this constitution,
23 shall allocate by law the functions, powers, duties, and
24 responsibilities of all executive and administrative
25 offices, agencies, and instrumentalities of the executive
26 branch, except those functions, powers, duties, and re-
27 sponsibilities allocated by this constitution, among and
28 within not more than twenty departments. Should the
29 legislature fail to make such allocations within such
30 eighteen month period, the governor promptly shall effect
31 such allocations by executive order.

32
33 Source: new

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1 Schedule A. Reorganization

2 Schedule A. The governor, on or before eighteen months
3 after the effective date of this constitution, shall pro-
4 pose to the legislature, while in session, a plan of allo-
5 cation of the functions, powers, duties, and responsibil-
6 ities of all executive and administrative offices, agen-
7 cies, and instrumentalities of the executive branch, ex-
8 cept those functions, powers, duties, and responsibilities
9 allocated by this constitution, among and within not more
10 than twenty departments. The legislature, by a majority
11 vote of its elected members, may disapprove such plan,
12 but may not amend it. Should the legislature disapprove
13 such plan, the governor promptly shall effect such alloca-
14 tions by executive order.

15
16 Source: New

17
18 Section 24. Impeachment

19 Section 24. (A) All state and district officers,
20 whether elected or appointed, shall be liable to impeach-
21 ment for felonies or malfeasance, incompetency, corruption,
22 or for gross misconduct.

23 (B) All impeachments shall be by the House of Repre-
24 sentatives, and shall be tried by the Senate, whose mem-
25 bers shall be upon oath or affirmation for that purpose,
26 and two-thirds of the senators elected shall be necessary
27 to convict. When the governor is on trial the chief
28 justice or, in his absence, an associate justice designated
29 by the supreme court, shall preside. The Senate may sit
30 for said purpose whether the House be in session or not,
31 and may adjourn as it thinks proper. Judgment of con-
32 viction in such cases shall remove and debar the accused
33 from holding any office under the state, but whether of
34 conviction or acquittal, shall not prevent prosecution and
35 punishment otherwise according to law.

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1 Source: La. Const. Art. IX, §51, 2 (1921).

NOTES

CC-1055 is omitted. See above, Vol IV,
where CC-1055 is reproduced as C.P.
No. 5, printed.
CC-1055 is omitted. See above, Vol. IV,
where CC-1054 is reproduced as C.P.
No. 4, printed.

MINUTES

Minutes of the meeting of the Committee on
Executive Department of the Constitutional
Convention of 1973

Held pursuant to notice given by the Secretary

in accordance with the rules of the Convention

State Capitol Building, Room 205

Baton Rouge, Louisiana

Wednesday, July 11, 1973, 9:30 a.m.

Thursday, July 12, 1973, 9:00 a.m.

Presiding: Tom Stagg, chairman of the Executive Department
Committee

Present:

Joseph E. Anzalone
Tom Stagg
Camille Gravel
Greg Arnette
Avery Alexander
James L. Stovall
Stanwood Duval
Mack Abraham
Emmett Asseff
Moise W. Dennerly
Hilda Brien

Absent:

Joseph Anzalone - July 11, 1973
Elmer Tapper - July 11, 12, 1973

The minutes of the previous meeting were approved
as amended.

Reverend Stovall offered a motion that Committee Proposal
No. 4 be reported favorably and open the floor for delegate
amendments. The motion carried without objection.

Discussion ensued on the printed copy of Committee
Proposal No. 4 in which technical amendments were offered.
Amendments No. 1 through 25 were approved and the proposal
was reported to the convention as amended. A printed copy
of Proposal No. 4 with the Committee Report of July 11, is
attached hereto and made a part of these minutes.

Dr. Asseff asked that the record show that he dissents
from voting on Section 1, Section 3, and Paragraph (F) of
Section 5.

Mr. Dennerly stated that he may introduce a delegate
proposal relative to the number of years the attorney general
is required to practice law before taking office.

Reverend Alexander stated that he may file a minority
report relative to lines 3 and 19 on page 5.

Mr. Duval stated that he may offer a floor amendment
deleting the last sentence of Section 4 in its entirety.

Mr. Stagg expressed his intent to submit a delegate
proposal relative to Paragraph (L) of Section 5.

Dr. Asseff, speaking for himself and on behalf of Mr.
Anzalone, stated their dissension to lines 12 through 15 on
page 7.

Delegate Horace Robinson addressed the committee
stating his objection to the dual officeholding provision
as it relates to teachers. Delegate Gordon Flory shared
Delegate Robinson's views on this matter.

The committee recessed until 9:30 the following morning.

Thursday, July 12, 1973

Discussion continued on the printed copy of Proposal
No. 4 which had been recommitted to the committee from the

2

convention floor. Discussion ensued on Section 19,
Dual Officeholding; Prohibition. Mr. Dennerly submitted
three amendments to Section 19 to the committee, and offered

the motion for its adoption. Copies of Mr. Dennerly's
amendments are attached and made a part of these minutes.

Mr. Abraham suggested that the words "or employment"
be deleted on lines 10, 13, 15, and 18 of the printed
copy. Delegate Gordon Flory spoke from the audience in
favor of Mr. Abraham's recommendation.

Mr. Gravel suggested that after the word "ethics,"
the words "after public hearing" be inserted in Amendment
No. 3 of Mr. Dennerly's amendments. Mr. Dennerly accepted
the suggestion by Mr. Gravel.

Delegate Alphonse Jackson submitted proposed amendments
from the audience to the committee stating that teachers
be allowed to hold elective offices. Mr. Gravel suggested
amendments which Mr. Jackson found acceptable. A copy of
Mr. Jackson's amendments is attached hereto and made a part
of these minutes.

The committee recessed at 10:15 a.m. and reconvened at
10:30 a.m.

Mr. Gravel offered a substitute motion to defer further
consideration of Section 19 and any amendments thereto until
after Section 20 was adopted or rejected. The substitute
motion carried with a vote of 6 in favor and 3 against the
motion.

Mr. Flory, speaking from the audience, asked that the
committee delay discussion on the code of ethics.

3

Mr. Gravel offered the motion to consider Section 19,
as amended, Section 20, and Section 23 as separate proposals.
Mr. Gravel asked for unanimous consent of the committee.
The motion was approved without objection.

Mr. Gravel offered the motion that on page 12, lines
18 and 19, the numerals "22" be changed to "19" and on page
12, lines 2 and 3 the numeral "21" be changed to "20".
Without objection, it was so ordered.

Mr. Dennerly offered the motion to strike "be" on page
12, and insert "prevent any other action, prosecution, or"
between lines 16 and 17. Without objection the chair so
ordered the motion approved. The renumbered Section 20
was adopted as amended without objection.

Mr. Gravel offered the motion to adopt the renumbered
Section 19. The motion carried with a vote of 9 in favor
and 1 against.

Mr. Gravel offered the motion to recess until 3:00
p.m. The motion carried.

The committee reconvened and the committee members
checked the amendments as corrected and prepared by the
research staff.

Mr. Gravel moved that the committee adopt amendments 1
through 47 as rewritten to the printed copy of Proposal No. 4.

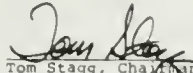
Reverend Alexander stated he wished to introduce some
additional amendments to Section 5 of Proposal No. 4. After
discussion, Reverend Alexander withdrew his amendments.

4

The chairman then called for a vote, and the committee passed the Amendments No. 1 through 47, as prepared by the staff, with reservations by Mr. Duval.

A copy of the amendments approved by the committee is attached hereto and made a part of these minutes.

There being no further business, the meeting adjourned at 3:30 p.m.


Tom Stagg, Chairman of the
Committee on Executive Department

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NOTES

Committee Amendments are omitted.
They are reproduced above at I Journal
150-152.

MINUTES

Minutes of the meeting of the Executive
Department Committee of the Constitutional
Convention of 1973

Held pursuant to notice by the Secretary
in accordance with the rules of the Convention
State Capitol, Baton Rouge, Louisiana
Thursday, July 19, 1973, 9:00 a.m.

Presiding: Tom Stagg, Chairman of the Committee on
Executive Department

Present:

Mack Abraham
Avery C. Alexander
Greg Arnette, Jr.
Emmett Asseff
Hilda Brien
Moise W. Dennery
Stanwood R. Duval, Jr.
Camille F. Gravel, Jr.
Tom Stagg
James L. Stovall
Elmer R. Tapper

Absent:

Joseph E. Anzalone, Jr.

Others Present:

Mr. Dan Hurley
Mr. Bob Brooksher
Mr. Henri Wolbrette
Mr. Gene Cretini

The roll was called and a quorum was present. Mr. Gravel offered the motion to consider favorably the document entitled CC-1162 on Mandatory Reorganization prepared by the staff.

Mr. Gravel offered the substitute motion that on line 18 after the word "allocate", the words "within not more than 20 departments," be inserted and the remainder of the sentence beginning with the word "among" on line 21, be deleted. The substitute motion carried unanimously.

Mr. Duval offered the motion that the word "within" on line 23 after the word "operative" be deleted and the words "not later than" be inserted in lieu thereof. Dr. Asseff seconded the motion. There being no objection, it was so ordered.

Mr. Gravel offered the motion that on line 24, beginning

with the word "Such", the remainder of the sentence be deleted and the following be inserted in lieu thereof:

"Such allocation, which shall not be subject to veto by the governor, shall become operative not later than 18 months after the effective date of this constitution."

The motion carried unanimously.

Dr. Asseff offered the motion that the last sentence on the printed copy be retained. The motion unanimously carried.

Dr. Asseff offered the motion to adopt the article as amended. The motion carried unanimously.

Reverend Stovall offered the motion to hear from the speakers. Mr. Abraham seconded the motion. There being no objection, it was so ordered.

Chairman Stagg introduced Mr. Dan Hurley of Texaco, Inc. A copy of Mr. Hurley's presentation is attached hereto and made a part of these minutes. Mr. Gravel suggested that limiting the Public Service Commission in regulating sales of natural gas did not prohibit some other agency from doing so. Mr. Gravel requested that Mr. Hurley submit the exact

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proposed language he feels should be inserted in the new constitution. Mr. Hurley agreed to do so.

Chairman Stagg introduced Mr. Bob Brooksher, executive vice president of Louisiana-Arkansas Division of Mid-Continental Oil and Gas. A copy of Mr. Brooksher's statement is attached hereto and made a part of these minutes.

The chairman introduced Mr. Henri Wolbrette, executive director of the Louisiana Chemical Association. A copy of Mr. Wolbrette's presentation is attached hereto and made a part of these minutes.

The final speaker, Mr. Gene Cretini, director of Advertising and Promoting for the Department of Commerce and Industry, was introduced by Chairman Stagg. A copy of Mr. Cretini's statement is attached hereto and made a part of these minutes.

There being no further business, the meeting adjourned at 12:00 noon.


Tom Stagg, Chairman of the Committee
on Executive Department

NOTES

CC-1162 is omitted. See above Vol. IV, where CC-1162 is reproduced as C.P. No. 19, printed.

Statement to the Committee on Natural Resources & Environment
by Charles M. Smith, Jr.
July 19, 1973

The deletion in the draft under consideration today of most of the language of the 1964 amendment to Section 4 of Article VI of the Constitution, which expressly denies the

Public Service Commission the "authority to supervise, govern, regulate or control any aspect of sales of natural gas direct to industrial users", will have a braking effect on industrial growth in the state because it could create still further uncertainty and delay in the crucial area of contracting for energy supplies.

Without the protection of the existing language, a company will have no assurance that having found and successfully negotiated for gas supplies its efforts won't be washed out. Further, government has no justifiable role to play in private contract negotiations.

The language I quoted from the existing Constitution is from what has come to be called the Louisiana Right-To-Profit Laws which were meant to be our pledge to industry that the State of Louisiana did not intend to insert itself into matters which were not its concern. Dropping that language now will, in all probability, be interpreted as a repudiation of that enlightened attitude.

It is my understanding that the reason for the deletion of the Right-To-Profit provisions in the proposed draft is to insure that no natural contracts will be signed which will jeopardize natural gas supplies to residential consumers. Obviously, these supplies have to be protected, but it seems that other and less intrusive methods can be found. Making the Public Service Commission a third party at private contract negotiations is simply not the answer.

On the other hand, if the real purpose of the change is to give the Public Service

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Commission the authority to determine who will and who will not get natural gas -- not just between industrial and residential consumers, but between competing industry as well -- then we are starting down the road to a control and contrived economy, and it was in great part the attempt to artificially control natural gas supplies in the first place that created the present natural gas crisis.

The Department of Commerce and Industry, therefore, strongly urges that the existing language of Section 4 of Article VI be incorporated into the new Constitution, and that whatever standby authority is needed to assure adequate residential supplies in an emergency be vested elsewhere.

STATEMENT OF MID-CONTINENT OIL AND GAS ASSOCIATION, LOUISIANA-ARKANSAS DIVISION, IN SUPPORT OF RETENTION OF EXEMPTION OF INDUSTRIAL GAS SALES FROM JURISDICTION OF LOUISIANA PUBLIC SERVICE COMMISSION

On January 22, 1973, a representative of an intrastate pipeline company appeared before the Committee on Natural Resources and Environment and stated, among other things, that the provision of Article VI, Section 4 of the Louisiana Constitution, exempting industrial gas sales from the jurisdiction of the Louisiana Public Service Commission, has created a regulatory gap. He further stated that where such a gap exists, the Federal Power Commission may acquire jurisdiction over both intrastate and interstate pipelines. The authority cited for this proposition was the Hinshaw Amendment to the Natural Gas Act. Under the

Hinshaw Amendment, which was added to the Natural Gas Act in 1954 and is referred to as Section 1(c) of the Act, it is provided that:

"The provisions of this Act shall not apply to any person engaged in or legally authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale, of natural gas received by such person from another person within or at the boundary of a State if all the natural gas so received is ultimately consumed within such State, or to any facilities used by such person for such transportation or sale, provided that the rates and service of such person and facilities be subject to regulation by a State commission. The matters exempted from the provisions of this Act by this subsection are hereby declared to be matters primarily

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of local concern and subject to regulation by the several States. A certification from such State commission to the Federal Power Commission that such State commission has regulatory jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction."

In the context of the statutory grant of power, it can be seen that Section 1(c) adds to the exclusions from the statutory grant stated in Section 1(b) of the Act, which provides:

"Provisions of this Act shall apply to the transportation of natural gas in interstate commerce to the sale in interstate commerce of natural gas for resale for ultimate consumption for domestic, commercial, industrial or any other use, and to natural gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas." (Emphasis supplied.)

As noted in Penhandle Eastern Pipe Line Company vs. Public Service Commission of Indiana, 332 U.S. 507, 516 (1947), the Act, as originally enacted, drew a sharp and distinct line between jurisdictional and non-jurisdictional activities. It drew only three things within Commission jurisdiction, namely:

- 1) Sales in interstate commerce of natural gas for resale;
- 2) Transportation of natural gas in interstate commerce; and
- 3) Persons engaged in such sales or transportation.

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It expressly exempted direct sales, such as industrial gas sales, and local distribution. When Section 1(c) was added in 1954 it broadened the express exclusions from the grant of power to include persons otherwise "engaged in or legally authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale of natural gas:"

- 1) When the natural gas received by such person is received from "another person";

2) When the gas so received is received within or at the boundary of a state;

3) When all of the gas so received is consumed within such state; and

4) When the rates, services, and facilities of such person are subject to the regulation of a State Commission.

The purpose of the Hinshaw Amendment was to "overcome the Supreme Court decision in Federal Power Commission v. East Ohio Gas Co., 1950, 338 U.S. 464, . . .," Virginia Petroleum Jobbers Ass'n v. FPC, 265 F.2d 364, 368 n. 2 (D.C. Cir. 1959). In that case, the Commission asserted jurisdiction over East Ohio Gas Co., under Section 1 (b) of the Act, on the ground that it was transporting natural gas in interstate commerce. East

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Ohio owned and operated a natural gas system located solely in Ohio. Most of the gas received by East Ohio was supplied from out-of-state sources by Panhandle Eastern Pipe Line Co. and Hope Natural Gas Co., an affiliate of East Ohio. East Ohio's lines were connected with the interstate pipelines in Ohio. East Ohio transported all the gas so received to local distribution systems in Ohio. The Supreme Court sustained the Commission's assertion of jurisdiction over East Ohio holding that East Ohio's transportation of gas entirely within the State of ultimate destination was transportation in interstate commerce subject to the Commission's jurisdiction.

In this context, the Hinshaw Amendment was designed to give back to the States the regulation of natural gas transactions primarily of local concern which had been taken away from them by East Ohio. Indeed, the Commission itself favored the Bill since it stated that no "good purpose is seen for the imposition of Federal regulation in addition to that provided under State laws where only one State is affected . . ."

Through Section 1(c) Congress returned to the States the regulation of systems which received, transported and consumed gas wholly within one state because it believed that

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when only one state was affected, it was a matter "primarily of local concern" which the State Commission would be in the best position to regulate. This Congressional policy was consistent with the Congressional policy underlying the Act itself that Commission regulations should complement and not supplant State regulation of the natural gas industry within the states

themselves. Panhandle Eastern Pipe Line Company vs. Public Service Commission of Indiana, supra at 520.

The fact that the Louisiana Public Service Commission does not regulate direct sales of natural gas to industry by virtue of Article VI, Section 4 of the Louisiana Constitution does not create a "regulatory gap." The intentment of the statutory language and the legislative history of the Hinshaw Amendment indicates that the Congress was concerned only that the State Commissions exercise jurisdiction over the rates and charges which would otherwise have been regulated by the Federal Power Commission. It did not require that the State Commissions also regulate those rates and charges which are not subject to FPC regulation in any event. In enacting Section 1(c), Congress was concerned that resale rates and services be regulated by the State Commissions since direct sales, such as industrial gas sales, and

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the local distribution were already exempt under Section 1(b) of the Act.

The Louisiana Public Service Commission regulates resale rates under Article VI, Section 4 of the Louisiana Constitution and under Sections 301 and 302 of the Louisiana Revised Statutes, which provide that the:

"transportation or sale of natural gas by pipe lines to local distributing systems for resale is affected with a public interest and such pipe lines, appurtenances and facilities to the extent of such transportation or sales are public utilities subject to the jurisdiction of the Louisiana Public Service Commission" (Section 301); and the,

"Commission shall supervise, govern, regulate, and control the transportation or sale of natural gas moving by pipe line to local distributing systems for resale for the purpose of fixing and regulating the rates charged and the service furnished by such public utilities in connection with such transportation or sale" (Section 302).

There would be no "regulatory gap" created by the exemption of industrial gas sales from the jurisdiction of the Louisiana Public Service Commission because the Federal Power Commission could not regulate rates for direct industrial gas sales in any event. See, for example, Federal Power Commission vs. Louisiana Power & Light Company, 406 U.S. 621 (1972); Panhandle Eastern Pipe Line Company vs. Public Service Commission of Indiana, supra; Federal Power Commission vs. Transcontinental

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Gas Pipe Line Corporation, 365 U.S. 1, 23 (1961); Panhandle Eastern Pipe Line Company vs. Michigan Public Service Commission, 341 U.S. 329 (1951). Accordingly, the provisions of the

Hinshaw Amendment are inapplicable to industrial gas sales, which are exempt from regulation by the Federal Power Commission by virtue of Section 1(b) of the Act. There is simply nothing in the amendment, or its legislative history, which imposes a requirement that a state must regulate activities which are exempt from Commission jurisdiction under Section 1(b) of the Act, in order for Section 1(c), the Hinshaw Amendment, to be applicable. Likewise, there is no legal basis whatever for the assertion of FPC jurisdiction over a purely intrastate system. Such a system is clearly exempt from regulation by the FPC and, accordingly, is in no need of a "Hinshaw exemption." Hence the fact that an industrial gas sale from an intrastate pipeline is not regulated by the Louisiana Public Service Commission cannot be construed as a "regulatory gap" to which the FPC would assert jurisdiction.

With regard to those interstate systems that are regulated by the FPC and desire to take advantage of the Hinshaw Amendment, it should be noted that Section 1(c) does not require

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that a State regulate all rates and services before a system may qualify for a "Hinshaw exemption."

Under the primary rule of statutory construction - reference to the express language of Section 1(c) - there is no requirement that the State Commission must regulate all rates of the exempt company. Section 1(c) provides that the Act shall not apply to any person engaged in either of two expressly stated activities; namely "the transportation in interstate commerce or the sale in interstate commerce for resale of natural gas." These are the two activities which otherwise would be subject to the Federal Power Commission's jurisdiction under Section 1(b). No mention is made of other activities, such as direct sales which are exempt under Section 1(b). Notably, the limiting provision of Section 1(c) immediately following the description of the acts which shall be exempt requires only "...that the rates and service of such person and facilities be subject to regulation by a State commission." There is no requirement that "all" of the rates and services of the exempted company be subject to state regulation. Yet, the Commission's strained interpretation would read that word into the Act. Since the plain language of Section 1(c) does not include the provision which the Commission would now supply, normal statutory construction rejects the Commission's

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argument.

Further, aside from the language of the Act, it is clear

that Congress was only concerned that the State Commissions regulate resale rates and services, which would otherwise have been subject to the Commission's jurisdiction, not direct sale rates which are beyond the Commission's jurisdiction in any event. When Congress enacted the Act in 1938, it created a Federal Commission empowered to regulate those matters in interstate commerce in natural gas which were beyond the reach of the states, i.e., sales in interstate commerce of natural gas for resale. The regulation of direct industrial rates was considered by Congress to be a matter primarily of local concern. Panhandle Eastern Pipe Line Company vs. Public Service Commission of Indiana, *supra*.

Thus, in Section 1(b), Congress expressly exempted direct sale rates from the Commission's jurisdiction and recognized that direct sale rates were subject to regulation by the states, not the federal government. Being subject to state regulation, the states were free to regulate, or not to regulate, the rates for such sales as they saw fit because they were matters primarily of local concern to the states. That was the basis upon which the Natural Gas Act was enacted.

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In 1954, by virtue of Section 1(c), Congress exempted from Commission jurisdiction certain transportation of natural gas in interstate commerce and certain sales in interstate commerce of natural gas for resale, because Congress believed that, under the conditions outlined in the Amendment, such transportation and sales for resale were, like direct industrial sales, matters primarily of local concern. The 1954 Amendment did not give to the Commission authority to regulate the rates for direct industrial sales, nor did it require that the states regulate direct sale rates before the exemption would apply. Stated differently, under the Hinshaw Amendment, Congress did not change its earlier stated policy that the regulation of direct sale rates is a matter primarily of local concern which the states may regulate as they determine to be in their best interest.

In closing it is respectfully submitted that Article VI, Section 4 of the Louisiana Constitution, exempting industrial sales of natural gas from the jurisdiction of the Louisiana Public Service Commission, is compatible with the provisions of the Hinshaw Amendment to the Natural Gas Act and does not "invite" FPC regulation of such sales, since industrial gas sales, in the first place, are not under the jurisdiction of the Federal Power Commission by virtue of the provisions of Section 1(b) of the

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Act. Accordingly, the assertion that the Federal Power Commis-

slon may acquire control or jurisdiction over interstate or intrastate pipelines because of a "regulatory gap" is without legal merit and has no bearing on the question of whether the constitutional exemption should be retained.

STATEMENT BY TEXACO INC. BEFORE THE
EXECUTIVE DEPARTMENT COMMITTEE OF THE LOUISIANA
CONSTITUTIONAL CONVENTION IN SUPPORT OF
THE RETENTION OF THE PROVISIONS OF
ARTICLE VI, SECTION 4, OF THE LOUISIANA
CONSTITUTION OF 1921, AS AMENDED BY ACT 531 OF 1964

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for instance to generate electricity, or as a source of raw materials, the predominate use in Louisiana's vast petrochemical industry. On the other hand, natural gas is sold to residential and commercial consumers almost exclusively by public utilities under terms and conditions

PURPOSE: Constitutional exemption of all direct sales of natural gas to industrial users from regulation by the Louisiana Public Service Commission. The Committee is urged to preserve in the new Constitution the provisions of Article VI, Section 4, of the present Constitution.

BACKGROUND: Sales of natural gas to industrial users have historically been made not only by local distributing systems but also by other suppliers, such as pipeline companies and producers of natural gas, who sell under individually negotiated contracts. All suppliers have an opportunity to compete for this business in an unregulated marketplace. The Louisiana Public Service Commission under Article VI, Section 4, of the Louisiana Constitution has been and is currently restricted to the regulation of public utilities; and, as part of that authority, it regulates such areas as the sale or transportation of natural gas "by pipe line to local

regulated by the Louisiana Public Service Commission. Such regulation is necessary in the public interest, since residential and commercial consumers (i.e., such as grocery and department stores), because of the small volumes of their purchases, are not in a position to bargain with their supplier. Furthermore, that supplier is generally operating under an exclusive franchise. Industries, on the other hand, consume large volumes of gas, have adequate technical staffs, and are otherwise in a position to bargain with their suppliers. Historically, sales of natural gas to industrial users have been made not only by public utilities, but also by private suppliers, such as pipeline companies and producers of natural gas, who sell under individually negotiated contracts. All suppliers have an opportunity to compete for this business.

In 1921, the Louisiana Constitution granted the Public Service Commission jurisdiction over "gas . . . and other public utilities" operating in the State of Louisiana. Thus, the Commission had jurisdiction over sales to residential and commercial consumers (i.e., such

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distributing systems for resale." R.S. 47:301, et seq. It has never asserted, nor does it have, jurisdiction as a matter of law over industrial sales by pipeline companies and producers.

In order that the Committee may understand the desirability of this exemption, it is necessary for me to discuss briefly some of its background. Natural gas is sold essentially to two different types of customers or almost in two different markets. One class consists of domestic consumers and commercial consumers, such as grocery stores and department stores, which purchase relatively small quantities of natural gas, mainly for heating purposes. The other category of customers consists of industries who purchase much larger volumes of gas for use either for boiler fuel,

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as grocery and department stores) by franchised distributing companies since those suppliers held themselves out as willing, and were required, to sell gas to anyone wishing to purchase it in the vicinity of their distribution systems. Sales to industrial consumers, however, were also made by private suppliers such as pipeline companies and producers of natural gas, who sold to only individually selected customers under individually negotiated contracts. Therefore, producers of natural gas and pipeline companies, by not having held themselves out as willing to serve the public at large and not possessing any exclusive franchise or monopoly, they were clearly not within the classification of a public

utility subject to the Commission's jurisdiction. This was made clear by the Louisiana Legislature as early as 1946 when, in extending the Commission's jurisdiction to include sales "by pipe line to local distributing systems for resale," it specifically denied the Commission's "jurisdiction over direct industrial sales" by such pipelines. Act 373 of 1946, R.S. 45:301-303.

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In 1964, with the inauguration of former Governor John J. McKeithen, Louisiana redoubled its efforts to attract new industries, thereby creating new jobs and new payrolls. These industries and their potential suppliers wanted to be assured as to their right to bargain with respect to supplies of natural gas at competitive prices and not subject to change by regulation. Accordingly, the Legislature, in Act 531 of 1964, proposed a Constitutional Amendment providing that the "Commission shall have no power or authority to supervise, govern, regulate and control any aspect of sales of natural gas direct to industrial users for fuel or for utilization in any manufacturing process, whether such direct sales are made by natural gas producers, natural gas pipeline companies, natural gas distribution companies, or any other person engaging in the sale of natural gas." At the same time, by adopting a companion statutory amendment denying the Commission any jurisdiction over industrial gas sales, the Legislature reaffirmed the policy which it had previously adopted in 1946, Act 446 of 1964, R.S. 45:1163.

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The proposed Constitutional Amendment was submitted to the electorate on November 3, 1964, and it was adopted by over 48,000 votes. Thereafter, it materially assisted Louisiana in her efforts to attract new industries. I am attaching to the written copy of this statement, which I shall file, a copy of an advertisement published by Governor McKeithen in the September 21, 1964, issue of U. S. News and World Report. Among the four items listed by the Governor as having already attracted \$333,000,000 of new investment was this amendment, "[p]rohibiting intervention or control

of industrial gas negotiations and sales by state government . . .," in the words of the advertisement.

If Louisiana is to keep the industries that it attracted in the past, the jobs and payrolls that have resulted therefrom and attract new industry with comparable benefits to the State and its economy, appropriate incentives must be afforded. In the past, the adoption of such measures as tax credit for natural gas consumed by industry, equalization of industrial assessments, tax exemptions for new plants and equipment, and the creation of a climate which

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afforded a supply of natural gas at competitive prices both for fuel and for raw materials under long-range contracts not subject to change by regulation contributed to the attraction of new industry and the furnishing of its energy needs. The adoption of the aforementioned legislation and amendment to the Louisiana Constitution which, in effect, reaffirmed that all sales of natural gas to industrial users were not subject to regulation by the Public Service Commission was a major incentive which contributed immeasurably to such objectives.

Another reason for maintaining the Constitutional provision as presently drafted is to provide incentives that encourage the exploration for and development of our petroleum resources, the use of natural gas as a clean fuel, and result in meaningful and constructive solutions to the natural gas shortage in Louisiana. The concerns which presently exist at the Executive level of government with respect to this gas shortage in Louisiana is evidenced by the recent formation of a State Gas Energy Committee by Governor Edwin Edwards. The primary purposes and objectives of the Governor's Committee are to explore for and arrive

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at meaningful and constructive solutions to the natural gas supply problems. However, such meaningful and constructive solutions cannot be achieved if the private sector of the petroleum industry is impeded or delayed in its efforts by being confronted with combination of economic, technical, regulatory and ecological problems. The failure to retain Article VI, Section 4, of the Louisiana Constitution, as amended by Act 531 of 1964, could result in such an impediment to such solutions.

Under the free market ^{market} fostered by the existing provisions of the Constitution, Texaco, which produces 20% of the gas in Louisiana, has installed an extensive intrastate gas gathering and distribution system. In that system, we furnish 41% of the total gas requirements of Louisiana industry.

It is, therefore, submitted that if we are to reach meaningful and constructive solutions to the natural gas shortage in Louisiana, sustain the energy needs of existing industries, attract to the State new industries with additional jobs and payrolls, and provide incentives

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that encourage the exploration for and development of the State's petroleum resources, natural gas must be permitted to compete freely in the intrastate industrial marketplace on the basis of its usable energy content, cleanliness, and other values. The regulation of the sale of natural gas to industrial users would not be consonant with these objectives. Rather, it would be counterproductive.

CONCLUSION:

We respectfully recommend, therefore, that the provisions of Article VI, Section 4, exempting industrial gas sales from regulation by the Public Service Commission be retained in any new Constitution.

STATEMENT FOR RETENTION IN THE CONSTITUTION OF THAT PART OF ARTICLE VI, SECTION 4 PERTAINING TO DIRECT SALES OF NATURAL GAS TO INDUSTRIAL USERS

The Mid-Continent Oil and Gas Association supports the retention of that part of Article VI, Section 4 of the Louisiana Constitution, which part provides that the Public Service Commission "shall have no power or authority to supervise, govern, regulate, and control any aspect of sales of natural gas direct to industrial users for fuel or for utilization in any manufacturing process, whether such direct sales are made by natural gas producers, natural gas pipeline companies, natural gas distribution companies, or any other person engaging in such sale of natural gas."

This trade association represents those companies and individuals responsible for the production, transportation, marketing and refining of over 92% of the gas and oil produced in this state, and while there may be a few members of this association who do not agree with this statement, we feel that this reflects the opinion of the great majority of our members.

The above-quoted Constitutional provision which was adopted in 1964 merely reaffirms what has been the practice and tradition within

the State of Louisiana with regard to industrial gas sales. Sales of natural gas to industrial users have historically been made not only by local distributing systems but also by other suppliers such as pipeline companies and producers of natural gas who sell under individually negotiated contracts. All suppliers have an opportunity to compete in this business.

The Louisiana Legislature, as early as 1960, in extending the Commission's jurisdiction to include sales "by pipeline to local distributing systems for resale," specifically denied the Commission's jurisdiction over direct industrial sales "by such pipeline." The purpose of the 1964 amendment was to extend this jurisdiction to

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question that industry may negotiate freely for the purchase of natural gas for use as boiler fuel or as a source of raw materials without fear of intervention or control of industrial gas negotiations and sales by State Government. This protection is needed more than ever in this period of short supplies.

Historically, sales of gas by public utilities to commercial and household consumers have been subject to governmental regulation. Such regulation has been justified as being in the public interest, since the commercial and household consumer is not in a position to bargain for price when purchasing from a franchised monopoly or public utility. A public utility gives up its right to set its own prices in return for the exclusive right to sell to commercial and household consumers without competition in a given area.

However, an industrial user, unlike the commercial and household consumer, is staffed with technical personnel, and is otherwise in a position to bargain for a competitive price with those furnishing gas or to seek alternate fuels if the price gets too high or the shortage too severe. This alternative is not available to the commercial or household consumer. Accordingly, the rationale justifying governmental regulation of gas sales by public utilities to commercial and residential consumers is not present in such sales to industrial users. To the contrary, the reaffirmation that gas sales to industrial users are not subject to price regulation will enable an industrial user to bargain with all gas suppliers, rather than be "locked" to one supplier.

In our opinion the Constitutional provision tends to encourage the further exploration for and development of the State's petroleum resources and thereby assist in alleviating the natural gas shortage in Louisiana. State regulation of industrial gas sales would be counterproductive and would be in the public interest.

Such regulation would remove a primary incentive to further exploration, development, and sale of gas in this state in a competitive and free market.

We respectfully recommend, therefore, that the provisions of Article VI, Section 4, exempting industrial gas sales from regulation by the Public Service Commission be retained in any new Constitution.

NOTES
Executive Committee Minutes of July 26, 27, 1973 are omitted. On these days the committee met jointly with the Committee on Natural Resources. Minutes for those dates are reproduced below with the Minutes of the Committee on Natural Resources.

MINUTES

Minutes of the meeting of the Executive Department Committee of the Constitutional Convention of 1973

Held pursuant to notice given by the Secretary in Accordance with the Rules of the Convention

State Capitol, Baton Rouge, Louisiana
Tuesday, July 31, 1973, 5:00 p.m.

Presiding: Tom Stagg, Chairman of the Executive Department Committee

Present:

Mack Abraham
Greg Arnette, Jr.
Joseph E. Anzalone, Jr.
Emmett Asseff
Hilda Brien
Moise W. Dennery
Stanwood R. Duval, Jr.
Camille F. Gravel, Jr.
Tom Stagg
James L. Stovall

Absent:

Avery C. Alexander
Elmer R. Tapper

The committee began discussion on Committee Proposal No. 4, in order to obtain suggestions from committee members on the presentation of the proposal on the convention floor.

It was decided that dual officeholding, code of ethics, and impeachment would be deleted from the title.

The staff distributed a digest of Committee Proposal No. 4 to the committee.

Discussion ensued on each section of Committee Proposal No. 4. The following is a list of sections and committee members who will offer amendments on the floor of the convention:

- Section 2 - Mr. Duval will offer an amendment for page 1, lines 29 and 31
- Section 4(D) - Mr. Abraham will offer an amendment to delete the section; Mr. Arnette stated that the punctuation is poor
- Section 5(A) - Reverend Stovall stated that he has some objection to the section and may write an amendment to change the language
- Section 5(D) - Mr. Duval will amend to delete part of line 28 and all of line 29 on page 3

Section 5(F) - Dr. Asseff will offer an amendment; Mr. Arnette will amend to delete the last sentence on page 4

Section 5(G) - Mr. Abraham is assigned to write an amendment so that the language will conform to that already adopted by the convention

Section 5(H) - Mr. Duval will amend to change the title to Item Veto; Dr. Asseff will amend to strike Section 5(H) (2)

Section 5(I) - Mr. Abraham will amend lines 4 and 8 on page 5; Mr. Arnette will prepare an amendment

Section 5(L) - Reverend Stovall offered a motion to delete. It was the consensus of the committee that this section be deleted; Mr. Abraham will prepare the amendment

Section 6 - Mr. Anzalone will offer an amendment to delete the entire section

Section 7 - Mr. Anzalone will offer an amendment

Section 10 - Dr. Asseff will offer an amendment; Mr. Dennery will offer an amendment on the number of years the attorney general must have practiced law

Section 11 - Mr. Anzalone and Dr. Asseff will offer amendments to add other statewide elected officials; Mr. Duval will offer an amendment to omit "remaining" on page 8, line 9, and insert "remainder of the"


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Section 17 - Mr. Abraham will offer an amendment so that the presiding officer of each house shall convene the legislature

Section 19 - Mr. Duval will offer an amendment; Mr. Dennery will offer a floor amendment to delete

Mr. Anzalone offered the motion to adjourn. Mr. Duval offered the substitute motion to recess until 9:00 a.m., Thursday, August 2, 1973. The substitute motion carried.

There being no further business, the committee recessed.


Tom Stagg, Chairman of the Committee on Executive Department

MINUTES

Minutes of the meeting of the Executive Department Committee of the Constitutional Convention of 1973

Held pursuant to notice given by the Secretary of the Convention in Accordance with the Rules of the Convention

State Capitol, Baton Rouge, Louisiana
Thursday, August 2, 1973, 9:30 A.M.

Presiding: Tom Stagg, Chairman of the Executive Department Committee

Present:

Mack Abraham
Avery C. Alexander
Joseph E. Anzalone, Jr.
Greg Arnette, Jr.
Emmett Asseff
Moise W. Dennery
Stanwood R. Duval, Jr.
Camille F. Gravel, Jr.
Tom Stagg
James L. Stovall

Absent:

Hilda Brien
Elmer R. Tapper

The roll was called and a quorum was present.

Mr. Anzelone offered the motion to approve the minutes.

There being no amendments to the minutes, the motion carried.

The staff distributed copies of Committee Proposal No. CC-1161. After brief discussion, the committee decided that the title be changed to Code of Ethics; Board of Ethics.

Mr. Gravel offered the motion that "The legislature shall enact a code of ethics prohibiting conflict between public duty and private interests of all employees and officials of the state and its political subdivisions." The motion carried with a vote of eight (8) in favor and one (1) against. Dr. Asseff opposed the motion.

Mr. Gravel offered the motion that on page 1, line 19, strike "No more than" and insert in lieu thereof "At least". After discussion Mr. Gravel withdrew the motion.

Dr. Asseff suggested that each member state his position on the subject and it then be voted on.

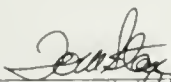
Mr. Duval stated that he is firmly against structuring this board in the constitution, and further stated that he would prefer to see the board placed in the statutes.

Mr. Gravel stated that he believes the board of ethics should be in the constitution.

Mr. Gravel offered the motion that in Section 1 (B), on line 19, the words "No more than" be deleted and the words "At least" be inserted; on line 23 after the word "and" the word "elected" be deleted; on line 23, after "officials" insert "of the state and its political subdivision"; line 22, after "ethics" delete the remainder of the sentence and also delete lines 23, 24, and the first word in line 25. After discussion, the motion by Mr. Gravel failed with a vote of four (4) in favor and five (5) against.

Mr. Gravel offered the motion to reconsider the vote on his motion at a later date. The motion carried with a vote of six (6) in favor and two (2) against.

Dr. Asseff offered the motion to adjourn. The motion carried. There being no further business, the committee adjourned at 11:50 a.m.


Tom Stagg, Chairman of the Committee
on Executive Department

NOTES

CC-1161 is omitted. See above, Vol. IV, where CC-1161 is reproduced as C.P.No. 22, printed.

MINUTES

Minutes of the meeting of the Committee on Executive Department of the Constitutional Convention of 1973

Held pursuant to notice given by the secretary in accordance with the rules of the Convention State Capitol, Baton Rouge, Louisiana Wednesday, August 8, 1973, 9:00 p.m.

Presiding: Tom Stagg, Chairman of the Committee on Executive Department

Present

Mack Abraham
Tom Stagg
Joseph E. Anzelone
Greg Arnette, Jr.
Emmett Asseff
Hilda Brien
Moise W. Denney
Stanwood R. Duval, Jr.
Camille F. Gravel, Jr.
James L. Stovall
Elmer R. Tapper

Absent

Avery C. Alexander

The meeting was called to order and the roll was called.

Chairman Stagg suggested that the committee take up the various offices beginning with the superintendent of education. The staff distributed amendments to be discussed by the committee. The first proposed amendment was that concerning the superintendent of education. Mr. Gravel offered the motion that the amendment be inserted in Section 10. Several members recommended that this section be deferred until a later date.

Mr. Gravel suggested that the section read as follows:

"There shall be a department of education headed by the superintendent of education. The superintendent of education shall exercise such powers and perform such duties as may be provided by this constitution or by statute."

Chairman Stagg then introduced Mr. Gordon Flory, a member of the Committee on Education and Welfare. Mr. Flory stated that the duties of the superintendent of education should be described in the article on executive department. He further stated that the section is broad enough to allow the Committee on Education and Welfare to work within its framework.

After discussion, Mr. Arnette offered the substitute motion to pass over the section until the committee presents its proposal to the convention. The roll was called and the substitute motion failed with a vote of six (6) nays and four yeas. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Arnette	Abraham
Asseff	Anzelone
Duval	Brien
Stovall	Denney
	Gravel
	Tapper

Mr. Anzelone offered the substitute motion to leave the section as it is originally in the proposal. The substitute motion failed with a vote of seven (7) nays and three (3) yeas. The following is a list of the roll call vote:

Yeas

Abraham
Anzalone
Dennery

Nays

Arnette
Asseff
Brien
Duval
Gravel
Stovall
Tapper

Mr. Dennery offered an amendment to Mr. Gravel's motion which reads as follows:

"The department shall exercise such functions and the superintendent shall exercise such powers and perform such duties as may be provided by this constitution or by statute."

Mr. Gravel accepted the amendment. The vote was called on Mr. Gravel's motion. The motion was adopted with a vote of five (5) yeas and five (5) nays. Chairman Stagg broke the tie vote by voting in favor of the motion. The following is a list of the roll call vote:

Yeas

Abraham
Anzalone
Brien
Dennery
Gravel
Stagg

Nays

Arnette
Asseff
Duval
Stovall
Tapper

Mr. Gravel offered the motion to proceed with the secretary of state, which is pending before the convention. Reverend Stovall seconded the motion. The motion carried.

The staff distributed a proposed amendment on the secretary of state. Dr. Asseff explained the amendment and moved for its adoption.

Mr. Arnette moved that the committee hear from anyone who wished to speak on the matter. The motion carried.

3

Chairman Stagg introduced the Honorable Wade O. Martin, Jr., Secretary of State. Mr. Martin explained to the committee how his office operates and stated that by taking the duties of elections out of the hands of the secretary of state, there would be a great loss of efficiency, integrity of the ballot, and a small loss of employment but would require the hiring of technicians - the expenditure of a tremendous sum of money. A copy of Mr. Martin's presentation is attached hereto and made a part of these minutes.

Following Mr. Martin's presentation, Chairman Stagg read from a letter addressed to the committee from Mr. Douglas Fowler, Custodian of Voting Machines. A copy of that letter is attached hereto and made a part of these minutes.

Chairman Stagg introduced Mr. Russell Gaspard of the Board of Registration. Mr. Gaspard stated that he thought one agency should be responsible for all election procedures. Mr. Gaspard further stated that he does not object to the amendment pending before the committee.

Reverend Stovall offered the substitute motion to refer the matter to the convention sitting as a committee of the whole.

Mr. Gravel moved the previous question on the entire subject matter. The motion failed with a vote of five (5) nays, four (4) yeas, and one (1) abstention. The following is a list of the roll call vote:

4

Yeas

Asseff
Brien
Duval
Gravel

Nays

Abraham
Arnette
Dennery
Stovall
Tapper

Abstentions

Anzalone

Mr. Arnette offered a substitute motion to omit the following from the proposed amendment:

"except for those relating to voter registration and voting machines;"

The substitute motion failed with a vote of seven (7) nays and two (2) yeas. The following is a list of the roll call vote:

Yeas

Arnette
Tapper

Nays

Abraham
Anzalone
Asseff
Brien
Dennery
Duval
Gravel

The committee then voted on the original motion by Dr. Asseff to adopt the following amendment:

"the secretary of state, who shall promulgate all election returns; administer the election laws except for those relating to voter registration and voting machines; administer"

The motion carried with a vote of seven (7) yeas and two (2) nays. The following is a list of the roll call vote:

Yeas

Abraham
Anzalone
Asseff
Brien
Dennery
Duval
Gravel

Nays

Arnette
Tapper

5

The staff distributed a proposed amendment to the committee concerning the commissioner of elections. Dr. Asseff explained the amendment and moved for its adoption. Mr. Gravel offered an amendment that after the word "duties" the words "in relation thereto" be inserted. Dr. Asseff accepted the amendment.

Mr. Duval offered the substitute motion that the following be adopted:

"There shall be a state commissioner of elections who shall administer the laws relative to voting machines and voter registration. He shall have other powers and perform other duties as provided by statute." Mr. Abraham asked that Mr. Duval amend the motion to insert "in relation thereto". Mr. Duval accepted the amendment.

The substitute motion failed with a vote of six (6) nays and four (4) yeas. The following is a list of the roll call vote:

Yeas

Abraham
Arnette
Brien
Duval

Nays

Anzalone
Asseff
Dennery
Gravel
Stovall
Tapper

Dr. Asseff stated that he did not wish to add the Gravel amendment to his amendment.

Mr. Gravel offered the substitute motion that the words "relative thereto" be inserted in the Asseff amendment. The substitute motion failed with a vote of six (6) naya, three (3) yeas, and one (1) abstention.

6

The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham Brien Gravel	Anzalone Asseff Dennery Duval Stovall Tapper	Arnette

Representative Tapper offered the substitute motion that the following be adopted:

"There shall be a custodian of voting machines appointed by the governor, whose office shall be in the secretary of state's office."

Mr. Anzalone moved the previous question. There being no objection, the previous question was ordered.

The substitute motion failed with a vote of six (6) nays, two (2) yeas, and two (2) abstentions.

The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Stovall Tapper	Abraham Anzalone Asseff Brien Duval Gravel	Arnette Dennery

The committee then voted on the amendment offered by Dr. Asseff. The amendment reads as follows:

"There shall be a department of elections headed by the state commissioner of elections who shall administer the laws relative to voting machines and voter registration. He shall have such other powers and perform such other duties as may be provided by statute."

The motion carried with a vote of five (5) yeas and three (3) nays. The following is a list of the roll call vote:

7

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham Anzalone Asseff Brien Gravel	Duval Stovall Tapper	Arnette Dennery

A proposed amendment by Dr. Asseff relative to the powers and duties of the commissioner of agriculture was distributed among the committee members. Dr. Asseff explained the amendment and then moved for its adoption. Mr. Robert Munson was introduced and spoke on behalf of the amendment.

Mr. Gravel and Mr. Dennery offered the following amendment, and moved for its adoption:

"There shall be a department of agriculture headed by the commissioner of agriculture who shall exercise all functions of the state in relation to the promotion, protection, and advancement of agriculture, except such functions expressly allocated by this constitution or by statute to other state agencies. The department shall exercise such functions and the commissioner shall have such other powers and perform such other duties as may be authorized by this constitution or by statute."

The substitute motion carried with a vote of five (5) yeas and four (4) nays. The following is a list of the roll call votes:

<u>Yeas</u>	<u>Nays</u>
Abraham Brien Dennery Gravel Stovall	Anzalone Arnette Asseff Duval

8

Dr. Asseff offered the motion to adjourn. The motion failed with a vote of six (6) against and two (2) in favor of the motion.

The committee began discussion on the commissioner of insurance.

Reverend Stovall offered the motion that the following language be adopted:

"There shall be a department of insurance headed by the commissioner of insurance. The commissioner of insurance shall have such powers and perform such duties as may be provided by statute."

Mr. Arnette offered a substitute motion that the following amendment be adopted without changes:

"There shall be a department of insurance headed by the commissioner of insurance, who shall administer the insurance code, the rate-making, and regulatory functions related to insurance in all of its phases, and shall have such other powers and perform such other duties as may be authorized by this constitution or by statute." The following roll call vote was taken:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Anzalone Arnette	Abraham Brien Dennery Gravel Stovall	Asseff Duval

Mr. Dennery and Mr. Gravel offered the following amendment and moved for its adoption:

"There shall be a department of insurance headed by the commissioner of insurance, who shall administer the insurance code. The department shall exercise such functions

9

and the commissioner shall have such other powers and perform such other duties as may be authorized by this constitution or by statute." The motion carried with a vote of four (4) yeas and three (3) nays. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Brien	Abraham	Asseff
Denberry	Anzalone	Duval
Gravel	Arnette	Tapper
Stovall		

Mr. Arnette offered the motion for adjournment and the motion carried.

There being no further business, the committee adjourned.


 Tom Stagg, Chairman of the Committee
 on Executive Department



DOUGLAS FOWLER STATE CUSTODIAN OF VOTING MACHINES

BOX 44089 CAPITOL STATION BATON ROUGE LOUISIANA 70804 388 2521

August 8, 1973

Honorable Tom Stagg
 Chairman, Executive Committee
 CC/73

Dear Mr. Stagg:

I deeply regret that I am unable to be present with you and your Committee today due to circumstances beyond my control.

I ask that you please read the enclosed statement to the Committee.

Thank you and with most kind personal regards, I am

Sincerely,

 Douglas Fowler

DF:brh

THIS IS YOUR OFFICE ... WE ARE HERE TO SERVE YOU ...



DOUGLAS FOWLER STATE CUSTODIAN OF VOTING MACHINES

BOX 44089 CAPITOL STATION BATON ROUGE LOUISIANA 70804 388 2521

Mr. Chairman and Members of the Committee:

This Convention was not called by Governor Edwards and the Legislature of the State of Louisiana to write a Constitution for one individual or for one organization. It was called to write a Constitution for all the people of the State of Louisiana.

You have worked long and hard for many months with little or no praise. You have been criticised and chastized for your actions by some groups, and I don't come here today to propose to insult your Intelligence by trying to tell you how to do your job of writing a new Constitution.

I give thanks to every member of this Committee and to all the delegates, for your untiring efforts and sacrifice that you have made in writing a new Constitution for this great State of ours.

THIS IS YOUR OFFICE ... WE ARE HERE TO SERVE YOU ...

SUMMARY OF STATEMENT OF WADE O. MARTIN, JR., SECRETARY OF STATE REGARDING THE PROPOSAL OF CAMILLE GRAVEL ET AL RELATIVE TO THE OFFICE OF SECRETARY OF STATE

The Issue

The proposal under consideration is the removal of all elections functions from the Secretary of State's office.

A true understanding of this issue must produce the conclusion that elections is one of the most important matters under consideration by the Constitutional Convention.

I have confidence in the integrity and fair-mindedness of the great majority of the delegates to this Convention, and yet I am fully aware that many delegates may not be in possession of the facts necessary to arrive at conclusions in the best interest of all the people.

In yesterday's State Times a quote from a great American historian, Will Durant, was apropos here. He said, "Great men speak to us only so far ... as we have in us the roots at least of that which flowers out in them." I am not a great man, but I will say that I have studied as a citizen, as a taxpayer, as a lawyer and as an elected official, the election machinery of this state and nation to where I am in possession of facts which I hope to bring out to all delegates who conscientiously want to accomplish the objectives of this Convention.

Convention Procedure

It is in a sense regrettable that efforts were made within a 24-hour period to push through this Convention with absolutely no committee hearing, and with no discussion before any committee, a matter as vital to all the people as the administration of election functions by the Secretary of State's office. I am grateful to the majority of the delegates for affording this opportunity to be heard, if not before the entire Convention, at least before a committee which has already emphatically expressed itself as being in favor of keeping those functions in the

-2-

Secretary of State's office.

Are We Seeking to Reflect the Desires of the People in This Convention?

The official and only completely reliable "poll" to me on the subject of what they approve or disapprove in elective offices is their reaction and their ballots at election time.

In the past eight elections, covering a span of 30 years, what greater approval of the functioning of an office could be given than to elect the chief administrator of that office by a majority of 572,868 votes in one election, and re-electing him without opposition in four others.

More than 50 per cent of the man hours of work in the Secretary of State's office, and at least three-fourths of the payroll, is devoted to payment of employees working full time or part-time every day during an election. The removal of those functions from that office would be nothing short of a criminal waste of efficiency and economy which has taken years to develop for the people of Louisiana. This would do complete violence to the wishes of the people as reflected in their votes in these elections.

In the Nation

The Secretary of State's office of Louisiana has served as a spokesman in the nation before Congressional committees and throughout the nation in matters involving the integrity of the ballot and maintaining the workability of the election procedures. While there is always room for improvement, Louisiana's procedures are being recognized as among the best in the nation through its office of Secretary of State.

Why Is the Present Functioning of Elections Administration in the Secretary of State's Office So Efficient?

As reported previously, the Convention delegates, the Secretary of State's office with some 70 employees in the Secretary of State's office proper, some 17 different functions all having peak loads of various times are operated efficiently, including elections and related matters, with an interchange of employees under close supervision so that there is an efficient and economical flow of work.

In addition to those occupied full time in election matters the same lawyers, accountants, supervisors, ballot experts, proof readers, and so forth, are all utilized to the fullest advantage. To create a separate department solely to handle election matters would reduce the required personnel in the Secretary of State's office by very little, but would require the employment of technicians - the expenditure of a tremendous sum of money. This would be a fantastic waste of taxpayers' money and a reduction in efficiency because it would be creating a new organization with new administrators and personnel at the most critical time in the election history of this state, nation and the free world.

Why Is This Such A Critical Time?

Granted that no one is indispensable, yet it is quite obvious the changing a crew on a 747 loaded with passengers while in mid-air from a proven experienced, qualified crew to a new one recruited from untrained and unproven passengers would be unthinkable.

Today both the practical workings and the integrity of the election process are in serious jeopardy. In the field of elections, which formerly depended on state regulation only, many adjustments are necessarily being made at the present time as a result of the entry into the field of acts of Congress, the Federal court decisions, the United States Attorney General, who is required to participate in the approval or disapproval of all Louisiana rules and regulations with regard to election and registration and interpretation by Federal agencies, all which have the effect of law.

The adjustment to all these changing conditions, including reapportionment, thoroughly justifies the utilization at this particular time of the expertise and knowledge available in a proven office of elections.

Do the Objectives of this Convention Truly include "Consolidating" State Government and Producing Economy and Efficiency?

At least in the beginning, it was my understanding that two of the objectives of this Convention were to consolidate agencies and produce efficiency for the tax payers.

If this does indeed remain an objective, this Gravel-Kelly proposal does complete violence to both the concepts of consolidation and economy. There is no doubt in my mind that the people of Louisiana, whatever may be their feelings about existing statewide elected officials, would not expect and, thus far at least, do not desire the creation of additional statewide elected officials. As depicted herein, such a procedure, would be both inefficient and uneconomical.

In conclusion, the real issues here are plain.

(1) The preservation of the integrity and workability of the elections process in this state and nation.

On the integrity and workability of the elections process, this ballot is the pillar upon which the nation must stand or fall.

In Louisiana alone, there are 2587 precincts and in the last election, there were five (5) different sets of laws, rules and regulations to be observed and approximately 600 ballot changes in these 2587 precincts. A ballot change means that ballots must be prepared to conform so as to properly meet all the recent reapportioned districts as well as the proper arrangement of all statewide candidates and proposals.

A failure here could easily cause chaos and the failure of elections.

(2) Tax payers interest

Without reservation or restriction, my experience prompts me to say that the removal of the elections functions from the Secretary of State's office at this time would be a criminal waste of efficiency and would be a fantastic waste of tax payers money.

(3) What the Issue is not

In conclusion, the issue is not and cannot be personalities. The Constitution is being written for all the people of Louisiana. The people include our present

generation and the children of today, for whom we hope to leave something a little better than when we came.

MINUTES

Minutes of the meeting of the Committee on Executive Department of the Constitutional Convention of 1973

Held pursuant to notice given by the secretary in accordance with the rules of the Convention
State Capitol, Baton Rouge, Louisiana
Saturday, August 11, 1973, 9:00 a.m.

Presiding: Tom Stagg, Chairman of the Committee on Executive Department

<u>Present</u>	<u>Absent</u>
Mack Abraham	Jamea L. Stovall
Avery C. Alexander	
Joseph E. Anzalone	
Greg Arnette, Jr.	
Emmett Asseff	
Hilda Brien	
Moise W. Dennery	
Stanwood R. Duval, Jr.	
Camille F. Gravel, Jr.	
Tom Stagg	
Elmer R. Tapper	

The roll was called and a quorum was present.

Discussion was held on the action the committee should take since the executive proposal had failed to pass, and a motion to reconsider was pending.

The chairman introduced E.L. "Bubba" Henry, Chairman of the Constitutional Convention, and asked Chairman Henry to share his views on where the committee stands parliamentarily. Chairman Henry stated that the subject of elected versus appointed officials was more controversial than he thought it would be. Chairman Henry suggested that, unless the committee could arrive at a unanimous decision, the executive proposal should be left on the calendar and the convention proceed to consider the proposal on the Judiciary. He further stated perhaps the delegates could reach a compromise if they were given a little time. Chairman Stagg asked about the parliamentary procedure for leaving the proposal on the calendar. Chairman Henry stated the proposal is automatically referred back to the calendar.

Dr. Gerald N. Weiss, delegate on the Committee on Bill of Rights and Elections, spoke before the committee and offered a possible solution. Dr. Weiss suggested that the committee invite Governor Edwards to appear before the convention and state his opinions on the executive article.

After considerable debate, Mr. Arnette offered the motion to adjourn until Tuesday, August 14, at 5:00 p.m. the motion failed 7-2.

<u>Yeas</u>	<u>Nays</u>
Arnette	Abrsham
Asseff	Alexander
	Anzalone
	Brien
	Dennery
	Duval
	Tapper

Rep. Tapper offered the motion that the committee ask the

convention to vote on the issue of asking Governor Edwards to appear. Chairman Stagg asked Rep. Tapper to assume the chair. Mr. Stagg stated he was opposed to the motion. He pointed out that the committee has proven itself to be an independent group

-2-

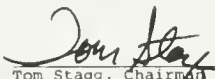
of individuals, each of whom has an opinion, or is capable of quickly forming one. Chairman Stagg further stated that he did not feel the governor would want to appear before the convention because the people would think that the convention was "Edwards oriented".

Senator De Blieux asked to speak before the committee. Senator De Blieux complimented the committee on a well-written article. He suggested that the proposal remain on the calendar. He further stated that he felt the governor should remain at arms length from the convention.

The vote was then called on the Tapper motion. The motion failed with a vote of 7 nays and 3 yeas.

<u>Yeas</u>	<u>Nays</u>
Alexander	Abraham
Brien	Anzalone
Tapper	Arnette
	Asseff
	Dennerly
	Duval
	Stagg

Delegate Asseff offered the motion to adjourn. The motion carried. There being no further business, the committee adjourned at 11:30 a.m.


 Tom Stagg, Chairman of Committee
 on Executive Branch

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The proposal providing for a code of ethics was discussed. Mr. Gravel offered the motion to adopt Section 1(B) with the amendment to make it applicable to state and local employees and officials.

Mr. Abraham offered the substitute motion that "The legislature shall create a board of ethics composed of seven members appointed by the governor under such nominating procedures as shall be provided by statute. Members shall serve for six year terms, and at least one member shall be appointed from each state supreme court district." Also, on line 22 after "ethics" delete the remainder of the sentence, on line 23, delete all of the sentence except "and", on line 24 after "duties" delete the remainder of the sentence, and on line 25, delete the sentence and insert in lieu thereof the words "as provided by statute."

Mr. Gravel moved the previous question on the Abraham substitute. There being no objection, the previous question was ordered.

The substitute motion failed.

Mr. Arnette offered the substitute motion that the section apply to all employees. After discussion, Mr. Arnette withdrew his substitute motion.

Mr. Duval offered the substitute motion to adopt Section 1(B) as previously amended, and delete sections (C) and (D). A roll call vote was taken and the substitute motion carried with a vote of 10 yeas and 1 abstention. The following is a list of the roll call vote:

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MINUTES

Minutes of the meeting of the Executive Department
 Committee of the Constitutional Convention of 1973

Held pursuant to notice given by the Secretary
 of the Convention in Accordance with the Rules
 of the Convention

State Capitol, Baton Rouge, Louisiana

Tuesday, August 14, 1973, 5:00 a.m.

Presiding: Tom Stagg, Chairman of the Executive Department
 Committee

Present:

Mack Abraham
 Avery C. Alexander
 Joseph E. Anzalone, Jr.
 Greg Arnette, Jr.
 Emmett Asseff
 Hilda Brien
 Moise W. Dennerly
 Stanwood R. Duval, Jr.
 Camille F. Gravel, Jr.
 Tom Stagg
 James L. Stovall
 Elmer R. Tapper

The roll was called and a quorum was present. Reverend Stovall offered the motion to adopt the minutes of August 2, 1973. The motion carried.

Dr. Asseff spoke on a point of personal privilege and requested that his name be removed from any proposal submitted by the Committee on Executive Department.

<u>Yeas</u>	<u>Abstentions</u>
Abraham	Asseff
Alexander	
Anzalone	
Arnette	
Brien	
Dennerly	
Duval	
Stagg	
Stovall	
Tapper	

The committee began discussion on the proposal relative to dual employment and dual officeholding. Copies of Delegate Proposal No. 11 by Mr. Duval were distributed. Reverend Stovall offered the motion to adopt the committee proposal on dual employment and dual officeholding.

Mr. Duval offered the substitute motion to adopt Delegate Proposal No. 11.

After discussion, the vote was called on the Duval substitute motion. The substitute motion failed with a vote of 8 nays, 3 yeas, and 1 abstention. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Alexander	Abraham	Asseff
Anzalone	Arnette	
Duval	Brien	
	Dennerly	
	Gravel	
	Stagg	
	Stovall	
	Tapper	

Mr. Abraham offered the substitute motion to delete Paragraph (C) of the committee proposal, and adopt the remainder of the provision changing (D) to (C). The substitute motion failed with a vote of 6 nays, 5 yeas, and 1 abstention. The following is a list of the roll call vote:

3

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham Brien Dennery Stagg Tapper	Alexander Anzalone Arnette Duval Gravel Stovall	Asseff

Mr. Arnette offered the substitute motion that on line 30 the words "policy making or" be deleted. The substitute motion failed with a vote of 5 nays, 4 yeas, and 3 abstentions. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham Arnette Brien Stagg Tapper	Alexander Anzalone Gravel Stovall	Asseff Dennery Duval

Mr. Anzalone offered the substitute motion to delete the word "such" in all instances in Section 1(A). The substitute motion failed with a vote of 6 nays, 5 yeas, and 1 abstention. The following is a list of the roll call vote:


<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Anzalone Arnette Asseff Stovall Tapper	Abraham Alexander Brien Dennery Gravel Stagg	Duval

Mr. Dennery moved the previous question. There being no objection, the previous question was ordered. The motion by Reverend Stovall carried with a vote of 9 yeas and 2 nays. The following is a list of the roll call vote:

4

<u>Yeas</u>	<u>Nays</u>
Alexander Anzalone Arnette Asseff Brien Dennery Duval Stagg Stovall	Abraham Tapper

There being no further business, the meeting adjourned at 8:35 p.m.


Tom Stagg, Chairman of the Committee
on Executive Department

NOTES

Draft of "Code of Ethics" amended this meeting is not found in the file of the committee. The resulting document is found, above Vol. IV, as C.P. No. 22, printed. D.P. No. 11 is reproduced, above Vol. IV.

MINUTES

Minutes of the meeting of the Executive Department Committee of the Constitutional Convention of 1973

Held pursuant to notice given by the Secretary of the Convention in Accordance with the Rules of the Convention

State Capitol, Baton Rouge, Louisiana
Wednesday, August 22, 1973, 5:30 p.m.

Presiding: Tom Stagg, Chairman of the Committee on Executive Department

Present:

Mack Abraham
Avery C. Alexander
Greg Arnette, Jr.
Emmett Asseff
Hilda Brien
Moise W. Dennery
Stanwood R. Duval, Jr.
Camille F. Gravel, Jr.
Tom Stagg
James L. Stovall

Absent:

Joseph Anzalone had an excused absence
Elmer R. Tapper

The roll was called and a quorum was present. The minutes of August 8, 1973, were distributed and Reverend Stovall offered the motion to approved the minutes. The motion carried. Mr. Arnette offered the motion that the minutes of August 11, 1973, be approved. The motion carried. Mrs. Brien offered the motion that the minutes of July 31, 1973, be approved. The motion carried.

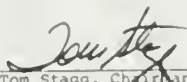
Discussion ensued on future meeting dates of the committee. It was decided that meetings would no longer be held after adjournment of the full convention.

Committee Proposal No. 19, providing for mandatory reorganization of state government was distributed. Mr. Arnette offered the motion to report the proposal favorably. After thorough discussion, Chairman Stagg recommended that the committee defer action until a later date. It was the consensus of the committee to dispense with action on Committee Proposal No. 19 until a later date. Mr. Arnette withdrew his motion.

Committee Proposal No. 22, relative to a code of ethics and a board of ethics was distributed. Mr. Dennery offered the motion to adopt the proposal. The committee unanimously voted to report the proposal favorably.

Committee Proposal No. 23 prohibiting dual employment and dual officeholding was distributed. Mr. Arnette offered the motion that the proposal be reported favorably. The motion carried with a vote of five (5) yeas and three (3) nays.

The committee adjourned at 6:45 p.m.


Tom Stagg, Chairman of the Committee
on Executive Department

MINUTES

Minutes of the meeting of the Executive Department Committee of the Constitutional Convention of 1973

Held pursuant to notice given by the Secretary in accordance with the rules of the Convention
 State Capitol, Baton Rouge, Louisiana
 Thursday, September 13, 1973, 9:00 a.m.
 Friday, September 14, 1973, 9:00 a.m.

<u>Yeas</u>	<u>Nays</u>
Arnette	Abraham
Duval	Alexander
Gravel	Brien
	Dennery
	Stovall
	Stagg

Presiding: Tom Stagg, Chairman of the Executive Department Committee

<u>Present</u>	<u>Absent</u>
Abraham	Anzalone
Alexander	
Arnette	
Asseff	
Brien	
Dennery	
Duval	
Gravel	
Stagg	
Stovall	
Tapper	

The roll was called and a quorum was present. Mr. Dennery offered the motion that the minutes of August 14, and August 22, 1973, be adopted. There being no objection, the motion was approved.

Discussion ensued on proposals relative to the Public Service Commission. Committee Proposal No. 5 was distributed and discussed. Mr. Duval offered the motion to adopt Section 1(A) as written. Mr. Abraham offered the substitute motion that the commission consist of eight members. Reverend Stovall moved the previous question. The previous question was ordered. The substitute motion failed with a vote of 8 nays and 2 yeas. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham	Alexander
Arnette	Asseff
	Brien
	Dennery
	Duval
	Gravel
	Stagg
	Stovall
	Tapper

The committee decided to discuss delegate proposals relative to the Public Service Commission, as well as the committee proposal. Reverend Alexander explained Delegate Proposal No. 19, by Delegate Velazquez and moved that it be reported favorably in lieu of Section 1(A) of Committee Proposal No. 5. Mr. Duval moved the previous question. The previous question was ordered. The substitute motion failed with a vote of 9 nays and 1 yeas. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Alexander	Abraham
	Arnette
	Asseff
	Brien
	Dennery
	Duval
	Gravel
	Stagg
	Stovall

Mr. Arnette offered a substitute motion to amend Committee Proposal No. 5 to provide for a three-member board. Mr. Dennery moved the previous question. The previous question was ordered. The substitute motion failed with a vote of 7 nays and 3 yeas. The following is a list of the roll call vote:

The vote was called on the motion by Mr. Duval to adopt Section 1(A) as written. By a show of hands, the motion was approved with a vote of 8 in favor of the motion and 1 opposed. Reverend Alexander opposed the motion.

Mr. Duval offered the motion to delete the word "other" in Section 1(B), lines 22 and 23. There being no objection, the motion was approved. Mr. Dennery offered the motion to adopt Section 1(B) as amended. Mr. Abraham offered the substitute motion that lines 23 through 26 of the Abraham Delegate Proposal be inserted in lieu of Section 1(B) of Committee Proposal No. 5. Mr. Gravel moved the previous question. The previous question was ordered. The substitute motion failed with a vote of 9 nays and 1 yeas. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham	Alexander
	Anzalone
	Arnette
	Asseff
	Brien
	Dennery
	Duval
	Gravel
	Stagg
	Stovall

Mr. Gravel offered the motion that on line 26, the word "presently" be deleted and the following be inserted: "on the effective date of this constitution". There being no objection, it was so ordered.

Mr. Arnette offered the substitute motion to adopt Section 1(C)

-3-

as amended. The motion carried unanimously.

Mr. Duval offered the motion that in Section 1(D), page 2, line 3, the word "six" be deleted and the word "twelve" be inserted in lieu thereof; also, that subsections 2 and 3 be deleted. Mr. Gravel moved the previous question. Reverend Stovall moved that the question be divisible. It was so ordered.

The vote was called on the motion to delete the word "six" and insert the word "twelve". The motion failed with a vote of 8 nays and 3 yeas. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham	Alexander
Arnette	Asseff
Duval	Brien
	Dennery
	Gravel
	Stagg
	Stovall
	Tapper

Mr. Duval withdrew the second part of his motion.

Mr. Gravel offered the motion to adopt Section 1(D) (1). It was decided that the section be deferred until after the discussion of subsections 2 and 3.

Reverend Alexander offered the motion to approve subsection 2. Mr. Gravel offered the substitute motion to amend subsection 2 on line 7 after the word "approved" insert a period

." and delete the remainder of the line and delete lines 8, 9, and part of 10, beginning with "may" and ending with "statute". The remainder of subsection 2 would become subsection 3, as follows: "If such proposed schedule results in a rate increase, it may be put into effect, subject to such protective bond or security requirements as may be provided by law pending final approval,

4

modification, or rejection." It was decided that Mr. Gravel's amendment should be typed and brought to the next meeting for further discussion.

The committee recessed at 12:00 p.m.

The committee reconvened on Friday, September 14, 1973, at 9:00 a.m. Present were Mr. Abraham, Rev. Alexander, Mr. Arnette, Dr. Asseff, Mrs. Brien, Mr. Dennery, Mr. Gravel, Mr. Stagg, Rev. Stovall. Absent were Mr. Anzalone, Mr. Duval, and Mr. Tapper. The order of business was the Gravel substitute motion. Mr. Gravel was unable to attend the first part of the meeting. Reverend Stovall offered the motion that the Public Service Commission be deferred until Mr. Gravel's arrival. The motion failed with a vote of 2 in favor of the motion, 4 opposing, and Mr. Dennery abstaining.

Mrs. Brien offered the motion that on line 14, after the word "resort" the following be deleted: "to cover refund that may be finally directed." The motion carried with a vote of 4 in favor of the motion and 2 opposing.

Mr. Dennery offered the motion that on line 15, the word "therefor" be deleted. There being no objection, the motion carried.

The vote was taken on the Gravel amendment. A copy is attached hereto and made a part of these minutes. The amendment was adopted with a vote of 9 yeas, 2 nays, and 1 abstention. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham	Arnette	Asseff
Alexander	Duval	
Brien		
Dennery		
Gravel		
Stagg		
Stovall		
Tapper		

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Mr. Dennery offered the motion that the following be inserted at the end of Mr. Gravel's amendment:

"Refund claims shall be filed within the time and in the manner as provided by law." Reverend Stovall called the previous question. There being no objection, the previous question was ordered. The motion carried unanimously. Mr. Gravel offered the motion that the words "and disposed of" be inserted after "filed" and delete the remainder of the sentence and insert "as provided by law." in the Dennery amendment. The motion carried unanimously. A copy of Mr. Dennery's amendment is attached hereto and made a part of these minutes. Mr. Dennery moved that on page 2, line 5, after the word "If" the word "its"

be deleted and "a" be inserted in lieu thereof. There being no objection, the motion carried.

Reverend Stovall moved that Committee Proposal No. 5 be reported with amendments. Reverend Alexander moved the previous question. The previous question was ordered. The motion carried with a vote of 6 in favor of the motion and 1 opposing. Mr. Abraham opposed the motion.

Mr. Gravel offered the motion that Delegate Proposal No. 19 be reported unfavorably. The motion carried with a vote of 7 yeas and 1 nay. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham	Alexander
Asseff	
Brien	
Dennery	
Gravel	
Stagg	
Stovall	

Mr. Gravel offered the motion that Delegate Proposal No. 68 be reported unfavorably. The motion carried with a vote of

-6-

7 yeas and 1 nay. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Alexander	Abraham
Asseff	
Brien	
Dennery	
Gravel	
Stagg	
Stovall	

Delegate Proposal No. 29, by Dr. Asseff, CC-1212 by Mr. Dennery and Dr. Asseff, and CC-1212 by Delegate Abraham on reorganization were discussed. Dr. Asseff offered the motion that Delegate Proposal No. 29 be adopted with amendments. On line 33, after "the" and before "day" insert "ninetieth". Mr. Abraham offered the substitute motion that CC-1212 by Abraham be adopted. Mr. Gravel moved the previous question. The substitute motion failed with a vote of 2 yeas, 6 nays, and 1 abstention. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham	Alexander	Brien
Stovall	Arnette	
	Asseff	
	Dennery	
	Gravel	
	Stagg	

Mr. Gravel offered the amendment to Delegate Proposal No. 29 that after the word "twenty" the word "--five" be deleted. Dr. Asseff accepted the amendment.

Dr. Asseff offered the motion to report Delegate Proposal No. 29 by substitute. The motion carried with a vote of 8 yeas, and 1 nay. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Alexander	Abraham
Arnette	
Asseff	
Brien	


-7-

<u>Yeas</u>	<u>Nays</u>
Dennery	
Gravel	
Stagg	
Stovall	

Dr. Asseff offered the motion that on line 14, "(A)" be deleted and "(B)" be inserted, and on line 28, "(B)" be deleted and "(A)" be inserted in lieu thereof. The motion carried with a vote of 6 yeas and 1 nay. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham Alexander Asseff Brien Dennery Stagg	Stovall

Dr. Asseff offered the motion to adjourn. There being no further business, the committee adjourned at 11:30 a.m.


Tom Stagg, Chairman of the Committee
on Executive Department

(F) Appeals. Should the commission not render its decision within twelve months, an appeal may be taken, as if a decision had been rendered. Appeals may be taken by any party or interor and must be filed with the district court, within the time provided by law, at the domicile of the Public Service Commission, with a direct appeal to the Supreme Court, as a matter of right.

(2) If its decision is not rendered within six months from the filing date of any proposed rate schedule, it shall be deemed to be tentatively approved.

(3) If such proposed schedule results in a rate increase, it may be put into effect, subject to such protective bond or security requirements as may be provided by law pending final approval, modification or rejection. If the commission disapproves the proposed increase, in whole or in part, the carrier of utility may place or continue the schedule in effect under the bond or security, subject to any appeal and final action by a court of last resort, to cover any refund that may be finally directed. Refund claims shall be filed and disposed of as provided by law.

NOTES

The following Proposals are reproduced in Vol. IV, above:
C.P.No.5

D.P.Nos.19,29,68.

CC-1212 which follows is reproduced as found in the committee files.

CC-1212

- 1 Constitutional Convention of Louisiana of 1973
- 2 COMMITTEE PROPOSAL NO.
- 3 Introduced by Delegate Stagg, Chairman, on behalf of the
- 4 Committee on Executive Department, and Delegates
- 5 Abraham, Alexander, Anzalone, Arnette, Asseff, Brien,
- 6 Dennery, Duval, Gravel, Stovall, and Tapper

7

8

A PROPOSAL

9

10 Making provisions in the Schedule provisions of the con-
11 stitution for mandatory reorganization of the executive
12 branch of state government.

13 Be it adopted by the Constitutional Convention of Louisiana
14 of 1973:

15 ARTICLE XIV. SCHEDULE

16 Section 1. Mandatory Reorganization of State Govern nt

17 Section 1. (A) The legislature shall allocate, within
18 not more than twenty-five departments, the functions, powers,
19 duties, and responsibilities of all departments, offices,
20 agencies, and other instrumentalities within the executive
21 branch, except those allocated by this constitution. Such
22 allocation, which shall not be subject to veto by the governor,
23 shall become operative not later than December 31, 1976.

24 (B) Should the legislature fail to make such allocation,
25 the governor shall prepare and submit to the legislature at
26 its next session, regular or extraordinary, an allocation in
27 compliance with this section. The legislature, by a majority
28 vote of the elected members of each house, may disapprove
29 such plan but may not substantively amend it. In the event
30 the legislature does not disapprove the plan prior to the
31 sine die adjournment of the session of the legislature at
32 which submitted, the plan shall become effective at twelve
33 o'clock noon on the day following sine die adjournment.

MINUTES

Minutes of the meeting of the Executive Department
Committee of the Constitutional Convention of 1973

Held pursuant to notice given by the Secretary in
accordance with the rules of the Convention
State Capitol, Baton Rouge, Louisiana
Thursday, October 4, 1973, 9:00 a.m.

Presiding: Tom Stagg, Chairman of the Executive Department
Committee

Present:

Absent:

Abraham
Alexander
Anzalone
Arnette
Asseff
Brien
Dennery
Duval
Gravel
Stagg
Stovall
Tapper

The roll was called and a quorum was present. The minutes for the meeting of September 13 and 14, 1973, were distributed and the following corrections were made:

- 1) on the last attachment, delete the last sentence, and insert in lieu thereof the words "Refund claims shall be filed and disposed of as provided by law."
- 2) on page 8, after the words "Dr. Asseff" delete the following: "offered a few technical amendments and also"

The minutes were approved with amendments.

Mr. Dennery offered the motion that Delegate Proposal No. 11 by Delegate Duval be reported unfavorably. The motion carried unanimously.

Mr. Dennery offered the motion that Chairman Stagg discuss with the Clerk of the Convention that corrections are needed on Committee Proposal No. 5 (reprinted as engrossed). The motion carried unanimously.

Mr. Kendall Vick spoke to the committee and urged that Delegate Proposal No. 96 be reported favorably. It was the consensus of the committee that those proposals dealing with the attorney general be discussed at this time. After discussion, Mr. Dennery offered the motion that Delegate Proposal No. 67 be reported favorably. The motion carried unanimously. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham	
Alexander	
Anzalone	
Arnette	
Brien	
Dennery	
Duval	
Stagg	

Dr. Asseff was not in the room during the roll call vote.

Mr. Abraham offered the motion that Delegate Proposal No. 71 be reported favorably. Mr. Dennery asked to hear from Mr. Vick on his suggestions concerning the attorney general. Mr. Vick stated that he would prefer to see the powers and duties of the attorney general in the executive article.

2

Reverend Alexander moved the previous question on the Abraham motion. The motion carried with a vote of 8 yeas, 1 nay, and 2 abstentions. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham	Asseff	Arnette
Alexander		Dennery
Anzalone		
Brien		
Duval		
Gravel		
Stagg		
Stovall		

Mr. Arnette offered the motion that Delegate Proposal No. 72 by Delegate Abraham be reported favorably. The motion carried with a vote of 9 yeas, 1 nay, and 1 abstention. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham	Asseff	Arnette
Alexander		
Anzalone		
Stovall		
Brien		
Dennery		
Duval		
Gravel		
Stagg		

Mr. Arnette offered the motion that Delegate Proposal No. 96 by Delegates Vick, Abraham, et al., be reported without action.

Mr. Gravel offered the substitute motion that Delegate Proposal No. 96 be reported with amendments. The substitute motion failed with a vote of 4 yeas, 5 nays, and 1 abstention. The following is a list of the roll call vote:

3

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham	Anzalone	Dennery
Alexander	Arnette	
Gravel	Asseff	
Stovall	Duval	
	Stagg	

The vote was called on the Arnette motion. The following is a list of the roll call vote. The motion carried with a vote of 6 yeas, 3 nays, and 1 abstention.

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham	Alexander	Dennery
Anzalone	Gravel	
Arnette	Stovall	
Asseff		
Duval		
Stagg		

Dr. Asseff offered the motion that Delegate Proposal No. 23, by Delegate Abraham, be reported favorably. The motion carried with a vote of 8 yeas and 1 nay. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Abraham	Duval	
Alexander		
Anzalone		
Arnette		
Asseff		
Dennery		
Stagg		
Stovall		

Reverend Stovall offered the motion that Delegate Proposal No. 64, by Delegate Toca, be reported without action. Mr. Duval offered the substitute motion that the proposal be reported unfavorably. The substitute motion carried with a vote of 5 yeas, 3 nays, and 1 abstention. The following is a list of the roll call vote:

4

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Anzalone	Abraham	Arnette
Asseff	Alexander	
Dennery	Stovall	
Duval		
Stagg		


Mr. Duval offered the motion that Delegate Proposal No. 26, by Delegate Newton, be reported unfavorably. The motion carried with a unanimous vote.

<u>Yeas</u>	<u>Nays</u>
Abraham	
Alexander	
Anzalone	
Arnette	
Asseff	
Dennery	
Duval	
Stagg	
Stovall	
Tapper	

Mr. Duval offered the motion that Delegate Proposal No. 4, by Delegates Womack, Asseff, and Lennox be reported unfavorably. The motion carried with a vote of 8 yeas and 1 nay. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham	Asseff
Alexander	
Anzalone	
Arnette	
Dennery	
Duval	
Stagg	
Stovall	

Mr. Arnette offered the motion to adjourn. There being no further business, the committee adjourned at 11:30 a.m.


 Tom Stagg, Chairman of the Committee
 on Executive Department

NOTES

D.P.Nos. 4,11,23,26,64,67,71,72,96 are omitted. See above Vol. IV, where they are reproduced.

MINUTES

Minutes of the meeting of the Executive Department
 Committee of the Constitutional Convention of 1973

Held pursuant to notice given by the Secretary
 in accordance with the rules of the Convention
 State Capitol, Baton Rouge, Louisiana
 Friday, October 5, 1973, 10:15 a.m.

Presiding: Tom Stagg, Chairman of the Executive Department
 Committee

<u>Present:</u>	<u>Absent:</u>
Abraham	Alexander
Anzalone	Duval
Arnette	Gravel
Asseff	
Brien	
Dennery	
Stagg	
Stovall	
Tapper	

The roll was called and a quorum was present. Dr. Asseff requested that the committee delay consideration of Delegate Proposals No. 51 and No.52. There being no objection, it was so ordered.

Delegate Proposal No. 24 was distributed and discussed. Representative Tapper offered the motion to report Delegate Proposal No. 24 without action. By a show of hands, the motion carried unanimously.

Delegate Proposal No. 12 was distributed. Mr. Dennery offered the motion that Delegate Proposal No. 12 be reported with amendments. The motion carried with a vote of 6 yeas and 3 nays. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Anzalone	Abraham
Arnette	Asseff
Brien	Stovall
Dennery	
Stagg	
Tapper	

Delegate Proposal No. 42 was distributed. Mr. Dennery offered the motion to report the proposal favorably. The

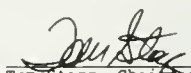
motion failed with a vote of 4 yeas and 4 nays. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham	Anzalone
Brien	Arnette
Stagg	Asseff
Tapper	Dennery

Dr. Asseff offered the motion that action be deferred on Delegate Proposal No. 42, by Delegates Dennery and Stovall. The motion carried with a vote of 6 yeas and 2 nays. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Anzalone	Abraham
Asseff	Arnette
Brien	
Dennery	
Stagg	
Tapper	

Mr. Dennery offered the motion to adjourn. There being no further business, the committee adjourned at 11:45 a.m.


 Tom Stagg, Chairman of the Committee
 on Executive Department

NOTES

D.P.Nos. 12,24,42,51,52 are omitted. See above Vol. IV, where they are reproduced.

MINUTES

Minutes of the meeting of the Executive Department
 Committee of the Constitutional Convention of 1973

Held pursuant to notice given by the Secretary in
 accordance with the rules of the Convention
 Independence Hall, Baton Rouge, Louisiana
 Wednesday, November 14, 1973, 5:15 p.m.

Presiding: Tom Stagg, Chairman of the Executive Department
 Committee

<u>Present:</u>	<u>Absent:</u>
Mack Abraham	Joseph Anzalone, Jr.
Avery C. Alexander	Camille Gravel, Jr.
Greg Arnette	James L. Stovall
Emmett Asseff	
Hilda Brien	
Moise Dennery	
Stanwood Duval	
Tom Stagg	
Elmer Tapper	

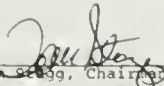
The roll was called and a quorum was present. Chairman Stagg asked that Delegate Abraham give a brief explanation of the report submitted by the Subcommittee on Transitional Measures. Mr. Abraham explained the report, a copy of which is attached hereto and made a part hereof.

Mr. Abraham offered the motion that the report be approved by the committee. The motion carried unanimously.

Mr. Tapper offered the motion that a subcommittee on style and drafting be appointed. The motion carried unanimously.

Chairman Stagg appointed Dr. Asaeff as Chairman of the subcommittee and Mr. Dennery and Mr. Stagg to serve on the subcommittee.

Mr. Arnette offered the motion to adjourn. There being no further business, the Committee on Executive Department adjourned at 5:30 p.m.

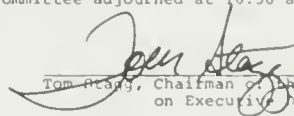

Tom Stagg, Chairman of the Committee on Executive Department

motion carried with a vote of 5 yeas and 4 nays. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham	Arnette
Alexander	Asaeff
Brien	Duval
Dennery	Stagg
Stovall	

Copies of Delegate Proposal No. 63 by Delegate Burson were distributed. Reverend Stovall offered the motion to defer action. The motion carried with 5 in favor of the motion and 1 against it.

Mr. Dennery offered the motion to adjourn. There being no further business, the committee adjourned at 10:50 a.m.


Tom Stagg, Chairman of the Committee on Executive Department

NOTES

Disposition Table is omitted. See below Vol. XIV, Tables.

MINUTES

Minutes of the meeting of the Executive Department Committee of the Constitutional Convention of 1973

Held pursuant to notice given by the Secretary in accordance with the rules of the Convention Independence Hall, Baton Rouge, Louisiana Tuesday, November 20, 1973, 10:00 a.m.

Presiding: Tom Stagg, Chairman of the Executive Department Committee

Present:	Absent:
Mack Abraham	Joseph E. Anzalone, Jr.
Avery C. Alexander	Camille F. Gravel, Jr.
Greg Arnette, Jr.	Elmer R. Tapper
Emmett Asseff	
Hilda Brien	
Moise W. Dennery	
Stanwood R. Duval, Jr.	
Tom Stagg	
James L. Stovall	

The roll was called and a quorum was present. The minutes of October 4, 1973, were amended on page 3, "10 yeas" was changed to read "9 yeas". Mr. Duval offered the motion to adopt the minutes as amended. There being no objection, it was so ordered.

Delegate Proposals Numbers 51 and 52 were distributed. Delegate Asseff suggested that action be deferred on DP 51 and DP 52 by Delegate Asseff. Mr. Arnette offered the motion that action be deferred. The motion carried unanimously.

Copies of Delegate Proposal No. 42 were distributed. Mr. Duval offered the motion to report DP 42 favorably. The motion carried with a vote of 6 yeas and 3 nays. The following is a list of the roll call vote:

<u>Yeas</u>	<u>Nays</u>
Abraham	Arnette
Alexander	Duval
Asaeff	Stagg
Brien	
Dennery	
Stovall	

Copies of Delegate Proposal No. 49 were distributed. Reverend Stovall offered the motion to delete the word "shall" and insert the word "may". The motion carried unanimously. Mrs. Brien offered the motion to adopt with amendments. The

NOTES

D.P. Nos. 42,49,51,52,63 are omitted. See above Vol. IV where they are reproduced.

MINUTES

Minutes of the Committee on Executive Department of the Constitutional Convention of 1973

Held pursuant to notice by the Secretary in accordance with the Rules of the Convention.

Treaty Room, White House Inn
Baton Rouge, Louisiana
Wednesday, December 12, 1973, 3:30 p.m.

Presiding: Tom Stagg, Chairman of the Committee on Executive Department

Present:	Absent:
Mack Abraham	Avery C. Alexander
Greg Arnette, Jr.	Joseph E. Anzalone, Jr.
Emmett Asseff	Camille F. Gravel, Jr.
Hilda Brien	Elmer R. Tapper
Moise W. Dennery	
Stanwood R. Duval, Jr.	
Tom Stagg	
James L. Stovall	

The roll was called and a quorum was present.

The staff distributed copies of Document VI, Committee Proposal No. 4: First Enrollment, with styling suggestions and suggestions by the Subcommittee on Style and Drafting of the Committee on Executive Department.

The following is the action that was taken by the Committee on Style and Drafting, on each Section of Document VI, as revised by the subcommittee:

Section 1(A)

Mr. Dennery offered the motion to include the attorney general in the executive article. There being no objection, it was so ordered.

Section 1(B)

The subsection was adopted without change.

Section 1(C)

Dr. Asseff offered the motion that on line 8, page 3, after the word "and" and before the word "allocated" delete the word "departments" and insert in lieu thereof the word "responsibilities". There being no objection, it was so ordered.

Section 2(A) & (B)

Reverend Stovall offered the motion to adopt the alternative provision proposed by the subcommittee. Dr. Asseff seconded the motion.

Mr. Abraham offered the substitute motion to accept the language suggested by the Committee on Style and Drafting. The substitute motion failed with a vote of 1 in favor of the substitute motion and 3 against it.

The vote was called on the motion by Reverend Stovall. There being no objection, the motion carried.

Section 3(A) (B) (C)

Mr. Abraham offered the motion to adopt the alternate provision proposed by the subcommittee. There being no objection, it was so ordered.

-2-

Section 4

Mr. Dennery offered the motion to adopt Section 4 with the changes suggested by the Subcommittee on Style and Drafting. There being no objection, it was so ordered.

Section 5(A)

The subsection was adopted with the changes suggested by the Subcommittee on Style and Drafting.

Section 5(B)

Dr. Asseff offered the motion to accept the changes submitted by the subcommittee. There being no objection, it was so ordered.

Section 5(C)

Mr. Abraham and Reverend Stovall offered the motion that on line 2, after the word "request" the word "of" be deleted and the word "by" be inserted. Mr. Dennery offered the motion that the original language, as suggested by the Committee on Style and Drafting, be retained. The substitute motion carried with a vote of 4 in favor of the substitute motion, and 2 against it.

Section 5(D)

The subsection was adopted with the changes suggested by the subcommittee.

Section 5(E)

Dr. Asseff offered the motion to adopt the subsection with the changes suggested by the subcommittee. There being no objection, it was so ordered.

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Section 5(F)

Mr. Dennery offered the motion that on line 22, after the word "pardon" the word "automatically" be deleted and

that the other changes be accepted. There being no objection, it was so ordered.

Dr. Asseff offered the motion that Section 5(F)

(1) and (2) be adopted. There being no objection, it was so ordered.

Section 5(G)

Reverend Stovall offered the motion to adopt the language adopted by the convention. Mr. Arnette offered the substitute motion to accept the language suggested by the Committee on Style and Drafting. The substitute motion carried with a vote of 3 in favor and 2 against.

Mr. Dennery offered the motion to reconsider the vote. There being no objection, it was so ordered.

Dr. Asseff offered the motion that on line 3, after the word "bill" the word "finally" be inserted. The motion carried with a vote of 5 in favor and 3 abstaining.

Section 5(H)

Dr. Asseff offered the motion to adopt the language of 5(H) (1) adopted by the convention and 5(H) (2) as recommended by the Committee on Style and Drafting. After discussion, Dr. Asseff withdrew the motion.

Mr. Dennery offered the motion to adopt Section 5(H) (1) as proposed by the Committee on Style and Drafting with the

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following changes: on line 10, before the word "The" insert the following: "Except as otherwise provided in this constitution" and on line 12, after the word "bill." change the word "An" to "Any". There being no objection, it was so ordered.

Section 5(I)

Mr. Abraham offered the motion that on line 21 in the language adopted by the convention, after the word "confirm," add the words "the appointment" and on line 23, after the word "rejection" insert a period "." and delete the remainder of the line. There being no objection, it was so ordered.

Mr. Dennery offered the motion that on lines 15 and 23, in language adopted by the convention and line 26 in the language suggested by the Committee on Style and Drafting, after the word "in" and before the word "session" the word "regular" be inserted. It was so ordered.

Mr. Stagg offered the motion to delete the word "for" in lines 7 and 11. There being no objection, it was so ordered.

Section 5(J)

The subsection was adopted without change.

Section 5(K)

The subsection was adopted without change.

Section 5(L)

The subsection was adopted without change.

Section 6

The section was adopted without change.

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Section 7

Dr. Asseff offered the motion that on line 2 after the word "returns" insert the word "and" and on line 15 change the semicolon ";" to a period "." and on line 16 before the word "administer" insert the following: "In addition, he shall". It was so ordered. Mr. Stagg moved to remove the words "of Louisiana" from line 19. There being no objection, it was so ordered.

Section 8

The alternate provision, as suggested by the subcommittee, was adopted.

Section 9

The section was adopted without change.

Section 10

Dr. Asseff offered the motion to make the following changes in the language: on line 13, delete the words "he shall" and at the beginning of line 14 insert the following: "The department shall exercise such functions and the commission shall". There being no objection, it was so ordered.

Section 11

Reverend Stovall offered the motion to adopt the language adopted by the convention with the following changes: On line 1 after "Section 11" insert "Commissioner of Insurance;" and on lines 2 and 3 delete the words "of the Commissioner of Insurance" and on line 5, capitalize the words "Department of Insurance" and on lines 10 and 11 delete the words "as may be" and on line 12 change "statute" to "law". There being no

objection, it was so ordered.

Section 12

Dr. Asseff offered the motion to adopt the language suggested by the Committee on Style and Drafting. There being no objection, it was so ordered.

Section 13

The section was adopted without change.

Section 14

The section was adopted without change.

Section 15

Dr. Asseff offered the motion to change the word "when" to "should" and on line 5 delete the "s" from the word "occurs". There being no objection, it was so ordered.

Section 16

The section was adopted without change.

Section 17

Mr. Dennery offered the motion that Section 17(1) and (2) as suggested by the Committee on Style and Drafting be adopted with the deletion of the language in the title "; Gubernatorial Appointments; Elections; and Qualifications". The motion carried with a vote of 6 in favor of the motion, and 2 abstaining.

Section 18

Mr. Abraham offered the motion that on line 4, after the word "this" the word "constitution" be deleted and the word "article" be inserted. There being no objection, it was so ordered.

Section 19

Mr. Stagg moved to change the word "the" at the end of line 9 to "his" in the language suggested by the Committee on Style and Drafting. It was so ordered.

Section 20(A)

The subsection was adopted with the changes suggested by the subcommittee.

Section 20(B)

The subsection was adopted with the changes suggested by the subcommittee.

Section 20(C)

The subsection was adopted with the changes suggested by the subcommittee.

Section 20(D)

The subsection was adopted without change.

Section 20(E)

The subsection was adopted with the changes suggested by the subcommittee.

Section 21

The section was adopted without change.

Section 22

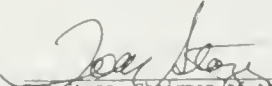
Mr. Dennery offered the following amendments to the section: on lines 11 and 21 after the word "provide" insert "by law" and on line 33 after the word "reestablish" insert the words "by law" and on line 26 after the word "branch" insert "notwithstanding the provisions of Section 7 of this Article." On line 9 and 30 change the word "consent" to the words "a favorable vote". There being no objection,

it was so ordered.

A copy of the document is attached hereto and made a part of these minutes.

Mr. Abraham offered the motion that CP 23 be adopted. There being no objection, it was so ordered.

There being no further business, the committee adjourned.


Joe Stagg, Chairman of the Committee on Executive Department

NOTES
Style and Drafting Comparative Presentation of C.P. No. 4, omitted here, is reproduced below in Vol. XIV.

B. Subcommittee Minutes

MINUTES

Minutes of the meeting of the Subcommittee on Powers and Duties of Other Elective Officials; and Boards and Commissions

Held pursuant to notice mailed by the Secretary of the Convention on May 29, 1973

LSU Law School, Baton Rouge, Louisiana

Thursday, June 7, 1973, 9:00 a.m.
Friday, June 8, 1973, 9:00 a.m.

Presiding: Stanwood R. Duval, Jr., Chairman of the Subcommittee on Powers and Duties of Other Elective Officials; and Boards and Commissions

Present: Joseph E. Anzalone, Jr.
Stanwood R. Duval, Jr.
Tom Stagg
James L. Stovall

The chairman called the meeting to order and stated that the agenda included the consideration of the powers and duties of the lieutenant governor, attorney general, secretary of state, and treasurer; dual office-holding provisions; the Conservation, Forestry, and Wildlife Boards; and the Board of Ethics, and the Public Service Commission.

In considering the powers and duties of the lieutenant governor, Mr. Stagg offered a motion to adopt the proposal CC/203 prepared by the staff with an amendment in the comment. After considerable discussion, the motion carried without objection. This provision is titled Section 1, of the attached CC-2.

The subcommittee then discussed CC/204 pertaining to the attorney general. After discussion, Mr. Stagg offered a motion that language shown in Section 3 of CC-2 be adopted. The motion carried without objection.

In discussion of the powers and duties of the secretary of state, Reverend Stovall moved that the subcommittee adopt the language submitted by the secretary of state. However, Mr. Anzalone stated his objection to the phrase "administer the laws relative to voting machines or other voting devices as now or hereafter provided by this constitution or by law;". The motion by Reverend Stovall carried with three yeas and one abstention by Mr. Anzalone to adopt the language as shown in Section 2, of CC-2.

In considering the proposal concerning the office of state treasurer, there was considerable discussion concerning the effect of the existing retirement systems. Mr. Stagg stated that the subcommittee should not make specific references to the retirement funds in the constitutional provision. Mr. Stagg offered a motion to adopt the language as shown in Section 4 of CC-2. With no objections, the motion carried.

Discussion then turned to a provision concerning dual office-

holding. The chairman stated that it was the consensus of the full committee that the subcommittee would draft an article prohibiting the possibility of dual office-holding. Mr. Stagg offered a motion that the staff prepare a draft using the

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language Mr. Frank Simoneaux submitted with the comments offered by the subcommittee, to be submitted to the subcommittee for consideration in the morning. The motion carried without objection.

The chairman opened discussion on the Conservation, Forestry, and Wildlife Boards. Mr. Anzalone offered a motion that the subcommittee defer action on these boards until the Committee on Natural Resources and Environment drafted a provision on these boards reserving the right to issue a proposal in the event the subcommittee did not agree with the proposal submitted by the Natural Resources Committee. After discussion, the motion carried without objection.

A proposal relative to the Code of Ethics was discussed. Reverend Stovall moved that the concept of constitutional mention of ethics be adopted. The motion carried without objection.

Reverend Stovall expressed his opinion that there should be one board of ethics for elected officials and employees. After discussion, the staff was asked to prepare a proposal providing for one board for all state elected officials and employees, and alternate delegate proposals for Mr. Anzalone with two and three boards.

The subcommittee recessed at 4:30 p.m.

Friday, June 5, 1973, 9:00 a.m.

The chairman called the meeting to order and stated that the subcommittee would consider dual office-holding, Board of

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Ethics, and the public service commission.

Mr. Stagg read correspondence containing the attorney general's opinion on dual office holding. It was agreed that the provision would prohibit dual elective positions, dual appointive positions, and no dual combination of the two.

Mr. Stagg moved adoption of the following language:

"No person holding office, elective or appointive, of either emolument or honor under the government of the state or its political subdivisions shall at the same time hold any other such office. No individual shall serve in any capacity, elective or appointive, in more than one of the branches of state government or its political subdivisions except as otherwise provided in this constitution. For purposes of this section, the office of notary public or officer of the armed forces, or membership on a board or commission having only advisory functions shall not be deemed an office."

Mr. Anzalone offered a substitute motion to issue and mandate to the legislature to consider each possibility listed in the PAR analysis. The substitute motion failed with a vote of two against, one in favor, and one abstention by Mr. Duval. The question was called on Mr. Stagg's original motion. The motion carried with a vote of two in favor, one against, and one abstention by Mr. Duval. (This provision is entitled Section 6 of the attached CC-2.)

Mr. Stagg offered a motion to accept the language shown in Section 7 of the attached CC-2 for the provision on ethics. The motion carried unanimously.

Discussion then turned to the Public Service Commission. The subcommittee voted unanimously to increase the present

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membership from three members to five. Mr. Anzalone offered a motion that the members be elected and serve for six years with their terms staggered as fairly as possible.

The staff was directed to place in the schedule that one member elected in 1974 would serve for six years; in 1976 three members would be elected, two for six years and one for four years; and in 1978 one for six and in 1980, two members for six years.

Reverend Stovall offered a motion to adopt the following language:

"The commission shall regulate all common carriers and other public utilities, adopt and enforce reasonable rules, regulations, and procedures for the discharge of its duties, and perform such other functions as provided by law."

The motion carried without objection.

A motion was then offered by Reverend Stovall to adopt the following language:

"The commission shall have no authority to regulate any public utility operated by a municipal or parish governing authority."

Mr. Anzalone offered an amendment to add the phrase, "except by consent of a majority of the electors voting in an election called by the governing authority for said purpose."

The amended motion carried without objection.

Mr. Stagg offered a motion that the language be prepared by the staff to the effect that appeals from rulings of the Public Service Commission shall be to the first circuit court of appeals. The motion carried unanimously.

Honorable Luther F. Cole, Judge, Division G, was introduced and discussed the appellate procedure from the Public Service

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Commission to the circuit court of appeals. He suggested that the appeals be to the appropriate circuit court of appeals of venue.

Mr. Stagg also stated that the language shall state that the chairman of the commission shall be elected annually by a vote of the members thereof.

The committee adopted language in subaction (E) on page five of the attached CC-2.

The committee adjourned at 4:15 p.m.

Stanwood R. Duval, Jr.
Stanwood R. Duval, Jr., Chairman
of the Subcommittee on Powers
and Duties of Other Elective
Officials; and Boards and
Commissions

AND COMMISSIONS, 1974-1975

(For consideration on June 14, 15, 16, 1973)

CC-2

1 Constitutional Convention of Louisiana of 1973
2 SUBCOMMITTEE PROPOSAL NUMBER
3 Introduced by Stan Duval on behalf of the Subcommittee on
4 Powers of Other Elective Official:, Boards and
5 Commissions, and Code of Ethics

A PROPOSAL

7 Making provisions for the executive branch of government and
8 necessary provisions with respect thereto.

9 PROPOSED SECTIONS:

10 Article , Section 1. Lieutenant Governor; Power
11 The lieutenant governor shall serve as ex officio
12 member on every statutory committee, board, and
13 commission on which the governor serves, exercise the
14 powers delegated to him by the governor, and perform
15 such other executive functions as provided by law.

17 Source: New

19 Comment: Removes lieutenant governor as presiding officer
20 of the Senate and vests him with that executive
21 authority delegated by the governor, or provided by
22 law.

24 Section 2. Secretary of State; Power

25 The Department of State shall be headed by the
26 secretary of state, who shall serve as the chief
27 election officer and administer the primary and
28 general election law of the state level; administer the
29 law relative to voter registration and other voting devices
30 as now or hereafter provided by the constitution and by
31 law; administer the state constitution and state law
32 relative to the State Seal of the State of
33 Louisiana and other ceremonial matters; and
34 administer the state seal and other ceremonial
35 matters.

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1 promulgated by the Governor, and retain the custody of all
2 laws enacted by the legislature.

3 sions and keep an official registry of same; administer
4 oaths; and perform such other functions as provided by
5 law.

7 Source: New

9 Comment: Duties of the secretary of state are set forth in
10 various provisions of the present constitution. This
11 provision sets forth his duties, and creates a depart-
12 ment of state, headed by the secretary of state.

14 Section 3. Attorney General; Powers

15 The department of justice shall be headed by the
16 attorney general. All state attorneys are to be a part
17 of the office of the attorney general, except as other-
18 wise provided by law. The attorney general shall have
19 the power and authority to institute and prosecute or
20 to intervene in any and all suits or other proceedings,
21 civil or criminal, as is necessary for the assertion
22 or protection of the rights and interests of the state.
23 The attorney general shall exercise supervision over the
24 several district attorneys throughout the state, and shall
25 perform such other functions as provided by law.

27 Source: La. Const. Art. VII, §55, 56 (1921).

29 Comment: Duties of the attorney general unchanged from
30 source provision. Creates the department of justice
31 headed by the attorney general. Adds provision that
32 all state attorneys are part of the office of attorney
33 general, unless otherwise provided by law.

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1 Section 4. Treasurer; Powers

2 The department of treasury shall be headed by the
3 treasurer who shall be responsible for the custody,
4 investment, and disbursement of public funds. He
5 shall report quarterly to the governor and the legis-
6 lature on all fiscal matters and perform such other
7 functions as provided by law.

9 Source: New

11 Comment: Duties of the treasurer are set forth in various
12 provisions of the present constitution. This provision
13 sets forth his duties, and creates a department of
14 treasury, headed by the treasurer.

16 Section 5. Public Service Commission

17 (A) Composition; term. The Public Service Commis-
18 sion shall consist of five members elected from districts
19 established by law for overlapping terms of six years

20 at the time fixed for congressional elections, provided
21 that the legislature shall establish initial terms of
22 less than six years to implement said composition.

24 Source: La. Const. Art. VI, §53, 8 (1921).

26 Comment: Changes composition of commission from three to five
27 members and retains the six-year term of office and
28 time of election. Deletes those provisions relating to
29 conflict of interest, transition from Railroad Commission
30 of Louisiana to Louisiana Public Service Commission,
31 salary, expenses, and domicile. Deletes that provision
32 establishing three specific geographic districts and
33 provides five new districts established by law. Provides
34 staggered terms to be implemented by the legislature.

35 Note: The staggered six-year term as provided

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1 in this provision can be implemented by the legislature
2 to require that the two additional members be elected
3 for terms of two and four years at the 1974 congressional
4 election. Such would effect a five-member commission
5 with staggered six-year terms. Two members would be
6 elected in 1976, two in 1978, one in 1980, etc.

8 (B) Chairman; employees. The chairman shall be
9 elected annually by the commission, who shall also appoint
10 a secretary, fix his salary, and appoint such other
11 employees as provided by law.

13 Source: La. Const. Art. VI, §3 (1921).

15 Comment: Requires the commission to elect a chairman
16 annually. The remainder provides no substantive change
17 from the source provision.

19 (C) Authority. The commission shall regulate all
20 common carriers and other public utilities, adopt and
21 enforce reasonable rules, regulations, and procedures
22 for the discharge of its duties, and perform such other
23 functions as provided by law.

25 Source: La. Const. Art. VI, §4 (1921).

27 Comment: Provides no substantive change from the present
28 constitution except deletion of the prohibition
29 against the commission's jurisdiction over direct
30 sales of natural gas to industry. That prohibition
31 presently provided in R.S. 45:303.

33 Note: The phrase "common carriers and other public
34 utilities" includes all those means specifically
enumerated in the present constitution.

(D) Limitation. The commission shall have no authority to regulate any public utility operated by the governing authority of a political subdivision except by the consent of a majority of the electors voting in an election held for that purpose.

Source: La. Const. Art. VI, §7 (1921).

Comment: Provides no substantive change from the present constitution.

(E) Decision on rate proposal. The commission shall render a decision on a rate proposal within twelve months from the date of filing of such proposal; otherwise, the proposed schedule shall be deemed approved.

Source: New

Comment: Requires the commission to take action on a rate proposal within 12 months from filing for and provides for implementation of such new schedule upon the commission's failure to render a timely decision.

(F) Appeals. Appeal from any decision of the commission shall be directed to a court of appeal as provided by law.

Source: La. Const. Art. IV, §5 (1921).

Comment: Changes procedure for appeal from 19th Judicial District Court to the appellate court of competent jurisdiction. Deletes appeal by right to the Louisiana Supreme Court thereby requiring procedure

by writ. Deletes provisions relating to trial procedure, delay, and bond requirement in pending such matter to the legislature.

Section 6. Dual Office Holding

No person holding any office, elective or appointive, of either emolument or honor under the government of the United States or of this state or any of its political subdivisions shall at the same time hold any other such office. No individual shall serve in any capacity, elective or appointive, in more than one of the branches of state government or its political subdivisions except as otherwise

provided in this constitution. For purposes of this Section, the office of state judge or officer of the armed forces or membership on a board or commission having only advisory functions shall not be deemed an office.

Source: La. Const. Art. XIX, §4 (1921).

Comment: Prohibits dual office holding only if both offices so held are either elective or appointive. Does not apply to employment by the state or its political subdivisions. Does not apply to foreign offices or offices in other state, but does apply to office of justice of the peace. More restrictive than present constitution since it applies to offices of both trust and profit (emolument) and honor. Prohibits a person from serving in more than one branch of government either on state or local level.

Section 7. Code of Ethics; Board of Ethics

(A) The legislature shall enact a code of ethics prohibiting conflict between public duty and private

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interest of public employees and elected officials. (P) The legislature shall create a board or boards of ethics which shall investigate all allegations of violations of such a code, and shall perform such other functions as provided by law.

Source: La. Const. Art. XIX, §27 (1921).

Comment: Concept of code of ethics expressed in Paragraph (A). Deletes from source provision lengthy section preamble and declaration of policy. Also deletes provision naming specific boards. Deletes from source provision appeals procedure.

Paragraph (B) grants to legislature authority to create a board or boards to investigate violations of code of ethics.

LA. COM. CONST. AND GOVERNMENT REFORMS
(For consideration on June 14, 15, 16, 1973)

CC-2

1 Constitutional Convention of Louisiana of 1973
2 SUBCOMMITTEE PROPOSAL NUMBER
3 Introduced by Stan Duval on behalf of the Subcommittee on
4 Powers of Other Elective Officials, Boards and
5 Commissions, and Code of Ethics

A PROPOSAL

6 Making provisions for the executive branch of government and
7 necessary provisions with respect thereto.

9 PROPOSED SECTIONS:

10 Article ____, Section 1. Lieutenant Governor, Powers

11 The lieutenant governor shall serve ex officio as a

12 member on every statutory committee, board, and
13 commission on which the governor serves, exercise the
14 powers delegated to him by the governor, and perform
15 such other executive functions/as provided by law.
16 may be

17 Source: New

18
19 Comment: Removes lieutenant governor as presiding officer
20 of the Senate and vests him with that executive
21 authority delegated by the governor, or provided by statute
22 law.

24 Section 2. Secretary of State; Powers

25 The department of state shall be headed by the
26 secretary of state, who shall serve as the chief
27 elections officer and administer the primary and
28 general election laws at the state level; administer the
29 laws relative to voting machines or other voting devices
30 as now or hereafter provided by this constitution or by
31 law; administer the state corporation and trade mark laws.
32 serve as keeper of the Great Seal of the State of
33 Louisiana and attest therewith all official laws, docu-
34 ments, proclamations, and commissions; administer and
35 preserve the official archives and records of the state.

4

1 promulgate, publish, and retain the originals of all
2 laws enacted by the legislature; countersign all commis-
3 sions and keep an official registry of same; administer
4 oaths; and perform such other functions as provided by
5 statute.
6 law.

7 Source: New

8
9 Comment: Duties of the secretary of state are set forth in
10 various provisions of the present constitution. This
11 provision sets forth his duties, and creates a depart-
12 ment of state, headed by the secretary of state.

14 Powers and Duties of the
15 Section 3. Attorney General; Powers

16 There shall be a department of justice headed by
17 the attorney general, who shall be the state's
18 chief legal officer. As may be necessary for the
19 assertion or protection of the rights and interests of
20 the state, the attorney general shall have authority to:
21 (1) institute, and prosecute, or intervene in any
22 legal actions or other proceedings, civil or criminal;
23 (2) exercise supervision over the several district
24 attorneys throughout the state; and
25 (3) for cause, supersede any attorney representing
26 several district attorneys throughout the state, and shall
27 perform such other functions as provided by law.
28 He shall have such other powers and perform such
29 other functions as may be provided by statute.

30 Source: La. Const. Art. VII, §55, 56 (1921).

31 Comment: Duties of the attorney general unchanged from
32 source provision. Creates the department of justice
33 headed by the attorney general. This provision that
34 will state attorneys are part of the office of attorney
35 general, unless otherwise provided by law.

5

1 Section 4. Treasurer; Powers

2 There shall be a which
3 The Department of treasury shall be headed by the state

3 treasurer who shall be responsible for the custody,
4 investment, and disbursement of public funds/ He
5 shall report annually to the governor and the legis-
6 one month in advance of the regular session on
7 lature on all fiscal matters and perform such other
8 functions as provided by law.
9 other powers and perform such other duties as may be
10 provided by this constitution or by statute.

11 Source: New

12 Comment: Duties of the treasurer are set forth in various
13 provisions of the present constitution. This provision
14 sets forth his duties, and creates a department of
15 treasury, headed by the treasurer.

16 Section 5. Public Service Commission

combined with (8)

17 (A) Composition; term. The Public Service Commission
18 shall consist of five members elected from districts as may be
19 established by law for overlapping terms of six years.
20 at the time fixed for congressional elections, provided
21 that the legislature shall establish initial terms of
22 less than six years to implement said composition. The
23 commission shall annually elect a chairman from one of
24 its members.

25 Source: La. Const. Art. VI, §53, 8 (1921).

26 Comment: Changes composition of commission from three to five
27 members and retains the six-year term of office and
28 time of election. Deletes those provisions relating to
29 conflict of interest, transition from Railroad Commission
30 of Louisiana to Louisiana Public Service Commission,
31 salary, expenses, and domicile. Deletes that provision
32 establishing three specific geographic districts and
33 provides five new districts established by law. Provides
34 staggered terms to be implemented by the legislature.
35 Note: The staggered six-year term as provided

4

1 in this provision can be implemented by the legislature
2 to require that the two additional members be elected
3 for terms of two and four years at the 1974 congressional
4 election. Such would effect a five-member commission
5 with staggered six-year terms. Two members would be
6 elected in 1976, two in 1978, one in 1980, etc.

combined with (A)

7 (B) Chairman; employees. The chairman shall be
8 elected annually by the commission, who shall appoint
9 which
10 a secretary, fix his salary, and appoint such other
11 employees as provided by law. (See (A))
12

13 Source: La. Const. Art. VI, §3 (1921).

14 Comment: Requires the commission to elect a chairman
15 annually. The remainder provides no substantive change
16 from the source provision.

17
18 Powers and Duties Except as otherwise provided by this
19 Constitution
20 (C) Authority. The commission shall regulate all
21 common carriers and other public utilities, adopt and
22 enforce reasonable rules, regulations, and procedures necessary
23 to have such other powers and
24 for the discharge of its duties, and perform such other
25 functions as provided by law.
26

27 Source: La. Const. Art. VI, §4 (1921).

28 Comment: Provides no substantive change from the present
29 constitution except deletion of the prohibition

29 against the commission's jurisdiction over direct
30 sales of natural gas to industry. That prohibition
31 presently provided in R.S. 45:303.
32 Note: The phrase "common carriers and other public
33 utilities" includes all those means specifically
34 enumerated in the present constitution.

(D) Limitation. The commission shall have no power to regulate any class of common carrier or public utility owned, operated, or presently regulated by the governing authority of any political subdivision except by the consent of a majority of the electors voting in an election held for that purpose; provided, however, that such political subdivision may reinvest itself with such regulatory power in the same manner as it was surrendered.

Comment: Provides substantive change from the present constitution.

(E) Decision on rate proposal. The commission shall render its decision on a proposed rate schedule within six months from the date of filing; otherwise, the proposed schedule shall be deemed to be tentatively approved and, pending final determination, may be put into effect subject to such protective bond or security requirements as may be provided by statute.

If no final decision is rendered by the commission within*
Source: New *See Bottom of Page

Comment: Requests the commission to take action on a rate proposal within 12 months from filing and provides for implementation of such new schedule upon the commission's failure to render a timely decision.

(F) Appeals. Appeals from the orders of the Public Service Commission must be filed with the district court, at the domicile of the Public Service Commission, with a direct appeal to the supreme court, as a matter of right.

Source: La. Const. Art. IV, §5 (1921).

Comment: Changes procedure for appeal from 10th Judicial District Court to the 1st and 2nd Judicial District Courts. Deletes appeal by writ to the Louisiana Supreme Court thereby requesting procedure

*twelve months of filing, the schedule shall be considered to be finally approved. If the commission disapproves the proposed schedule, in whole or in part, the carrier or utility may place or continue the schedule in effect under bond or security, subject to any appeal and final action by a court of last resort to

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*Refund suits may be filed only within one year after such final action.

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Section 6. Dual Office Holding

No person holding any office, except in an ex officio capacity, provided for in this constitution, or as may be provided by statute, or by local government charter or ordinance, or either emolument or honor under the government of the United States or of this state, shall at any time hold any other such office.

No individual shall hold office either elective or appointive or be employed in more than one of the branches of its political subdivisions except as otherwise

state government or in any of its political subdivisions, provided in this constitution. No person shall hold the office of notary public or offices of the armed forces, except as is otherwise provided by this constitution.
For the purposes of this Section the legislature may waive the foregoing as to membership in constitutional conventions, and on boards or commissions created for special purposes for limited periods of time and which exercise advisory functions.

Source: La. Const. Art. XIX, §4 (1921).

Comment: Prohibits dual office holding only if both offices so held are either elective or appointive. Does not apply to employment by the state or its political subdivisions. Does not apply to foreign offices or offices in other states, but does apply to office of justice of the peace. More restrictive than present constitution since it applies to offices of both fund and profit (emolument) and honor. Prohibits a person from serving in more than one branch of government either on state or local level.

Section 7. Code of Ethics; Board of Ethics

(A) The legislature shall enact a code of ethics prohibiting conflict between public duty and private

interests of all state employees and elected officials.

(B) The legislature shall create a board or boards of ethics which shall investigate all allegations of violations of such a code, and shall perform such other powers and duties as may be provided by statute.

7 Source: La. Const. Art. XIX, §27 (1921).

Comment: Concept of code of ethics expressed in Paragraph (A). Deletes from source provision lengthy sections stating preamble and declaration of policy. Also deletes provisions naming specific boards. Deletes from source provision appeals procedure.

Paragraph (B) grants to legislature authority to create a board or boards to investigate violations of code of ethics.

MINUTES

Minutes of the meeting of the Subcommittee on Powers of Governor, Qualifications, Term of Office, Salaries of the Committee on Executive Department

Held pursuant to notice mailed by the Secretary of the Convention on June 4, 1973
LSU Law School, Baton Rouge, Louisiana
Friday, June 8, 1973, 9:00 a.m.
Saturday, June 9, 1973, 9:00 a.m.

Presiding: Mack Abraham, Chairman of the Subcommittee on Powers of Governor, Qualifications, Term of Office, Salaries of the Committee on Executive Department

Present: Mack Abraham
Avery C. Alexander
Greg Arnette, Jr.

Absent: Camille F. Gravel, Jr.

The chairman noted that a quorum was present and the sub-

Staff to research further

committee proceeded with the business at hand. A draft proposal was submitted to the members of the subcommittee and each section was thoroughly discussed. A copy of the final draft of that proposal as amended is attached hereto and made a part of these minutes. There being no further business, the subcommittee adjourned at 4:15 p.m.

Mack Abraham
Mack Abraham, Chairman of the Subcommittee on Powers of the Governor, etc.

NOTES
Working Draft of CC-1 reflecting subcommittee amendments is reproduced here.

STATE OF LOUISIANA
COMMISSIONERS OF THE JUDICIAL SYSTEM
OFFICE OF THE CLERK OF THE SUPREME COURT
1000 Poydras Street, New Orleans, Louisiana 70112

CC-1
1 Constitutional Convention of Louisiana of 1973
2 SUBCOMMITTEE PROPOSAL NUMBER
3 Introduced by Mack Abraham on behalf of the Subcommittee on
4 Powers of Governor
5 A PROPOSAL
6 Making provisions for the executive branch of [state] government
7 and necessary provisions with respect thereto.
8 PROPOSED SECTIONS:
9 Article , Section 1. Composition
10 (A) The executive branch shall consist of a governor,
11 lieutenant governor, secretary of state, attorney
12 general, treasurer, and [such] other executive offices,
13 agencies, and instrumentalities [as provided by law].
14 (B) All offices, agencies, and instrumentalities
15 of the executive branch of state government and their
16 respective functions, powers, and duties, except for the
17 office of governor and lieutenant governor, shall be
18 allocated by [law] according to function, among and within
19 not more than twenty departments.
20
21 Source: La. Const. Art. V, §1; Art. VII, §55 (1921).
22
23 Comment: Paragraph (A) reduces the number of statewide
24 elective offices by deleting from the source provision
25 the offices of Controller, Register of the Land Office,
26 Commissioner of Agriculture, Commissioner of Insurance,
27 and Custodian of Voting Machines.
28 Paragraph (B) is new. Establishes a maximum number
29 of departments in the executive branch. The principle
30 criterion in meeting this requirement shall be grouping
31 according to function.
32
33 Section 2. Qualification
34 All [eligible for the office of governor,
35 lieutenant governor, secretary of state, attorney general,

Hold

1 [a] treasurer or person must have attained the age of
2 twenty-five years by the date of his election and be
3 a citizen of the United States and of this state for at
4 least the five years immediately preceding the date of
5 his election. He shall hold no other public office,
6 except by virtue of his office, during the term for which
7 he is elected.
8 [also]
9 (B) The attorney general [shall have] practiced
10 law or served as a judge of a court of record in this
11 state for a combined total of at least five years
12 preceding his election.
13 Source: La. Const. Art. V, §3; Art. VII, §56 (1921).
14
15 Comment: Paragraph (A) lowers the minimum age for eligibility
16 to the offices of governor and lieutenant governor from
17 30 years of age to 25 years. Lowers the period of
18 citizenship preceding election from 10 years to 5 years.
19 Changes source provision prohibiting dual office-holding
20 under the United States, by extending prohibition to any
21 office except that held ex officio.
22 Paragraph (B) revises present provision by deleting
23 requirement that Attorney General shall be learned in
24 the law. Under the present constitution the attorney
25 general shall have practiced law for at least five years
26 preceding his election. The revision includes service as
27 a judge of a court of record as fulfilling the five-year
28 experience requirement for the attorney general.
29
30 Section 3. Elections and Terms
31 (A) The governor, lieutenant governor, secretary of
32 state, attorney general, and treasurer shall be elected
33 each for a term of four years by the electors of the members
34 of the legislature. A person who has ~~been elected~~
35 ~~been elected~~ served as governor [or
36 ~~been elected~~] for more than one and one-half terms in two
37 consecutive terms shall not be elected governor for the
38 next succeeding term.
39 (B) The returns of the election of these [officers]
40 and be promulgated by [the election commissioners] to
41 the secretary of state [who shall promulgate them] in
42 the manner prescribed by [law]. The person [having the
43 greatest number of votes for each office shall be there-
44 by elected.
45 (C) If two or more persons have an equal, and the
46 highest number of votes for any one
47 office, they shall draw
48 lots to determine the result. The secretary of state
49 shall arrange for the drawing of lots within ten days
50 after the election results are promulgated, and his
51 decision as to the winner shall be final and conclusive.
52 Election contests shall be decided by the courts as may
53 be provided by statute.
54 (D) The term of office of each elected official shall

21 begin on the second Monday in March next following the
22 election.

23 (E) No other officer shall be elected statewide,
24 except as provided by this constitution.

25
26 Source: La. Const. Art. V, §§2, 3, 4, 18 (1921).

27
28 Comment. In Paragraph (A) the elective offices of Comptroller,
29 Register of the Land Office, Commissioner of Agriculture,
30 Commissioner of Insurance, and Custodian of Voting
31 Machines are deleted from source provision in conformity
32 with Section 1. Adds the provision that a person succeed-
33 ing to the governorship, with more than one-half a term
34 remaining, can serve only one consecutive term.

35 In Paragraph (B) the secretary of state, rather than

the secretary of state (in source provision), promulgates
the election returns of all statewide elective officers...

~~...the highest votes... of the...]~~

In Paragraph (D) the time of taking office for
executive officer is changed from the first day following
the commencement of their election by the legislature to
the second Monday in March following their election.

Note: The Schedule must provide that incumbent terms
are not affected by this change.

Paragraph (E) is new.

Section 4. Compensation

The compensation of each ~~statewide~~ elected
official within the executive branch
shall be fixed by the legislature and shall
not be increased or decreased for the term for which the
official is elected. [No public official in Louisiana shall
receive a salary in excess of that paid the governor.]

Source: La. Const. Art. III, §34; Art. V, §55, 20 (1921).

~~...any public officer may be chosen by vote of the...
...of each house and...
...of the legislature...
...of the legislature...
...of the legislature...]~~

~~...]~~

Power and Duties of Governor

A. Executive Authority. The governor shall be the
chief executive officer of the state and shall faithfully

execute the constitution and laws of the state.

Source: La. Const. Art. V, §52, 14 (1921).

Comment. Changes source provision that the supreme execu-
tive power is vested in the governor and designates him

7 as chief executive officer. Source provision requiring
8 governor to take care that the laws be faithfully
9 executed changed to require him to faithfully support
10 the constitution and laws.

(B) Legislative Reports and Recommendations. The
12 governor shall at the beginning of each regular session
13 of the legislature, and may at other times, make reports
14 and recommendations and give information to the legis-
15 lature concerning the affairs of state, including its
16 complete financial condition.

17
18 Source: La. Const. Art. V, §13 (1921).

19 Comment: Source provision changed to require governor to
20 report to the legislature at the beginning of each regular
21 session, and adds requirement that he give financial
22 condition of the state.

23
24 All department heads
25 (C) Reports and Information. [The offices, agencies,
26 and instrumentalities within the executive branch of state
27 in writing or otherwise requested by him on any subject
28 relating to their respective departments excepting matters
29 relating to investigations of the governor's office.
30 the duties of their respective offices unless prohibited
31 by law]

32
33 Source: La. Const. Art. V, §13; Art. VI, §39 (1921).

34
35 ~~...]~~

1 ~~...to provide reports of... requested by~~
2 ~~the governor... of information... protected under~~
3 ~~Public Records Act... and other information~~
4 ~~exempted by the legislature, need not be included under~~
5 ~~this provision.~~

6
7 Operating
8 (D) Budget Authority. The governor shall prepare
9 annual operating
10 the/budget of the state, and shall transmit copies there-
11 on or before the first day of each annual session
12 of to the legislature/as provided by law. Proposed ex-
13 may be /statute
14 penditures shall not exceed anticipated revenues. On
15 adoption by the legislature, this budget shall be executed
16 and administered by the governor.

17 Add: Capital budget.

18 Source: New

19 Comment: Provision seeks to prevent legislature participation
20 in preparation of the budget and preserve this function
21 for the governor. The governor shall present a balanced
22 budget under this provision.

23 (E) Pardon, commutation, reprieve, remission. Except in cases of
24 capital offenses, the governor shall have power to grant
25 pardon after conviction for all offenses, and to grant
26 commutation of sentence, and may pardon those convicted of offenses a-
27 ss provided by law against the state and may remit fines and
28 forfeitures imposed for such offenses. Other remedies for those con-
29 victed of offenses may be provided by statute.

30 Source: La. Const. Art. V, §10 (1921).

31 ~~...]~~

28 ~~positions, commutes sentences, and remit fines and forfeitures~~
29 ~~on recommendation of a board deleted from revision.~~
30 ~~Also deleted authority to grant temporary approvals for~~
31 ~~positions.~~

32
33 (F) Signature on Bills. Every bill passed by the
34 legislature shall be presented to the governor. The date
35 and ^{time} ~~hour~~ when the bill is delivered to him shall be enter-

7

1 ed thereon. He shall then have ^{thirty} ~~ten~~ calendar days within
2 which to act on it; ~~except he shall have twenty calendar~~
3 ~~days to act on a bill presented to him for consideration~~
4 ~~within the final twelve calendar days of a legislative~~
5 ~~session.] If he approves it he shall sign it. [If he disap-~~
6 ~~proves, he shall veto it giving his reason therefor. If he fails to~~
7 ~~act on it within the prescribed period, it shall become~~
8 ~~law.]~~

9 Source: La. Const. Art. V, §15 (1921).

10
11 ~~[Comment: Revises source provision relating to signing or~~
12 ~~vetoing a bill by the governor. Governor has 10 days to~~
13 ~~act on a bill if legislature is in session, and up to 20~~
14 ~~days if he receives the bill during the last 12 days of a~~
15 ~~session.]~~

16
17 (G) Veto. If the governor disapproves a bill he shall
18 veto it and ^{shall} ~~shall~~ return it with his objections to the
19 house in which it originated, ^{whether in session or not,}
20 within the prescribed period.]

21
22 Source: La. Const. Art. V, §14 (1921).

23
24 ~~[Comment: Restates source provision without substantive change.~~
25 ~~Adds requirement bill must be returned to the house in~~
26 ~~which it originated whether in session or not.]~~

27
28 (H) Appropriation Bill. (1) The governor may veto any
29 ^{line} ~~item~~ in an appropriation bill. ~~[The items vetoed~~
30 ~~shall be void unless the veto is overridden~~
31 ~~by a two-thirds majority prescribed for the passage of any bill over a veto].~~

32
33 (2) The governor shall either veto ^{line} ~~items~~,
34 Or reduce all appropriations by an equal percentage as may be
35 provided in the bill, ^{or} ~~in~~ order that total
36 appropriations for the year shall not exceed anticipated
37 revenue for the year.

8

38 Source: La. Const. Art. V, §16 (1921).

39
40 ~~[Comment: Restates source provision without substantive~~
41 ~~change.]~~

42 Paragraph (2) is new. It requires the governor to
43 either sign a balanced budget, or use that authority pro-
44 vided in the budget bill he signs to achieve that end.

45 (I) The governor shall appoint, subject to confirmation by the Senate,
46 1) the heads of all departments in the executive branch whose election
47 is not provided for by this constitution; and 2) all members of boards
48 ~~and commissions in the executive branch whose appointment or election~~
49 ~~is not otherwise provided for by this constitution.~~

11 and commissions in the executive branch whose appointment or election
12 is not otherwise provided for by this constitution.
13 ~~commissions in the executive branch whose appointment or~~
14 ~~election is not otherwise provided for.~~

15 (2) The governor shall submit for confirmation
16 (2) Should the legislature be in session, the governor shall submit for
17 by the Senate, the names of those appointed within one
18 confirmation by the Senate the names of those appointed within forty-eight
19 week of the convening of the first session of the legislative
20 hours after the appointment is made. Failure of the Senate to confirm an
21 ture after the appointment is made. Failure of the Senate to confirm an
22 appointment prior to the end of the session shall be equivalent to
23 to reject an appointment during that session shall be
24 rejection.
25 equivalent to confirmation.

26 (3) Should the legislature not be in session, the governor may make interim
27 appointments that may occur during the recess of the Senate,
28 appointments which shall expire at the end of the next session of the
29 legislature.
30 (4) A person not confirmed by the Senate shall not be appointed to the
31 same office during any recess of the legislature.

32 Source: La. Const. Art. V, §11, 12 (1921).

33 Comment: Under source provision governor's appointive power
34 extends to all constitutional officers, unless otherwise
35 provided for. Revision provides governor may also appoint
36 to offices created by law.

37 Paragraph (2) is new. Requires governor to submit
38 names of appointees within one week of the convening of
39 the legislative session.

9

40 [Paragraph (3) restates source provision without
41 substantive change.]

42 (J) Removal. The governor may remove from office
43 those whom he appoints, except those ~~whom he~~ ^{whom he} ~~appoints~~
44 nominating procedure, or those appointed for a ~~fixed~~ ^{fixed} term,
45 fixed by this constitution or by statute.

46 Source: New

47 Comment: Under the present constitution the governor has no
48 general authority to remove those whom he appoints. Re-
49 movals in the constitution appear to be confined to im-
50 peachments, recall, and removal by suits in district
51 courts. [See La. Const. Art. IX, §6 (1921)]

52 (K) Commander-in-Chief. The governor shall be
53 commander-in-chief of the armed forces of the state, ex-
54 cept when they are called into service of the federal
55 government. He may call out the armed forces of the state
56 to preserve law and order, to suppress insurrection, to
57 repel invasion, or in other times of emergency.

58 Source: La. Const. Art. XVII, §2 (1921).

59 Comment: Restates source provision without substantive change.

60 Adds to authority of governor to call militia out in any
61 time of emergency.

62 (L) Extraordinary session. (1) The governor may convene the
63 legislature into extraordinary session by issuance of a proclamation to the
64 legislature at least five days prior to the convening of the session. The
65 proclamation shall state the specific subjects to be considered, the date
66 and time the legislature is to convene, and the number of days for which the
67 legislature is convened. The subject matter of the session may be amended, by
68 to the extent specifically enumerated in the proclamation.

No final action

proclamation to the legislature, for a period upto forty-eight hours prior to the hour at which the legislature convenes. The power to legislate, under the session shall be limited to the subjects specifically enumerated in the latest proclamation convening such extraordinary session. The session shall be limited to the time named therein, and shall not exceed thirty days.

(2) The governor may convene the legislature in extraordinary session without prior notice or proclamation on occasions of public emergencies caused by epidemics, attacks by the enemy, or public catastrophes.

1 Source: La. Const. Art. V, §14 (1921).

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copy of the final draft of that proposal as amended is attached hereto and made a part of these minutes.

Dr. Tarver asked to be recorded as stating that he disapproved of the recommendations and guidelines on reorganization which the Committee on Executive Department submitted. He further stated the following reasons: 1) the governor can veto the legislature's plan - and then do it himself; 2) the governor can call a special session; 3)

The subcommittee requested that the term "vacancy" be defined. Dr. Tarver submitted language for the section, and Mrs. Michelli was requested to submit a comment on the definition. A copy of that section is attached hereto and made a part of these minutes.

There being no further business, the subcommittee adjourned at 5:00 p.m.

1 Constitutional Convention of Louisiana of 1973
2 SUBCOMMITTEE PROPOSAL NUMBER
3 Introduced by
4 A PROPOSAL
5 Relative to first assistants
6 PROPOSED SECTION:
7 Article ____, Section ____, First Assistants

Elmer R. Tapper, Chairman of the Subcommittee on Reorganization, Vacancies, Absence, and Disability; and Impeachment

8 The secretary of state, attorney general, and
9 Treasurer shall each appoint a first assistant, subject
10 to confirmation by the Senate and may remove him at his
11 pleasure. The first assistant shall possess the same
12 qualifications as those required for election to that
13 office.

Section ____.

The term "vacancy" as used in this constitution shall mean a vacancy vacated by death, resignation, or removal by any means.

Comment: Corpus Juris Secundum states that the word "vacancy" has no technical meaning, but is determined by the conditions of a given situation. According to CJS, "a vacancy in office may result from an [abandonment] of it or from resignation or removal; or...from the acceptance of an incompatible office, or of another office; from failure to qualify,...or...from ineligibility." Again, the source says that an office may become vacant by an occupant's conduct, action, or status. Further, in some states disability, suspension during impeachment, or absence create temporary vacancies, but in other states these situations create absolute vacancies. Other causes of vacancy are: breach of bond, conviction of felony, death, departure or nonresidence, failure to pay taxes, failure to perform duties, declaration of invalidity of election or appointment.

MINUTES

Minutes of the meeting of the Subcommittee on Reorganization; Vacancies, Succession, Absence, and Disability; and Impeachment of the Committee on Executive Department of the Constitutional Convention of 1973
Held pursuant to notice mailed by the Secretary of the Convention on June 5, 1973

LSU Law School, Baton Rouge, Louisiana
Sunday, June 9, 1973, 1:00 p.m.
Monday, June 10, 1973, 9:00 p.m.

Presiding: Elmer R. Tapper, Chairman of the Subcommittee on Reorganization; Vacancies, Succession, Absence, and Disability; and Impeachment

Present on Monday, June 10, 1973:

Elmer R. Tapper
Morrison D. Finney
Emmett Asseff
Hilda Brien

Due to the lack of a quorum, the subcommittee failed to meet on Sunday, June 9, 1973. The subcommittee convened on Monday, June 10, 1973. A draft proposal was submitted to the members and each section was thoroughly discussed. A

CC-
1 Constitutional Convention of Louisiana of 1973
2 SUBCOMMITTEE PROPOSAL NUMBER
3 Introduced by Mr. Tapper
4 EXECUTIVE AGENCY
5 VACANCIES, DISABILITY, ABSENCE
6 PROPOSED SECTION:

VACANCIES

Section _____. Governor

The order of succession in the office of governor in the event of vacancy shall be (1) the elected lieutenant governor, (2) the elected secretary of state, (3) the elected attorney general, (4) the elected treasurer, (5) the president pro tempore of the Senate, (6) the speaker of the House of Representatives, and then as provided by law. Successors shall serve the term for which the governor was elected.

Section _____. Governor-elect

Should the governor-elect be disqualified, resign, or die following his election, but prior to taking office, or for any reason fail to take office, the lieutenant governor-elect shall take office as governor and shall serve the term for which the governor-elect was elected.

Section _____. Lieutenant Governor

Whenever there is a vacancy in the office of the lieutenant governor, the governor shall nominate a lieutenant governor who shall take office upon confirmation by a majority vote of both houses of the legislature.

Section _____. Other Statewide Elective Offices

The order of succession in any other statewide elective office, in the event of a vacancy in such office, shall be the appointed first assistant in such office. Successors to such offices shall serve the term for which the official was elected.

CC-

Note: "The committee recommended that successors would serve until official promulgation of results of the next statewide general election."

Section _____. Other Vacancies

Section _____. A. The governor shall have the power to fill any vacancy in any elective office unless otherwise provided for by this constitution.

B. If, at the time a vacancy occurs in an elective office for which appointment is provided in Paragraph A of this Section, the unexpired portion of the term of office is more than one year, a special election to fill the vacancy shall be called within thirty days by the governor as a ministerial duty, which election shall be held not more than six months or less than three months calculated from the date on which the vacancy occurred, unless a general election is to be held during such period within the political subdivision from which the vacancy is to be filled, in which case the vacancy shall be filled at such general election, and in either of such cases the appointment provided for in Paragraph A of this Section

shall be effective only until a successor is duly elected and qualified.

C. The secretary of state shall, within twenty-four hours after such election is called, notify in writing by registered or certified mail all election officials, including party committees and boards of supervisors of elections, having any duty to perform in connection with a special election to fill such vacancy of the occurrence of the vacancy.

D. Nothing in this Section shall be construed as changing the qualifications for the various offices involved and all appointments must be of persons who otherwise would be eligible to hold offices to which appointed.

CC-

Section _____. Definition of Vacancy

Section _____. The term "vacancy" as used in this constitution shall mean a vacancy by death, resignation, or removal by any means.

DISABILITY

Section _____. Declaration of Disability

Whenever a statewide elective official except the lieutenant governor transmits to the president pro tempore of the Senate and the speaker of the House of Representatives a written declaration that he is unable to discharge the powers and duties of the office, and until he transmits to them a written declaration to the contrary, the person succeeding to the office in the event of a vacancy shall assume the powers and duties of the office as acting official.

Section _____. Determination of Disability

(A) Whenever a majority of the statewide elected officials transmit to the president pro tempore of the Senate and the speaker of the House of Representatives a written declaration that a statewide elected official is unable to discharge the powers and duties of his office, the constitutional alternate to the office shall immediately assume the powers and duties of the office as acting official.

(B) Thereafter, when the elected official transmits to the president pro tempore of the Senate and the speaker of the House of Representatives his written declaration that no disability exists, he shall resume the powers and duties of his office; provided that should a majority of the statewide elected officials transmit within four days to the president pro tempore of the Senate and the speaker of the House of Representatives a second written declaration that the elected official is unable to discharge the powers and duties of the office, the alternate shall be elected

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1 mined finally by a two-thirds vote of a court elected to
 2 the state supreme court under such rule as it may adopt,
 3 and after due notice and hearing. Should the court de-
 4 termine that the elected official is disabled, he may
 5 not, for a period of six months thereafter, file another
 6 declaration stating that his disability has ended.

8 Note: As an alternate the subcommittee suggested the follow-
 9 ing language:
 10 "... the issue shall be determined finally by a resolu-
 11 tion of the legislature passed by a two-thirds vote of
 12 the elected members of each house meeting in regular or
 13 special session."

ABSENCES

Section _____. Absences; Compensation

16 Section _____. A. In the event of a temporary ab-
 17 sence of the governor from the state, the lieutenant
 18 governor shall act as governor. In the event of a
 19 temporary absence of any other statewide elected official
 20 from the state, the appointed first assistant shall act
 in his stead.

22 B. The lieutenant governor when acting as governor
 23 shall receive the same salary as the governor, and an
 24 appointed assistant when acting as an elected official
 25 shall receive the same salary as the elected official.

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1 Constitutional Convention of Louisiana of 1973

2 SUBCOMMITTEE PROPOSAL NUMBER

3 Introduced by Mr. Tapper

EXECUTIVE ARTICLE

PROPOSED SECTION:

REMOVAL, IMPEACHMENT

Section _____. Removal, Impeachment

8 (A) All state and district officers, whether elected
 9 or appointed, shall be liable to impeachment for felonies
 10 or misdemeanors in office, incompetency, corruption,
 11 favoritism, extortion, or oppression in office, or for
 12 gross misconduct, or habitual drunkenness.

13 (B) All impeachments shall be by the House of
 14 Representatives, and shall be tried by the Senate, whose
 15 members shall be upon oath or affirmation for that pur-
 16 pose, and two-thirds of the senators elected shall be
 17 necessary to convict. When the governor is on trial
 18 the chief justice or an associate justice of the supreme
 19 court shall preside.* The Senate may sit for said purpose
 20 whether the House is in session or not, and may adjourn
 21 at any time. The Senate shall remove and disbar the accused from holding
 22 any office under the state, but whether of conviction

24 of appointment shall not prevent re-election and appoint-
 25 ment otherwise according to law. Such provisions shall
 26 not apply to any of the normal officers, and the officers
 27 shall be filled by the incumbent until his removal by
 28 the Senate.

29 (C) Regular sixty percent vote of senators for
 30 conviction.

31 (D) If the trial and conviction of no longer possible, the
 32 House of Representatives, the power shall be vested in the
 33 House of Representatives to remove the officer.

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1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

A PROPOSAL

4 For reorganization of the executive branch.

PROPOSED SECTION:

Article ____, Section ____. Reorganization

8 Section _____. The legislature, by a proposal
 9 originating in the House of Representatives, on
 10 or before eighteen (18) months after the effective
 11 date of this constitution, shall allocate by law
 12 the functions, powers, duties, and responsibilities
 13 of all executive and administrative offices, agencies,
 14 and instrumentalities of the executive branch, except
 15 those functions, powers, duties, and responsibilities
 16 allocated by this constitution, among and within not
 17 more than twenty (20) departments. Should the legis-
 18 lature fail to make such allocations within such
 19 eighteen month period, the governor promptly shall
 20 effect such allocations by executive order.

SCHEDULE

Alternate

CC-

1 Constitution Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

A PROPOSAL

4 For reorganization of the executive branch.

PROPOSED SECTION:

Article ____, Section ____. Reorganization

8 Section _____. The governor, on or before
 9 eighteen months after the effective date

10 of this constitution, shall propose to the
11 legislature, while in session, a plan of allocation
12 of the functions, powers, duties, and responsibilities
13 of all executive and administrative offices, agencies,
14 and instrumentalities of the executive branch, except
15 those functions, powers, duties, and responsibilities
16 allocated by this constitution, among and within not
17 more than twenty departments. The legislature,
18 by a majority vote of its elective members, may
19 disapprove such plan, but may not amend it. Should
20 the legislature disapprove such plan, the governor
21 promptly shall effect such allocations by executive
22 order.

23
24
25
26 SCHEDULE

CC- Alternate

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For reorganization of the executive branch.

6 PROPOSED SECTION:

7 Article ____, Section ____, Reorganization

8 Section _____. The governor may propose to the
9 legislature, while in session, and on the first day
10 of such session, a plan of reallocation of the
11 functions, powers, duties, and responsibilities of
12 all executive and administrative offices, agencies,
13 and instrumentalities of the executive branch,
14 except those functions, powers, duties, and respon-
15 sibilities allocated by this constitution, among
16 and within not more than twenty departments. The
17 legislature, by a majority vote of its elected
18 members, may disapprove such plan, but may not amend
19 it.

Mr. Denny is of the opinion that the language
requiring the proposal to originate in the House
of Representatives properly belongs in the legis-
lative session in the same clause which requires
appropriations bills to originate in the House.

CC- 3

1 Constitutional Convention of Louisiana of 1973

2 SUBCOMMITTEE PROPOSAL NUMBER

3 Introduced by Mr. Tapper on behalf of the Subcommittee on

4 Reorganization; Vacancies, Succession,

5 Absence, and Disability; and Impeachment

6 A PROPOSAL

7 Making provisions for impeachment of state and district
8 officers.

9 PROPOSED SECTION:

10 Article ____, Section 1. Impeachment

11 Section 1. (A) All state and district officers,
12 whether elected or appointed, shall be liable to im-
13 peachment for felonies or [misdemeanors] in office, in-
14 competency, corruption, [~~FORFEITURE-EXTORTION-OR-OP-~~
15 ~~PRESSION-IN-OFFICE~~] or for gross misconduct [~~-OR-HABIT-~~
16 ~~UAL-DETERMINES~~]

17 (B) All impeachments shall be by the House of
18 Representatives, and shall be tried by the Senate,
19 whose members shall be upon oath or affirmation for
20 that purpose, and two-thirds of the senators elected
21 shall be necessary to convict. When the governor is
22 in his absence, designated on trial the chief justice of [an associate justice/df] by
23 [.] the supreme court shall preside. The Senate may sit
24 for said purpose whether the House be in session or not,
25 and may adjourn as it thinks proper. Judgment of con-
26 viction in such cases shall remove and debar the accused
27 from holding any office under the state, but whether of
28 conviction or acquittal, shall not prevent prosecution
29 and punishment otherwise according to law. [~~Each pro-~~
30 ~~ceedings shall not suspend any of the named officers,~~
31 ~~and the officers shall be filled by the incumbent until~~
32 ~~his conviction by the Senate.~~

33
34 Source: La. Const. Art. IX, §§1, 2 (1921).

1 Comment: The proposed section makes a number of changes in
2 the impeachment provisions of the 1921 Constitution.

3 [~~In (A) the grounds for removal are the same as given~~
4 ~~in the 1921 Constitution except that the word "felonies"~~
5 ~~has been proposed to replace the term "high crimes".~~]

6 In (B) the phrase "and shall disqualify any judge or
7 district attorney, or attorney general from practicing
8 law" which appears in the 1921 provision has been deleted
9 from the proposed section since it seemed discriminatory
10 in that other officers removable by impeachment could also
11 be lawyers, but would not be disqualified from law practice
12 because of impeachment.

13 Under the 1921 constitutional provision, officers are
14 suspended when impeachment proceedings are begun. In
15 (B) of the proposed section it is provided that officers
16 are not suspended by impeachment proceedings, and the
17 incumbent serves until convicted by the Senate.

18
19 Alternative: Require sixty percent vote of senators for
20 conviction.

21
22 Note: If lieutenant governor is no longer presiding officer
23 of the Senate, the provision relative to the chief or
24 associate justice in lines 18 and 19 can be deleted.

CC- 4

1 Constitutional Convention of Louisiana of 1973

2 SUBCOMMITTEE PROPOSAL NUMBER

3 Introduced by Mr. Tapper on behalf of the Subcommittee on
4 Reorganization; Vacancies, Succession, Absence, and
5 Disability, and Impeachment

6 A PROPOSAL

7 Making provisions for vacancies, disability, and absence
8 in state offices.

9 PROPOSED SECTIONS:

10 VACANCIES

11 Article _____, Section 1. Governor

12 Section 1. The order of accession in the office of
13 governor in the event of vacancy shall be (1) the
14 elected lieutenant governor, (2) the elected secretary
15 of state, (3) the elected attorney general, (4) the
16 elected treasurer, (5) the president pro tempore of the
17 Senate, (6) the speaker of the House of Representatives,
18 and then ^{maybe} ~~as provided by law~~ ^{statute} Successors shall serve
19 ^{remaining} the term for which the governor was elected.

20
21 Source: La. Const. Art. V, §6 (1921).

22
23 Comment: The section establishes the order of succession

24 in the event of a vacancy in the office of governor.
25 First priority is given to statewide-elected officials,
26 followed by legislators elected by their respective
27 houses to leadership positions and thereafter, as the
28 legislature may provide by law. Successors are to
29 serve the unexpired term for which the governor was
30 elected.

31 The intent of the provision is that successors to
32 the office of governor shall first be statewide-elected
33 officers, and that no person serving in public office
34 by reason of appointment shall succeed to the governor-

35
1 The 1921 Constitution establishes the following
2 order of succession in case of vacancy in the office of
3 governor: lieutenant governor, president pro tempore
4 of the Senate, secretary of state acting until a presi-
5 dent pro tempore is elected.

6 If the lieutenant governor is to have no legislative
7 functions under the new constitution, the term "presi-
8 dent of the Senate" should perhaps replace the above
9 reference in the proposed section to the "president pro
10 tempore of the Senate".

11
12 [~~Section 2--Governor-elect~~]

13 ~~Section 2--Should the governor-elect be disqualified,
14 resign, or die following the election, but prior to tak-
15 ing office, or for any reason fail to take office, the
16 lieutenant-governor-elect shall take office as governor
17 and shall serve the term for which the governor-elect
18 was elected:~~

19
20 Source: New

21
22 Comment: The 1921 Constitution makes no provision for filling
23 the governorship in the event a governor-elect does not
24 take office. The above provision provides that in this

25 eventuality, the lieutenant governor elect shall become
26 the governor and shall serve the full term for which
27 the governor was elected.

28 A number of recent state constitutions have provisions
29 similar to the above proposal. (Connecticut, Michigan,
30 Montana, North Carolina, Virginia)

31
32 Section 3. Lieutenant Governor

33 Section 3. Whenever there is a vacancy in the office
34 of the lieutenant governor, the governor shall nominate
35 a lieutenant governor who shall take office upon con-

1 firmation by a majority vote of the elected members of
2 both houses of the legislature.

3
4 Source: La. Const. Art. V, §9 (1921).

5
6 Comment: The proposed section requires that a vacancy in
7 the office of lieutenant governor be filled by an
8 appointee of the governor and the Senate.

9 The 1921 Constitution provides that in the event of
10 a vacancy in the office of the lieutenant governor,
11 the president pro tempore of the Senate shall discharge
12 the duties of the office.

13
14 Section 4. Other Statewide-Elective Offices

15 Section 4. The order of succession in any other
16 statewide-elective office, in the event of a vacancy in
17 such office, shall be the appointed first assistant in
18 such office. Successors to such offices shall serve
19 for the remainder of the term.

20 [~~entire term; president pro tempore of the next
general statewide election~~]

21
22 Note: The subcommittee recommends that successors serve
23 "the term for which the official was elected".

24
25 Source: La. Const. Art. V, §18; Art. VII, §56 (1921).

26
27 Comment: The proposed section provides that appointed first
28 assistants of elected officials, exclusive of the gov-
29 ernor and lieutenant governor, shall succeed to the
30 elective offices in the event of vacancies in these
31 offices. As successor, the assistant will serve the
32 unexpired term for which the official was elected.

33 The 1921 Constitution provides that the attorney
34 general shall appoint a first assistant who, in case
35 of a vacancy in the office of attorney general, shall

1 perform the duties of the office until another
2 attorney general has been elected and qualified.

3 The 1921 Constitution also provides that the following elected
4 officials, exclusive of the governor, lieutenant govern-
5 or, commissioner of agriculture, and registrar of the
6 state land office, are each authorized to appoint and

7 remove an assistant who may perform duties of the
8 office when the elected official is absent or unable to
9 act.

11 Section 5. Other Vacancies

12 Section 5. (A) Where no other provision therefor is
13 made by this constitution or by statute, by local govern-
14 ment charter, or by ordinance, the governor shall have
15 the power to fill any vacancy occurring in any elective
16 office, and the unexpired portion of the term of office
17 of such office shall be filled in the event of a vacancy
18 which occurs in such office, if at the time a vacancy occurs in such office
19 is more than one year, the vacancy shall be filled at an
20 election within six months, as may be provided by statute.
21 If the vacancy occurs in an elective office, a special election to fill
22 the vacancy shall be called within thirty days by the
23 governor as a ministerial duty, which election shall be
24 held not more than six months nor less than three months
25 calculated from the date on which the vacancy occurs,
26 unless a general election is to be held during such
27 period within the political subdivision from which the
28 vacancy is to be filled, in which case the vacancy shall
29 be filled at such general election, and in either of
30 such cases the appointment provided for in Paragraph A
31 of this section shall be effective only until a successor
32 is duly elected and qualified.

33 (C) The secretary of state shall, within twenty-four
34 hours after such election is called, notify in writing
35 by registered or certified mail all election officials,
including party committees and boards of supervisors of
elections having any duty to perform in connection with
a special election to fill such vacancy, of the occur-

5-

1 rency of the vacancy.
(B)

2 Nothing in this Section shall be construed as
3 changing the qualifications for the various offices
4 involved, and all appointments must be of persons who
5 otherwise would be eligible to hold offices to which
6 appointed.

8 Source: La. Const. Art. III, §8; Art. V, §55, 18; Art. VI,
9 §519.2, 26; Art. VII, §69; Art. X, §2; Art. XII, §51.7 (1921).

11 Comment: The proposed section is a general provision which
12 requires the governor to fill vacancies in elective
13 offices if not otherwise provided for in the constitu-
14 tion. Procedures for filling such vacancies are set out
15 in the following sections.

16 Elections are to be held to fill vacancies when
17 the unexpired term is longer than one year, and in
18 such cases, the governor is to make appointments only
19 until a successor is elected. In ministerial appointments
20 to vacancies must possess the same qualifications as
21 required by law for persons elected to the positions.

22 Requiring the governor to call special elections
23 within a specified time limit as a ministerial duty
24 makes him subject to mandamus proceedings for failure
25 to do so.

The 1921 Constitution contains a number of separate

26 provisions requiring the governor to fill vacancies in
27 particular offices. It also has a general provision
28 allowing the governor to make appointments not otherwise
29 provided for in the constitution; he is also authorized
30 to make recess appointments.

31 Provisions in Paragraphs B, C, and D of the above
32 proposed section are similar to provisions presently
33 found in Art. VII, §69, Paragraphs C and D of the
34 1921 Constitution.

1 Section 6. Definition of Vacancy

2 Section 6. (A) "Vacancy" as used in this con-
3 stitution shall occur in the event of
4 death, resignation, or
5 removal by any means, or the failure to take office for
6 any reason.

6 Source: New

8 Comment: The proposed section provides a general definition
9 of conditions constituting a vacancy in public office.
10 The assumption is that all "vacancies" are absolute
11 and permanent, and that conditions such as disability
12 or temporary absences do not constitute vacancies.

14 Section 7. Declaration of Disability

15 Section 7. Whenever a statewide elective official
16 transmits to the president pro tempore of the Senate
17 and the speaker of the House of Representatives a
18 written declaration that he is unable to discharge the
19 powers and duties of the office, and until he trans-
20 mits to them a written declaration to the contrary,
21 the person succeeding to the office in the event of
22 a vacancy shall assume the powers and duties of the
23 office as acting official.

25 Source: La. Const. Art. V, §56, 18 (1921).

27 Comment: The 1921 Constitution provides that in case of
28 the inability of the governor to act, the powers and
29 duties of his office shall devolve upon the same
30 officers who succeed to governorship in the event of
31 a vacancy. Successors act until the inability is
32 removed.

33 The 1921 Constitution also provides that the state-
34 wide elective officers who are authorized to appoint
35 assistants may direct the assistants to carry out

1 duties of the office in event of the official's
2 inability to act.

3 The proposed section applies to all statewide-
4 elected officials. It allows each official to make
5 official declaration of disability at the time it
6 commences and at the time it ceases. The constitu-
7 tionally-named successor acts for the official during
8 the period of disability.

9 The proposed section is similar to disability pro-
10 visions of the federal constitution. (Amendment XXV,
11 §3)

reconsider
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Section B. Determination of Disability
[for just cause]
Section B. (A) Whenever a statewide elected official is unable to discharge the duties of the office, they may then
Representatives a written declaration in the [statewide-
elected official is unable to discharge the powers
and duties of his office, the constitutional successor
to the office shall immediately assume the powers and
duties of the office as acting official.
(B) Thereafter, when the elected official transmits
to the president pro tempore of the Senate and the
speaker of the House of Representatives his written
declaration that no disability exists, he shall resume
the powers and duties of his office; provided that
should a majority of the statewide-elected officials
transmit within four days to the president pro tempore
of the Senate and the speaker of the House of Representa-
tives a second written declaration that the elected
official is unable to discharge the powers and duties
of the office, the issue shall be determined finally
by a two-thirds vote of members elected to the state
supreme court under such rules as it may adopt, and
after due notice and hearing. The elected official may

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not for a period of six months thereafter file another
declaration stating that his disability has ended.

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Note: The subcommittee considered the following language
as an alternate:
"...the issue shall be determined finally by a resolu-
tion of the legislature passed by a two-thirds vote of
the elected members of each house meeting in regular
or special session."

10

Source: New

11

Comment: The proposed section, similar to disability pro-
vision of the federal constitution (Amendment XXV,
§4) provides a procedure whereby the disability of
statewide-elected officials can be determined.

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The procedure is initiated by the elected officials
acting in concert, and the officer declared disabled
has the privilege of stating when his disability has
ceased. However, if there should be a difference of
opinion about the cessation of the disability, the leg-
islature is so informed, and the issue is then decided
by a two-thirds vote of the state supreme court.

Hold

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After the court has made a decision that the disability
continues to exist, the official must then wait six
months before he can again declare that his disability
has terminated.

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When an elected official is declared disabled, there
is no legal vacancy in the office and the constitu-
tionally-named successor serves only as acting officer
to fulfill the powers and duties of the office. The
title to the office is retained by the elected official
even though he is disabled.

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Section 9. Absence. [Continued]
Section 9 (A) In the event of a temporary absence
of the governor from the state, the lieutenant gover-
nor shall act as governor. In the event of a temporary
absence of a statewide-elected official from the state
the appointed first assistant shall act in his absence.
Section 10. Compensation.
[##] The lieutenant governor when acting as gover-
nor shall receive the same salary as the governor, and
an appointed assistant when acting as an elected
official shall receive the same salary as the elected
official.

Source: La. Const. Art. V, §56, 18 (1921).

Comment: The 1921 Constitution provides that during
absence of the governor, the powers and duties of the
office shall devolve upon persons named as successors
to the office in case of a vacancy. An 1874 case has
held that temporary absences do not create vacancies,
and "the absence must be such as would affect injuri-
ously the public interest" before powers and duties
would devolve on the lieutenant governor. The 1921
Constitution also provides that other named statewide-
elected officials may appoint assistants who then
"shall" act for them during their absences.

The proposed section by making reference to
"temporary absences" indicates that no vacancy in the
elected office exists during such periods. The con-
stitutionally-named successors are required to act on
behalf of the elected officials, whether or not so
requested, when the elected officers are temporarily
absent. Compensation of the successors is the same as
that of the elected official when they are serving
during temporary absences.

CC-4

1 Constitutional Convention of Louisiana of 1973
2 SUBCOMMITTEE PROPOSAL NUMBER
3 Introduced by Mr. Tapper on behalf of the Subcommittee on
4 Reorganization; Vacancies, Succession, Absence, and
5 Disability; and Impeachment

AN ALTERNATE PROPOSAL

7 For reorganization of the executive branch.
8 PROPOSED SECTION:

9 Article _____, Section 1A. Reorganization
10 Section 1A. The governor may propose to the legis-
11 lature, while in session, and on the first day of such
12 session, a plan of reallocation of the functions, powers,
13 duties, and responsibilities among and within not more
14 than twenty departments. The legislature, by a majority
15 vote of its elected members, may disapprove such plan,
16 but may not amend it.

17
18 Source: La. Const. Art. III, §32, Art. V, §1 (1921).

19
20 Comment: The 1921 Constitution vests the power of reorgani-
21 zation in the legislature. The proposed section would
22 give the governor constitutional authority to reallocate
23 functions, powers, duties, and responsibilities into not

24 more than 20 departments. The legislature could dis-
25 approve the governor's plan, by a majority vote of its
26 elected members, but could not amend it. The governor's
27 plan would have to be submitted on the first day of a
28 legislative session.

CC-5

1 Constitutional Convention of Louisiana of 1973
2 SUBCOMMITTEE PROPOSAL NUMBER

3 Introduced by Mr. Tapper on behalf of the Subcommittee on
4 Reorganization; Vacancies, Succession, Absence, and
5 Disability; and Impeachment

6 A PROPOSAL

7 For scheduling the reorganization of the executive branch.

8 PROPOSED SECTION:

9 Article _____, Section 2. Reorganization

10 Section 2. The legislature, by a proposal originating
11 in the House of Representatives, on or before eighteen
12 months after the effective date of this constitution,
13 shall allocate by law the functions, powers, duties, and
14 responsibilities of all executive and administrative
15 offices, agencies, and instrumentalities of the executive
16 branch, except those functions, powers, duties, and
17 responsibilities allocated by this constitution, among
18 and within not more than twenty departments. Should the
19 legislature fail to make such allocations within such
20 eighteen month period, the governor promptly shall effect
21 such allocations by executive order.

22
23 Source: New

24
25 Comment: The proposal for scheduling reorganization requires
26 that the legislature initiate the reorganization of
27 executive and administrative offices and functions into
28 not more than 20 departments. If the legislature does
29 not act within the specified time limit of 18 months, the
30 governor must reorganize by executive order. Constitu-
31 tional offices and functions are excluded from reorgani-
32 zation.

CC-6

1 Constitutional Convention of Louisiana of 1973
2 SUBCOMMITTEE PROPOSAL NUMBER

3 Introduced by Mr. Tapper on behalf of the Subcommittee on
4 Reorganization; Vacancies, Succession, Absence, and
5 Disability; and Impeachment

6 AN ALTERNATE PROPOSAL

7 For scheduling the reorganization of the executive branch.

8 PROPOSED SECTION:

9 Article _____, Section 2.B. Reorganization

10 Section 2. The governor, on or before eighteen
11 months after the effective date of this constitution, shall
12 propose to the legislature, while in session, a plan of
13 allocation of the functions, powers, duties, and
14 responsibilities of all executive and administrative
15 offices, agencies, and instrumentalities of the executive
16 branch, except those functions, powers, duties, and

17 responsibilities allocated by this constitution, among
18 and within not more than twenty departments. The legis-
19 lature, by a majority vote of its elected members, may
20 disapprove such plan, but may not amend it. Should the
21 legislature disapprove such plan, the governor promptly
22 shall effect such allocations by executive order.

23

24 Source: New

25
26 Comment: The proposal for scheduling reorganization would
27 require the governor to initiate a reorganization of the
28 executive branch into not more than 20 departments by
29 submitting a plan to the legislature within a specified
30 time limit. The legislature could disapprove but not
31 amend the plan. If the legislature should disapprove the
32 plan, then the governor could reorganize by executive
33 order. Constitutional offices and functions would be
34 excluded from the reorganization.

CC-7

1 Constitutional Convention of Louisiana of 1973
2 SUBCOMMITTEE PROPOSAL NUMBER

3 Introduced by Mr. Tapper on behalf of the Subcommittee on
4 Reorganization; Vacancies, Succession, Absence, and
5 Disability; and Impeachment

6 A PROPOSAL

7 For reorganization of the executive branch.

8 PROPOSED SECTION:

9 Article _____, Section 1. Reorganization

10 Section 1. The legislature, by a proposal
11 originating in the House of Representatives, may reallo-
12 cate by law the functions, powers, duties, and responsi-
13 bilities of all executive and administrative offices,
14 agencies, and instrumentalities of the executive
15 branch, except those functions, powers, duties, and
16 responsibilities allocated by this constitution among
17 and within not more than twenty departments.

18
19 Source: La. Const. Art. III, §32; Art. V, §1 (1921).

20
21 Comment: The 1921 Constitution vests the general power
22 of administrative reorganization in the legislative
23 branch.

24 The proposed section continues to vest the legislature
25 with reorganizational authority, but the power is limited
26 by the provision that proposals must arise in the House
27 of Representatives and by the statement that legislative
28 authority to reorganize does not extend to the 20 major
29 administrative departments.

30
31 Note: Mr. Donnelly is of the opinion that the language
32 requiring the proposal to originate in the House of
33 Representatives properly belongs in the legislative
34 section in the same clause which requires appropriation
35 bills to originate in the House.

II. Staff Memoranda

CC/73 Research Staff
 Committee on Executive
 Department
 March 21, 1973
 Staff Memo No. 1

RE: Material Preparatory to Next Scheduled Meeting

Mr. Tom Stagg, Chairman of the Committee on Executive Department, requested the enclosed material be sent to members of the Committee prior to the next scheduled meeting on Monday, March 26, 1973. Included you will find:

1. A copy of the minutes of the last meeting with attachments showing the constitutional agencies the Committee agreed fell within its purview, and the approved list of constitutional provisions relating to the Executive Department;
2. The adopted plan of Committee meetings;
3. Schedule of witnesses who will testify before the Committee on Monday, March 26 and Tuesday, March 27, 1973; and
4. Council of State Governments study, Cabinets in State Government, marked Exhibit Number 1.

If the members of the Committee would bring to the meeting the compilation of constitutional provisions on Executive Department the Research Staff will make the appropriate changes.

NOTES

Materials indicated as enclosed with Staff Memo No. 1 are omitted in that they are elsewhere reproduced in this work or have been published elsewhere. [The Council of State Governments, Cabinets in State Govt.(1969).]

CC/73 Research Staff
 Committee on Executive
 Department
 March 26, 1973
 Staff Memo No. 2

RE: STATE ELECTIVE OFFICERS; THEIR DUTIES, RESPONSIBILITIES AND SUGGESTED ISSUES

Attached is the material prepared by the Research Staff for the Committee hearings on the following offices:

- 1) Governor - Exhibit A
- 2) Secretary of State - Exhibit B
- 3) Comptroller - Exhibit C
- 4) Attorney General - Exhibit D
- 5) Public Service Commission - Exhibit E

NOTES

Staff Memo No. 2 contains the following materials which are published elsewhere and are omitted here :

State Agency Handbook, 1969. Public Affairs Research Council. Materials are excerpted for each office listed.

General Appropriation Act of 1972 [Act 13, 1972 Regular Session]. Schedule for each Executive Department office.

Book of the States, 1972-1973: The Governor the Office and Its Powers.

Projet of a Constitution for the State of Louisiana. Materials are excerpted for the enumerated offices.

State Accounting, 1960, Public Affairs Research Council.

[Deletions are indicated by * * *]

Exhibit A

Executive functions in Louisiana are exercised by 11 constitutional officials, elected state-wide.

- Governor
- Lieutenant Governor
- Secretary of State
- Attorney General (also has judicial functions)
- Comptroller (scheduled for 1974)
- Register of State Land Titles
- Treasurer
- Custodian of Voting Machines
- Commissioner of Agriculture
- Superintendent of Education
- Commissioner of Insurance

The Governor's personal staff consists of 11 authorized positions and enters around an Executive Counsel and a Secretary. The office received an appropriation of \$360,000 for fiscal 1972-73.

For budgetary purposes, the "governor's office" is referred to as the "executive department" (exclusive of other elected officials) and includes 15 budget units. These units serve housekeeping functions or are special programs of interest to the governor. In fiscal 1972-73, \$24.8 million was appropriated for these 15 units, of which approximately one-half was payable from federal funds and one-half from state funds.

The Division of Administration is an adjunct of the governor's office, and is one of the three major fiscal agencies in the state. (The other two are the Treasurer and the State Land Commission).

The Division of Administration is one of the 15 budget units composing the "executive department" and administers the state's \$2 million operating budget. It has 11 authorized positions and for fiscal 1972-73 received an appropriation of \$8 million, about one-half of which was for civil service pay raises. The Commissioner of Administration is appointed by the governor and is directly responsible to the governor for his actions.

In addition to duties connected with the office of governor, the chief executive serves ex officio on 15 boards, commissions and special authorities, the majority of which have fiscal functions such as incurring of debt for special programs.

In addition to the governor and the other state-wide elected officials, executive functions are also administered by more than 250 state agencies, boards and commissions. A large number of these board members are appointed by the governor, and most are subject to budgetary control by the Division of Administration. About 30 are constitutionally created.

* * *

EX-OFFICIO POSITIONS OF GOVERNOR

Agency	Major Functions
Advisory Board, State	Approves contracts for roads and bridges paid for out of constitutional funds.
Atchafalaya Basin Commission	Advises Atchafalaya Basin Division of Department of Public Works; secures funds for preservation of basin.
Bond Commission, State (Functions of various fiscal agencies were merged into the Bond Commission in 1972)	Issues and sells state bonds; invests capital improvement bond fund.
Commerce and Industry Board	Administers industrial tax exemptions; promotes industrial development.
Education Council, Louisiana	Represents Louisiana on Educational Commission of the States.
Health Education Authority	Issues bonds, solicits public funds for health educational institutions; formulates master health plan.
Highways, Board of	Controls, manages, supervises, constructs state highways and bridges.
Housing Finance, Development Authority	Issues revenue bonds for financing low rent housing.
Liquidation of State Debt, Board of	Makes interim emergency appropriation; not to exceed \$1,000,000 (\$100,000 per unit). Emergency borrowing not to exceed \$2,000,000.
Mineral Board, State	Leases state lands for mineral production; supervises leases.
Parks and Recreation Commission	Manages state parks and recreational centers.
Public Buildings Board	Approves plans for state buildings in Baton Rouge.
Regional Airport Authority	Issues revenue bonds, secures public funds, prepares master plan for regional airport authority in southeast Louisiana parishes.

- Administration, State Board of
- Public Service Commission
- State Board of Registration
- Tourist Development Commission
- T.V. Authority, Educational
- Develops and promotes tourism in the state.
- Owns and operates T.V. and radio stations utilizing non-commercial educational and public channels; secures public funds for maintenance (total \$12,000.00 (\$6,000,000 federal funds)).

* * *

EXHIBIT "E"

PUBLIC SERVICE COMMISSION

Suggested questions to ask on the Public Service Commission

1. Are there any provisions now in the Constitution affecting the Commission which are obsolete, or which could otherwise be eliminated?
2. Are there any provisions not in the Constitution which should be there?
3. Would statutory, as opposed to constitutional status, impair this agency's effectiveness?
4. Should commissioners continue to be publicly elected, or would gubernatorial appointment make for greater efficiency?
5. Does it operate on dedicated revenues? Are those constitutional dedications?

COMPTROLLER

The Comptroller is a constitutional officer of the state, elected by the people for a four-year term. He is the chief fiscal officer of the state and is responsible for the collection, disbursement, and accounting of all state funds. He also has the duty to certify the state's financial statements to the legislature.

The Comptroller is also the chief administrative officer of the state and is responsible for the management of the state's financial affairs. He is also the chief legal officer of the state and is responsible for the interpretation of the state's financial laws.

* * *

COMPTROLLER

- Suggested questions to ask of the Comptroller:
1. Does his office perform audit functions? If not, what agency does perform such functions? How effective are these functions?
 2. Does he perform functions which no other agency performs?
 3. What is the relationship of his office to other fiscal offices of the state: the treasurer, the governor (through the Administration), the legislative auditor, the state bond commission?
 4. What effect will abolition of his office have on the system of fiscal checks and balances in state government?
 5. What was the reasoning of the Legislature in abolishing his office?
 6. How can the state be assured of an effective and efficient, annually, of public expenditure and accounts? Is his office responsible to either any of these functions, either as a part of the executive or an elected official, or as a part of the legislative branch answerable to that body?

Exhibit C

The state's present Constitution as drafted in 1911 contained a provision for an auditor as one of the elected officials in the Executive Department of government. Although certain isolated functions of the auditor are found in various articles of the Constitution, no specific responsibilities were delineated. In 1958 the name of the auditor was changed by constitutional amendment to Comptroller, but no particular functions were designated.

The 1911 Constitution also made reference to a supervisor of public funds who was appointed by the governor. This position was given firm constitutional status as the Legislative Auditor in 1962, but in fact the office continues to have both legislative and executive functions.

It has been consistently maintained by some that the comptroller has no unique functions to perform, and the Legislature in 1972 abolished the office, effective 1976. It is also maintained, however, that effective audits are not performed by the Legislative Auditor. In any event the audit functions of the state appear to need careful review, with consideration being given both pre- and post-audits. The attached papers provide cursory insightⁱⁿ to the matter.

The auditor is a traditional constitutional officer in most States. There is no consistency in the nomenclature of the office. The PROJECT provides for an auditor in the executive department to be elected for a six-year term.

* * *

Exhibit A D

ATTORNEY GENERAL

Suggesting us to ask the Attorney General

1. Does he consider himself an executive or judicial officer?
2. What executive functions does he perform?
3. What functions are carried out in conjunction with the governor's office?
4. What would be the effects of including the attorney general in the governor's cabinet as an appointed official?
5. Would it be feasible to place some of his functions, such as law enforcement, in the governor's office, and some in the judicial branch?
6. Which of his functions require constitutional safeguarding and why?

THE ATTORNEY GENERAL

The ATTORNEY GENERAL in Louisiana is popularly elected. The position is provided for in the Judicial Article of the Constitution.

Previous Louisiana constitutions have all provided for the Attorney General as a judicial officer, but from 1812 to 1852 the position was filled by gubernatorial appointment with confirmation by the Senate. With the Constitution of 1957, the position became elective and has since remained so.

In addition to duties directly related to his elected position the Attorney General serves ex officio on six boards (State Advisory Board, State Bond Commission, State Law Institute,

Natural Gas Commission, Pardon Board, and the Stream Control Commission).

In fiscal 1972-73, the office of Attorney General was authorized to employ 62 persons; the operating budget is approximately \$1.1 million (\$267,000 in federal funds for an organized crime prosecuting unit).

The PROJECT retains the Attorney General as an elective judicial officer and recommends the greatest independence possible for the office. The Model Constitution does not include the Attorney General as a part of the Executive Branch.

Among the 50 states, all states have an attorney general and in all but a few the office is constitutional. In 42 states the position is elective; in one it is filled by the legislature; in 6 the governor appoints the officer with confirmation, and in one he is appointed by supreme court judges.

* * *

BOARDS ON WHICH THE ATTORNEY GENERAL SERVES EX OFFICIO

State Advisory Board	Approves contracts for roads and bridges paid for out of constitutional funds.
Bond Commission, State	Issues and sells state bonds; invests capital improvement bond fund.
Law Institute, State	Official law revision commission of the state.
Natural Gas Commission	Makes studies and plans for private intrastate pipeline systems.
Pardon Board	Recommends to the governor the granting of pardons, computation of sentences, remittance of fines
Stream Control Commission	Establishes standards and controls for water pollution.

* * *

CC/73 Research Staff
Committee on the Executive Department
March 27, 1973
Staff Memo No. 3

RE: THE DUTIES, RESPONSIBILITIES, AND PROJECT PROVISIONS OF CERTAIN STATE ELECTIVE OFFICERS

Attached is the material prepared by the Research Staff for the Committee hearings on the following offices:

- (1) Commissioner of Insurance - Exhibit F
- (2) Register of State Land Office - Exhibit G
- (3) Lieutenant Governor - Exhibit H
- (4) Treasurer - Exhibit I
- (5) Custodian of Voting Machines - Exhibit J
- (6) Commissioner of Agriculture - Exhibit K

NOTES

The same procedure employed in compiling Staff Memo No. 2 was employed in Staff Memo No. 3. Sources cited above in Staff Memo No. 2 were also used here. [Deletions are indicated by * * *]

Exhibit F

The Commissioner of Insurance

The Commissioner of Insurance was created as a constitutionally elective officer in the executive branch in 1960. (Act 609) The amendment provided that the Commissioner could not be consolidated with any other office by the Legislature. (Others exempted from consolidation are the governor, lieutenant governor, secretary of state, and custodian of voting machines. Art. V, Sec. 1)

The Commissioner is elected for a 4-year term; vacancies in the office are filled by the Governor with Senatorial confirmation. The Commissioner has constitutional authority to appoint an assistant who may act in his absence or in case of his inability. (Art. V, Sec. 18)

The present Constitution does not state duties and functions of the insurance commissioner which are all statutory. Duties and functions relative to insurance matters which were performed prior to 1956 by the secretary of state were transferred in that year to the newly legislatively created office of commissioner of insurance. (Act 200, 1956; R.S.22:2). Voters in 1958 rejected a constitutional amendment which would have placed the office of commissioner in the constitution but adopted such an amendment in 1960.

The Insurance Commissioner is responsible for regulation of the Louisiana insurance industry and administration of the state's insurance code. In fiscal 1972-73 the office received an appropriation of \$484,000 of which \$264,000 was payable out of licenses and fees, and the remainder from the State General Fund. The department has 34 authorized personnel positions.

In addition to regulation of the insurance industry, the department makes insurance revenue collections which will total approximately \$21,000,000 in 1972-73. The department maintains 5 sundry funds to account for the fees and taxes which it collects. Year-end surpluses are sent to the State Treasurer. The Commissioner receives an annual salary of \$26,530. (R.S.22:2)

Prior to 1972 the Insurance Commissioner served as an ex-officio voting member of the Insurance Rating Commission which also had seven other members all appointed by the governor. The primary function of the Rating Commission and the three rating divisions composing it was the approval of insurance rates. In 1972 the Legislature reorganized the Insurance Rating Commission by

abolishing the three divisions, changing the membership, and making it subject to budgetary control and legislative appropriations. It continues to be a rate-setting body.

The Commissioner of Insurance is now one of seven members of the Insurance Rating Commission, six of whom are appointed by the governor; he is ex-officio chairman but his explicit right to vote has been deleted from the law.

Among the 50 states, the insurance commissioner or his counterpart is an elective office in 8 states (5 constitutional, 3 statutory). The most prevalent method of selection is gubernatorial appointment.

The Project contains no recommendations on the Insurance Commission.

* * *

Exhibit G

REGISTER OF STATE LAND OFFICE

The office of the register of state lands was created by Act 75 of 1880, which provided for the appointment of a register by the governor with the consent of the senate. Act 193 of 1904 made the office elective rather than appointive, and since 1908 the register has been elected at the general elections of the state. The first mention of the office of the register of state land office in a Louisiana constitution appeared in the Constitution of 1921. However, this accomplished no change in the duties or method of selection, since the office continued to be elective and the legislature set the salary and the duties of the office.

Fewer than 10 per cent of American state constitutions provide for the election of a similar office. The Project recommends the elimination of the register of state land office from the Louisiana Constitution.

* * *

BOARD UPON WHICH THE REGISTER OF STATE LANDS SERVES EX OFFICIO

State Parks and Recreation Commission Establishes and manages state parks; acquires new lands for recreational purposes; and constructs and manages adequate facilities.

* * *

Exhibit H

LIEUTENANT GOVERNOR

The Lieutenant Governor was created as a constitutionally elective office in 1845. The present constitutional duties of that office are as follows:

- 1. Member, Executive Department (Art V, Sec 1)
2. Member, Advisory Board (Art. VI, Sec 22 (e))
3. Member, Board of Liquidation (Art. IV, Sec. 1(a))

4. Member, Board of Registration (Art. VIII, Sec. 18)
5. Member, Board of Pardons (Art. V, Sec. 10)
6. President of Senate, ex-officio (Art. V, Sec. 8)
7. Legislative functions (Art III, Secs. 26, 30)
8. Successor to office of governor in case of vacancy. (Art. V, Sec. 6)
9. Receiving copies of petitions convening legislature in special sessions (Art. V, Sec. 14)

In the event of a vacancy in the office of Lieutenant Governor, the president pro tempore of the Senate discharges his duties and receives emoluments of that office. (Art. V, Sec. 9)

In 1972 the Legislature made the Lieutenant Governor an ex-officio member of the State Board of Commerce and Industry and as a voting member of the Tourist Development Commission (Act 147). He was also made a member of the State Bond Commission (Act 164).

The Lieutenant Governor maintains a full-time office in the State Capitol with an authorization for 7 personnel positions. In fiscal 1972-73, the office received an appropriation of approximately \$124,000 payable from the State General Fund. The appropriated salary for the position is \$26,530.00.

2

Among the 50 states the Lieutenant Governor is a constitutionally elective official in 41 states; in one state (Tennessee) the Senate elects a presiding officer who serves as Lieutenant Governor; and 8 states do not have lieutenant governors. As of 1972, a total of 15 states provided for joint election of governor and lieutenant governor.

The Project retains the Lieutenant Governor as an elective official in the Executive Branch of government; he is the first in the order of succession to the office of governor, in the event of vacancy or disability. He is retained as presiding officer of the Senate.

Project, Vol. II. PP. 427,467,472,489,490.

* * *

Exhibit I

i

TREASURER

The office of treasurer was created in the Constitution of 1812. The legislature appointed the treasurer and assigned his duties. The Constitution of 1852 provided for the popular election of the treasurer.

The treasurer's principal responsibility is to receive and safely keep all monies of the state, and disburse the public money upon proper warrant. To achieve these goals the office is divided into five divisions: the Executive; Administrative; Accounting; Security; and State Debt Management.

These five divisions have the responsibility of performing the following listed duties:

1. Receive and safely keep all the monies of the state, not expressly required by law to be received and kept by some other person.
2. Renders her account to the comptroller quarterly, or more often, if required for settlement.
3. Reports to the governor, ten days prior to commencement of each regular session of the legislature, providing a detailed statement of the condition of the treasury, and its operation during the preceding fiscal year.
4. Provides information in writing to the legislature when required, upon any subject connected with the treasury.
5. Provides services to State Bond and Building Commission and Capitol Construction and Improvement Commission regarding State Bond issues from planning stage through final sale

The treasurer's office administered the sale of bonds in the amount of \$273,580,000 from July 1, 1969 through November 23, 1971.

In most states (40) the treasurer is constitutionally elected by popular vote. The Project retains the treasurer as an elective official in the executive department.

* * *

4

EX-OFFICIO POSITIONS OF STATE TREASURER

State Advisory Board	Approves contracts for roads and bridges paid for out of constitutional funds.
State Bond Commission	Issues and sells state bonds; invests capital improvement bond fund.
Louisiana Development Authority for Housing Finance	Issues revenue bonds for financing low rent housing.
Board of Liquidation of State Debt	Makes interim emergency appropriations not to exceed \$1,000,000 (\$100,000 per unit). Emergency borrowing not to exceed \$2,000,000
State Police Retirement Board	Administers the retirement fund; determine pensions under the provision of the law; invest funds not currently needed.
Stonewall Jackson Memorial Board	Administers funds to establish scholarships in higher education for Louisiana students.

* * *

Exhibit J

CUSTODIAN OF VOTING MACHINE

The office of custodian of voting machines was added to the list of constitutional offices in Louisiana in 1962 (Acts 1962, No. 522, adopted Nov. 6, 1962). The office is not provided for in the constitutions of most other states. The Project makes no provision for the creation of the office in a new constitution for Louisiana.

* * *

COMMISSIONER OF AGRICULTURE

The bureau of agriculture and immigration was created by Act 56 of 1880. Act 41 of 1880 authorized the governor with the consent of the senate to appoint a commissioner of agriculture and immigration and set out the salary and duties of the commissioner. Act 54 of 1884, which amended and re-enacted Act 56 of 1880, authorized the governor to appoint a commissioner of agriculture and set forth the salary and duties of the commissioner. Act 141 of 1894 repealed all previous acts relative to the department of agriculture and immigration and created the bureau of agriculture and immigration. This act delegated the powers and duties of the bureau to one commissioner of agriculture and immigration, provided for his appointment, fixed his salary, and defined his duties and powers. The office of commissioner of agriculture and immigration was made elective rather than appointive by Act 194 of 1904, but the duties and salary of the office continued under the then existing law. The first mention of the office in a Louisiana constitution came in 1921, and there has been no substantial change in the functions of the office, or in the method of selecting the commissioner since that time.

Fewer than 10 per cent of the states provide constitutionally for a popularly elected commissioner or board of agriculture. The Projet suggests the elimination of the office from the Louisiana Constitution.

* * *

BOARDS UPON WHICH THE COMMISSIONER SITS EX OFFICIO

(in addition to those listed under "ORGANIZATION" of the Agriculture Department)

Air Control Commission	Develop plans for air resources control
Louisiana Milk Commission	Investigate all matters pertaining to processing, transportation, storage, distribution and milk sales.
Public Buildings Board	Rule on plans for proposed state buildings in Baton Rouge.
Public Livestock Market Board	Administers La. Public Livestock Market Law
Soil and Water Conservation Committee	Cooperate with soil conservation districts and USDA to conserve soil, coordinate district programs, publicize information.
Stream Control Commission	Control waste disposal and set pollution standards for state waterways.
Louisiana Rice Promotion Board	Both provide for referendum before levying assessments on the sale of rice and collection thereafter, if approved by a majority of rice producers.
Louisiana Rice Research Board	

* * *

CC/73 Research Staff
Committee on Executive Department
April 2, 1973
Staff Memo No. 4

RE: CERTAIN STATE OFFICERS AND AGENCIES; THEIR POWERS, DUTIES, APPROPRIATIONS, AND PROJET RECOMMENDATION

Attached is the material prepared by the Research Staff for the Committee hearings on the following offices:

- (1) (a) Louisiana Commission on Governmental Ethics - Exhibit R
- (b) Louisiana Board of Ethics for State Elected Officials - Exhibit R
- (2) State Forester and the Forestry Commission - Exhibit S
- (3) Joint Legislative Committee on Reorganization of Levee Districts - Exhibit M-1
- (4) Former Commissioner of Administration (See Exhibit A)
- (5) Liquefied Petroleum Gas Commission - Exhibit T

EXHIBIT "R"

- I- LOUISIANA COMMISSION ON GOVERNMENTAL ETHICS
- II- LOUISIANA BOARD OF ETHICS FOR STATE ELECTED OFFICIALS

Both the Commission and the Board were created in Article XIX, Section 27 in 1964. The Commission consists of five persons appointed by the Governor. They serve six-year terms. The Board consists of one gubernatorial appointee, a retired higher-court judge; and two non-legislators, one appointed by the House of Representatives and one appointed by the Senate. The three Board members serve terms concurrent with the Governor. (La. R.S. 42:1119(A); 42:1144(A)).

Constitutional Duties: Article XIX, Section 27, directs the legislature to prescribe the means by which the Commission and the Board may investigate, hold hearings, and make public the violations of the Code of Ethics. The Commission has jurisdiction over the activities of state employees; the Board, over certain elected state officials.

Statutory Duties: La. R.S. 42:1119(D) details the 12 administrative, investigatory and procedural duties of the Commission; La. R.S. 42:1144(E) names the 7 similar functions of the Board. (for a summary of the duties, see the attachment from the State Agency Handbook).

Compensation: (See attachment from State Agency Handbook).

1972-73 Appropriation: None

Projet Recommendation: None

* Act No. 413 of 1972 allows the Civil Service Department to obtain investigative services from any agency of political subdivision of the state and, when public funds have been diverted in violation of the Code of Ethics, to initiate legal proceedings for their recovery.

NOTES
State Agency Handbook is deleted.

Memorandum

March 8, 1973

RE: The Jurisdiction and Powers of both the Louisiana Commission on Governmental Ethics and the Louisiana Board of Ethics for State Elected Officials

Jurisdiction over ethical violations in state government is divided between the Louisiana Commission on Governmental Ethics and the Louisiana Board of Ethics for State Elected Officials. Each entity is separate and distinct from the other in both membership and powers. Generally, the Louisiana Commission on Governmental Ethics has jurisdiction over the activities of "state employees" while the Louisiana Board of Ethics for state elected officials has jurisdiction over the activities of enumerated state elected officials only. The following is a comparison of the jurisdiction and powers of the respective entities

... his children or ... had on any public contract ... the supervision of a board of education on which the member serves. [R.S. 42:1117(F)]

(These Rules are in lieu of those which relate to other "state employees").

Express Exclusions from these Prohibitions

- | | |
|---|--|
| <p>(1) Prohibition from participating in transactions affecting a personal economic interest does not apply if the compensation received by a "state employee" is through a firm in which he owns or controls less than a 10% interest if the "state employee" did not aid in the procurement of the compensation. [R.S. 42:1112(F)(1)]</p> <p>(2) Nothing is to prevent a "state employee" (other than a member of a board or commission, group) from receiving compensation through a business firm in which he has an interest if the compensation is due to his participation in a bona fide business, provided the employee did not aid in procuring the acceptance of the bid. [R.S. 42:1112(F)(2)]</p> | <p>(1) Bona fide reimbursements for travel expenses for which no state payment is made.</p> <p>(2) Awards and activities concerning public service and public service organizations</p> <p>(3) Sharing compensation received through a firm with which he is involved or by virtue of acceptance of the lowest sealed bid in order to participate in the official duties of part of the activities of the firm.</p> <p>(4) ... authorized by a majority vote of its governing body</p> <p>(5) ...</p> <p>(6) ...</p> |
|---|--|

Louisiana Commission on Governmental Ethics	Louisiana Board of Ethics for State Elected Officials
Jurisdiction	Jurisdiction

- | | |
|---|--|
| <p>A. Jurisdiction over improper activities of "state employees" such as:</p> <ul style="list-style-type: none"> (1) Administrative officers (2) Governor appointees (3) Persons engaged in performance of functions under state law (4) Appointees of any other state employee (5) Any person under the supervision of a state employee or official [R.S. 42:1111(2)] | <p>Jurisdiction over improper activities of the following elected officials:</p> <ul style="list-style-type: none"> (1) Governor (2) Lieutenant Governor (3) Secretary of State (4) Attorney General (5) Treasurer (6) Comptroller (7) State Superintendent of Public Education (8) Commissioner of Agriculture (9) Director of State Land Office (10) ... (11) ... (12) ... (13) ... (14) ... (15) ... |
|---|--|

... included by compliance ...

- ... not state employees
- (1) Judges
 - (2) Elected officials
 - (3) Locally elected officers
 - (4) Employees of locally elected or appointed agencies
 - (5) Teachers, professional and administrative personnel of state schools, colleges and universities [R.S. 42:1112(b)]

C. A person is a "state employee" until termination of his services. However, no former state employee may, for two years following his termination, assist any person in any transaction involving the state in which he formerly participated at any time as a "state employee". Sanctions are provided for a former state employee, [R.S. 42:1113]

... participation in transactions involving the state ...

... salary and certain fringe benefits [R.S. 42:1113]

... included by compliance ...

... included by compliance ...

With respect to the specific matters about which you inquired, we find that (1) activities of former elected officials do not fall within the jurisdiction of either entity; and (2) local officials of political subdivisions of the state do not fall within the jurisdiction of either entity. It should be noted that there is a local governmental ethics commission in East Baton Rouge Parish.

The most obvious alternative for alleviating present problems is to eliminate the exceptions to the present jurisdictions. Presently judges, former state elected officials, locally elected officers, local government employees and university and college personnel are not under the jurisdiction of either the Commission on Governmental Ethics or the Board of Ethics for State Elected Officials.

And it appears that the Louisiana Commission on Governmental Ethics and the Board of Ethics for State Elected Officials have jurisdiction over the state for all ethical violations.

... all violations be investigated either by the Commission on Governmental Ethics, the Board of Ethics for State Elected Officials, or both.

The legislature may feel that the present jurisdictional structure is desirable and may wish to take no action at this time. However, the Commission on Governmental Ethics and the Board of Ethics for State Elected Officials are currently reviewing the matter.

Statutory Duties. A similar listing of the duties is provided in La. R.S. 40:1846-1847 and 1649-1850. Act 734 of 1972 transfers the functions of the Anhydrous Ammonia Commission to the Commission.

Director's Salary: \$18,000

Commissioners' Compensation: \$25 per diem while attending meetings, expense allowance for those days not to exceed \$10 a day, and 7 cents for each mile travelled to attend meetings and return. (La. R.S. 40:1843)

1972-73 Appropriation: \$109,710

Project Recommendation: Article VI, Section 28 was adopted in 1950. It was not considered in the Project.

for maintaining, operating and maintaining bridges and facilities within the state highway system.

Department expenditures for three fiscal years are as follows:

1971-72 (actual)	\$371,000,000
1971-72 (est.)	294,000,000
1972-73 (requested)	\$497,000,000 (a)
1972-73 (appropriation by act 13)	\$281,000,000

The Project recommended placing basic legal provisions relating to the state highway system in the statutes. Legislation creating the "blue ribbon" highway board was enacted after the Project was completed; thus, it contains no recommendation on this subject. (See Vol. II, pp. 521-528)

(a) In fiscal 1972-73 the Department requested approximately \$81 million in bonds and \$138 million from the State General Fund in addition to its regular sources of revenue, including dedicated revenues. The legislature appropriated \$281,000,000 in the general appropriation act.

Compensation: (Director) \$24,000 annually, set by Board.

CC/73 Research Staff
Committee on Executive Department
April 3, 1973
Staff Memo No. 5

NOTES
State Agency Handbook is omitted.

NOTES
State Agency Handbook omitted.

RE: CERTAIN STATE OFFICERS AND AGENCIES; THEIR POWERS, DUTIES, APPROPRIATIONS, AND PROJET RECOMMENDATION

Attached is the material prepared by the Research Staff for the Committee hearings on the following offices:

- (1) (a) Department of Highways - Exhibit U
- (b) Board of Highways - Exhibit U
- (2) (a) Health, Social and Rehabilitation Services Administration - Exhibit V
- (3) Commissioner of Conservation - Exhibit W
- (4) Adjutant General - Exhibit X
- (5) Louisiana Tax Commission - Exhibit Y
- (6) Louisiana Commission on Intergovernmental Relations - Exhibit Z
- (7) State Planning Office - Exhibit AA
- (8) Collector of Revenue - Exhibit AB
- (9) Louisiana Milk Commission - Exhibit AC
- (10) Legislative Auditor - See Exhibit L

Exhibit U

Department and Board of Highways

Numerous constitutional articles apply to the Department and Board of Highways and the financing of a state system of roads and highways.

Generally, the Department of Highways, by authority of both statutory and constitutional law, is responsible for the maintenance, construction, regulation, study and administration of the state highway system. Within legal limitations, the Department also exercises some responsibility for construction, repair, and maintenance of roads not in the state system. It is responsible

Act No. 253 of 1972, effective January 1, 1973, created the Louisiana Health and Social and Rehabilitation Services Administration and provided for the appointment of a Commissioner to supervise it. The Administration merges and consolidates the operations, programs, and facilities of fifty-nine boards, commissions, and agencies. (See Attachment I) Among them are the Board and Department of Public Welfare (Art. XVIII, Secs. 2, 3, 6, and 7; La. R.S. 46:51-115), and the Board of Health (Art. VI, Secs. 11-12; La. R.S. 40:1-335). The Commissioner appoints personnel necessary for the efficient operation of LHSRSA programs (La. R.S. 46:1756*). The Governor appoints a fifteen-member Board of Health and Social and Rehabilitation Services in accordance with the provisions of La. R.S. 46:1758*.

Constitutional Duties: None, except those "inherited" from consolidated constitution agencies, commissions, and boards.

Statutory Duties: Both the Commissioner and the Board represent the public in matters of health and welfare, advise the Governor, and conduct hearings. The Commissioner accepts donations, makes annual reports, and appoints advisory boards on behalf of the Administration. The Board promulgates rules, and adopts by-laws necessary to the efficient performance of the Administration. (La. R.S. 46:17-1758*.)

EXHIBIT "V"

Commissioner's Salary: \$48,500

Board Members' Compensation: Reimbursement for expenses incurred in performance of official duties.

1972-1973 Appropriation:

* Added in Act No. 253

- 2 -

NOTES

Text of La.R.S.46:1751-66 is omitted. Health and Welfare Reorganization Act of 1972, Act 253,1972 Regular Session.

State Agency Handbook in re State Board of Health and State Welfare Board is omitted.

LOUISIANA BOARD OF HEALTH (as established prior to merger)

Exhibit W

Constitutional Duties: Art. VI, Sec. 11 directs the legislature to create boards of health at the local level, to establish a nine-member State Board of Health appointed by the governor, and to define the duties of both. The President of the Board shall be called the State Health Officer. Sec. 12 directs the legislature to provide for the interest of state medicine in all its departments.

Statutory Duties: The Board has exclusive jurisdiction over maritime quarantine, water supplies, and waste disposal in the state. It has supervisory control over land quarantine and the control of communicable diseases. (La. R.S. 40:11 (A)). It is charged with the preparation and enforcement of a sanitary code. (La. R.S. 40:11 (B)). The statutes also direct local health boards to act in harmony with the state Board. (La. R.S. 40:35,37)).

LOUISIANA BOARD AND DEPARTMENT OF PUBLIC WELFARE (as established prior to merger)

Constitutional Duties: Art. XVIII, Sec 7 (4) created the Board in 1952 and sets its membership at nine. The Governor serves ex-officio and appoints eight members, one from each Congressional district, to six-year terms. The Board appoints a commissioner who appoints necessary state, district, and parish personnel. The Board is responsible "for the adoption of all policies, rules, and regulations for the government of the Department of Public Welfare. It may make such studies and investigations as it thinks necessary."

Statutory Duties: La. R.S. 46:52 details fifteen duties of the Department of Public Welfare, including the supervision of all public assistance, fix minimum standards of service, cooperate with the federal government in welfare matters, and supervise child welfare. The statutes also list the duties of the parish boards and the powers of the state department over them. (La. R.S. 46:59,102).

Salaries: State Health Officer: \$20,000
Welfare Commissioner: \$22,155

Board Members' Compensation: Board of Health: \$25 per diem, plus expenses.
Board of Public Welfare: Reimbursed for expenses.

1972-1973 Appropriations:

Board of Health: \$18,071,047
Board and Department of Public Welfare: \$315,264,826

Project Recommendation: The Project recommends the deletion of Article VI, Sections 11-12. The Board and Department of Public Welfare was created in 1952, and the Project makes no recommendation on its retention.

Department and Commissioner of Conservation

The Commissioner of Conservation is one of the constitutional officers composing the Executive Department. (Art. V, Sec.1) The Commissioner's appointment and term of office, and the procedure for filling vacancies are also provided in the constitution. (Art. V, Sec.18). The legislature is permitted to consolidate the Department of Conservation with other offices. (Art. V, Sec.1)

The Constitution states that the Commissioner "shall have and exercise such authority and power as may be prescribed by law in relation to all other natural resources of the State".^(a) Details of his authority are statutory. (La. R.S. 30:1-63; R.S. 30:201-221)
^(a) The expression "all other" refers to resources not placed under the Forestry Commission or the Wild Life and Fisheries Commission.

Authorized Personnel Positions: 186

Compensation of Commissioner: \$18,000 annually, set by Governor/Senate
1972-73 Appropriation: \$2,142,995

Project Recommendation: Deletion with statutory provisions (Vol. II, pp. 520, 521)

NOTES

State Agency Handbook material in re Department of Conservation is omitted. La. Const. of 1921, Art. IV, §§ 1, 3, 18, 20 (C) & (D) are omitted.
Project of a Constitution for the State of Louisiana, Vol. II, 520-521 is omitted.

EXHIBIT "X"

ADJUTANT GENERAL AND MILITARY DEPARTMENT

The Adjutant General administers the military department and controls its operations according to the directions of the Governor. His office is created in Article XVII, Section 3. The Adjutant General is appointed by the Governor for a four-year term, subject to the approval of the state senate.

Constitutional Duties: None

Statutory Duties: See Attachment I (La. R.S. 29:8, 29:9).

Salary of the Adjutant General: \$30,436 (pay of Brigadier General)

1972-1973 Appropriation: \$1,353,145

Project Recommendation: The Project recommends the retention of the Governor as commander-in-chief (Art. XVII, Sec. 2), but deletes the reference to the Adjutant General (Art. XVII, Sec. 3), the provision for the preservation of relics (Art. XVII, Sec. 4), and the order to the legislature to provide for an organized, equipped, and disciplined militia (Art. XVII, Sec. 1).

NOTES

State Agency Handbook omitted.

NOTES

State Agency Handbook in re Military Department is omitted.

Department of Revenue

Exhibit Z

Commission on Intergovernmental Relations

Creation: Statutory (Act 20, 1967; R.S. 49: 41-49; R.S. 24: 101-103)

Composition: 16 members (5 members of Senate Committee on Intergovernmental Relations; 5 members of House Committee on Intergovernmental Relations; 6 members of Governor's Committee on Intergovernmental Relations); 3 ex officio members (governor, president of the Senate, Speaker of the House), Governor appoints Chairman.

Duties: Creation of a better communications and information system between local, state, and federal governments, including serving as a state clearinghouse for federal aid. As of 1972 (Act 746) the agency is also responsible for governmental reorganization.

1972-73 Appropriation: \$105,085 (plus \$43,784 for the Council on Governmental Reorganization)

Compensation. Executive Director: \$14,173 annually, set by Governor

Project Recommendation: None, since this is a statutory agency created after publication of Projet.

NOTES

State Agency Handbook in re Commission on Intergovernmental Relations is omitted.

The Department of Revenue is created in the Constitution. The creating law provides for the appointment of the Collector by the Governor and the fixing of his salary by the Governor. The Collector replaced the former Supervisor of Public Accounts as the state's Chief tax collecting agent, and he assumed positions on boards and commissions formerly held by the Supervisor. (Art. VI, Sec. 26). The Collectors duties are predominately statutory. (La. R.S. 47:1501-1690)

Collector's salary: \$27,500 fixed by Governor.

Authorized personnel: 1,136

1972-73 Appropriation: \$12,000,000

Project Recommendation: Deletion of provision from constitution (Vol. II, p. 530)

NOTES

State Agency Handbook in re Collector of Revenue is omitted. La. Const. of 1921, Art.6,\$26 is omitted. Projet ,Vol.II,530 is omitted.

Exhibit AC

EXHIBIT "AA"

STATE PLANNING OFFICE

Louisiana Milk Commission

The State Planning Office was created in the Office of the Governor by Act. 288 in 1968 to serve as the principal staff agency continuing the Goals for Louisiana Program. It coordinates basic information and supplies policy alternatives. The Executive Director, appointed by the Governor, employs such personnel as he deems necessary. (La. R.S. 49:1051-1054)

Constitutional Duties: None

Statutory Duties: The Office conducts surveys; reviews current programming and future planning of all state departments, agencies, and commissions; publishes a program of expected planning standards; advises citizens groups; and assists State fiscal agencies. (La. R.S. 49:1054)

Executive Director's Salary: \$19,500

1972-1973 Appropriation: \$437,650

Project Recommendation: None, since office not created until 1968.

Constitutional Provisions: The legislature is authorized by the Constitution to require bonds or other securities of milk manufacturers, pasteurizers and distributors - (Art. III, Sec. 44)

Creation of Commission: Statutory. (LA. R.S. 40: 940.1-940.2)

Duties: Regulates marketing practices of the dairy industry and establishes minimum and maximum wholesale and retail prices on milk and dairy products. The commission has four major functions: pricing, licensing, dissemination of information, and defending the constitutionality of milk regulatory laws.

Authorized personnel positions: 12

1972-73 Appropriation: \$241,703 (Funds are from fees and assessments levied on processors, distributors and retailer)

Salary: \$21,096, set by commission.

Project Recommendation: Deletion of Art III, Sec. 44. No recommendation on Milk Commission, a statutory agency.

NOTES

State Agency Handbook in re Office of State Planning is omitted.

NOTES

State Agency Handbook in re Milk Commission is omitted. Projet, II, 191, is omitted.

NOTES

Staff Memo No. 6 duplicates Staff Memo No. 5.

NOTES

Staff Memo No. 7 is an invitation to Convention Delegates to attend Legislative pre-session issues conference.

The above comments represent a position of the Council for A Better Louisiana and the rationale therefor.

The following comments are personal observations based on some years of observation of and participation in state government.

At the outset, it should be stressed that many problems people associate with state government, particularly as concerning powers of the governor, are statutory and traditional. Present provisions of the constitution are reasonably sound in establishing the office of the governor and providing for the executive branch. It is in the statutes that most appointive power is given. And it is within tradition that people turn to the governor for leadership and action. A governor's influence with appointed agency heads can be very significant, and it cannot be circumscribed by law.

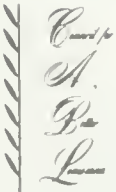
As for tradition, people expect leadership of a governor. Box scores are kept on his proposals and attainments. Candidates for governor invite people to bring their problems to the governor's office, and people do. Blame is attached to a governor who does not provide leadership. People accept the idea that his proposals to a legislature should get special consideration.

In specific reference to constitutional provisions pertaining to the executive branch, the following observations are made:

1. It would be desirable to have the governor inaugurated a month or two in advance of his first legislative session.
2. The pardon power of the governor should be limited, perhaps to capital cases only or to major crimes. A professional pardon and parole board should administer clemency.
3. The present provisions with respect to appointments subject to senate confirmation have loopholes which should be studied. A person subject to confirmation might resign just before a senate session and receive a recess appointment immediately after adjournment, thus circumventing the requirement for confirmation.
4. The ten-day limit for the governor to approve bills after reaching his desk makes sound study very difficult when a mass of bills reaches his desk as always happens in the closing days of a session. A longer period should be considered.
5. Two major developments of recent years should be maintained in curbing the power of the governor. One is to continue the requirement that capital projects be specified in legislation providing for construction through bond issues. And, second, the five-year highway budget program should be continued. These place great power of the purse in the hands of the legislators.

CC/73 Research Staff
Committee on Executive Department
April 9, 1973
Staff Memo No. B

Attached are two statements from persons appearing before the Committee on the Executive Department, and a motion passed by the St. Bernard Parish Police Jury for your consideration.



HEADQUARTERS FIDELITY NATIONAL BANK BUILDING
P. O. BOX 2978 BATON ROUGE, LOUISIANA 70821

March 30, 1973

TELEPHONE
342-5229

MEMO: THOMAS E. STAGG, JR., CHAIRMAN, CONSTITUTIONAL CONVENTION COMMITTEE ON THE EXECUTIVE DEPARTMENT
FROM: EDWARD W. STAGG, EXECUTIVE DIRECTOR
RE: COMMENTS TO THE COMMITTEE

Please accept my thanks for the privilege of appearing before the Constitutional Convention Committee on the Executive Department. The comments given below are a summary of those presented orally to the Committee on March 27 with some explanation.

The Council for A Better Louisiana has in the past taken a position in support of reorganization of the executive branch of state government but without making detailed recommendations on actual realignments of agencies. Extensive study is required in order to determine how reorganization can be best implemented. This is a function for the executive and legislative branches. The constitution needs to leave the way open for administrative and legislative action. It is possible to force reorganization through constitutional revision by limiting the number of state agencies from 20 to 30 and requiring the governor to develop a plan which would be automatically implemented unless vetoed by the legislature in some degree. If vetoed, the legislature would have the responsibility for providing an alternative within the constitutional limitation.

CABL has supported reorganization of the executive branch and consolidation of agencies primarily to improve the management and decision making process. Respect for government will be enhanced when citizens find that administrative decisions can be made with reasonable dispatch without the necessity of waiting for individual concurrence over a period of time by various boards and administrators involved in a desired program. Efficiency and economy should be a result of improved management and decision making.

Additionally, there is need for overall planning for a major program to bring into play all agencies which have an involvement so that proposals to the legislature will encompass all facets.

6. Most boards and commissions should be abolished and the agencies administered by heads appointed by the governor. It is unnecessary to place any specifically in the constitution, though a general authority to create boards and commissions might be given the legislature.
7. Many offices have constitutional status by reference, and it would be good to delete these references.
8. There are obsolete boards which should be omitted, such as the State Printing Board.

It would be a pleasure to discuss these comments in detail if this is desired.

NOTES

Statement of C. Gordon Johnson is reproduced above as Addendum M, Minutes April 2, 3, 1973.

CC/73 Research Staff
 Committee on Executive
 Department
 April 11, 1973
 Staff Memorandum No. 9

RE: MEMORANDUM TO CHAIRMAN OF THE COORDINATING
 COMMITTEE

Enclosed is the memorandum to the Chairman of the
 Coordinating Committee listing the constitutional
 provisions to be considered by the Committee on Executive
 Department (Attachment A); those provisions the
 committee decided they would not consider (Attachment B);
 and provisions referred to the Coordinating Committee
 (Attachment C).

EXHIBIT "A"

Constitutional Provisions Relative to the Executive
 (Topics I, A arranged)

A. Distribution of Powers

Art. II. Distribution of Powers

- Sec. 1. Departments of government
- Sec. 2. Separation of departmental powers

B. Executive Officer or Officers

1. General Provisions

Art. II. Distribution of Powers

- Sec. 3. Continuity of governmental operations upon enemy attack

Art. V. Executive Department:

- Sec. 1. Executive officers; consolidation of offices
- Sec. 2. Governor; Lieutenant Governor; executive power; term; election
- Sec. 3. Qualifications of Governor and Lieutenant Governor
- Sec. 4. Commencement of term of Governor and Lieutenant Governor
- Sec. 6. Governor; vacancy; inability to act; succession
- Sec. 9. Lieutenant Governor; vacancy in office
- Sec. 18. Constitutional officers; election; term; vacancies; assistants
- Sec. 19. Treasurer; eligibility to succeed self

Art. VI. Administrative Officers and Boards

- Sec. 13. Agriculture; Commissioner to direct department

Art. VIII. Suffrage and Elections

- Sec. 13. Office holders; residence requirements

Art. IX. Impeachment and Removal from Office

- Sec. 1. State and district officers; grounds for impeachment
- Sec. 2. Impeachment; trial; effect of conviction; other prosecutions; suspension
- Sec. 3. Removal on address of Legislature
- Sec. 6. Removal by suit; officers subject; commencement of suit
- Sec. 7. Removal by suit; citation; appeals; effect; costs and attorney's fee
- Sec. 9. Recall

Art. XII. Public Education

- Sec. 5. State Superintendent of Education

Art. XIX. General Provisions

- Sec. 1. Date of office
- Sec. 4. State offices; ineligibility of federal officer or officers of other states; dual office holding
- Sec. 6. Performance of duties until successor inducted
- Sec. 15. Passes, franking privileges or discriminatory rates for public officials; penalties; testimony

2. Powers and Duties

Art. III. Legislative Department

- Sec. 8.2. Veto sessions
- Sec. 26. Signing of bills; delivery to governor
- Sec. 27. Effective date of laws; publication
- Sec. 30. Sale or trade of votes; purchase of supplies on bids; contracts; personal interest; approval
- Sec. 31. Legislative bureau; membership; duties
- Sec. 32. Merger or consolidation of similar executive and administrative offices
- Sec. 38. Obsolete (1936 Oil and Gas Code Commission)
- Sec. 39. Code of Criminal Procedure

Art. IV. Limitations

- Sec. 1. Appropriations; quarterly accounting
- Sec. 2. Public debt; alienation of public lands; reservation of mineral rights; mineral leases
- Sec.2(b). Mineral revenues; minerals beyond three mile limit
- Sec.2(c). Mineral revenues; payment to general highway fund
- Sec.2(d). Revenue from tidelands mineral leases; use of
- Sec.12-c. Commissioner of Agriculture and Immigration; guaranteed loans; farm youth organizations
- Sec. 14. State educational or charitable institutions; establishment; vote

Art. V. Executive Department

- Sec. 8. Lieutenant Governor; president of the senate; vote; president pro tempore
- Sec. 10. Reprieves; pardons; commutation of sentences; remission of fines and forfeitures
- Sec. 11. Appointment of officers

-2-

- Sec. 12. Appointment of officers; recess appointments
- Sec. 13. Reports to Governor; information and recommendations to Legislature
- Sec. 14. Governor; execution of laws; extraordinary sessions of Legislature; restriction on power to legislate; limitation on time; proclamation and notice
- Sec. 15. Signature of bills; veto; passage over veto; failure to act
- Sec. 16. Appropriation bills; veto of items
- Sec. 17. Acts not requiring Governor's signature; legislative investigations
- Sec. 21. Commissions; formalities

Art. VII. Judiciary Department

- Sec. 69. Vacancies; appointments; special elections; notices (local officers)
- Sec. 72. Vacancy (coroners)
- Sec. 93. Vacancies; temporary filling by district judges (Orleans)

Art. VIII. Suffrage and Elections

- Sec. 14. Election returns, officers commissioned by governor
- Sec. 15. Ballots; methods of voting; secrecy; independent candidates; statements of candidacy
- Sec. 18. Registrars of Voters; board of registration

Art. IX. Impeachment and Removal from Office

- Sec. 8. Fiscal officers; suspension

Art. XIX. General Provisions

- Sec. 18. Police power

3. Miscellaneous Provisions

Art. III. Legislative Department

- Sec. 34. Salaries of public officers; change

Art. V. Executive Department

- Sec. 5. Salary of Governor and Lieutenant Governor
- Sec. 7. Salary of Acting Governor
- Sec. 20. Salaries of constitutional officers; fees; expenses

Art. XIII. Militia

- Sec. 1. Organization, equipment and discipline
- Sec. 2. Governor; Commander-in-Chief; powers
- Sec. 3. Adjutant General
- Sec. 4. Preservation of records, banners and relics

Art. XIX. General Provisions

- Sec. 10. Salaried officers; fees or prerequisites

C. Administrative Officers and Boards

Art. IV. Limitations

- Sec. 1(a). Board of Liquidation of State Debt
- Sec. 2(a). Board of Liquidation of State Debt; bonds; public works

IN ADDITION TO THE CONSTITUTIONAL PROVISIONS DIRECTLY RELATED TO THE EXECUTIVE, THE COMMITTEE SHOULD BE COGNIZANT OF THE FOLLOWING CONSTITUTIONAL PROVISIONS WHICH AFFECT EXECUTIVE FUNCTIONS:

- Article 1. Section 14.....Military Power is subordinate to civil power.
- Article III. Section 8.....Governor to call special elections to fill legislative vacancies.
- Article III. Section 25.1.....2/3 vote of the Legislature necessary to increase taxes.
- Article IV. Section 9.....General Appropriation Bill. (Governor's office devises the bill which is tied to the executive budget and is an administration policy instrument).
- Article IV. Section 10.....Contingency Appropriations prohibited. (Applies to executive branch as well as legislative).
- Article VI. Section 16.....New Orleans Port; governor to give approval for certain borrowing.
- Article VI. Section 17.....Governor to fill vacancies on New Orleans Port Commission from list of nominees.
- Article VI. Section 19.1.....Governor is ex-officio member of highway board; to fill vacancies; certain administrative functions.
- Article VI. Section 21, 22, 23, 23.1, 23, 24.1.....General Highway Fund. (Constitutional provisions limit governor's powers over state funds.)
- Article VI. Sections 29, 29.3.....Governor to appoint members to Baton Rouge Port Commission.

Coord. Comm.

4 / 10

page 2

- Article VI. Section 31.....Governor to appoint members to Ouachita Port Commission.
- Article VI. Section 32.....Governor to appoint members to Caddo-Boisjour Port Commission.
- Article VI. Section 39.....Governor has authority to obtain reports and information from all executive and administrative departments (should extend to non-budget units)
- Article VI. Section 5, 7.....Relates to disposition of collections from "gasoline tax for permits", to be expended in part by the Board of Highways, an executive agency.
- Article VI.-A. Sections 7, 9, 10, 11, 12.....Refers to tax collection ("gasoline tax permits") by "Supervisor of Public Accounts", later referred to as "Supervisor of Public Funds." (Tax collection is an executive function, and there is no official with either of these names).
- Article VII. Section 7.....Governor to call special election to fill vacancies on Supreme Court.
- Article VII. Section 8.....Retiring judges to notify governor of retirement.
- Article VII. Section 21.....Governor to call special election to fill vacancies in appellate judgeships.
- Article VII. Section 33.....Governor to call special election to fill vacancies in district judgeships. (See also Art. VII, Sec. 69).
- Article VII. Section 60.....Assistant District Attorneys to be commissioned by governor.
- Article VII. Section 65.....Tax collection functions of sheriffs.
- Article VIII. Section 6.....Voting by felons unparoled by governor, prohibited.

Coord. Comm.

Coord. Comm.

- Sec. 7. Price of manual labor, wage, hour, and working conditions of women
- Sec. 8. Public funds; prohibited expenditure for sectarian, charitable or benevolent purposes; state charities; religious discrimination
- Sec. 12. Loan or pledge of public credit; relief of destitute; donations; transfer of property; bonds; leasing of health institutions; donations to U.S. for Veterans Hospital
- Sec. 12-a. Bonds; state indebtedness; Confederate Veterans' pensions; reimbursement of General Highway Fund
- Sec. 12-b. State Market Commission; guaranteed loan; agricultural facilities
- Sec. 17. Legislative approval of bond issuance and appropriation by the Board of Liquidation; procedure; nullity of issue for failure to observe
- Art. VI. Administrative Officers and Boards
 - Sec. 1. Wildlife and Fisheries Commission; Forestry Commission; Department of Conservation; powers, duties, functions, etc.
 - Sec. 3. Public Service Commission
 - Sec. 4. Public Service Commission; powers
 - Sec. 5. Public Service Commission; orders; effective date; injunction; review; enforcement; appeals
 - Sec. 6. Public Service Commission; orders; penalties for violation
 - Sec. 7. Public Service Commission; local regulation of utilities; retention or surrender
 - Sec. 8. Public Service Commission districts
 - Sec. 9. Public Service Commission; applicability of laws relating to Railroad Commission

* Local boards and port commissions and detailed tax and fund provisions which mention a board only slightly are generally not included.

- Sec. 11. Boards of health; state, parochial and municipal; state health officer
- Sec. 11.1. Mosquito abatement districts
- Sec. 12. Public health; practice of healing arts; food and drug regulations
- Sec. 15. Fire Marshal
- Sec. 18. State Bank Commissioner
- Sec. 19. State highways and bridges; construction and maintenance; traffic regulation; rights of parishes, municipalities and political subdivisions
 - Sec. 19.2. Board of highways; director; powers, duties and functions
 - Sec. 19.3. Beautification of highways; regulation of outdoor advertising and junk yards
 - Sec. 19.4. Board of highways; regulation and control of annual budget
 - Sec. 25.1. Bridges; construction and maintenance
- Sec. 26. Department of Revenue; Legislative Auditor; State Printing Board
- Sec. 27. Lake Pontchartrain; sale of submerged lands; islands; Causeway
- Sec. 28. Liquefied Petroleum Gas Commission
- Art. X. Revenue and Taxation
 - Sec. 2. Tax Commission; powers; appointment; terms; salary
- Art. XII. Public Education
 - Sec. 4. State Board of Education; members; powers and duties
 - Sec. 6. State Board of Education; control of public schools
 - Sec. 7. Colleges and universities; supervision; Coordinating Council
 - Sec. 8. Administrative departments; expenditures; legislative control
 - Sec. 9. Higher institutions of learning; appropriations
- Art. XIV. Parochial and Municipal Affairs
 - Sec. 15. Civil service system; state; cities; parishes governed jointly with one or more cities under a plan of government
 - Sec. 15.1. Fire and Police Civil Service; municipalities of 10,000 to 200,000
 - Sec. 15.2. Financial security for surviving spouses and children of law enforcement officers in certain cases
- Art. XVIII. Pensions
 - Sec. 1. Soldier's Home
 - Sec. 4. Civil War, Memorial hall for relics; battlefield markers and monuments
- Sec. 7. Social Security and Public Welfare
- Sec. 8. Confederate Memorial Medical Center; correctional, charitable and penal institutions; bond; tax
- Art. XIX. General Provisions
 - Sec. 26. Special agencies of state, withdrawal of consent to suits
 - Sec. 27. Governmental affairs

CONSTITUTIONAL PROVISIONS REQUIRING CONSULTATION WITH OTHER COMMITTEES

- D Article 9, Section 9.....Date of State General Election
- D Article 9, Section 1 a.....Tax increases and levies subject to 2/3 vote of legislature.
- (L) D Article X, Section 4(9), (9a).....Homestead Exemptions payable from property tax relief fund.
- Article X, Sections 4(10).....State Board of Commerce. Industry authorized to enter into contracts for new manufacturing industries with governor's approval.
- (?) Article X, Section 4(10b).....Revenue Sharing Fund, composed from monies in State General Fund.
- D Article XI, Sections 1 - 4.....Homestead Exemptions.
- D Article XII, Sections 10, 11.....State Board of Education, powers and duties.
- D Article XII, Sections 25, 26.....Constitutional agencies, L.S.U.N.O. and Southern, New Orleans.
- Article XIII, Section 6.....Reference to duties of a "State Board of Engineers".
- D Article XIV, Section 20.....Orleans Parish, Board of Assessors.
- D Article XIV, Section 21.....State Tax Collector, City of New Orleans.
- D Article XIV, Section 22-A.....Creation of Vieux Carre Commission.
- D Article XIV, Section 26.....Constitutional local agency, New Orleans Public Belt Railroad Commission.
- D Article XIV, Section 30.2.....Governor appoints members to Lake Charles Harbor & Terminal District.
- Article XIV, Section 31.7.....Constitutional authority granted to executive agency: Department of Highways authorized to cooperate with and expend funds on New Orleans Inner-Harbor navigational Canal and New Orleans Port.

- Article XIV, Section 33.....Constitutional authority granted to State Land Office relative to public improvement districts.
- Article XIV, Section 38.1 (d).....Duties of State Land Office and Department of Public Works relative to public improvement districts.
- (?) Article XIV, Sections 45, 47.....Special authorities, outside executive control, except insofar as governor is a member: Sabine River authority, Louisiana Stadium and Exposition District.
- Article XV, Section 4.....Governor appoints member to Iatt Lake Water Conservation District.
- (?) Article XVI, Section 1.....Governor to fill vacancies on levee boards.
- Article XVI, Section 7(b).....A state agency under control of governor appoints member of Lake Pontchartrain sanitary district.
- Article XVI, Sections 8, 8(a).....Constitutional functions given to agency, in executive branch (Department of Public Works) including expenditure of public funds.
- Article XVIII, Sections 3, 6.....Constitutional functions of fiscal agency not under executive control, Board of Liquidation.
- D Article XVIII, Sections 10, 11, 12, 12.....Duties of certain state agencies regarding certain portions, dedication of revenues.
- Article XIX, Section 14.....Governor to direct injunctions against monopolies in restraint of trade
- Article XIX, Section 20.....Duties of Governor and Department of Highways relative to New Basin Canal and Well Road.
- Article XX, Section 1.....Governor's duties relative to Angoli and 1850c.
- D Article XXI, Section 1.....Governor's duties in proclaiming constitutional amendments.

A. Articles and sections to be sent to the Coordinating Committee

- Article IV. Limitations
 - Section 9: Appropriation Bills; form and contents (General Appropriation Bill as related to Executive Budget)
- Article VII. Judiciary Department
 - Section 7: (Supreme Court) Initial Terms; Election; Expiration of Terms; Vacancies; Presiding Justice
 - Section 21: (Courts of Appeal) Confirmation of Courts; Elections; Vacancies
 - Section 33: (District Courts) District Judges; Election; Residence, Training, and Experience Qualifications; Bar Association Membership
 - Section 55: (Department of Justice) Establishment; Composition; Attorney General, Election and Assistants
 - Section 56: (Department of Justice) Attorney General; Qualifications; Powers and Duties; Vacancies
 - Section 57: (Department of Justice) Salaries
 - Section 60: (District Attorneys) Assistants
 - Section 69: (Vacancies) Appointments; Special Elections
 - Section 72: (Coroners) Vacancy
 - Section 93: (New Orleans City Courts) Vacancies; Temporary Filling by District Judges

Article XII. Public Education

- Section 5: State Superintendent of Education

EC-14

Article XIX. General Provisions

- Section 10: Salaried officers; Fees and Perquisites

B. Articles and Sections to be considered in Liaison with Committee on the Legislature

Article III. Legislative Department

- Section 34: Salaries of Public Officers; change

EC-15

CC/73 Research Staff
 Committee on Executive Department
 May 7, 1973
 Staff Memo No. 10

On January 6, 1965, Senator Birch Bayh introduced Senate Joint Resolution 1 to provide, through a constitutional amendment, for Presidential disability and succession. President Johnson sent a special message to the Senate in support of the resolution, and his remarks, printed in the Congressional Record on January 28, 1965, are attached to this report.

Mr. Johnson issued two other statements on presidential disability. The first, issued on October 5, 1965, as he prepared for surgery, described the procedure to be followed in the event of his inability. Secondly, the President spoke at the February 23, 1967, White House ceremony marking the ratification of the Presidential Inability (25th) Amendment to the Constitution of the United States. Both statements are reproduced below in full.

NOTES

Materials omitted here are taken from:
 111 Congressional Record 1547-1548 and
Presidential Papers[Lyndon B. Johnson]
 October 5, 1965 and February 23, 1967
 in re ratification of 25th Amendment.

CC/73 Research Staff
 Committee on Executive
 Department
 May 15, 1973
 Staff Memorandum No. 10

Responsibility for the operations of the Commission is vested with a seven member Board of Commissioners, two of whom are required to be the heads of the Louisiana State University, School of Forestry and the Louisiana Department of Wildlife and Fisheries. The other five (secretary and four members) are appointed to serve for a period of five years and represent various segments of the forest industry and agriculture. This Commission determines the forestry policy program for the State and selects a State Forester to serve as Director of activities of this six hundred member organization.

May 10, 1973

Because the program of the Forestry Commission is developed by professionals and the day to day activities are directed by professionals, this Agency is more responsive to the needs of forestry than to politics. We are extremely interested in keeping that responsiveness intact.

We are unable to appreciate any long term activity to a reorganizational program that would minimize the value of forestry or the Forestry Commission. Recent statistics reveal that the economical contributions of forestry to Louisiana are equal to those of all other agricultural crops. It is inconceivable that a resource of this magnitude could be relegated to less than cabinet status.

We urge retention of the Louisiana Forestry Commission as presently constituted.

Respectfully submitted,

James A. Gayle
 James A. Gayle
 President

JAG:bjc



BT

Enclosed you will find information received from Mr. David V. Kerns, Director of the Legislative Library Services regarding Florida's cabinet system.

Also enclosed is a presentation from Mr. James A. Gayle, President of the Louisiana Forestry Association.

THE FLORIDA LEGISLATURE
 JOINT LEGISLATIVE MANAGEMENT COMMITTEE
 THOMAS L. WADE III, EXECUTIVE DIRECTOR

DIVISION OF
 LEGISLATIVE LIBRARY SERVICES
 GAY D. V. KERNS, DIRECTOR
 B. WENE BAKER, CHIEF LIBRARIAN

May 8, 1973

ROOM 2 HOLLAND BUILDING
 TALLAHASSEE, FLORIDA 32304
 TELEPHONE (904) 224-1111

Mrs. Norma M. Duncan
 Director of Research
 Constitutional Convention of 1973
 P. O. Box 17740-A
 Baton Rouge, Louisiana 70803

Dear Norma:

We have been handed Mr. Gene Tarver's letter of May 4 addressed to Mr. Thomas L. Wade III requesting information on Florida's cabinet system.

In response to this request I am pleased to enclose a photocopy of pages 85-89, the Florida Handbook 1973-74 by Allen Morris (who doubles as the Clerk of the House of Representatives). As further background, I enclose Malcolm Johnson's editorial in the Tallahassee Democrat of Sunday, October 9, 1966, favoring the Cabinet, Governor Claude Kirk's memorandum of April 24, 1967 asking increased gubernatorial authority and a portion of a study draft by three young political scientists at Florida State University. The sum and substance seems to be that those who are "in" with the Governor are impatient with the restraints of the Cabinet, while those who are on the "outs" are grateful for its existence. Another way of summarizing is that those who are long on theory and short on experience wish to abolish the Cabinet, while those with a long experience tend to favor it.

We trust these materials will be of assistance. With kindest regards, I am

Sincerely,

David V. Kerns
 David V. Kerns, Director
 Legislative Library

RECEIVED

MAY 11 1973

CC/73 RESEARCH STAFF



The Louisiana Forestry Association

TELEPHONE AC 318 443-2558 PO DRAWER 5067 ALEXANDRIA LOUISIANA 71301

May 10, 1973

Committee on Executive Departments
 State of Louisiana
 Constitutional Convention of 1973
 P. O. Box 17740-A
 Baton Rouge, Louisiana 70803

Gentlemen:

The membership of this organization numbering more than 2200 is concerned by the proposal that the Louisiana Forestry Commission may be merged with other State agencies. We are opposed to such a merger and submit this official objection for consideration by the members of your committee.

Prior to 1964 the Forestry Commission was part of the Department of Conservation by an Amendment to Act I of Article 6 of the State Constitution. It was separated from that Department in order that a professional forest oriented organization could be developed. During almost forty years under a departmental status, the Louisiana Forestry Commission has contributed significantly to the phenomenal growth forestry has enjoyed in this State.

This Agency operates two nurseries, making over forty million seedlings available to landowners (at a reasonable price) each year. It provides fire protection to approximately twelve million acres of the State's forests by aerial detection and more than one hundred fire towers. Advice is provided to the small landowner, including recommendations for disease control, commercial activities, and other forest management counseling. The facts and other items not mentioned are professionally handled by an organization that is virtually free of political influence.

DVE/lf
 encl.

NOTES

Enclosures cited in letter are omitted with exception of Governor Claude Kirk memorandum which follows.

Hopkins



STATE OF FLORIDA

OFFICE OF THE GOVERNOR

TALLAHASSEE

April 24, 1967

CLAUDE E. KIRK, JR.
GOVERNOR

MEMORANDUM

Re: Reorganization of Cabinet Structure

On April 10, 1967, The Honorable Tom Adams, Secretary of State, made a presentation to the House State Governmental Organization and Efficiency Committee. Mr. Adams suggested substantial reorganization of those portions of the Executive Branch, which are presently placed under the Cabinet. His presentation was one of high quality and reflects sincere appreciation for and true understanding of the nature of Florida government.

Although I feel that this presentation has much merit, I suggest that it is a step away from fixing responsibility in government and a step towards enhancement of our present diffused pluralistic form of Executive Branch.

None of you need to be reminded that the governmental structure in this country was built on a clear separation of the powers of the Executive, Legislative, and Judicial Branches. It is also common knowledge that the Constitution of 1885 was a reconstruction Constitution. Primarily, it was geared towards a weak Legislative Branch. Under the Constitution, the Cabinet system, as such, was not envisioned to be a strong operating authority. Article IV, Section 20, provides: "The governor shall be assisted by administrative officers as follows: A secretary of state, attorney general, comptroller, treasurer, superintendent of public instruction, and commissioner of agriculture, who shall be elected at the same time as the governor, and shall hold their offices for the same term; provided, that the first election of such officers under this section shall be had at the time of voting for governor in 1964 for a term of two years and thereafter commencing with the time of voting for governor in 1966, said officers shall be elected for a term of four years."

Since World War II, there has been an increasing transfer of executive powers from the Governor's office to a wide

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variety of boards and commissions, which are supervised by the Cabinet. When viewed in historical perspective, the sum total of this shifting of executive duties has substantially weakened the office of the Governor and has created a division of executive responsibilities.

From Biblical times, it has been said that no man can serve two masters. However, in Florida, directors of administrative boards and commissions under the Cabinet serve from five to seven masters. The Cabinet system fails to clearly fix responsibility in any single person, thus, depriving the voters of their rights to hold a definable state official, or officials, responsible for the progress of State government.

As a practical matter, each Tuesday the Cabinet sits as an unrelated series of boards and commissions passing upon a multitude of major and minor problems, mixed together without continuity, rhyme, or reason. When you attend a Cabinet meeting, you will note that each Cabinet member has an agenda for each of the various commissions. (See Exhibit A.) Upon the conclusion of each agenda, he merely turns to the next commission's agenda. Thus, in a series of hat changes, the various commissions, boards, and Cabinet functions are discharged in a rather perfunctory and unbusinesslike fashion.

The creation of Cabinet agendas occupies at least two days a week for each commission director. Review of these agendas by the Cabinet members' staffs requires that they each maintain one or more experts in a wide variety of fields, all at the taxpayers' expense. Cabinet meetings run from a minimum of two hours to as long as a half day.

A wide variety of methods of procedure are employed by the various Cabinet boards and commissions. In most cases, the full-time director of a particular agency appears to secure authority to perform a specific act or a ratification of a policy recommendation. In two cases, those appearing are full-time employees of a member of the Cabinet which sits in judgment. When the Board of Education is involved, the Superintendent of Public Instruction normally presents its agenda himself, even though he is also a voting member of the very board which is passing upon his recommendations.

With the above background in mind, I would like to make the following observations about Secretary Adams' recommendations:

1. With regard to his point that all Cabinet officers should sit on each of eleven boards, it is my opinion that this would merely increase the diffusion of authority and the lack of certain responsibility.
2. I concur with his feeling that the Cabinet officers and the Governor should be encouraged to relinquish responsibilities assigned to them, which could be assumed by a more efficient and responsible board and commission structure.
3. I concur in his conclusion that the reorganization should be accomplished before the next regular session of the Legislature within the guidelines laid down by the 1967 Legislature. It is my opinion that the Attorney General should be charged with the responsibility of developing the legislation necessary to permanently write the changes into the statutes at the end of the trial period.

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In my own independent examination of the present boards and commissions, I have reached conclusions somewhat different than those reached by Secretary Adams. Rather than placing all seven of the Governor's elected "administrative officers" on a "super" Cabinet, it is my feeling that it would be better to consolidate the various Cabinet commissions along the lines generally recommended by Secretary Adams, but, at the same time, to reduce the number of Cabinet officials responsible for a particular commission to a maximum of three. Those placed on a commission should be selected because of their expertise or responsibility for the particular area of State government involved. Such a system would enable the Cabinet members to substantially reduce their professional staffs and also to clearly fix the responsibility for the various areas of State government in particular elected officials.

Attached is a proposed commission reorganization which is, in my opinion, more in keeping with good government, in that it clearly fixes responsibility, eliminates inefficiency, and minimizes diffusion of authority.

Although I believe it is a legislative decision as to whether governmental reorganization should be undertaken now or whether it would be best delayed until after Constitutional Revision, nevertheless, I thought you would appreciate receiving the benefit of my current thinking. For purposes of this presentation and to avoid confusion, I have adopted the same format used by the Secretary of State in his memorandum.

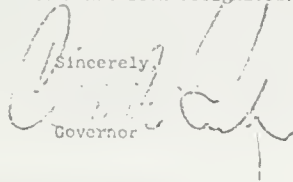
The only recommended substantial modification in the

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present Cabinet system is the one which places the Planning and Budget Commission under the direction of the Governor only. The people hold the Governor responsible for the progress of State government during his term of office. He should have at his command the tools by which he can plan and execute successful administrative policies in keeping with the broad guidelines and limitations placed upon his authority by the Legislature. If annual sessions of the Legislature become a reality, a strengthened Legislative Branch will be able to serve as the finest possible check upon a strong Governor's office. If this system I suggest were adopted, the Governor's hand would be materially strengthened and his responsibility firmly fixed.

The attached reorganization plan envisions a maximum of ten commissions in lieu of the over thirty boards and commissions presently serving under the Cabinet umbrella. With but few exceptions, I recommend that all commissions be responsible to a three-man board. In selecting the three administrative officers recommended as board members for a particular commis-

sion, preference was given to those members of the Cabinet whose responsibility most nearly coincides with the commission's area of interest. Thus, when fiscal matters are involved, I have recommended the Comptroller and Treasurer; when educational matters are involved, the Superintendent of Public Instruction. The chairman for each commission has been designated.

Sincerely,

Governor

CRK:hc

CC/73 Research Staff
Committee on Executive
Department
May 22, 1973
Staff Memorandum No. 11

Enclosed is Exhibit 18 entitled Officers and Members of Louisiana Departments, Agencies, Councils, Boards and Commissions Appointed by the Governor prepared by the Louisiana Legislative Council, January 10, 1972.

NOTES

Exhibit 18 on following pages.

LOUISIANA LEGISLATIVE COUNCIL

January 10, 1972

Officers and Members of Louisiana Departments,
Agencies, Councils, Boards and Commissions

Appointed by the Governor.

PREFACE

This publication lists Louisiana officers and members of councils, boards and commissions who are appointed by the governor in accordance with requirements of the Louisiana Constitution or laws or as provided by resolutions of the Louisiana Legislature and certain executive orders of the governor. Appointments made by other officials and by boards and commissions are not included in this compilation. It is noted that the governor, under authority of Article VII, Section 69 of the Constitution, R.S. 42:371 and other laws, is required to fill vacancies occurring in many offices; vacancy appointments are not covered by this report.

The names of the various boards, commissions, councils and individual positions included herein are listed in alphabetical order, by subject. The chart lists the total membership of the councils, boards and commissions, the terms of office of the listed groups and individuals, the compensation or per diem and expenses paid the members or individual officers, the number of members appointed by the governor and the pertinent legal citations. If the governor's appointments are made on recommendation of certain groups or individuals or if they require Senate confirmation, a notation to that effect appears in the column showing the number of the appointments of the governor. Where no data is included in any column, the law which created the position makes no provision or, in some instances, the information was not available to this office at the time of compilation.

It is hoped that the information herein contained will be of value to those who have occasion to make use of it.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
ACCOUNTANTS, CERTIFIED PUBLIC, State Board of	5	5 years	Up to \$15 per diem and expenses	5 (on recommendation)	R.S. 37:72, 37:74
ADJUTANT GENERAL		4 years	Base pay and allowances for Brig. Gen., U. S. Army	1 (Senatorial confirmation)	Const. Art. XVII, Sec. 3; R.S. 29:8
ADMINISTRATION, Commissioner of		Pleasure of governor	\$28,000 per year* (fixed by governor)	1	R.S. 39:5
ADMINISTRATIVE SERVICES, Division of, Manager of				1	R.S. 49:205
ADVISORY Board, State	19	Good behavior		11 (as vacancies occur)	Const. Art. VI, Sec. 22 (e)
AGING, La. Commission on	9	6 years (overlapping)	Expenses	9	R.S. 46:932, 46:935
AIR CONTROL Commission	7	4 years (overlapping)	Travel allowance	4 (on recommendation)	R.S. 40:2203
ALCOHOLIC BEVERAGE CONTROL Board	5	Pleasure of governor	Chairman, \$10,000 per year; others, \$7,000 per year	5	R.S. 26:21, 26:22, 26:26
ALCOHOLISM, Commission on	9	4 years (at pleasure of governor)	\$20 per diem, plus expenses	9	R.S. 40:2008.1, 40:2008.2
ANHYDROUS AMYONIA Commission	5	6 years (overlapping)	\$20 per diem, \$10 expenses per day, 7¢ per mile	3	R.S. 3:1352

* Salary as of June 14, 1971 as furnished by the Division of Administration.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
ARCHITECTURAL EXAMINERS, Board of	5	Pleasure of governor (cf. 37:143)	\$20 per diem, plus expenses	5 (on recommendation)	R.S. 37:142- 37:143, 37:6
ARTIST LAUREATE		Concurrent with governor	None	1	R.S. 49:157
ARTS AND SCIENCE CENTER, Board of Commissioners of	5	Concurrent with governor	None	5	R.S. 25:572
ATCHAFALAYA BASIN CAUSEWAY Commission	11	4 years	None	10	Act 255, 1966
ATHLETIC Commission, State	5	Pleasure of governor	Fixed by commission for chairman, vice- chairman; secretary not to exceed \$6000, \$3000, and \$3,500, respectively; others, expenses.	4	R.S. 4:61, 4:67
ATOMIC ENERGY DEVELOPMENT Agency, Coordinator of				1	R.S. 51:1054
BANKING Department, State Commissioner of		4 years	\$15,120 per year	1 (Senatorial confirmation)	R.S. 6:151, 6:155, Const. Art. VI, Sec. 18
BARBER EXAMINERS, Board of	5	4 years	Not more than \$35 per diem, expenses, 9¢ per mile; secretary, \$7,000 per year & expenses.	5 (on recommendation)	R.S. 37:341, 37:345
BEDDING ADVISORY Board	7	5 years (overlapping)	Expenses	6 (Senatorial confirmation)	R.S. 40:1194

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
BOND AND TAX Board, State	5		Secretary receives not more than \$7,500 per year, other expenses fixed by board.	1	R.S. 47:1801
BRIDGE AND FERRY Authorities					
Ascension-St. James Bridge and Ferry Authority	4	6 years	\$25 per diem	4 (on recommendation)	R.S. 48:1092
Iberville Parish Bridge and Ferry Authority	9	6 years	\$25 per diem	9 (on recommendation)	R.S. 48:1092
Mississippi River Bridge Authority	9	6 years	\$25 per diem	9 (on recommendation)	R.S. 48:1092
Pointe Coupee-West Feliciana Bridge and Ferry Authority	7	6 years	\$25 per diem	7 (on recommendation)	R.S. 48:1092 Act 164, 1968
St. Charles-St. John the Baptist Bridge and Ferry Authority	9	6 years	\$25 per diem	9 (on recommendation)	R.S. 48:1092 Act 109, 1968
BUILDINGS, Division of State, Superintendent of			\$15,000* (fixed by governor)	1	R.S. 49:141
CEMETERY, CAMP MOORE CONFEDERATE, Board of Commissioners	5	4 years	None	5	R.S. 29:433
CIVIL DEFENSE, Director of		Pleasure of governor	Fixed by adjutant general, with governor's approval	1 (on recommendation)	R.S. 29:602
CIVIL SERVICE Commission, State	5	6 years (overlapping)	\$25 per diem, plus expenses	5 (on recommendation)	Const. Art. XIV, Sec. 15(C), (K)

* Salary as of June 14, 1971 as furnished by the Division of Administration.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
COASTAL ADVISORY Committee, La.	9	4 years		9 (on recommendation)	R.S. 34:2252.1
COASTAL COMMISSION, La.	18	6 years (staggered)		16 (on recommendation)	R.S. 34:2252-34:2253.1
COASTAL AND MARINE RESOURCES, Advisory Commission on	9	Pleasure of governor	Reasonable and necessary expenses	9	R.S. 51:1361-51:1365
COMMERCE AND INDUSTRY, State Board of	16	6 years (overlapping)	None	15 (Senatorial confirmation)	R.S. 51:923, 51:924, 51:928
CONSERVATION, Department of, Commissioner		4 years	\$18,000 per year	1 (Senatorial confirmation)	Const. Art. V, Sec. 18; Art. VI, Sec. 1(c); R.S. 30:1
CONTRACTORS, State Licensing Board for	9	Concurrent with governor	Not more than \$50 per diem, 10¢ per mile	9 (on recommendation)	R.S. 37:2151-37:2152, 37:2154
CORRECTIONS, Board of	7	6 years	\$30 per diem on official business; expenses	7 (Senatorial confirmation)	R.S. 15:822
CORRECTIONS, Director of		Pleasure of governor	Fixed by board of corrections	1	R.S. 15:823
COSMETOLOGY, State Board of	7	Concurrent with governor (pleasure of governor)	Expenses up to \$300 per month.	6	R.S. 37:493, 37:496
DENTISTRY, State Board of	8	5 years	\$50 per diem, plus expenses; secretary: \$400 per month.	8 (on recommendation)	R.S. 37:753, 37:755

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
ECONOMIC OPPORTUNITY, Office of, Director of			\$17,500 per year*	1	
EDUCATION ASSISTANCE Commission, La. Higher	10	3 years (overlapping)	\$25 per diem plus expenses	10 (Senatorial confirmation)	R.S. 17:3022
EDUCATION Council, La.	13 (includes the Louisiana representatives to Educational Commission of the States)	3 years (4 E.C.S. representatives at pleasure of governor)		10 (includes 4 E.C.S. representatives)	R.S. 17:1912
EDUCATION FACILITIES Commission, Higher	13	4 years (concurrent with governor)	Per diem plus travel expenses (to be fixed by commission)	12 (8 on recommendation)	R.S. 17:1793.1
EDUCATION, EXTENSION AND CONTINUING, La. Commission on	13	Concurrent with governor (pleasure of governor)	\$35 per diem, plus expenses	13 (on recommendation)	Executive Order 48 of 1966
EDUCATION, HIGHER, La. Coordinating Council For	15	6 years (overlapping)	\$50 per diem plus expenses	13 (Senatorial confirmation)	Const. Art. XII, Sec. 7; R.S. 17:3082
EDUCATION, SOUTHERN REGIONAL, Compact	5	4 years (overlapping)		4	R.S. 17:1901
EDUCATIONAL Commission of the States	7 (La. representatives)	4 years (at pleasure of governor)		4	R.S. 17:1911

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NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
EDUCATIONAL TELEVISION, Authority, La.	21	6 years (overlapping)	\$25 per diem plus expenses	18 (8 Senatorial confirmation, 10 on recommendation)	R.S. 17:2501-17:2506
EDUCATIONAL TELEVISION, La. Commission on	14	1 year		13 (on recommendation)	Act 616, 1970
EGG Commission, La.	13	6 years (legislative members, 4 years)	\$15 per diem, 10¢ per mile	10 (on recommendation)	R.S. 3:551.2
EMBALMERS AND FUNERAL DIRECTORS, State Board of	7	5 years (overlapping)	Not more than \$25 per diem, plus expenses	7	R.S. 37:832, 37:834, 37:835
EMPLOYMENT SECURITY					
Administrator, Department of Employment Security			Fixed by governor	1	R.S. 23:1651
Board of Review of Employment Security	3	4 years, concurrent with governor	\$40 per diem, plus traveling expenses	3 (Senatorial confirmation)	R.S. 23:1652
State Advisory Council for Employment Security	No specific number		\$25 per diem; \$500 annual limit	No specific number	R.S. 23:1658
ENGINEERS, PROFESSIONAL, AND LAND SURVEYORS, State Board of Registration for	9	9 years (overlapping)	\$25 per diem, plus expenses	9 (on recommendation)	R.S. 37:683-37:685

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
ETHICS					
Board of Ethics for State Elected Officials, La.	3	Concurrent with governor	\$25 per diem, plus traveling, other expenses; \$2000 annual limit	1	Const. Art. XIX, Sec. 27; R.S. 42:1144
Commission on Governmental Ethics	5	6 years (overlapping)	\$25 per diem, plus expenses	5	Const. Art. XIX, Sec. 27; R.S. 42:1119
EXPRESSWAY Authority, La.	7	Concurrent with governor	\$30 per diem, plus expenses	6 (Senatorial confirmation)	R.S. 48:1254
FEDERAL GRANTS, Commission on	5	4 years at pleasure of governor (governor's appointee only)		1	R.S. 49:653
FIRE MARSHAL, State		Concurrent with governor	\$17,500 per year	1	Const. Art. VI, Sec. 15; R.S. 40:1561
FORESTRY Commission	7	5 years (overlapping)	Expenses	5	Const. Art. VI, Sec. 1 (B); R.S. 56:1472-56:1473
FRENCH IN LOUISIANA, Council for the Development of	50 (maximum)			50 (on recommendation)	Act 409, 1968 R.S. 25:651
GAME AND FISH Commissions					
Anacoco-Prairie Game and Fish Commission	7	7 years (overlapping)		7	Act 562, 1968

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
GAME AND FISH Commissions (Cont'd)					
Black Lake Game and Fish Commission	5	4 years	None	5 (on recommendation)	House Concurrent Res. 30, 1956
Six Mile Game and Fish Commission	9	7 years (overlapping)		9 (on recommendation)	Act 658, 1970
GOVERNMENTAL REORGANIZATION, La. Council on	13		10¢ per mile, plus expenses; legislative members receive same per diem as members of Legislative Budget Committee	5	Act 456, 1966 Act 222, 1968
GOVERNOR, Office of					
Executive Counsel to the Governor		Pleasure of governor	Fixed by governor	1	R.S. 49:203
Secretary to the Governor		Pleasure of governor		1	R.S. 49:204
GOVERNOR'S INAUGURAL Committee	7		None	3	R.S. 49:173
GULF STATES MARINE FISHERIES Commission	3 (La. representatives)	4 years	Expenses	2 (one with Senatorial confirmation)	R.S. 56:55, 56:57
HANDICAPPED, PHYSICALLY, Governor's Committee on the Employment of the	24 (minimum)	3 years (overlapping)	Expenses	24 (minimum)	R.S. 23:2002-23:2005
HEALTH EDUCATION Authority of La.	12	6 years (overlapping)	Expenses	10 (9 on recommendation)	R.S. 17:3053-17:3054

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
HEALTH SERVICES DISTRICT, SOUTH LA., Board of Com- missioners of the	5	4 years (overlapping)		4 (one per parish in district)	R.S. 28:243- 28:244
HEALTH, State Board of	9	8 years (overlapping)	President (State Health Officer): \$20,000 per year; Others: \$25 per diem, plus \$25 per diem for 2-day travel expense and 8¢ per mile	9 (Senatorial confirmation)	Const. Art. VI, Sec. 11; R.S. 40:3, 40:5
HEARING AID DEALERS					
La. Board for Hearing Aid Dealers	8	4 years (overlapping)	Expenses	7 (on recommendation)	R.S. 37:2455, 37:2459
La. Council of Advisors to Hearing Aid Dealers	3	3 years	Expenses	3 (on recommendation)	R.S. 37:2456, 37:2459
HIGHWAY SAFETY Commission, La.	21 (maximum)	4 years (at pleasure of governor)	Expenses	21 (maximum)	R.S. 48:1352, 48:1354
HIGHWAY SAFETY Commission, Executive Director of			\$15,000 per year* (fixed by governor)	1	R.S. 48:1355
HIGHWAYS, State Board of	9	6 years (over- lapping) (two members: 4 years concurrent with governor)	\$25 per diem, plus expenses	8 (on recommendation)	Const. Art. VI, Sec. 19.2; R.S. 48:71-48:72
HISTORICAL PRESERVATION					
Edward Douglass White Memorial Commission	13	6 years	None	7	Act 16, 1960
Orleans Parish Land- marks Commission	7	4 years		7	R.S. 25:381

* Salary as of June 14, 1971 as furnished by Division of Administration.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
HOME CARE SERVICE Council	9	4 years (overlapping)	Expenses	4 (on recommendation)	R.S. 40:2009.3J
HORTICULTURAL Commission	11	4 years (overlapping)		8 (on recommendation)	R.S. 37:1961
HOSPITALS					
Advisory Board, Central La. State Hospital	7	Pleasure of governor	\$10 per diem, plus expenses	7	R.S. 40:2006
Advisory Board, E. A. Conway Charity Hospital	7	Pleasure of governor	\$10 per diem, plus expenses	7	R.S. 40:2006
Advisory Board, East La. State Hospital	7	Pleasure of governor	\$10 per diem, plus expenses	7	R.S. 40:2006
Advisory Council, State Hospital	12			12	R.S. 40:2017.2
Charity Hospital of New Orleans, Board of Administrators of	17	Concurrent with governor	Director's salary: fixed by board	15 (Senatorial confirmation)	R.S. 46:753
Confederate Memorial Medical Center, Board of Directors of	13	Concurrent with governor		13 (one on recommendation; all with Senatorial confirmation)	R.S. 46:892
Department of Hospitals, State Director		Pleasure of governor	\$12,000* (fixed by governor)	1	R.S. 40:2005
Licensing Council, Hospital	12	4 years (overlapping)	\$20 per diem, plus expenses	8 (on recommendation)	R.S. 40:2108
Planning Advisory Council, Hospital	12	Pleasure of governor	Expenses	12	R.S. 40:2007-40:2007.1

* Salary as of June 14, 1971 as furnished by Division of Administration.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
HOSPITALS (Cont'd)					
State Board of Hospitals	15	Pleasure of governor	\$25 per diem, plus expenses	15	R.S. 40:2003
HUMAN RELATIONS, RIGHTS AND RESPONSIBILITIES, Louisiana Commission on	42	3 years (overlapping)	Expenses	42	Executive Order, October 11, 1965
HUMAN RELATIONS, RIGHTS AND RESPONSIBILITIES, La. Commission on, Special Counsel(s) to			Fixed by governor		Executive Order, October 11, 1965
INDUSTRIAL DEVELOPMENT Commission, North Central La.	5	Concurrent with governor	Reasonable travel allowance	5	Act No. 436, 1960
INSURANCE RATING Commission	8	4 years at pleasure of governor	Casualty and Surety Division: Chairman, \$18,000 per year; Secretary, \$12,000 per year; Fire Division: Chairman, \$16,000 per year; others, \$10,000 per year; Marine and Inland Marine Division: Chairman, \$10,000 per year; Secretary, \$8,600 per year	7	R.S. 22:1401
INTERGOVERNMENTAL RELATIONS					
Commission on Intergovernmental Relations, La.	19		\$50 per diem	6	R.S. 49:42, 49:45
Governor's Committee on Intergovernmental Relations	7		\$50 per diem	6	R.S. 49:41, 49:45
JUVENILE PROBATION ADVISORY Council	15	5 years (overlapping)	Travel expenses	15	R.S. 46:1252

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
LABOR					
Department of Labor, Commissioner of		Pleasure of governor, not exceeding 4 years	\$18,000 per year* (fixed by governor)	1	R.S. 23:2
Labor-Management Commission of Inquiry	9	Pleasure of governor	\$50 per diem, 10¢ per mile	9	R.S. 23:880.1, 23:880.3
Labor Mediation Board	18	4 years (overlapping)	\$25 per diem, plus expenses	18 (Senatorial confirmation)	R.S. 23:863-23:865
LAKE Commission, Fort Suelhar	3	2 years	None	1	Act 46S, 1954
LAW ENFORCEMENT AND ADMINISTRATION OF CRIMINAL JUSTICE, La. Commission on					Executive Order No. 59, 1967; Executive Order No. 78, 1970
LAW ENFORCEMENT AND ADMINISTRATION OF CRIMINAL JUSTICE, La. Commission on, Executive Director of			\$18,000 per year* (fixed by governor)		Executive Order No. 59, 1967; Executive Order No. 78, 1970
LEGISLATION IN THE U. S., PROMOTION OF, Board of Commissioners for	3		None	3	R.S. 24:81
LEGISLATIVE REAPPORTIONMENT STUDY Commission	13	6 years (only applies to governor's appointees; overlapping)	Expenses	2 (on recommendation)	R.S. 24:131-24:133

* Salary as of June 14, 1971 as furnished by Division of Administration.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
LEGISLATIVE BUDGET Committee	23	4 years	Same per diem and expenses as legislators	19	R.S. 39:311
LEVEE Districts					
Atchafalaya Basin Levee District, Board of Commissioners of	12	Concurrent with governor	\$25 per diem, plus expenses and 8¢ per mile	12 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:693-38:694
Bossier Levee District, Board of Commissioners of	7	Concurrent with governor	\$30 per diem plus expenses	7 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:732-38:734
Caddo Levee District, Board of Commissioners of	7	Concurrent with governor	\$30 per diem	7 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:862-38:864
Campti-Clarence Levee District, Board of Commissioners of	3	Concurrent with governor	\$10 per diem, plus expenses	3 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1462-38:1463
Cane River Levee and Drainage District, Board of Commissioners of	3	Concurrent with governor	\$10 per diem, plus expenses	3 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1952-38:1953
Coushatta-Red River Levee District, Board of Commissioners of	3	Concurrent with governor	\$10 per diem, plus expenses	3 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1471-38:1473
Fifth Louisiana Levee District, Board of Commissioners of	8	Concurrent with governor	\$25 per diem, plus 10¢ per mile	8 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:953-38:954.1
Lafourche Basin Levee District, Board of Commissioners of	9	4 years	\$25 per diem, plus expenses	9 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1033-38:1034

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
LEVEE Districts (Cont'd)					
Lake Borgne Levee District, Board of Commissioners of	3	Pleasure of	\$20 per diem, plus traveling expenses for meetings; \$10 per diem, plus 7¢ per mile for supervising the construction, location and repairs of levees	3 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1071, 38:1074
Natchitoches Levee and Drainage District, Board of Commissioners of	5	Concurrent with governor	\$10 per diem, plus expenses	5 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1112-33:11-3
Nineteenth Louisiana Levee District, Board of Commissioners of	3	Concurrent with governor	\$25 per diem, plus 10¢ per mile	3 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1153-38:1-5
North Bossier Levee District, Board of Commissioners of	5	Concurrent with governor	Expenses	5 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1192-33:1-94
Orleans Levee District, Board of Commissioners of	7	4 years		5 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1233-38:1234
Pentchartrain Levee District, Board of Commissioners of	10	Concurrent with governor	\$25 per diem, plus 10¢ per mile	10 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1311-38:1314
Red River, Atchafalaya and Bayou Boeuf Levee District, Board of Commissioners of	3	Concurrent with governor	\$20 per diem, plus 7¢ per mile	3 (on recommendation)	Const. Art. XVI, Sec. 1, R.S. 38:1351-38:1353

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
LEVEE Districts (Cont'd)					
Red River-Bayou Pierre Levee and Drainage District, Board of Commissioners of	3	Concurrent with governor	\$25 per diem, plus expenses	3 (on recommendation)	Const. Art. XVI, Sec. 1; R.S. 38:2023
South Louisiana Tidal Water Control Levee District, Board of Commissioners of	9	Concurrent with governor		9 (on recommendation)	Const. Art. XVI, Sec. 1; R.S. 38:1052-38:1053
Tensas Basin Levee District, Board of Commissioners of	8	Concurrent with governor	\$25 per diem, plus 10¢ per mile	8 (on recommendation)	Const. Art. XVI, Sec. 1; R.S. 38:1441-38:1443.1
LIBRARY, LOUISIANA STATE, Board of Commissioners of	5	5 years (overlapping)	Expenses	5 (Senatorial confirmation)	R.S. 25:2-25:3, 25:12
LIQUIFIED PETROLEUM GAS Commission	5	5 years	\$25 per diem, \$10 per diem expense allowance, 7¢ per mile	4 (2 on recommendation; all on Senatorial confirmation)	Const. Art. VI, Sec. 28; R.S. 40:1843
LIVESTOCK BRAND Commission	5	4 years (overlapping)	\$25 per diem, plus expenses	4	R.S. 3:732-3:734
LIVESTOCK INSPECTOR, State		Pleasure of governor	One-third of all fees collected	1	Act 118, 1869 (amended by Act 87, 1888)
LIVESTOCK SANITARY Board	10	4 years	\$20 per diem, plus expenses	9 (on recommendation)	R.S. 3:2091-3:2092
LOUISIANA STATE UNIVERSITY, Board of Supervisors of	15	14 years (overlapping)	Expenses (board fixes per diem and mileage)	14 (Senatorial confirmation)	Const. Art. XII, Sec. 7; R.S. 17:1453-17:1458

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
MARKET Commission, State	9	4 years at pleasure of governor	\$15 per diem, plus expenses	8	R.S. 3:401-3:402
MARKET FACILITY, ASSEMBLY, Board of Directors of (one or more boards may be established)	7	3 years (overlapping)		4 (on recommendation)	R.S. 3:529, 3:531
MARKET FACILITY, TERMINAL, Board of Directors of (one or more boards may be established)	9	3 years (overlapping)		6 (on recommendation)	R.S. 3:526-3:527
MEDICAL ADVISORY Board, La.	9	4 years	Expenses	9 (on recommendation)	R.S. 40:1351-40:1355
MEDICAL EXAMINERS, State Board of	5	6 years	\$10 per diem, plus expenses	5 (on recommendation)	R.S. 37:1262, 37:1264, 37:1267
MENTAL HEALTH, Advisory Council on	10	3 years (overlapping)	None	10 (7 on recommendation)	House Concurrent Res. 126, 1966
MENTAL HEALTH CENTERS, COMMUNITY, Advisory Council on Construction of	13	Pleasure of governor (governor's appointees only)	Travel expenses	8	R.S. 40:2013.57-40:2013.58
MENTAL RETARDATION PLANNING, Council on	13	Pleasure of governor (governor's appointees only)	Travel expenses	8	R.S. 40:2013.55, 40:2013.58
MENTALLY RETARDED, Advisory Council on Research Centers and Construction of Facilities for the	12	Pleasure of governor (governor's appointees only)	Travel expenses	7	R.S. 40:2013.56, 40:2013.58

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
MILK Commission, La.	7	5 years (overlapping)	\$30 per diem, plus expenses	6 (on recommendation)	R.S. 40:940.16-40:940.17
MINERAL Board, State	18	Pleasure of governor	\$25 per diem, plus expenses	17	R.S. 30:121-30:122
MOTOR VEHICLE Commission	9	Chairman, concurrent with governor; others, 6 years (overlapping)	\$40 per diem, plus expenses	9 (Senatorial confirmation)	R.S. 32:1253
MUSEUMS					
Old Arsenal Museum Commission	5	Concurrent with governor	None	5	R.S. 25:551
Old State Capitol Memorial Commission	7	4 years	None	7 (on recommendation)	Act 250, 1948; Act 154, 1965
State Museum, Board of Managers of	15	4 years at pleasure of governor	Expenses	11	R.S. 25:341
Weapons Museum, State, Board of Managers of	14	4 years at pleasure of governor	None	11	R.S. 25:671
NARCOTICS REHABILITATION Commission, La.	5	5 years (overlapping)	Commission may provide for own compensation, expenses	5 (on recommendation, Senatorial confirmation)	R.S. 40:1051-40:1056
NOTARIAL RECORDS, Orleans Parish Custodian of		4 years, concurrent with governor	\$1,800 salary per year; \$7,200 office expenses per year; \$5 per year fee from each notary; standard notarial office fees may be charged (New Orleans commission	1	R.S. 35:321-35:322, 35:327, 35:337

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
NOTARIAL RECORDS, Orleans Parish Custodian of (Cont'd)			council may increase salary to \$4000)		
NUCLEAR AND SPACE Authority, La.	7	Governor's appointees: current with governor; others: pleasure of respective boards		1 (Senatorial confirmation)	R.S. 51:1351
NUCLEAR ENERGY, Board of	14	3 years (overlapping)	Expenses	12 (on recommendation)	R.S. 51:1066
NURSE EXAMINERS, State Board of	7	4 years (overlapping)		7 (on recommendation)	R.S. 37:914, 37:915
NURSE EXAMINERS, PRACTICAL, State Board of	9	Concurrent with governor	Members within 50 miles of domicile: \$50 per diem; others: \$50 per diem, plus travel expenses	9 (on recommendation)	R.S. 37:962, 37:964, 37:968
NURSING HOME ADMINISTRATORS, Board of Examiners of	10	3 years (overlapping)	\$25 per diem, plus expenses	3 (on recommendation)	Act 131, 1969
NURSING HOME LICENSING Council	11	4 years	Actual travel expenses	5	R.S. 40:2009.1
OCCUPATIONAL STANDARDS, Department of, Director of			Fixed by governor	1 (on recommendation)	R.S. 37:5
OPTOMETRY EXAMINERS, State Board of	5	5 years	\$35 per diem maximum, 8¢ per mile	5 (on recommendation)	R.S. 37:1042-37:1046
OSTEOPATHY, State Board of	5	5 years	\$20 per diem, plus expenses	5	R.S. 37:6, 37:1112 37:1113

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
PARKS AND RECREATION Commission, State	11	Concurrent with governor	\$25 per diem, plus expenses	9 (2 on recommendation)	R.S. 56:1681
PAROLE, Board of	5	6 years	Set by legislature	5 (Senatorial confirmation)	R.S. 15:574.2
PEACE OFFICERS' AWARDS Commission	8	4 years	None	8	R.S. 40:2251
PEST CONTROL Commission, Structural	5	2 years		3	R.S. 40:1262
PHARMACY, La. Board of	19	6 years (overlapping)	\$35 per diem, plus expenses	19 (on recommendation)	R.S. 37:1172-37:1173,
PILOTAGE FEE Commission	32 (8 members per commission)	Concurrent with governor, at his pleasure		32 (on recommendation)	R.S. 34:1121
PILOTS' Boards					
Bar Pilots for the Port of New Orleans, Board of Examiners of	3	4 years at pleasure of governor	None	3	R.S. 34:942
New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, Board of	3	2 years at pleasure of governor		3 (Senatorial confirmation)	R.S. 34:1042
River Port Pilot Commissioners and Examiners, Boards	3 per board (one board for each port, except New Orleans)	4 years	None	2 (1 on recommendation)	R.S. 34:1072
River Port Pilot Commissioners for Port of New Orleans, Board of	3	Pleasure of governor		3 (Senatorial confirmation)	R.S. 34:991

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
PORT OF NEW ORLEANS ASSOCIATED BRANCH PILOTS	Not less than 25		Pilotage fees	25	R.S. 34:943, 34:954
PILOTS, RIVER PORT	Not less than 20		Pilotage fees	20	R.S. 34:992, 34:997
PLANNING ADVISORY, Commission, State	5	4 years at pleasure of governor	Two legislative members: per diem, travel expenses same as Legislative Budget Committee; others: 10¢ per mile; all: actual, necessary expenses	5	R.S. 49:1056
PLANNING OFFICE, State, Executive Director of		Pleasure of governor	\$16,500 per year* (fixed by governor)	1	R.S. 49:1053
PLUMBING Board, State	8	4 years (at pleasure of governor)	\$25 per diem, plus expenses (no more than \$100 per month, plus actual expenses)	8 (on recommendation)	R.S. 37:1361, 37:1362, 37:1364
POET LAUREATE		Concurrent with governor	None	1	R.S. 49:156
PORT AND HARBOR COMMISSIONS					
Baton Rouge Port Commission, Greater	10	6 years (overlapping)	Reasonable travel allowance	10 (9 on recommendation)	Const. Art. VI, Sec. 29, Sec. 29.3; R.S. 34:1221
Grant Parish Port Commission	5	5 years (overlapping)	Reasonable travel allowance	1	R.S. 34:2351, 34:2353
Lafourche Port Commission, Greater	9	6 years	\$10 per diem	9 (3 on recommendation)	R.S. 34:1651
Lake Charles Harbor and Terminal District, Board of Comm'rs of the	5	6 years (overlapping)	None	5 (on recommendation)	R.S. 34:202

* Salary as of June 14, 1971 as furnished by Division of Administration.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
PORT AND HARBOR COMMISSIONS (Cont'd)					
Livingston-Tangipahoa Parishes Port Commission	7	6 years (overlapping)	Reasonable travel allowance	6	R.S. 34:1951, 34:1953
Morgan City Harbor and Terminal District, Board of Commissioners of the	9	9 years (overlapping)	None	9 (5 on recommendation)	R.S. 34:322
New Orleans, Port of, Board of Commissioners of the	5	5 years (overlapping)		5 (on recommendation)	Const. Art. VI, Sec. 17; R.S. 34:1
St. Bernard Port, Harbor and Terminal District, Board of Commissioners of the	5	5 years (overlapping)	None	2 (on recommendation)	R.S. 34:1702
South Louisiana Port Commission	9	5 years (overlapping)	Reasonable travel allowance	1	Const. Art. VI, Sec. 33.1
PSYCHOLOGISTS, State Board of Examiners of	5	3 years (overlapping)	Actual traveling, incidental expenses	5 (on recommendation)	R.S. 37:2353
PUBLIC EMPLOYEES Board	6	4 years (overlapping)	\$25 per diem, plus expenses	6 (4 on recommendation)	R.S. 42:1002, 42:1007
PUBLIC SAFETY, Department of, Director of		4 years	\$20,000 per year* (fixed by governor)	1 (Senatorial confirmation)	R.S. 40:1302
PUBLIC WELFARE, State Board of	9	6 years (overlapping)	Expenses	8 (on recommendation)	Const. Art. XVIII, Sec. 7 (4)
PUBLIC WORKS, Board of	5	4 years	\$25 per diem limit, plus expenses	5	R.S. 38:16
PUBLIC WORKS, Department of, Director of		4 years	\$17,500 per year* (fixed by governor)	1 (Senatorial confirmation)	R.S. 38:9

* Salary as of June 14, 1971 as furnished by Division of Administration.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
RACING Commission, La. State	9	Concurrent with governor	\$50 per diem, not to exceed \$2,000 per annum, plus expenses	9	R.S. 4:144
RADIATION CONTROL, La. Division of, Director of				1	R.S. 51:1055
RADIO AND TELEVISION TECHNICIANS Board, State	11	2 years	\$25 per diem, travel expenses, plus \$15 per diem limit on subsistence expenses	11 (on recommendation)	R.S. 37:2303
REAL ESTATE Commission, La.	5	5 years	\$20 per diem limit, plus expenses	5	R.S. 37:1432-37:1433, 37:6
RECREATIONAL ADVISORY Council, La.	12	Pleasure of governor		2	R.S. 56:1801
RED RIVER WATERWAY Commission	11	Parish members: 6 years (overlapping); at-large members: concurrent with governor	Expenses, per diem fixed by commission	10 (7 on recommendation)	R.S. 34:2303-34:2305
REVENUE, COLLECTOR of		Pleasure of governor	\$22,500 per year* (fixed by governor)	1	Const. Art. VI, Sec. 26
SABINE RIVER Authority, Board of Commissioners of	12	4 years at pleasure of governor	\$25 per diem, plus expenses	11	Const. Art. XIV, Sec. 45; R.S. 38:2322
SABINE RIVER Commission	7	Pleasure of governor (appointees only)		4	Act 375, 1966

* Salary as of June 14, 1971 as furnished by Division of Administration.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
SALTIANS, La. State Board of Examiners for	7	4 years (overlapping)	\$25 per diem limit, plus travel expenses	4	R.S. 37:2102, 37:2104
SCHOLARSHIP FOUNDATION, THOMAS H. HARRIS, Board of Trustees of the	5	6 years (overlapping)		5	R.S. 17:1781
SCIENCE FOUNDATION, La. State	11	6 years (overlapping)	Expenses	11	R.S. 51:1301-51:1303
SECURITIES Commissioner (See BANKING Department, State Commissioner)					
SHERIFFS' PENSION AND RELIEF Fund, Board of Trustees of the	9	4 years (overlapping)		1	R.S. 33:1451-33:1452
SHORTHAND REPORTERS, CERTIFIED, Board of Examiners of	5	3 years	Expenses	5	R.S. 37:2551-37:2552
SOVEREIGNTY Commission, State	13	Concurrent with governor	\$25 per diem, plus expenses; chairman, \$50 per diem	8	R.S. 49:701, 49:703
SOYBEAN PROMOTION Board, La.	10	1 year		9 (on recommendation)	R.S. 3:551.32
STRAWBERRY ADVERTISING AND DEVELOPMENT Commission, La.	10	6 years (overlapping)	\$15 per diem, plus expenses	9	R.S. 3:473
SWEET POTATO ADVERTISING AND DEVELOPMENT Commission, La.	11	6 years (overlapping)	\$15 per diem, plus traveling expenses	10	R.S. 3:453
TAX APPEALS, Board of	3	Pleasure of	Fixed by governor; chairman, \$14,500 per year* (fixed by governor)	3	R.S. 47:1402

* Salary as of June 14, 1971 as furnished by Division of Administration.

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
TAX Commission, La.	3	6 years	Chairman, \$20,000 per year; others, \$16,000 per year	3 (Senatorial confirmation)	Const. Art. X, Sec. 2; R.S. 47:1832
TELEVISION-LOUISIANE Board	10		None	10	Act 458, 1968
TOURIST DEVELOPMENT Commission, La.	16	Concurrent with governor	Travel, other expenses	8	R.S. 51:1251
TOLL ROAD Authority, Larose-Lafitte	9	4 years at pleasure of governor	None	9	Act 335, 1964
TOLL ROAD Authority, South Central Louisiana	5	6 years (overlapping)		5	Act 35, 1969
VETERANS' AFFAIRS Commission	Proportional to number of nationally chartered veterans organizations participating in the state veterans' affairs department	4 years	\$25 per diem, plus expenses	All members (on recommendation)	R.S. 29:253
VETERINARY MEDICINE, State Board of	5	5 years (overlapping)	\$25 per diem, plus travel, other expenses	5 (on recommendation)	R.S. 37:1515
WAREHOUSE Commission, State	5	Concurrent with governor		3 (1 on recommendation)	R.S. 54:241
WATCHMAKING, Board of Examiners in	5	5 years (overlapping)	\$40 per diem, plus 10¢ per mile, subsistence allowance	5	R.S. 37:1582-37:1583, 37:1586

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
WILD LIFE AND FISHERIES Commission, La.	7	One member, concurrent with governor; six members, 6 years (overlapping)	\$25 per diem, plus expenses	7	Const. Art. VI, Sec. 1 (A)
WOMEN, STATUS OF, La. Commission on the	20		\$25 per diem, 10¢ per mile	20	R.S. 23:372
YOUTH Commission, La.	9	6 years (overlapping)	Expenses	9	R.S. 46:272, 46:275

NAME	TOTAL MEMBERSHIP	TERMS	COMPENSATION	MEMBERS APPOINTED BY GOVERNOR	CITATION
FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION, Commission on (added 3/22/72)	12	6 years	\$25 per diem, 9¢ per mile travel expenses	9	R.S.40:1541 (Act 481, 1970f)
CAPITAL OUTLAY BUDGET Board (added 4/25/72)					Act 15, 1969R.

MEMORANDUM FOR THE GOVERNOR AND
MEMBER OF THE EXECUTIVE DEPARTMENT,
AGRICULTURE, COMMERCE,
FOREIGN AFFAIRS AND CONSTITUTIONS
APPOINTED BY THE GOVERNOR.

April 6, 1972

As regards filling of vacancies, the listing to which reference is made above does not include references to the governor's powers with respect to the filling of vacancies. In this regard we call your attention primarily to the constitutional provisions of Article VII, Section 69. Article V, Sections 11 and 12 and to the statutory provisions contained in R.S. 42:371-374. Copies are enclosed.

In addition to the authority for appointment by and for the filling of vacancies by the governor mentioned above and in the enclosed listing you may also wish to consider the following provisions (in each case the governor is authorized to make at least one appointment or to fill at least one vacancy):

- ✓ Lafourche Basin Levee and Drainage District, R.S. 38:1993
- Notaries Public, various sections of R.S. Title 35
- ✓ City Civil Service Commissions in cities of over 250,000 population, R.S. 33:2396
- ✓ Orleans Parish Jury Commission, Art. 404 C.C.R.P.
- First judges and marshals upon creation of a city court such as the authorization to the governor in the case of the Marksville City Court, R.S. 13:2488.51
- ✓ Parish Boards of Supervisors of Elections, R.S. 18:554
- ✓ Tott Lake Water Conservation District, Const. Art. XV, Sec. 4
- ✓ Louisiana Stadium and Exposition District, Const. Art. XIV, Sec. 47
- Vacancy in office of Coroner, Const. Art. VII, Sec. 72
- Vacancies on levee boards, Const. Art. XVI, Sec. 1
- Officers of new municipalities, R.S. 33:54
- Officers of new parishes, R.S. 33:1
- Approval by the governor of the first appointments to parish housing authorities, R.S. 40:401

CC/73 Research Staff

Mr. Elmer Tapper, chairman of the Subcommittee of the Committee on the Executive Department studying Reorganization; Vacancies, Succession, Absence and Disability; and Impeachment.

May 28, 1973

Staff Memorandum No. 12

RE: GUBERNATORIAL SUCCESSION AND DISABILITY

A study of the sources listed on page four (4) of this memorandum suggests that the subcommittee in its comparative study of gubernatorial succession and disability may wish to be guided primarily by the executive succession provisions of the federal constitution. The following reasons are given for the suggestion:

1. The sources indicate that the historical and legal problems inherent in gubernatorial succession and disability closely parallel those of presidential succession and disability.
2. The Twenty-fifth Amendment to the U. S. Constitution, Congress's most recent answer to the problem of presidential succession, resulted from years of study

by historians, lawyers, and congressional committees. Congressional debate and inquiry into principles of law, intent and use of language are recorded in congressional records for interpretive purposes.

3. The Twenty-fifth Amendment in its final form represented a compromise of two different views, one of which supported statutory enactment and one of which supported the constitutional amendment.
4. The Twenty-fifth Amendment clarified two age-old controversies: (a) the definition of "vacancy" does not extend to "absences" due to disability, and (b) an alternate assumes a higher office only in cases of vacancy; otherwise, he retains his own office but "acts for" his superior.
5. The Twenty-fifth Amendment is based on historical precedents including: (a) practices under colonial charters whereby a governor "deputized" his lieutenant governor to act in his stead, and (b) the use of "disability pacts" voluntarily entered into by recent presidents and their vice presidents.
6. The Twenty-fifth Amendment honors the concept of separation of powers, but it provides a legislative (congressional) check on arbitrary abuse of executive authority.
7. Prior to the introduction of the Twenty-fifth Amendment, a poll of the states was made seeking comments from legislative leaders on principles to be incorporated into the amendment; later, the amendment was ratified by 47 states.
8. Although recognized by its sponsors as being less than "perfect" in that all possible abuses were not "buttoned down", the amendment was thought to be the best instrument possible, and was overwhelmingly approved by both houses of Congress.

The Twenty-fifth Amendment does not deal with the problem of temporary absences since a well-established rule at the national level is that such absences on the part of the president do not create "vacancies" in the office. The states have taken divided positions on temporary absences, with some holding that no absence exists unless it "injuriously affects the public interest", and others taking the position that a temporary absence creates a "vacancy" in the office of governor to be "filled" by the lieutenant governor.

The Twenty-fifth Amendment does not provide a definition of "disability", but the question of definition was debated in Congress. Senator Robert F. Kennedy offered the following definition to be inserted into the congressional record: "The word 'inability' and the word 'unable'...which refer to an impairment of the President's faculties, mean that he is unable either to

make or communicate his decisions as to his own competency to execute the powers and duties of his office."

The Twentieth Amendment to the U.S. Constitution provides a procedure for the president-elect being succeeded by a vice president-elect. The Twenty-second Amendment refers to an "acting" president as well as the president who "holds office."

Generally among the states, impeachment does not create a vacancy in the office of governor; it does create a period of

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suspension which is alleviated either by acquittal or removal. Congress and some states use the term "removal" in their succession laws to indicate one of the conditions constituting a vacancy in office.

Attachments:

- I. Selected bibliography.
- II. U.S. Constitution, Article II, Section 1, Cl 5;
Amendment XX
Amendment XXII
Amendment XXV
- III. Virginia Commission on Constitutional Government, A Country Without a Man, 1965.

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Attachment I

SELECTED BIBLIOGRAPHY

- American Jurisprudence 2d. "Governor", Vol. 24, Secs. 8-10.
- Bayh, Birch, One Heartbeat Away, Bobbs-Merrill, 1968.
- Brownell, Herbert Jr., "Presidential Disability: the need for a Constitutional Amendment," The Yale Law Journal, Vol. 68: 189, 1958.
- Congressional Record, 89th Congress.
- Corpus Juris Secundum, "States," Vol. 81, Secs. 60, 61, 74, 75.
- Feerick, John D. The Vice-"Presidency and the Problems of Presidential Succession and Inability", Fordham Law Review, Vol. 32: 457, 1964.
- Hansen, Richard H., "Executive Disability: A void in State and Federal Law," Nebraska Law Review, Vol. 40: 697, 1961.
- Paletz, David L., "Perspectives on the Presidency", Law and Contemporary Problems, Vol. 35: 429, 1970.
- Silva, Ruth C., Presidential Succession, University of Michigan Press, 1951.
- Snider, Clyde F. "Gubernatorial Disability", University of Chicago Law Review, Vol. 8: 521, 1941.
- Tompkins, Dorothy. Presidential Succession - A bibliography. University of California, Berkeley, 1965.
- Virginia Commission on Constitutional Government, A Country Without a Man, 1965.

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NOTES

Attachment II, U.S.Const. Art.II, §1c.5& Amendments XX,XXII, XXV are omitted.

Attachment III, "A Country Without a Man: A Study of Presidential Disability," Va. Comm. on Constitutional Government, 1965 is omitted.

CC 73 Research Staff

Legislative Dept

May 16, 1973

Staff Memorandum No. 13

Public utilities are regulated by commissions in all fifty states. The regulatory commissions are constitutionally created in thirteen states and are called corporation commissions, railroad commissions, or public service commissions. This category of constitutional commissions also includes statistical information about statutory commissions and those commissions authorized by state constitutions.

Among states with constitutional corporation commissions, those of Arizona, New Mexico, Oklahoma, and Virginia have broad powers. The Arizona commission has "sole power to issue certificates of incorporation to companies organizing under the laws of this state" and to license foreign corporations doing business in the state (Article XV, Section 5). Corporation commissions in New Mexico and Oklahoma have a similar duty. New Mexico, however, has a statutory public utility commission which assumes some of the regulatory functions performed by the corporation commissions in Arizona, Oklahoma, and Virginia. Virginia's corporation commission has an additional function, that of protecting the consumers of the state and administering "the laws made in pursuance of this constitution for the regulation and control of corporations doing business in this commonwealth" (Article IX, Section 2).

Both Texas and Kentucky have constitutional railroad commissions. In Texas, electric power, manufactured gas, and water, telegraph, and telephone services are not regulated by the commission. Like New Mexico, Kentucky has statutory regulatory boards as well: a public service commission and a department of motor transportation.

Among states with constitutional public service commissions, the Georgia, Nebraska, and South Carolina Constitutions provide that specific powers of the commissions shall be prescribed by law. The Louisiana Constitution, however, broadly grants Louisiana's Public Service Commission "all necessary power" to govern the conduct of utilities including railroads, electricity, gas, and telephones. Both the California and North Dakota Constitutions allow their commissions to regulate the charges of certain kinds of transportation companies and provide for the legislature to increase commission powers. Both states previously had railroad commissions.

All three kinds of constitutionally-created commissions perform similar functions. In general, they regulate public transportation rates and public utility service charges. They may examine the books of companies within their jurisdictions and may compel the attendance of witnesses at hearings. The commissions' decisions are usually appealable to the courts. Commissioners may not have peculiar interests in the carriers or utilities whose services they regulate. Commissions may

not regulate municipal corporations, but the Colorado Constitution includes a provision that utilities in home rule units are subject to regulation so long as the utilities are not municipally owned.

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In a majority of the fifty states, commissioners are appointed by the governor with senate approval and serve six-year terms. In a majority of states, there are three commissioners. Among the states with constitutional commissions, however, the commissioners are more often elected than appointed.

The utility-regulating body is included within the executive department article in Nebraska and North Dakota Constitutions. Colorado and Georgia Constitutions devote an article to public utilities. The railroad commission of Texas is relegated to the constitution's general provisions. In Louisiana, the public service commission is placed under "Officers and Boards." Six state constitutions discuss utility-regulation in an article on corporations: California, Kentucky, New Mexico, Oklahoma, South Carolina, and Virginia. Only the constitutions of Arizona, Colorado, and New Mexico provide for the regulatory bodies in separate articles.

Attachment I, from the Book of the States, details the manners of commissioner selection, the lengths of terms they serve, and the names of the regulatory bodies in all fifty states.

Attachment II, from the same source, lists the regulatory functions of utility commissions in each of the states.

Attachment III, includes the constitutional provisions in each of the states herein discussed.

Note: The constitutional/statutory distinctions made in this study are taken from information in the Book of the States and in the Columbia Index Digest to State Constitutions.

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NOTES

Attachments I and II are omitted. They are reproduced in Book of the States 1972-1973, 557-558.

Attachment III is omitted. It reproduces Public Service Commission provisions of the following state constitutions: Arizona, California, Colorado, Georgia, Kentucky, Louisiana, Nebraska, New Mexico, North Dakota, Oklahoma, South Carolina and Virginia.

NOTES

Staff Memo No. 14 reproduces Legislative Committee Draft Proposal of June 1&2 which is found in Vol. IX, above.

CC/73 Research Staff

Representative Elmer Tapper,
Chairman, Subcommittee of the
Committee on the Executive
Department studying Reorganiza-
tion; Vacancies, Succession,
Absence, Disability; and
Impeachment

June 1, 1973

Staff Memorandum Number 15

RE: REORGANIZATION PROCEDURE

Based on a study of the sources listed on Attachment I, it is recommended that:

1. Granting constitutional status to a procedure for executive reorganization be approached with caution; but
2. if the committee desires to give constitutional status to the procedure, or provide a procedure in the schedule, the congressional reorganization act and constitutions of Alaska, Illinois, and Michigan be used as guides to ensure that the initiative for reorganization lies with the legislature, as the Committee on the Executive Department voted to do.

Reasons for the recommendations are as follows:

1. The need to proceed with caution:
 - (a) Governmental reorganization at the state level has been patterned after the concept of reorganization at the national level, and the federal statutory procedure for reorganization has been given constitutional status by a number of states recently adopting new constitutions. (See constitutions of Alaska, Illinois, Michigan.)

The federal procedure of using a statutory act to grant executive authority to enact reorganizational plans is in keeping with present American constitutional law, which holds that Congress cannot divest itself of its constitutional law-making functions except by a specific delegation protected by

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sufficient standards and guidelines to assure ultimate legislative control. When a state writes the federal statutory procedure into its constitution, it is in effect writing into the constitution the right of the executive to make law, subject to legislative veto, rather than permitting the legislative branch to grant this delegation of its own volition. While some authorities hold that the executive has an inherent right to reorganize and control the administrative branch, this is not the current thinking at the national level, nor does it seem to be generally supported by present constitutional law.

- (b) The present federal procedure may be undergoing changes in the wake of the Watergate scandal which had its origin to some extent in President Nixon's Reorganization Plan No. 2 of 1970. The plan created a presidential White House staff removed from congressional control, and while it was not vetoed by Congress, it was disapproved by the House Subcommittee on Governmental Operations on the grounds that it granted the president power to make appointments without senatorial confirmation and without the protection of civil service, and that presidential policies would be removed from the review and oversight of Congress. It may be reasonable to assume that the Reorganization Act under which this plan was implemented will be changed to permit more congressional control, either by more stringent guidelines or more legislative control of the reorganization procedure itself.
- (c) Even though reorganization of governments is highly praised as being a panacea for all their ills, and a variety of plans have been tried at both the national and the state levels, most authorities seem to look upon the efforts as unsuccessful. At the national level neither Congress nor the president have been able to control the bureaucracy, and at the state level reorganization has been largely a matter of moving boxes on an organizational chart. Even in the six states where constitutional grants of authority have been given to the governor, it is

doubtful that real organization has taken place. It might be said that state reorganization by constitutional initiative is still in its infancy, and there is insufficient tradition to "institutionalize" it as a standard governmental procedure.

- (d) The real purpose of governmental reorganization is to secure accountability to the public. The traditional theory is that accountability is best secured by politically responsible elected officials. However, some sources are of the opinion that accountability

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through elected officials most often is accountability to vested interests rather than to the public at large, and that greater accountability can be made by a direct interaction between administrative agencies and the public. While this concept is not contrary to the idea of governmental accountability through elected officials, it does temper the need for reorganization as the major tool for securing bureaucratic responsiveness to the public will.

- (e) A good deal of executive control over administrative agencies can be secured by giving the governor strong appointive powers and by the abolition and prohibition of boards and commissions which function beyond his control.

2. Use of the congressional method (legislative delegation to the executive):

- (a) That states in general, and Louisiana in particular, are in need of governmental reorganization is unquestionable. Recent surveys have shown that inability of the governor to control administrative agencies is a major obstacle to effective governing. State experiences with reorganization have been largely the result of legislative attempts to reorganize, which generally has proven to be an exercise in futility. This is true partly because legislative bodies are by their nature of diverse political loyalties and are not constituted to study the mechanics of reorganization. If reorganization on a comprehensive scale is to be a reality, it would seem that added impetus is needed for action on the part of the chief executive, who would be able to promote unified and comprehensive organizational plans from the vantage point of his campaign promises, program goals, and use of management tools under his control.

- (b) The 1921 Louisiana Constitution places the authority to reorganize in the legislative branch. In fact, however, reorganizational attempts in this state have been made on the initiative of both the governor and the legislature, but none have been successful except on a piecemeal basis. The comprehensive 1940 reorganization of state government was initiated by the governor, performed by an outside agency, approved by the legislature, and declared unconstitutional by the courts. Subsequently, in the 1950' and 1960' task forces and study groups were set up or continued year after year, sometimes by the governor and sometimes by the legislature, but in no instance was an overall reorganization plan submitted to the legislature.

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All of Louisiana's reorganization efforts have been made through regular legislative procedures, with the executive introducing "administrative bills" where his interests were concerned. A grant of constitutional authority to the governor would make explicit that the governor has reorganizational powers, and could open the door for utilization of different procedures which could aid in achieving reorganization.

- (c) Use of the federal procedure assures experience and tradition even though the procedure may be subject to future changes by Congress. It has been used by presidents with varying degrees of success since 1939, and cannot be said to be a total "unknown".
- (d) Some sources see in reorganization a power-battle between the legislative and executive branches.¹ The federal practice ensures activity of both. Louisiana governors have on occasion created new agencies and positions by executive order without prior legislative approval or veto. This questionable practice could be controlled by a reorganizational procedure. The legislature, on the other hand, could be forced by a constitutional provision to share its authority to reorganize with the executive.

¹ "Reorganization, in the broad sense, is one of the instruments for managing social change. Managing change in the structure of government is a political operation. Reorganiza-

tion in the federal executive branch, on a scale or at a level that attracts external notice, is accordingly a process caught up in the stresses of rivalry between the President and his entourage, the bureaucracy, the Congress and its committees, and organized outside forces, for the control of governmental offices and operations-for whatever uses that control may be put to. It is a process that has been undertaken on a comprehensive scale at least spasmodically ever since 1887, and more systematically during the past twenty or thirty years. Numerous approaches have been tried, sometimes with positive results but often ending in stalemates, at least for the time being." - Mansfield (1970).

Attachments:

- I. Selected Bibliography.
- II. Federal Reorganization Act.

Attachment I

SELECTED BIBLIOGRAPHY

- Bell, George A., "States Make Progress with Reorganization Plans", National Civil Review, Vol. 61, p. 115, 1972.
- Beyle, Thad L., "Governors' Formal Powers", Public Administration Review, Vol. 28, p. 540, 1968.
- Blair, George S., American Legislatures, 1967.
- Congressional Record, Vol. 116, 91st Congress, 1970-1971.
- Council of State Governments, Reorganization in the States, 1972.
- Council of State Governments, Reorganizing State Governments, 1950.
- Council of State Governments, The Governor, 1972.
- Davis, Kenneth Culp, "A New Approach to Delegation", 39 University of Chicago Law Review 713 (1969).
- Davis, Kenneth Culp, Discretionary Justice, 1969.
- Eley, Lynn W., The Executive Reorganization Plan: A Survey of State Experience, Institute of Governmental Studies, University of California, 1967.
- Fisher, Louis, "Delegating Power to the President", 19 Journal of Public Law 251 (1970).
- Kallenbach, Joseph E., The American Chief Executive; the Presidency and the Governorship, 1969.
- Louisiana Legislative Council, Planning for a Reorganization Survey, 1969.

page 2

Mansfield, Harvey C., "Reorganizing the Federal Executive Branch: the Limits of Institutionalization", in The Institutionalized Presidency, Duke University School of Law, 1970.

U. S. Federal Code Annotated, Title 5, Sections 901-913, Chapter 9 - Executive Reorganization.

Wyner, Alan J., "Governatorial Relations with Legislators and Administrators," State Government, Vol. 41, p. 199, 1968.

NOTES

Addenda omitted which reproduces 5 U.S.C.A. §§ 901-912 in re Federal Executive Reorganization.

Mr. Elmer Tapper, chairman of the Subcommittee of the Committee on the Executive Department Studying Reorganization; Vacancies, Succession, Absence, and Disability; and Impeachment.

June 7, 1973

Staff Memorandum No. 16

RE: IMPEACHMENT

"Impeachment refers to a removal of a public officer from office, or to a procedure whereby removal may be effected by a proceeding of a judicial character before the legislature which may be prosecuted notwithstanding, and concurrently with, statutory proceedings for removal of the officer before some court. . . . The legislature in impeachment proceedings exercises judicial, not the legislative, powers conferred on it by the constitution."¹

The purpose of the prosecution of impeachment both in England and the United States was said by Joseph Story to be: "The object of prosecutions of this sort in both countries is to reach high and potent offenders--such as might be presumed to escape punishment in the ordinary tribunals, either from their own extraordinary influence, or from the imperfect organization and power of those tribunals. These prosecutions are therefore conducted by the representatives of the nation, and on a responsibility which is at once felt and revered by the whole community."²

The idea of impeachment is traced back to England. It dates back to the period of struggle between Parliament and the king over ultimate control of the government. "Because of the doctrine that the king can do no wrong, the actual battles were fought between Parliament and the king's ministers. The king ruled the courts and judges did bidding. Impeachment--after Parliament gained sufficient strength to employ it independently - was an instrument by which the legislative branch could rid the government of lawmaking ministers or of judges who sheltered them at the king's behest. The system paralleled the common law, and carried the death penalty whenever the House of Lords chose to inflict it."³

According to Story, impeachments [which are accusations of wrongdoing] were presented by the House of Commons and trial of the charges was by the House of Lords, a "tribunal of high dignity" that would not be swayed by the influence of popular opinion.

With such an English background, the framers of the American Constitution included in that document provisions for impeachment. The scope of the power is found in Article II, Section 4: "The President, Vice President, and all civil officers of the U.S., shall be removed from office on impeachment for, and convictions of Treason, Bribery, or other high Crimes and Misdemeanors." Thus, under the United States Constitution the American "equivalent" of the English king is subject to impeachment. The Constitution further provides in Article I, Section 2 that "the House of Representatives shall . . . have the sole power of Impeachment," while Article I, Section 3 states that: "The Senate shall have the sole power to try all impeachments." The impeachment by the House according to Brant, supra, "is a formal accusation by the House of Representatives, akin to a grand jury indictment."⁴ Procedure followed in the trial for impeachment are stated in Article I, Section 3 to be: "When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present."⁵

The consequences which flow from impeachment and conviction are limited in the United States Constitution to: "removal from office, and disqualification to hold any office of honor, trust, or profit under the United States, but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law." Further, the president is prohibited from granting a reprieve or pardon in cases of impeachment.

The nature of impeachment is that of a criminal, not civil trial. As Brant states: "An incidental provision on another subject gains importance because even more emphatically than other laws, it clarifies impeachment as a criminal proceeding, thereby putting it within the guarantees of due process of law and reducing to nonsense the frequent claim that impeachment is simply a civil inquest into general fitness for office. Article III, Section 2: 'The trial of all crimes, except in cases of Impeachment, shall be by jury.'⁶

Thus, under the United States Constitution, impeachment is seen as a criminal accusation of all civil officers of the United States "Treason, bribery, or other high crimes and misdemeanors," with trial conducted by the Senate. Convictions result in removal from office and inability to hold office under the United States and do not prevent subsequent criminal trial in the courts. "Conviction is not subject to pardon or reprieve by the President.

With this constitutional background, most of the states in the

United States today have provisions on impeachment that are in substantial accord with those of the United States Constitution varying on some points. Only Oregon does not provide for impeachment of public officials, providing instead that: "Public officers shall not be impeached; but incompetency, corruption, malfeasance, or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from office, and such further punishment as may have been prescribed by law." (Oregon Constitution, Article VII, Section 6)

Of the four most recent state constitutions, all follow the general plan of the United States Constitution in that all four provide for the lower house to impeach and the upper house to try the impeachment charges with Montana providing that "the legislature shall provide for the manner, procedure, and causes for impeachment and may select the senate as tribunal." With the exception of the Virginia constitution, the grounds for which impeachment proceedings may be brought are not enumerated, with Illinois giving the lower house "the sole power to determine the existence of cause for impeachment;" North Carolina after specifying removal of certain officials for mental or physical disability providing that removal from office "for any other cause shall be by impeachment;" and Montana providing that: "The legislature shall provide for the manner, procedure, and causes for impeachment. . . ."

This move away from enumerating causes for impeachment is probably an outgrowth of the traditional difficulty of defining exactly what is meant by such enumerated causes for impeachment in the United States Constitution and state constitutions. For example, what is meant by the term "high crimes and misdemeanors"? As Joseph Kallenback asks: "Does it include executive short-comings outside the range of indictable offenses, such as mere incompetence, insolence, neglect of duty, lack of prescribed qualifications, or physical or mental incapacity? May an officer be impeached for criminal acts not related to his conduct in office?"⁶ Such questions mitigate against an enumeration of causes for impeachment in a constitution. The solutions reached in North Carolina, Illinois, and Montana recognize the idea that cause for impeachment is whatever the impeaching body determines it to be.

The present Louisiana constitutional provision on impeachment is found in Article IX, Section 1 and Section 2. Section 1 states: "All state and district officers, whether elected or appointed, shall be liable for impeachment for high crimes and misdemeanors in office, incompetency, corruption, favoritism, extortion, or oppression in office, or for gross misconduct, or habitual drunkenness."

Section 2 parallels the United States constitutional provisions as to impeachment by the House, trial by the Senate, and provides for the Chief Justice to preside in cases where the governor is impeached. It further provides for removal and debarment from holding any office under the state, for certain officers

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to be disbarred. Further, it does not prevent further prosecution and punishment according to law and provides for suspension of the impeached officer, except the governor or acting governor, with provisions that such vacant office shall not be filled by the appointing power until decision of the impeachment.

In a new constitution there are three reasonable alternatives available in dealing with the inclusion of impeachment. The first is to restrict the scope of the present articles on impeachment as to the officials who come under the provision of the articles and to restrict or leave out the enunciations of causes for impeachment; the second is to change the procedure of impeachment and to include the first changes mentioned above; and the third alternative is to delete impeachment from a new constitution.

The first alternative is based on the history of impeachment and the traditional difficulty of defining what is meant by the causes which are enumerated for impeachment. Historically, the purpose of impeachment in England and the United States has been to reach "high and potent offenders--such as might be presumed to escape punishment in the ordinary tribunals; either from their own extraordinary influence, or from the imperfect organization and powers of those tribunals." Indeed, today "It is well settled that all high constitutional officers may be removed by impeachment, especially those elected by the people at large. Indeed it has been held that a constitutional provision respecting impeachment of state officers relates only to officers provided for in the constitution or elected by the people at large."⁸ Thus, the present constitution which covers "all state and district officers" is too broad, as it covers too many officials that are not "high constitutional officers." The suggested change by the 1954 Project which provides for impeachment of "Any officer, whether elected or appointed . . ." is also too broad.

The traditional difficulty of defining what is meant by enumerated causes for impeachment was mentioned supra. In the discussion of the constitutions of North Carolina, Illinois, and Montana which have followed the more reasonable course of realizing that cause for impeachment is whatever the impeaching body determines it to be. The enumeration of nine causes for impeachment in the present Louisiana Constitution was retained in the 1954 Project. It is suggested that the present wording could be deleted and a general reference to cause for impeachment be included with a statement that the House of Representatives has the sole power to conduct legislative investigations to determine the existence of cause for impeachment.

As an alternative to these possibilities a provision which limits the enumeration of causes for impeachment would be reasonable: "such as use of gross misconduct which has been alleged to be inclusive of all other offenses presently listed in the constitution."⁹

A second suggestion is to change the procedure of impeachment.

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This was suggested by the 1954 Projet for the impeachment of the governor which provided for an elaborate procedure of impeachment that allowed any three or more members of the house or Senate to introduce written impeachment charges and upon a majority vote of the members of each house in favor of presenting such impeachment charges. Such charges were to be presented to an impeachment court composed essentially of the chief justice or the presiding justice of the supreme court and the presiding judge of each of the circuit courts of appeal, and conviction required a majority vote of this court.

The Projet requires this procedure for the governor only, and the comment to the relevant article, Article V, Section 2 of the Projet states: "It is felt that the plan incorporated in Article V, Section 2(K) will ensure the quick conviction and removal of a corrupt governor by the other two branches of government, but will protect a good governor from mere political reprisal."¹⁰

Presently forty-five state constitutions provide for trial of impeachment by the senate while the Projet suggestion has merit, it is submitted that it would be more reasonable to apply it to all officials subject to impeachment or to retain the present procedure of the 1921 Constitution which accords with that of forty-four other states and that of the United States Constitution.

The third alternative in dealing with the inclusion of impeachment in a new constitution, and it is submitted the most sensible, is to delete any provision for impeachment from the new constitution. When it was first used in England, the probability of its being used was a powerful deterrent to misconduct in office. In years past in the United States it also served this function, but its deterrent effect, indeed, its practicality today is doubtful, as evidenced by the reluctance to consider the question of impeachment in the current charges of misconduct in national office, and the confusion of commentators as to when it is proper to instigate impeachment proceedings.

The abuse to which impeachment is subject is suggested by comments of W. Brook Graves. "Impeachment proceedings have been instituted, not as a means of protecting the public but as a phase of the political warfare of factions or parties. The results have been determined, not by the merits of the case but by the ability of the accused to muster sufficient voting strength in the senate to retain his position. If he has been able to do this, he has remained in office; otherwise he has been removed."¹¹

And in the most famous case of impeachment in Louisiana, that of Huey Long in 1929, Prof. Williams quotes these views of the powers of impeachment in his book Huey Long: "You can impeach for whatever you want to impeach for." Cecil Morgan explained, "for any act not consistent with the duty of the office. It is not

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like a criminal or civil court! More blunt was Mason Spencer. "You can impeach for anything," he stated. "A misdemeanor can be anything. Impeachment is a political move."¹²

It is suggested that in place of an impeachment article, a provision similar to that of the Oregon constitution mentioned, supra, could be included in the new constitution. The Oregon constitution provides: "Public officer shall not be impeached; but incompetency, corruption, malfeasance or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from office, and such further punishment as may be prescribed by law." Such a provision would accomplish the same thing as impeachment as far as a deterrent effect on misconduct is concerned, and would avoid the possibility of using it as merely a political reprisal action. It would return the substance of the impeachment action, which is in effect a quasi-judicial function, to the courts and make procedure for removal of an officer to the people.

It is further submitted that a procedure for removal of elected state officers by the vote of the people, recall, could be included in the absence of or in addition to such a provision as that of Oregon and thus also prevent the abuses of the impeachment procedure.

¹68 CJS Officers §67 (1950)

²Joseph Story, Commentaries on the Constitution of the United States, p. 497 [1873]

³Irving Brant, Impeachment, Trials and Errors, p. 10-11 [1972]

⁴ibid, p. 7

⁵ibid, p. 8

⁶Joseph Kallenbach, The American Chief Executive, p. 208 (1966)

⁷Joseph Story, Commentaries on the Constitution of the United States, p. 497 [1873]

⁸63 Am. Jur. 2d Public Officers and Employees §173 (1968)

⁹Edward B. Dubuison, "Removal of Public Officers in Louisiana", 46 Tulane Law Review at p. 795 (1972)

¹⁰1954 Projet, Art. V, §2, p. 485 (1954)

¹¹W. Brook Graves, American State Government, p. 127

¹²T. Harry Williams, Huey Long, pp. 382-383 (1969)

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NOTES

Addenda omitted reproduce the following materials:

46 Tul.L.Rev. 790-797 [1972].

Kallenbach, The American Chief Executive, 203-231 [1966].

III. Miscellaneous Committee Documents

COMMITTEE ON THE EXECUTIVE DEPARTMENT May 15, 1973

Guidelines and Notes Developed in Meetings Held on May 8, 9, 10*

THE EXECUTIVE DEPARTMENT

Section 1. Composition; cabinet
Section 16. Administrative departments, reorganization, meetings

Concepts:

1. Define composition of the executive branch rather than the executive department.
2. Five statewide elective officials:
 - (a) Governor
 - (b) Lieutenant governor
 - (c) Secretary of state
 - (d) Treasurer
 - (e) Attorney general
3. 20 principal executive, administrative departments inclusive of departments administered by secretary of state, treasurer, and attorney general. Lieutenant governor is not to be a department head.
4. Department names, other than departments of elective officers, not to be named in the constitution.
5. Initial reorganization:
 - (a) Legislature to reorganize within 18 months, with the proposal originating in House of Representatives
 - (b) Proposal subject to governor's approval
 - (c) If legislature fails to act, governor can reorganize by executive order
 - (d) Reorganization, merger, consolidation not to extend to departments of elective officers
6. Subsequent reorganizations to originate with the legislature.

Notes:

The committee took no action on the "Cabinet" concept. There was general discussion on definitions of "department" and other terminology, on the need to distinguish between "structural" reorganization and personnel allocation, and

*Section numbers and titles refer to CC/RS-202.

on language which would prevent the legislature from abusing the concept of a limited number of major departments.

The committee on a 7-3 vote favored the following language submitted by Delegate Gravel:

"The executive branch shall consist of a governor, a lieutenant governor, a secretary of state, an attorney general and a treasurer and such other officials and departments as provided by law. There shall be no more than twenty departments in the executive branch."

The committee chairman asked Delegate Gravel to prepare language on his substitute motion to retain commissioners of agriculture and insurance and the state superintendent of education as statewide elective officials, subject to consolidation and merger by the legislature, or subject to a change in the method of appointment.

Section 2. General qualifications for all elected officials

Concept:

1. Age: all statewide elective officials to be 25 years of age at time of election.
2. Citizenship: state and U. S. citizenship required for at least 5 years preceding the date of election.
3. Dual office holding: prohibition against holding other "public offices" at the time of election.

Note:

Other qualifications would derive from qualifications for voter registration as required by law, such as residency requirements.

Section 3. Election, terms

Concepts:

1. Length of term for all elective officials: four years.
2. Succession: all elective officials except the governor permitted unlimited succession in office.
3. Lieutenant governor allowed to serve only one full term if he has served more than one-half a term as governor.
4. Governor: See Section 9.

Section 4. Time of taking office; election returns

Concepts:

1. Time of taking office:
 - (a) one month to six weeks after election, and
 - (b) prior to convening of legislature session.

Notes:

The committee discussed procedures whereby the governor could take office under the new constitution at an earlier date than is presently prescribed:

- (a) by providing a procedure in the Schedule; or
- (b) by setting an effective date in the new constitution; or
- (c) by securing a legislative amendment to Act 2, 1972; or
- (d) by changing the convening date of legislative sessions.

Delegate Arnette presented language for consideration of the committee.

It was decided that this section should be reviewed depending upon action by the Committee on Legislative Powers and Functions regarding legislative sessions.

Section 5. Assistants of elected officials

Section 6. Vacancies in elective offices other than the governorship

Concepts:

1. Each elected official except governor and lieutenant governor to appoint an assistant subject to confirmation by the Senate.
2. Assistants to have same qualifications as the elected officials.
3. Appointed assistants to be subject to removal at pleasure of the appointing officer.
4. Appointed assistants to succeed to elected official's position in event of a vacancy in the office.
5. Assistants succeeding to elective office to serve until official promulgation of results of next general statewide election.

Notes:

The committee discussed the need for a general section defining "vacancy" in public office, including definitions of terms and procedures.

For "vacancy" in the office of governor see Section 10.

Section 7. Compensation of elected officials

Concepts:

1. Salaries to be set by legislature.
2. Salaries not subject to increase or decrease during an elected term office.

Notes:

The following language was discussed by the committee:

"The compensation of each statewide elected official shall be fixed by the legislature and shall not be increased or diminished during the term for which the official was elected."

It was suggested that the new constitution have a single article or section devoted to the subject of all salaries.

Concepts:

1. The governor should retain the power to grant reprieves and pardons.
2. The governor should not retain the power to grant commutations.
3. Sent to subcommittee.

Note:

Delegate Stovall requested written language providing that governor would be highest paid state official.

Note:

The committee considered the following language:
"The governor shall have power to grant reprieves and pardons, after conviction, for all offenses."

Section 8. Supreme executive power

Concepts:

1. Supreme executive power would be vested in the governor.
2. Governor should not be mandated to execute laws of the state.

Note:

The committee discussed the following language:

"The governor shall be the chief executive officer of the state and shall faithfully support and execute the constitution and laws of the state."

Note:

The committee discussed power to call out the militia, invocation of the police power, and language in the governor's oath.

Section 9. Governor's term

Concepts:

1. Length: 4 years (See Section 3.)
2. Succession: No governor may serve more than two successive terms; he may serve more than two terms intermittently.

Section 10. Vacancy in office of governor

Concepts:

1. Vacancies to be filled first by lieutenant governor, and subsequently by persons elected to statewide public office; in the following order: secretary of state, attorney general, treasurer, then, president pro tem of the Senate, speaker of the House of Representatives; and then, "as determined by the legislature."
2. Assistants succeeding to elective positions cannot fill vacancies in the office of governor.
3. Method of determining disability or inability should be given, with final determination made by the judiciary.

Notes:

The committee discussed the following language:

"In the event of a vacancy in the office of governor or governor-elect, the order of succession shall be (1) the lieutenant governor or lieutenant governor-elect, (2) secretary of state, (3) attorney general, (4) treasurer, (5) president pro tem of the Senate, (6) speaker of the House of Representatives. In the absence or inability of any of these, the succession shall then be as determined by the legislature."

and

"Disability or inability of the governor to serve shall be determined after due notice and hearing by the Supreme Court under such rules as it may adopt."

Section 10(C) and 10(D) were not considered by the committee.

Section 11. Removal and impeachment

Concepts:

1. Apply only to executive officers.
2. Sent to subcommittee.

Notes:

Attention was directed to La. R.S. 42:4 relative to removal of public officers appointed by the governor. (attached hereto.)

The committee discussed placing a limit on the authority of the governor to remove members of civil service commission, boards of ethics, and similar agencies.

Section 12. Executive clemency

Notes:

The staff was asked to make some clarification on the various types of terms. Appointments may be made:

- (a) at the pleasure of the appointing authority; or
- (b) concurrent with the governor (four years or less); or
- (c) overlapping for a given term; or
- (d) non-overlapping for a given term; or
- (e) temporary or recess appointments made until the next regular or special election.

Concepts 2 and 3 are to be reconsidered if the legislature decides to meet in continuous session.

Section 14. Removal of executive officers

Concepts:

1. Elected officials, including governor: removal by impeachment or other designated means. (Referred to subcommittee. See Section 11 on removal and impeachment.)
2. Appointed officials:
 - (a) Governor may remove at pleasure non-elective department heads whom he appoints with advice and consent of Senate for indefinite terms.
 - (b) Constitutional and statutory appointees subject to Senate confirmation for fixed terms are not subject to removal by the governor.
 - (c) Constitutional and statutory appointees nominated from special lists or other means specifically given in the law and serving fixed terms are not subject to removal by the governor.

Section 15. Filling of vacancies by the governor; recess appointments

Concepts:

1. Governor to fill vacancies in public offices if not otherwise provided for by constitution or statutes.
2. Commissions requiring senatorial confirmation to expire at the end of the next session of the Senate.
3. Failure of governor to send names to Senate, if so required by law, or failure of the Senate to confirm is equivalent to rejection of the nominee.

Notes:

The committee considered the following language:

"If not otherwise provided for in this constitution or by statute, the governor shall have the power to fill by appointment any vacancy in public office."

Concepts 2 and 3 are subject to reconsideration if the legislature should meet in continuous session.

Section 16. Administrative departments, reorganization, meetings (See Section 1)

Section 17. Reports and information

Concepts:

1. Provide that departments and agencies shall supply reports on request of the governor.
2. Consider exemptions similar to the exceptions in the Public Records Act.

Note:

See La. R.S. 44:3 for exemptions from Public Records Act (attached).

Section 18. Executive budgets, financial reports

Concepts:

1. The governor shall prepare the state budget.
2. The governor shall prepare an annual financial report.
3. Consider placing Section 18(B) in Section 19.

Note:

The committee considered the following language:

"The governor shall prepare the budget of the state, and shall transmit copies thereof to the legislature as provided by law. Upon adoption by the legislature, he shall execute and administer the budget."

The committee requested the staff to research other state constitutions on the concept of "balanced budget".

It was mentioned that the title of the section should be changed to "state budget".

Section 19. Proposals, reports to the legislature

Concepts:

1. The governor shall make reports and recommendations to the legislature, including a statement of its financial condition.

Note:

The committee discussed the following language:

"The governor shall make reports and recommendations and give information to the legislature concerning the affairs of state, including its complete financial condition."

Section 20. Signature of bills; veto

Concepts:

1. The governor has the right and power to veto legislation.
2. The bills sent to governor should be so dated and stamped that constitutional time limits on vetoes cannot be violated.
3. During a session, the governor has ten days from the time received within which he must veto legislation, except that for bills passed within the last 12 legislative days, the governor has 20 days in which to veto. (The legislature is to have two final days of a session within which it can consider vetoes).

Notes:

The committee questioned procedures to be followed in event of successive vetoes.

The above concepts would be reconsidered in the event the legislature meets in continuous session.

The committee deferred the power of the legislature to override the governor's veto to the Committee on Legislative Powers and Functions. (See also Article III, Sec. 8.2).

Section 21. Appropriation bills; item veto

Concepts:

1. The governor shall have power to veto line items in appropriation bills.

Notes:

The committee decided to remove from the working papers the phrase "or reduce any item".

Section 22. Extraordinary session of legislature

Concepts:

1. The governor can call special sessions of the legislature.
2. The session is to be limited to the items in the call.
3. The session is to last for no more than 30 days.
4. Procedures are to be statutory. (See Section 22(C) eliminated and made statutory by a vote of 6-2).

Note:

The right of the legislature to convene itself into special session and the procedures therefor were deferred to the Committee on the Legislative Powers and Functions of the legislature.

Section 23. Acts not requiring the governor's signature.

Note:

The committee deferred this topic to the Committee on Legislative Powers and Functions.

Section 24. Nomination and election of the lieutenant governor

Concepts:

1. The governor and the lieutenant governor shall be independently elected.
2. Delete the provision.

Section 25. Duties of the Lieutenant Governor

Concepts:

1. The lieutenant governor is to succeed to office of governor in event of a vacancy.
2. He is to be a full time executive official.
3. He is to hold ex officio memberships on the same boards and commissions as the governor.

4. He is to have other executive functions assigned by the governor or by law.
5. He is to have no legislative functions.

Section 28. Auditor General

Note:

No action on this section. (See Section 1.)

Note:

The committee considered the following language:

- A. "The lieutenant governor shall succeed to the office of governor at such times and in such manner as provided for in this constitution or as may be prescribed by law.
- B. He shall serve as the chief aide to the governor and shall hold membership on every statutory, intra-state committee, board, and commission on which the governor serves, and shall perform such other duties as the governor and the legislature may assign."

Section 26. Duties of the Secretary of State

Concepts:

1. The secretary of state shall be administrative head of the Department of State, one of the 20 principal departments.
2. He shall be custodian of records, papers, documents.
3. He shall have various other functions as described by the present Secretary of State in a letter to the committee.

Notes:

See the attached sheet from the incumbent secretary for language considered by the committee.

Several delegates were concerned about giving constitutional status to administration of corporation and trade mark laws.

**PROPOSED PROVISION FOR THE NEW CONSTITUTION:
PERTAINING TO THE OFFICE OF SECRETARY OF STATE**

There shall be a Secretary of State who shall be elected by the qualified electors for a term of four years at the time and place for voting for representatives. Neither the office of Secretary of State nor any of the duties enumerated herein shall be abolished, transferred, merged or consolidated into any other office or department. The legislature may, however, assign such additional duties as it deems necessary.

The Secretary of State shall serve as the state's chief elections officer and administer the primary and general election laws at the state level, administer the laws relative to voting machines or other voting devices as now or hereafter provided by this constitution or by law; administer the state corporation and trade mark laws; serve as keeper of the Great Seal of the State of Louisiana and attest therewith all official laws, documents, proclamations and commissions; administer and preserve the official archives and records of the state; promulgate, publish and retain the originals of all laws enacted by the Legislature; countersign all commissions and keep an official registry of same; administer oaths; and such other duties as may be prescribed by law.

The Secretary of State shall appoint an assistant Secretary of State, and one principal deputy, one attorney and one confidential secretary, none of whom shall be in the classified service under any civil service law. The assistant, in the absence of the Secretary of State, or in case of his inability to act, or under his direction, shall have authority to perform all acts and duties of the office; and in case of vacancy for any cause, the assistant shall act as Secretary of State for the remainder of the unexpired term.

Section 27. Duties of the Treasurer

Concepts:

1. The treasurer is to be a department head, and is to be one of the 20 constitutional departments.
2. Among his duties shall be serving as custodian of all state funds, making investments, preparing quarterly reports, and employing personnel as prescribed by law.

Note:

The committee considered language similar to that submitted by the incumbent treasurer and that in the Abraham draft.

Section 29. Creation of Department of Justice

Concepts:

1. The attorney general is to administer a Department of Justice, one of the 20 principal departments in the executive branch.
2. There is to be only one assistant who is to have same qualifications as attorney general.

Section 30. Duties of Attorney General

Concepts:

1. The attorney general is to have charge of all legal matters to which the state is a party.
2. All state attorneys are to be a part of the office of the attorney general, except as otherwise provided for law.
3. The attorney general is to supercede district attorneys in certain instances.

Section 31. Qualifications of the attorney general and his assistant

Concepts:

1. Qualifications are to be the same.
2. Qualifications are to five years practice of law.

Boards and Commissions

Concepts:

1. The constitution shall provide for:
 - (a) A Public Service Commission as an elected body. (Other provisions referred to a subcommittee.)
 - (b) A reference to a board or commission on ethics for public officials and public employees.
2. Consideration shall be given to a single commission to administer forestry, wildlife and fisheries, and conservation. (Referred to a subcommittee.)

REMARKS OF SAM H. JONES
TO EXECUTIVE BRANCH COMMITTEE
OF THE CONSTITUTIONAL CONVENTION
1973

Exhibit 9

I am asked to talk to you on the subject of

The Needs and Operation of the Executive
Branch of the State Government.

This is a subject which has plagued the best minds of Louisiana for more than a century. So, it is not likely that I shall be able to give you the answer to this vexing problem in the few minutes allotted me.

But, as the Englishman might say: "We can give it a try." I have, at least, had some experience in the field. Back in 1921 I served in the Constitutional Convention contrived by Governor John M. Parker. It was his dream that we could abolish unnecessary agencies; do away with overlapping boards and commissions; merge and consolidate agencies and

instrumentalities of similar purpose; and give to the state "a short, concise constitution."

I need not tell you that, despite heroic efforts, this brave undertaking died aborning. We brought forth a document which, unlike that immortal instrument conceived by the founding fathers at Philadelphia in 1787, was not "the greatest document ever struck off at a given time by the brain and

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purpose of man." On the contrary, it was to become known, with its subsequent multitude of amendments, as the worst constitution ever devised among the numerous products of the 50 states of the Union.

There was a long wait between Governor Parker's efforts and those which my administration undertook in 1940. We then took a total of some 174 administrative agencies and, by one constitutional amendment, converted the entire executive branch of the Louisiana state government into a compact government of 20 departments and five independent agencies.

The people, by popular vote, approved our handiwork, but five judges of the State Supreme Court, by some legal legerdemain, held that the constitutional amendment by which we brought about the most thorough-going reorganization ever attempted in Louisiana was, itself, unconstitutional. I must admit that this unexpected act of the judiciary strained my credibility in the efficacy of the American tri-partite system of government.

But I was not alone in my amazement; for Chief Justice O'Niell, one of the most brilliant judges ever to sit on our Supreme Court, dissented in these words:

"We are reminded in the prevailing opinion rendered in this case that the Constitution of the United States guarantees to every state in the Union a republican form of government. I respectfully submit that when a comparatively small group

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of men who are the members, or a majority of the members, of a court of last resort annul an amendment of the Constitution of their state merely because of an error or omission in the proceedings which led up to the submission of the amendment to the people and its adoption by the people, or because the members of the Court are of the opinion that the amendment should have been adopted by the people as two or more amendments instead of being adopted as one amendment, the proceeding seems not consistent with the theory of a republican form of government. In fact it is apt to tax the people's understanding of President Lincoln's high resolve

that government of the people, by the people, for the people, shall not perish from the earth."

Justice Odom also dissented.

So ended the second great effort to bring order out of chaos, and to give to our state a government that would be stable, sensible, efficient and economical. And one which would give to the Chief Executive of this state modern tools and modern facilities with which to operate a modern state government.

So we waited another 24 years before there commenced the third great effort in the 20th Century to put our governmental house in order. This began with Senate Concurrent Resolution No. 10 of 1964. And a year later it was supple-

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mented by Governor McKeithen's appointment of The Committee to Consider Changes in the Powers, Duties and Responsibilities of the Office of Governor.

As was logical, the Governor assigned to this new committee, of which I was chairman, the duties of making the study and recommendations envisioned by the Senate Concurrent Resolution.

In all frankness, our committee did a commendable job in reducing the governor's powers on the local level. We reduced his unconditional powers of appointment in the field of local government from a total of 1721 down to a total of 375. This means that we reduced these powers by 78%.

We went on to make a total of 17 recommendations in the area of the legislative branch. And we were successful in seeing 12 of these 17 recommendations either adopted by the Legislature or implemented by the governor's office.

Included in the work of the committee were a total of nine constitutional amendments. And all of these amendments were ratified by the people by votes ranging from 66.82% to 73.67%, for a general average of 70.56%.

Now the proof that the people are strong in the backing of these changes and reforms is that, except for the expenses incurred by me personally, not a single dollar was spent to bring about their adoption. In response to many inquiries I prepared, at my own expense, a small pamphlet explaining the nine amendments.

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Not a single billboard was used. Except for a small newspaper advertisement in my home town newspaper -- which I paid for -- no newspaper advertising was bought; and no television or radio time was purchased. And yet almost every one of the nine amendments carried in every parish in the state.

There was help from the Louisiana Municipal Association and the Police Jury and School Board associations. The Council for A Better Louisiana gave a general endorsement to our overall

report; and PAR explained the pros and cons of the amendments to the people, in their analyses.

But the big point is that no campaign was conducted; and the single biggest assist that the amendments had was the open endorsement of nearly every daily newspaper in the state. This, plus about a dozen explanatory speeches which I made in strategic points before civic clubs throughout the state, constituted such "campaign," if you may call it that, as was conducted.

And yet the proposals went through to success with flying colors. I mention this to convince you that the people wanted these improvements. The people of this state are ready, not for less, but for more reforms in the political and governmental structure. And, as one very prominent citizen of this state is reported to have said to the Governor:

"Your political success has come about not in spite of your endorsement of political reforms, but because you have had the courage

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to endorse these reforms. The people have demonstrated their support of these reforms in the early 1920's, in the early 1940's, and in the middle 1960's. And I, personally, think they mean to have these reforms."

The bright spot in this whole picture is that this determination of the people seems, at long last, to be coming home to the politician. There are three outstanding evidences of this.

The first of these is the mandate, which the legislature gave the Louisiana Law Institute, to prepare and submit a revision of the entire constitution. This has been dropped in view of this convention. But, in all frankness, the tempo and momentum had been entirely too slow.

The second was the mandate which the legislature, of its own motion, gave to its Legislative Council. I refer to the mandate to make a study of the legislature's own deficiencies and its own needs. This report was due prior to the fiscal session of 1967.

The third piece of evidence was the reorganization study made by the Louisiana Council on Governmental Reorganization. This was, in fact, a continuation of one phase of the work assigned to the Committee on the Governor's Powers.

When it became apparent that our committee could not complete all its work within the time allotted, we did the next best thing: We asked the legislature to adopt, and the governor

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to approve, an act setting up a reorganization council to finish the work we started.

We asked that this Council be given adequate funds and

staff to do a thorough-going job of submitting a plan for the reconstructing of the entire executive branch of the state government.

This recommendation was accepted and carried out under the provisions of Act No. 456 of 1966. This work has now been taken over by this convention. And it has until January 1, 1974 in which to submit its final report.

We, therefore, had a very rare and unusual situation, not often seen in work of this nature. All too often good reports of faithful souls on governmental surveys are filed to gather dust, and are soon forgotten. Here that situation did not obtain. This is evidenced by the following:

- (a) Nine constitutional amendments have already been written into the basic law.
- (b) Thirteen important acts of the legislature were passed.
- (c) Some 12 to 15 important administrative recommendations have been carried out.
- (d) And three agencies were created to carry out those portions of the unfinished task which could not be carried out by the original committee.

And, whilst the original committee had not a single dollar of appropriation, and no staff except two part-time volunteer

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staff workers, your group has money, staffs and facilities with which to carry on, although perhaps not enough.

* * *

We start with the knowledge that we have one of the biggest state governments in the entire Union. It has been ranked, in recent years, as second or third in total state spending. From 1944 to the present time our state budget has grown from \$100 million dollars per annum to approximately \$1 billion \$500 million annually.

We have a total of approximately 265 state agencies, boards, officials and instrumentalities.

To give you an idea of how utterly ridiculous and uncoordinated our executive branch really is: We had during our studies 15 separate and distinct agricultural agencies. We had 15 separate conservation agencies of a state-wide nature. We had 10 agencies dealing with penal and correctional matters in addition to five wardens and superintendents of institutions. We had 10 agencies dealing with education, in addition to more than 40 heads of universities, colleges and special schools operated by the state.

Incredibly, we had 13 agencies dealing with fiscal matters. And seven or more agencies that have authority with respect to the building and maintenance of state highways, bridges and ferries.

The positions appointed by the governor within the executive branch, together with those held by himself ex-officio and by his appointees ex-officio, make a grand total of nearly 1,200. There are 230 ex-officio positions, of which the governor himself holds 27 and his appointees hold 38.

All told there are a total of 1448 top-level positions in the executive branch of the state government. According to my best information the number of appointive officials and classified and unclassified employees on the state level is decidedly in excess of 45,000 all told.

There are 10 elected state officials in addition. This is the greatest of any state in the Union. The complexity of the executive branch, at times, defies the imagination.

Our budget has increased by 1500% since 1944, while our population has increased by less than 40%. And while our population was increasing less than 40%, the number of our state employees and state officials had increased by approximately 243%, or nearly six times as fast.

When it is considered that our state government consists of more than 260 separate and distinct offices, departments and agencies, most of them responsible directly to the governor, this poses a problem of vast proportions.

This means that when you deduct 52 Saturdays and 52 Sundays and 11 holidays, for a total of 115 non-working days, you have left a total of 250 days out of a year.

So with better than 250 agencies and 250 days, the

governor could devote one day to each agency each year if he had nothing else to do except devote his entire time to executive and administrative agencies.

But all of us know that he has many more functions to perform. Certainly he spends a minimum average of 45 days a year with the Legislature and on legislative duties. His work in industrial and other economic development consumes at least 30 days a year.

His attendance on public boards, public relations and public appearance take up still another 30 days a year. In addition he is his party leader, and a modest estimate of the time consumed in this activity is ten days; and with another ten days allotted to national and international contacts, this adds up to a total of another 125 days.

And when you deduct this from the 250 days you started with, you have only 125 days left for the basic job of supervising the executive branch of the state government. This means the governor might get around to each agency one time every two years, or twice during his term of office.

Now, what I have given you is not an exaggeration. In fact, it's an underestimate, because the bigger departments, like highways, conservation, institutions, health and hospitals, higher education and public safety, often take several weeks

of attention each year. So the plain matter of fact is that many a governor goes out of office, after a four-year term, without ever having had any contact whatever with numerous

administrative agencies.

This complexity, confusion and lack of order and coordination cries out for correction. There is no semblance of coherence, and, most of the time, an utter lack of delegation of authority to relieve the governor of his unreasonable burdens. Nobody but a young man is physically capable of taking on the work load required of the Governor of Louisiana; and even then it takes a man of great physical stamina, courage and aggressive approach.

Now, if this sort of thing should happen in private business, the man responsible for it would get fired, and quick. But you must remember that in the case of the state government, the governor is not, primarily, responsible for this situation. He inherits the system. And it's the system -- and not the governor -- which is primarily responsible.

Now, the governor may add to the confusion of the system, and most of them do to some extent. But the system has been in the building for approximately 75 years. And you cannot blame it on any one governor. You must blame it on many governors and many legislatures. And the time has come now for action.

As we shall see a little later, the political scientists and constitution writers have concluded that extensive delegation is absolutely necessary. And, in the Louisiana system, this is almost completely lacking. I think what is indicated in Louisiana is not so much the abolition and merging of

agencies, as the grouping of agencies of kindred types and purposes. This grouping should be for administrative purposes, such as the handling of budgeting, personnel and housing and, in some instances, enforcement activities can be better handled by the larger department, as has been demonstrated in our present Department of Agriculture. This "grouping plan" would not only bring order out of chaos; it would also bring intelligent delegation, enabling the governor to keep up with 25 or 30 department heads, which is possible and practicable, instead of 265 agencies, which is both impossible and impracticable.

Bear in mind, also, that what we are experiencing here in Louisiana is not peculiar to our state. It's happening in all other states of the Union. And there is a growing awareness that something must be done about a situation that is becoming intolerable. So things are beginning to be done here and throughout the land.

In the first place, there is an awareness among the people of this land that we face a critical situation, and that something must be done to correct it. In the second place, this

sentiment is evidencing itself in the form of governmental research groups all over the country. I would say that there are today at least a dozen top-flight, first-rate, non-profit governmental research units studying governmental problems on a national scale.

In the third place, not all, but a substantial number

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of our states, also, have governmental research organizations working on the state level. Here in Louisiana we have the Bureau of Governmental Research in New Orleans, the Public Affairs Research Council and the Council for A Better Louisiana. And in addition there is the Gulf South Research Institute, which is a private group, that is available for governmental research through the medium of a public agency.

In the fourth place, I would not attempt to estimate the number of strictly business consulting firms which are available for this sort of research, for hire, in this rapidly multiplying field.

And all this is beginning to show results, and have its effect. Alaska and Hawaii both organized the executive branches of their state governments into 20 compact departments, according to their major purposes. Both Michigan and New Jersey reorganized their executive branches by constitutional revision; and these, too, used the format of 20 principal departments.

The State of Missouri, by constitutional revision, reorganized its executive branch into 16 major departments "until others are established by law."

You might be interested, also, in the recommendation of the National Municipal League that the executive branch of a state government should be limited to not more than 20 principal departments.

All the foregoing, ostensibly, were effected either by

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new constitutions, constitutional conventions to replace old constitutions, or by revisions amending the articles on the executive branches.

The states of Utah, Washington and Ohio, very significantly, have used the same medium which we here in Louisiana adopted. In the case of Utah the legislature appropriated \$150,000 for the work of reorganization; which sum is substantially in excess of what Louisiana once proposed to spend. And bear in mind that Louisiana is three times the size of Utah in both population and budget.

The most inspiring developments of all were the Washington and Ohio reorganization councils. I say this because these were financed by private contributions. In Washington, which is approximately the same as Louisiana in both population and budget, some 287 business and industry organizations contributed sums estimated at \$400,000. While in Ohio 150 business

and industry leaders contributed some \$650,000 to finance their study.

I say that the cases of Ohio and Washington are inspiring examples because they evidence a determination on the part of businessmen that something must be done to strengthen the states, as counterbalancing influences against the strong, all-powerful central government. And when the businessmen of these two states are willing to dig down in their pockets to a combined total of more than a million dollars, this thing begins to look good.

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But it should be emphasized that, while the costs of the Washington and Ohio studies were privately financed, the councils themselves were officially appointed by the governors of these states.

I, personally, do not advocate private contributions here in Louisiana for these reorganization studies. And my reasons are three-fold. In the first place, I do not think the state, or its reorganization convention, should be beholden unto private sources for the financing of such studies which affect all people, not just a few hundred. In the second place, I think a state with a revenue enabling an annual budget of \$1,500,000,000 is able to and should pay its own way. And in the third place, the business elements of Louisiana are already contributing heavily to such research groups as the Bureau of Governmental Research, PAR, CABL and GSRI. And they are therefore doing their share.

I understand that the sum presently available to your convention is not adequate but will be supplemented if required. But when you compare this with little Utah, which is one-third as large as Louisiana, and had a budget of only \$100,000,000 -- and consider that it appropriated \$150,000 for the work of reorganization -- it would seem to me that we are not yet as convinced as we should be of the importance of the job of reorganization.

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I started out by reciting some of the accomplishments of the Committee on the Governor's Powers. I would like to give you one more example of the good which comes from governmental reform. Before I do so, I would like to quote the old adage which says: "A stitch in time saves nine."

When my administration went into office in 1940 there rested on the statute books a law which gave a state commission, completely dominated by the governor, the final authority to approve 18,500 local employees from street sweepers up. We repealed that statute. Had we not done so, the governor would control today, because of that dictatorial statute, not 18,500 but some 100,000 local employees.



STATE OF LOUISIANA
DEPARTMENT OF HIGHWAYS
P O BOX 44245 CAPITOL STATION
BATON ROUGE LA 70804

May 3, 1973

Honorable Thomas Stagg, Chairman
Committee on the Executive Department
Constitutional Convention
State Capitol Building
Baton Rouge, Louisiana 70804

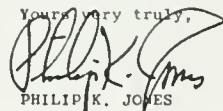
Dear Sir:

Enclosed herewith are several copies of a suggested revision of the Constitutional provisions relative to the Department of Highways, the Board of Highways, and the financing of the work of the Department of Highways. These revisions would replace the present Section 19, 19.1, 19.2, 19.3, 19.4, 20, 21, 22, 23, 23.1, 24, 24.1, 25, and 25.1, all in Article VI.

Much of the material being replaced is obsolete, and the enclosure is a somewhat simplified version of the material which should be retained.

You will note that this material has not been numbered as to sections and paragraphs. Should you desire any further discussion of this material, I will be happy to respond to any questions that the Committee might have.

The material enclosed here does not attempt to deal with the provisions contained in Section 22(g), and I call that to your attention because repeal of Section 22(g) might have an adverse effect on other agencies of the State.

Yours very truly,

PHILIP K. JONES
General Counsel

PKJ/pr
Enclosures

CONSTITUTIONAL PROVISIONS

PROPOSED BY LOUISIANA DEPARTMENT OF HIGHWAYS

The Legislature shall provide for the establishment and maintenance of a system of state highways and bridges, shall provide for a general highway fund for the construction and maintenance thereof; shall authorize the acquisition, by expropriation or otherwise, of rights of way for highways and for drainage therefor; may provide for the acquisition by expropriation or otherwise of property necessary or useful for the purpose of building, operating and maintaining highways and buildings and desirable appurtenances thereto, and shall provide for a Department of Highways, under the supervision of a Board of Highways.

The Board of Highways shall consist of nine members, one of whom shall be ex-officio, the Governor, and one shall be appointed by the Governor from each congressional district; the members of the Board presently in office shall complete their present terms and may be re-appointed; two shall have terms of four years coinciding with that of the Governor and the others shall serve terms of six years, staggered so that one member is appointed each year. New appointees shall fill the unexpired term of the retiring or deceased member. It shall be the duty of the Secretary of State to compile a panel of names submitted by the governing authorities of the several

Then we also found in 1940 that there were a total of 25,000 state employees. We fired 7,500 and put the other 17,500 under Civil Service-- beyond the reach of the governor. The number of Civil Service workers has now grown from the 17,500 in my day to approximately 45,000 at the present time.

When you add the 100,000 to the 45,000 you have a total of 145,000. The oldtime political ward leader used to tell me that one jobholder, properly selected, was worth four votes. If that formula be correct, then what we did back in the early forties has resulted in taking from the state politicians the control of 500,000 votes. And that would be effective control of almost any statewide election in Louisiana.

What was done in the early forties, and what is being done in the early seventies, is tremendously encouraging. But

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it does not mean we have done the whole job. We are far from that goal.

I am constantly reminded of a criticism of the work of the Committee on the Governor's Powers. It was made by one of Louisiana's finest citizens, at a meeting of CABL, and it was made a part of a motion of endorsement for the work which our committee had done. This gentleman said: I vote for the approval of what has been done; but I think it should be distinctly understood that:

"What has been done is not the completion of the task; it is merely the beginning."

I was present at the meeting. And, although I was chairman of the Committee on the Governor's Powers, I seconded the motion. And I did it wholeheartedly. For until we complete the balancing of the powers as between the executive and the legislative, and until we complete the job of reorganization of the executive branch of the state government, we are nowhere near the completion of our job.

Finally, I think movements have been set in force that no power on earth can stop. I think the ideas have been born. And as Victor Hugo once said: There is no power on earth as strong, not all the armies of the world, as an idea whose time has come.

This nation, and this state, are going to correct the imbalances that have threatened the existence of the traditional

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American system of checks and balances. It may take a year, or five or ten, or even more; but we shall not be diverted from our course.

As a parting remark let me warn you against cluttering up the proposed constitution with purely legislative matters. I say this because that was the big mistake of the 1921 constitution, which has brought on a deluge of amendments and probably the biggest state constitution in the entire Union. Let us not make the same mistake again.

parishes and the City of New Orleans, each submitting a list of ten names annually, from which the remaining members of the Board shall select seven from which the Governor must make an appointment within thirty days after the vacancy occurs. No member of the Board shall be a member of the Legislature nor hold any salaried public office or employment for compensation (other than per diem) existing under the laws of the United States, the State of Louisiana, or any municipality or subdivision thereof, and may be removed only by the Legislature and for cause only.

The Board shall hold an open meeting at least once per month, and other meetings at its discretion or at the call of the chairman. A majority of the members of the Board constitutes a quorum; the Governor may vote only in the case of a tie vote.

The Board of Highways shall have general control, supervision of the management and direction of the Department of Highways. It shall have authority to establish, construct, and extend, improve, maintain and regulate the use of the state highways and bridges. It may make such studies and investigations as it thinks necessary. It shall formulate the policies, plans and procedures of the Department, execution of which may be delegated by it to the Director and other employees within the scope of its functions. The Board shall appoint the Director. The Chief Engineer and the General Counsel and their assistants shall be in the classified service of the State. No member of the Board may prescribe or direct the conduct of the Department nor the action of any employee thereof in any matter or case unless first authorized by the Board. The Board shall take no action except in public meeting, which action shall be recorded in the minutes. The Board and the Department shall be represented in all legal matters by the General Counsel or his designated assistant.

The Director of Highways is the executive officer of the Department, appointed by and serving at the pleasure of the Board; his compensation shall be fixed by the Board. He shall

-2-

serve on a full time basis. Under the direction, supervision and control of the Board of Highways, the Director has the management of the Department and shall exercise all of the functions of the Department through the Department organizations provided for by law, except those functions which are specially assigned to the Board of Highways under the provisions of this section. The Department cannot act otherwise than through the Board of Highways or the Director or through someone acting under authority of the Board or Director. Every lawful act of the Director performed in his official capacity is the act of the Department. The Department of Highways shall be in the Executive Department of the State.

-3-

The bonds heretofore sold by the Department of Highways shall continue to be lawful obligations of the Department, and, until said bonds are paid in full, the taxes heretofore levied on motor fuels, motor vehicle licenses, the use fuel tax, the taxes upon lubricating oils, and the dedication of all royalties and bonuses including annual delay rentals, heretofore provided by Article IV, Section 2 (c), shall continue to be collected, any excess over the amount required to pay the principal and interest on said bonds being paid into the General Highway Fund.

All Constitutional provisions, or laws, now in force relative to the construction and maintenance of highways, shall remain in force until the Legislature shall enact legislation to carry into effect the provisions of this Constitution.

-4-

The Legislature shall have authority to authorize the taking of property for highway purposes by orders rendered ex parte in expropriation suits prior to judgment therein provided that provision be made for deposit before such taking with a court officer for the amount of appraisals of the property so taken and damages to which the owner thereof may be entitled, if any, which appraisals may be made in such manner as may be provided by law either before or after institution of suit, and need not be by judicially appointed appraisers.

It is a public purpose and in the public interest to expend public funds in connection with the construction, reconstruction or improvement of state highways for the acquisition of the full ownership or any lesser interest in property in order to protect the public investment, promote the safety and recreational value of public travel, and restore, preserve and enhance the scenic beauty of or points of interest in areas traversed by state highways.

To accomplish these purposes and to insure maximum participation of federal-aid highway funds made available in accordance with the provisions of Title 23 of the United States Code, the Legislature is authorized to vest in the Department of Highways the full police power of the State, through zoning authority or otherwise, and such additional powers of expropriation as may be considered necessary.

-5-

Specifically, the Legislature shall provide for controlling the erection and maintenance of outdoor advertising signs, displays and devices, and the establishment, use and maintenance of junkyards in areas adjacent to the interstate and primary systems, the acquisition of such advertising

devices and junkyards when reasonably necessary, the acquisition and operation of roadside parks, rest and recreational areas and sanitary and other facilities for the safety and accommodation of the traveling public; and for the acquisition of roadside development areas, or scenic strips, reasonably necessary or useful for the restoration, preservation and enhancement of scenic beauty or points of interest.

Such zoning authority as may be authorized hereunder shall, except to the extent necessary to insure receipt of maximum federal-aid funds, be consistent with the lawful exercise of zoning authority vested in the municipalities and parishes of this State.

Any legislation adopted at the regular session of the Legislature in 1966 on the subject of this amendment shall be validated and ratified by the adoption of this amendment.

-6-



April 11, 1973

MEMORANDUM:

TO: Norma Duncan, Director of Research
FROM: Gene Tarver, Coordinator of Research
RE: Obsolete aspects of constitutional provisions being considered by the Committee on the Executive Department

Article IV. Limitations

Section 2(a): Board of Liquidation of State Debt; bonds; public works

Obsolete, by superseding law.

(Later law changed the composition of the Board, see Art. IV, Sec. 1(a). The Board of Liquidation is no longer a bonding agency; the authorized bond issue has been paid.)

Article V. Executive Department

Section 5: Salary of Governor and Lieutenant Governor

Obsolete, by statutory change.

(Constitutional salaries, obsolete. Statutory salaries at R.S. 49:201,202)

Section 2^o: Salaries of Constitutional Officers; Fee; Expenses

Obsolete, in part, by statutory change.

(Constitutional salaries, obsolete. Reference to Insurance Department "attached to the office of Secretary of State", obsolete.)

Article VI. Administrative Offices and Boards

Section 3: Public Service Commission

Obsolete, in part, by superseding laws.

(References to Railroad Commission and constitutional salary, obsolete. Paragraph 2 is now covered by Code of Ethics.)

Section 7: Public Service Commission; local regulation of utilities; retention or surrender

Obsolete, in part, by language.

(Constitutional provision refers to public utilities "now" vested in local governments. Questions of interpretation have been concerned with the meaning of "now". . . 1921, or presently?)

Section 8: Public Service Commission Districts

Obsolete by later law.

(Public service commission districts were reapportioned by Act 459 of 1972)

Section 9: Public Service Commission; application of laws relating to Railroad Commission

Obsolete, in part, by reference.

(References to the Railroad Commission are obsolete. If the Convention passes a general provision adopting the Revised Statutes, this section will be unnecessary.)

Section 11: Boards of health; state, parochial and municipal; state health officer

Obsolete, in part, by statutory change.

(Louisiana State Board of Health and the State Department of Health merged by legislative act into the Health, and Social and Rehabilitation Services Administration, Act 253 of 1972.)

Section 19: State highways and bridges; construction and maintenance; traffic regulation; rights of parishes, municipalities and political subdivisions

Obsolete, in part, by law and practice

(Reference to Board of State Engineers is obsolete. Provisions relative to local governments are obsolete by practice)

2

Article VI (Cont)

Sections 21, 22, 23, 23(1), 24, 24.1, 25.1 (General Highway Fund. Constitutional provisions limit governor's powers over state funds.)

Obsolete, in part.

(All authorizations for bonds already issued can be considered obsolete, whether paid out or not; dedicated revenues to support bonds already issued need to be retained; continuation of existing laws can be covered by general provision.)

Section 26: Department of Revenue; Legislative Auditor; State Printing Board

Obsolete, in part, by reference.

(References to Supervisor of Public Funds and to the State Printing Board and its functions are obsolete)

Section 27: Lake Pontchartrain; sale of submerged lands; islands; Causeway

Obsolete, in part, by expiration of need.

(A Causeway across Lake Pontchartrain is now constructed; no islands were necessary)

Article VI-A. Gasoline Tax for Ports

Sections 6, 7, 9, 10, 11, 12: (Refers to collection of "gasoline tax for ports" by "Supervisor of Public Accounts" or "Supervisor of Public Funds".)

Obsolete, in part, by references.

(All references to Supervisor of Public Accounts (Public Funds) (Legislative Auditor) should be reviewed for relevancy. The Legislative Auditor, formerly Supervisor of Public Funds, has no tax collecting functions.)

Article XII. Public Education

Section 5: State Superintendent of Education

Obsolete, in part, by statutory change.

(Constitutional salary replaced by statutory salary.)

3

Article XIV. Parochial and Municipal Affairs

Section 31.7: (Constitutional authority granted to Department of Highways to cooperate with and expend funds on New Orleans Inner-Harbor Navigational Canal and New Orleans Port.)

Obsolete, in part, by practice.

(The Department of Highways has never exercised authority under this provision, which does not add to the department's authority granted by other Constitutional provisions.)

Article XVI. Levees

Section 8, 8(a): (Constitutional functions of Department of Public Works, including expenditure of public funds)

Obsolete, in part, by reference.

(Provisions authorizing the Department of Public Works to expend funds from a "General Engineering Fund" are obsolete.)

Article XVIII. Pensions

Section 3: (Constitutional functions of fiscal agency not under executive control, Board of Liquidation)

Obsolete.

(Board of Liquidation is no longer a bonding agency; state property tax repealed.)

Section 6: (Constitutional functions of fiscal agency not under executive control, Board of Liquidation)

Obsolete.

(Board of Liquidation no longer a bonding agency; 1940 Confederate veterans \$900,000 bond issue paid.)

Section 8: Confederate Memorial Medical Center; correctional, charitable and penal institutions; bonds; tax

Board of Liquidation no longer a bonding agency; state property tax repealed.)

4



June 11, 1973

TO: Committee on Executive Department
FROM: Stan Duval, Chairman, Subcommittee on Powers of Elective Officials Other than Governor, Boards and Commissions
RE: Report by Subcommittee on Forestry Commission, Wild Life and Fisheries Commission, and Conservation Commissioner and Department of Conservation

The subcommittee deferred action on the Forestry Commission, Wild Life and Fisheries Commission, and Commissioner of Conservation and Department of Conservation. Members of the subcommittee concluded that since the Committee on Natural Resources and Environment had studied the role and operations of these agencies in considerable depth; and had heard recommendations from several witnesses relative to their functions, that committee would be better informed and capable of determining the course of action to take, vis-a-vis these agencies.

The subcommittee reserves the right to make recommendations relative to these agencies at a later date, pending the report by the Committee on Natural Resources and Environment to the convention.

LIST OF STAFF MEMOS SENT OUT TO THE COMMITTEE ON EXECUTIVE DEPARTMENT

Staff Memo No. 1
March 21, 1973

A copy of the minutes of the last meeting
The adopted plan of Committee meetings;
Schedule of witnesses who will testify at next meeting
Council of State Governments study

Staff Memo No. 2
March 26, 1973

Governor - Exhibit A
Secretary of State - Exhibit B
Comptroller - Exhibit C

Attorney General - Exhibit L

Public Service Commission - Exhibit E

Staff Memo No. 3
April 2, 1973

Commissioner of Insurance - F
Register of State Land Office - G
Lieutenant Governor - H
Treasurer - I
Custodian of Voting Machines - J
Commissioner of Agriculture - K

Staff Memo No. 4
April 2, 1973

Legislative Auditor - Exhibit L
Orleans Levee District - Exhibit M
State Banking Commissioner - Exhibit N
Wild Life and Fishery Commission - Exhibit O
Commerce and Industry Department - Exhibit P
State Fire Marshal - Exhibit Q

Staff Memo No. 5
April 2, 1973

Louisiana Commission on Governmental Ethics - Exhibit R
Louisiana Board of Ethics for State Elected Officials - Exhibit R
State Forester and the Forestry Commission - Exhibit S
Joint Legislative Committee on Reorganization of Levee District - Exhibit M-1
Former Civilian Conservation Corps Employees - Exhibit T

1941 Field Patrolmen Civil Commission - Exhibit U

Staff Memo No. 6
April 3, 1973

Department of Highways - Exhibit V
Board of Highway - Exhibit U
Health, Social and Rehabilitation Department - Exhibit V
Exhibit V
Commissioner of Conservation - Exhibit W
Adjutant General - Exhibit X
Louisiana Tax Commission - Exhibit Y
Louisiana Commission on Intergovernmental Relations - Exhibit Z
State Planning Office - Exhibit AA
Collector of Revenue - Exhibit AB
Louisiana Milk Commission - Exhibit AC
Legislative Auditor - See Exhibit L

Staff Memo No. 7
April 4, 1973

Pre Session Issues Conference - Exhibit AD

Staff Memo No. 8
April 9, 1973

The subcommittee has previously approved a bill, and a motion passed by the Committee on Executive Department.

Staff Memo No. 9
April 11, 1973

Recommendations of the Chairman of the Coordinating Committee regarding the constitutional provisions to be considered by the Committee on Executive Department (Attachment A); provisions the committee should not consider (Attachment B); and provisions referred to the Coordinating Committee (Attachment C).

Submitted by
Lieutenant Governor

The attorney general occupies a unique position in state government. "A part of neither the executive nor the legislative branch, he is adviser to both." Most state constitutions, however, consider the office a proper part of the executive department. Of the forty-three states in which the office is constitutional, only five state constitutions treat it exclusively within the judiciary article. (The Georgia Constitution contains the office in both its executive and its judiciary articles.) Maine's Constitution

includes the office within its article on general provisions; and both the New York and the Wisconsin constitutions consider the attorney general a departmental executive and include his office, and others, within an article on administration. Only the Maryland Constitution places the offices of attorney general and state's attorneys in a separate article. (See Attachment I).

The procedure by which the attorney general is selected has evoked much discussion among constitution-drafters. Elected in forty-two states, he is "the most prevalent elective" state officer other than the governor? The constitutions of Alaska, Hawaii, and the Model State Constitution, however, follow the tradition of the federal government. Like the federal constitution, they omit all reference to the attorney general. They presume that the attorney general should be appointed by the governor to administer a department of justice and that the administration of all executive departments should be provided for by the legislature³. The attorney general is provided for only by statute in five other states: Connecticut,

Colorado	Constitution—Article IV Sec 1 (1876)
Connecticut	Statute—Sec 3-121 (1897)
Delaware	Constitution—Article III Sec 21 (1897)
Florida	Constitution—Const Article IV Sec 4 (1968)
Georgia	Constitution—Const Article V Sec 11 Article VI Sec 3 (1945) — (Judiciary) & Executive
Guam	Statute—Title VIII, Gov. Code of Guam
Hawaii	Statute—Sec 90-7 H.R.S.
Idaho	Constitution—Article IV Sec 1 (1890)
Illinois	Constitution—Article V Sec 1 (1970)
Indiana	Statute—49 1930 B.I.S. 1931 Acts 1941, Ch 109, Sec 2, p. 272, Burns 49 1920
Iowa	Constitution—Article V Sec 12 (1857) — (Judiciary)
Kansas	Constitution—Article I Sec 1 (1861)
Kentucky	Constitution—Sec. 91 (1891)
Louisiana	Constitution—Article VII Sec 55 (1921) — (Judiciary)
Maine	Constitution—Article IX Sec 11 (1820) — (General Provisions)
Maryland	Constitution—Article V Sec 1 (1867) — (Attorney-General & State's Attorneys)
Massachusetts	Constitution—Pt. II, Ch. II, Sec. 1, Art. IX (1780), Mass. G.L. I. 12
Michigan	Constitution—Article V Sec 21 (1963)
Minnesota	Constitution—Article V Sec 1 (1857)
Mississippi	Constitution—Article 8 Sec 173 (1857), Ch. 1, Title 17, Mass. Code of 1912 — (Judiciary)
Missouri	Constitution—Article IV Sec 12 (1912)
Montana	Constitution—Article V Sec 4 (1892) (1972)
Nebraska	Constitution—Article IV Sec 1 (1875)
Nevada	Constitution—Article 5 Sec 19 (1864)
New Hampshire	Constitution—Article 16 (1781)
New Jersey	Constitution—Article V Sec IV para 3 (1917), N.J.S.A. 52:17-2
New Mexico	Constitution—Article V Sec. 1 (1912)
New York	Constitution—Article V Sec. 1 (1893) — (Judiciary & Civil Departments)
North Carolina	Constitution—Article III Sec 1 (1789) (1977)
North Dakota	Constitution—Article III Sec 82 (1889)
Ohio	Constitution—Article III Sec 1 (1851)
Oklahoma	Constitution—Article VI Sec 1 (1907)
Oregon	Statute—ORS 180.010 (1968)
Pennsylvania	Constitution—Article IV Sec 1 (1791) Stat. 71 P.S. 811 (1857)
Puerto Rico	Constitution—Article IV Sec 6 (1952)
Rhode Island	Constitution—Article VII Sec. 12 (1843)
Samoa	Statute
South Carolina	Constitution—Article V Sec 28 (1865) — (Judiciary)
South Dakota	Constitution—Article IV - 12 (1889)
Tennessee	Constitution—Article VI Sec 5 (1870) — (Judiciary)
Texas	Constitution—Article IV Sec 1 (1876)
Utah	Constitution—Article 7, Sec 1 (1896)
Vermont	Statute—Title III Ch 7, Sec 151 (1793)
Virgin Islands	Statute—P.L. 86-291 73 Stat. 509, V.I. Act No. 852, 1962
Virginia	Constitution—Article VI Sec 1 (1776) (1962) (1971)
Washington	Constitution—Article III Sec 1 (1889)
West Virginia	Constitution—Article VII Sec 1 (1862) — (Administrative)
Wisconsin	Constitution—Article V Sec 1 (1848)
Wyoming	Statute—9-121, W.S. (1977)
United States	Statute—Judiciary Art of 1789, 1 Stat. 73

page 2

Indiana, Oregon, Vermont, and Wyoming.

Constitutional duties of attorneys general vary from specific, detailed provisions in some older state constitutions to brief statements in the four constitutions most recently adopted. The Illinois (1970) and Montana (1972) constitutions define the attorney general as the "legal officer of the state" and, like the North Carolina (1971) and Virginia (1971) constitutions, assign him duties and powers which may be prescribed by law.

In summary, the attorney general is most often a constitutional, elective officer whose office is described in the article on the executive department. Most of his specific duties and powers are left to legislative determination.

(*) Articles cited in Constitutions refer to Executive Departments unless otherwise noted.

Source: The Office of Attorney General (National Association of Attorneys General: 1971)

¹Arlen C. Christenson, "The State Attorney General," Wisconsin Law Review, 1970, p. 300, quoted in The Office of Attorney General, National Association of Attorneys General, 1971, p. 28.

²Patton G. Wheeler, "The Office of Attorney General," in The Book of the States, 1972-73, p. 413.

³Byron R. Abernathy, "The Attorney General," in Some Persisting Questions Concerning the Constitutional State Executive, Governmental Research Series No. 23, University of Kansas, 1960, quoted in Karen O. Beck, The Executive, Constitutional Convention Study No. 13, Montana Constitutional Convention Commission, 1970, p. 212. (See Attachment II).

Attachment I

21 1 The Office of Attorney General

THE BASIS OF THE OFFICE OF ATTORNEY GENERAL

Alabama	Constitution—Article V Sec 119 (1901) (8)
Alaska	Statute—AS 11.21.010 et seq.
Arizona	Constitution—Article V Sec 1 (1912)
Arkansas	Constitution—Article I Sec 1 (1836) Article VI Sec 1 (1874)
California	Constitution—Article V Sec 17 (1879)

NOTES
Attachment II, omitted, reproduces the following material:
R. R. Abernathy, Some Persisting Questions Concerning the Constitutional State Executive, 32-49.

CC/RS-38

- 1 Constitutional Convention of Louisiana of 1973
- 2 DELEGATE PROPOSAL NUMBER
- 3 Introduced by Mr. Vick
- 4 A PROPOSAL
- 5 For Attorney General and Department of Justice
- 6 PROPOSED SECTIONS:
- 7 Article ____, Section ____. Attorney General
- 8 Section 1: An attorney general shall be elected in
- 9 the general election every four years. He shall be the
- 10 legal officer of the state and director of the department
- 11 of justice. No person shall be eligible for election to
- 12 the office unless he is a qualified elector of this state
- 13 and has practiced law or served as a judge of a court of
- 14 record in this state for a combined total of at least five
- 15 years.

16 Article _____, Section _____. Assistant Attorneys General
17 Section 2: The attorney general shall appoint a first
18 and a second assistant attorney general and other assistants
19 necessary to perform the work of the department of justice.
20 The first and the second assistant attorney general shall
21 possess the qualifications required by this article for
22 eligibility to the office of attorney general. In the event
23 of a vacancy in the office of attorney general, the first
24 assistant attorney general shall assume the office for the
25 remainder of the term.

26 Article _____, Section _____. Department of Justice
27 Section 3: The department of justice shall direct
28 all legal matters in which the state has an interest. It
29 may institute and prosecute or intervene in any suit or
30 other proceeding it may deem necessary for the protection
31 of the state, its agencies, or its citizens. The department
32 of justice shall supervise the district attorneys and shall
33 perform the other duties imposed by law.

34
35 Source: The provisions in this proposal are largely taken

1 from Project Article VI, Sections 34 - 36.

2 Comment. Provides for an elected attorney general,
3 two appointed assistant attorneys general, and a
4 department of justice.

COMMITTEE ON JUDICIARY

I. Minutes

A. Full Committee Minutes

MINUTES

CONSTITUTIONAL CONVENTION 1973

Minutes of the Judiciary Committee of the
Constitutional Convention of 1973

Judiciary Committee Meeting
10:00 AM - February 23, 1973

Held, pursuant to notice mailed by the
Secretary of the Convention on February 19,
1973.

Chairman James Dennis called the meeting to order at 10:10 AM.

State Capitol, Baton Rouge, Louisiana
Friday, February 23, 1973, 10:00 a.m.

Secretary Bergeron called the roll:

Presiding: Judge James L. Dennis, Chairman of the
Judiciary Committee

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Kelly
Kilbourne
Landry
Martin
Orurso
Tobias
Willis

ABSENT

Gauthier
Sandoz
Tate
Vesich

Avant (present)
Bel (present)
Bergeron (present)
Burns (present)
Dennis (present)
Deshotels (present)
Drew (present)
Gauthier (absent)
Kelly (present)
Kilbourne (present)
A. Landry (present)
Martin (present)
Orurso (present)
Sandoz (absent)
Tate (absent)
Tobias (present)
Vesich (absent)
Willis (present)
(14 members present - representing a quorum)

Also present:

Joseph Keith, Sgt. at Arms
Jack Wardlow - NO States-Item
Jerry Doty
Charles Hargroder - Capitol Press

Agenda: The following agenda as contained in the notice
of the Secretary was read. General organization of the
committee; adoption of committee rules; appointment of
subcommittees; scheduling of meetings

The Chairman welcomed everyone to the first meeting of this
committee; advised that coffee was compliments of Mr. Jerry Doty.

-2-

DENNIS:

The committee discussed organizational matters and methods
of proceeding, seeking general agreement on a general ap-
proach which would be formalized at the next meeting.

This being our organizational meeting, I would like
to tell you some thoughts I have, generally, about
matters on which we can proceed. If you agree as
to general approach, would like to draft a calendar
and method of approach in detail and present hope-
fully at next meeting about one week, at which time
we can make amendments or changes thereto. Would
like to have hearings from knowledgeable people as to
present judicial system in Louisiana, who can speak
and give a comprehensive future on present judiciary
system; then proceed through judiciary area by
hearing from people in several different general
areas.

The Chairman suggested the committee hold hearings at which
knowledgeable persons would present their views of the
Louisiana judicial system, addressing themselves to (1) or-
ganization, structure and powers of the courts; (2) personnel;
and (3) financing. Following the hearings preliminary votes
might be taken and consensus determined. Once the areas of
controversy are determined, subcommittees could be estab-
lished. Then a final draft of a judiciary article could
be drafted.

- 1) Systems in Louisiana and outside Louisiana on
organization, structure and powers of judiciary
articles.
- 2) After one or two meeting dates we could move
to personnel involved in judiciary articles.
(Selection and tenure of judges, sheriffs, district
attorneys).
- 3) Financing of judiciary system.

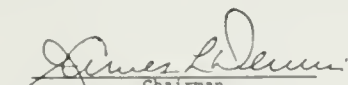
Experts who might be called on to assist the committee were
discussed, and a possible schedule to be followed. The
Chairman stated he would formalize these matters into a
proposal to be presented at the following meeting.

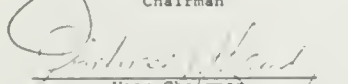
After hearing from people interested, we could take
preliminary votes and approach consensus or aspects
rather quickly. Then we could see where our
controversies lie; then we could establish sub-
committees.

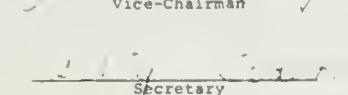
At the invitation of the committee, Mr. Gene Murret, judi-
cial administrator for Louisiana, spoke to the committee
and described the present organization of the courts in
Louisiana and discussed some of the current problems facing
the court system.

2

Would hope, if you agree, that you could give me
authority to draft calendar of meetings showing
breakdown into three or four general subject
matter areas, telling names of people we hope to
schedule and then present to committee next Friday
or Saturday for any changing.


Chairman


Vice-Chairman


Secretary

BURNS: At what stage of proceedings will we have research
staff assigned to us?

DREW: By today or tomorrow. Those on research staff are:
Mrs. Norma Duncan, Research Director; Lee Hargrave,
Gene Tarver, Mrs. LeBlanc as Coordinators. Mrs.
Lois Michelli who worked with PAR and Legislative
Council as Research Assistant. Mr. Arthur Landry,
Senior Research Assistant. Mr. Coco with Department
of Revenue will be available. At present, we have
(4) Senior and (5) Junior assistants authorized.

It has been requested that we hold meetings to (8) one-day meetings or (4) two-day, etc., to stay within the budget.

- DENNIS: My thought was it was (4) per month. Will check this out.
- DENNIS: Could I get an expression of feeling on subject of feeling or opinion as to who is invited and agenda.
- TOBIAS: Would like to consider breakdown into sections; for example subcommittees. Subcommittee/City Courts; Subcommittee/District Courts; Subcommittee/Appellate Courts, etc.
- DENNIS: Information from Maryland and Illinois Convention proved that a number of meetings were held before they divided into subcommittees. One reason was that in certain areas a consensus was reached very quickly and it was not necessary to establish a subcommittee in that area. That is the reason I want to delay hearings. We will reconsider what to do about subcommittees later on. We will have to consider possibility of subcommittee meeting without per diem.
- KELLY: Not at a stage to break down into subcommittees. Would like to hear this general evidence from these meetings to see where we are and where we are going.
- DENNIS: Discussed the most convenient day for holding meeting. Agreed on next Friday as next meeting date. After being advised that some members had not received their notice of meeting until the day before the meeting, Chairman Dennis advised he would instruct those in charge of sending out these notices that they be more timely; in some cases he would call them by telephone. AS to who we would ask to speak he asked for suggestions.
- MARTIN: Suggested Dean Cecil Morgan.
- TOBIAS: Recommended Gene Murret. Also suggested at least one Justice of the Supreme Court be asked.
- DENNIS: Would like to hear from Chief Justice at some point.
- DENNIS: Would like to request that I be informed of any research requests in order to avoid duplication. Judiciary Committee (Illinois) counsel paid for by Convention. Would like for something like this for our committee.
- DREW: Each law school will designate one of their professors.
- AVANT: What substantive committee are we? The answer was (4).
- DESHOTELS: I was hoping to get a law professor to be our counsel. Who will be selecting this particular person.
- DENNIS: Would like to identify this particular person; ask committee if they would approve. How Executive Committee will do it I don't know.
- BURNS: Should look over these professors; select one particularly trained in work our committee will be doing.
- DENNIS: A speaker will definitely be on next agenda.
- TOBIAS: Advised the members that Gene Murret, Judicial Administrator of Louisiana, was in attendance at the meeting and if there were no objections, and he agreed, that he might come forward with a few remarks at this meeting.
- MURET: Gave his views as to how court system looks today. JP Courts: Issue peace bonds and hear civil cases up to \$100. Mayor's Courts: (25 in La.) Jurisdiction over municipal ordinances. City Court: (4 city courts - 55 city judges) Hear civil cases \$50 to \$1000. Authorized to sentence

for limited time and fines. Called 'courts of limited jurisdiction.' Judges required to be attorneys; no full time judges. Not court of record. District Court: Trial court of general jurisdiction. State Judges: Salaries (now \$20,500) paid by state; parishes supplement state judges salaries. Trial Courts: Divided in 33 districts. Judges elected from district; serves for that district. Supreme Court: Has (3) additional judges assigned to First Court in BR on full time basis for rest of year. Hears cases against state. No of judges established in Constitution. Need amendment to increase judges in this court. Has (7) judges paid by state totally. These judges elected from six supreme court districts around state. They hear criminal appeals; also take writs. District Court: Elected from judicial district. (Sheriffs; law enforcement officer).

ADJOURNED AT NOON.

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held, pursuant to notice mailed by the Secretary of the Convention on February 26, 1973.

State Capitol, Baton Rouge, Louisiana
Friday, March 2, 1973, 10:00 a.m.

Presiding: Judge James Dennis, Chairman of the Judiciary Committee

Mr. Philip O. Bergeron, Secretary, called the roll:

<u>PRESENT</u>	<u>ABSENT</u>
Avant	Drew
Bel	Landy
Bergeron	
Burns	
Dennis	
Deshotels	
Gauthier	
Kelly	
Kilbourne	
Martin	
Ourso	
Sandoz	
Tate	
Tobias	
Vesich	
Willis	

The Chairman presented a proposed schedule of committee meetings and methods of operation, implementing suggestions made at the prior meeting, pointing out it would serve as a general guideline, subject to change. Mr. Bel moved to approve the plan. Without objection, the motion carried. (The schedule as approved is attached and made a part of these minutes.)

-2-

The Chairman introduced Dean Cecil Morgan to make a presentation to the committee. Mr. Ourso questioned Dean Morgan as to whether he had served on the Labor Management Commission of Inquiry, whether he formerly was associated with Standard Oil and whether he was part of a movement to impeach Governor Huey P. Long. Dean Morgan answered "yes" to the questions. Mr. Ourso requested to be dismissed and left the meeting.

Mr. Willis called attention to Rule 58-C, and moved that it be applied to witnesses or persons appearing before the committee. Mr. Bel objected. After discussion, Mr. Sandoz offered a substitute motion: "All witnesses or experts invited by the Chairman to appear before this committee to express their expertise on various subjects not be sworn in." Substitute motion defeated by 11 to 4 vote:

YES
Bel
Burns
Sandoz
Vesich

NO
Dennis
Bergeron
Avant
Deshotels
Gauthier
Kelly
Kilbourne
Martin
Tate
Tobias
Willis

- 6. Supreme Court - rule making power for all courts
Divisions of
Exclusively a writ court
Civil Appeals
- 7. Courts of Appeal - can they review let. in and in a criminal appeals.
- 7. Criminal Appeals court of Orleans Parish
- 8. CDC/CRDC/PCO/STC - merger-permanent division
Juvenile/Traffic Ct.
Municipal
- 9. If no merger, should juvenile be a family court
division in PCO
increase jurisdiction in PCO
- 10. Retirement
- 11. Judicial Expense - statewide?
- 12. CDC/CRDC- name change to 3rd JDC
- 13. Qualifications for judges.
- 14. Jury trials in civil matters.
- 15. Justices of the Peace & Mayors Courts.

JDC/CRDC/PCO
JDC/STC
JDC/STC/PCO, JDC
PCO/STC

The original motion by Mr. Willis to adhere to Rule 58-C was re-stated, without objection, the motion passed. Chairman Dennis invoked Rule 58-C.

Dean Morgan spoke to the committee, recounting the work of the Louisiana Constitutional Revision Commission and its efforts to revise the articles on the judiciary. He outlined the salient issues involved and possible approaches to organization and selection of judges.

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Professor George W. Pugh addressed the committee, recommending a basic three-tier structure for the court system, unifying the lower courts and eliminating fragmentation of the system into specialized courts and courts of limited jurisdiction. He also presented other views he held concerning the judiciary. The meeting was recessed at 1:45 p.m. Resumed at 3:10 p.m.

Professor Delmar Karlen, Director of the Institute of Judicial Administration, spoke to the committee, pointing out models that it might use in revising the judiciary, and suggesting improvements that might be made.

Mr. Vesich moved to dispense with the reading of February 23, 1973, minutes and to approve them as written. Without objection, the minutes were approved.

Mr. Bergeron distributed to the members a copy of views of the judges serving in Orleans, a copy of which is attached and made a part of these minutes.

THE MEETING ADJOURNED AT 4:20 p.m.

James T. Dennis
Chairman

Timothy Handy
Vice-Chairman

W. R. ...
Secretary

Meeting held Tuesday, February 27, 1973, in the courtroom of the Supreme Court.

1. Welcome
2. Jim Dennis regrets being unable to attend
Invitation to one of you to testify before the committee on next Friday, arranged through Jim Dennis.
3. Whole group discussion on tedious format.
4. Judges
Clerks Elected, appointed, or Merit System
Sheriffs (and if elected, should they be non-Partisan?)
Constables

Responses to question 4, peraining to Judges.

1. When first seeking the position, you should run for the election of that position. After elected the first time a Judge would run under a retention system.
2. One Judge felt that the Norman Clature System should be considered for Louisiana Judges.
3. One Judge favors some system of appointment of Judges, but the appointments should be made by someone other than the governor.
4. One Judge was strongly against any system resembling the Missouri Plan.

Question 4 was asked referring to Clerks.

1. Most present agreed that the system presently employed should remain as is.
2. Also, many expressed strong feeling in favor of Clerks term coinciding with that of the Judges term.

No one offered argument in favor of any section of question 7, or question 8.

Question 9, was discussed at length, the final outcome being, that no one favored the merger of any courts mentioned in that question.

Question 11. - Retirement.

All felt that retirement for Judges should remain in the Constitution.

There was a sense of agreement that all Judges should be full-time Judges, with the necessary salary compensation.

Objection to the Qualifications for Judges were not raised, therefore assuming they should remain as is.

-2-

One judge raised a point of interest by stating that a judge's salary should come from one source.

Louisiana Constitutional Convention
JUDICIARY COMMITTEE RESOLUTION

PLAN OF COMMITTEE MEETINGS

The Committee adopts the following as a general outline for its proceedings:

I. The meetings of the Committee should be divided into four groups, and will be tentatively scheduled as follows:

1. Hearings on power, organization and administration of courts--meetings to be held on four days:
 - Friday, March 9, 1973
 - Friday, March 16, 1973
 - Friday, March 23, 1973
 - Friday, March 30, 1973
2. Hearings on financing the judicial system and on selections, tenure and compensation of judges and other court personnel--meetings to be held on four days:
 - Friday, April 6, 1973
 - Friday, April 13, 1973
 - Friday, April 20, 1973
 - Friday, May 4, 1973
3. Hearings on court related officers and agencies--meetings to be held on two days:
 - Friday, May 11, 1973
 - Friday, May 18, 1973
4. Meetings of the Committee and its subcommittees for purposes of discussion and drafting proposals to the convention--meetings to be held on four days:
 - Friday, May 25, 1973
 - Friday, June 1, 1973
 - Friday, June 8, 1973
 - Friday, June 15, 1973

II. The Chairman shall have the discretion to alter the foregoing schedule as events require, but should make every effort to adhere to this plan.

III. The Chairman shall invite knowledgeable persons and those having an interest in the areas stated above to present testimony to the Committee.

IV. At the end of the Committee hearings, or earlier if the Committee decides, the Committee shall take non-binding, preliminary votes on issues presented, and may instruct the research staff to prepare tentative drafts for consideration at later meetings.

V. If possible, requests by committee members for research concerning matters relating to the Judiciary Committee should be directed to the Chairman, who shall, after consideration with the members, make such requests to the staff in behalf of the Committee.

Louisiana Constitutional Convention

RESOLUTION OF THE COMMITTEE ON THE JUDICIARY

WHEREAS _____ is an expert in the fields of court organization and court administration and well qualified to assist the committee in its revision of the judiciary articles of the Louisiana Constitution of 1921,

WHEREAS the committee is desirous of procuring his assistance and advice in its tasks,

THEREFORE, BE IT RESOLVED that _____ be respectfully invited and requested to appear before the Committee on the Judiciary at hearings to be held in the State Capitol, Baton Rouge, Louisiana, on _____, 1973.

Adopted unanimously on _____, 1973, in open committee session

James L. Dennis, Chairman

TENTATIVE SCHEDULE -- DISCUSSION DRAFT

ORGANIZATIONAL MEETINGS AND ORIENTATION

1. February 23, 1973 - Organization

ii. March 2, 1973

- General remarks on La. Judiciary by Eugene McCrete, Judicial Administrator
- Organization
- General remarks on La. Judiciary by Dean Cecil Morgan, Ch., Jud. Comm., La. Constitutional Revision Commission; Delmar Karlay, Institute of Judicial Administration; George W. Pugh, Professor of Law, LSU Law School, first La. Jud. Admin.

I. POWERS, ORGANIZATION AND ADMINISTRATION OF COURTS

1. March 9, 1973
Scheduled: - Hon. John B. Kournet, Ret. Chief Justice, La. Sup. Ct.
Invited: - Hon. Luther P. Cole, Pres., La. Dist. Judges' Assoc.
- Hon. Paul Laney, Pres., La. App. Judges' Assoc.
- Hon. Edmund Reggie, Pres., La. Municipal Judges' Assoc.
 2. March 16, 1973
Scheduled: - Hon. Bob Wilkes, Pres. of La. Justices of Peace and Constables Assn.
Invited: - Hon. Wm. Guste, Atty. Gen., State of La.
- Hon. Roy D. Webb, Pres., Sheriffs' Assn.
- Hon. Melvin P. Barre, Pres., District Attorneys' Assn.
- Mr. Christian, Nat. Center of State Courts
- Mr. Solomon, Inst. of Court Mgt.
 3. March 23, 1973
Scheduled: - Hon. Joe W. Sanders, Chief Justice, La. Sup. Ct.
Invited: - Hon. Ben Bagert, Pres., Fourth Circuit Judges' Assn.
- Hon. J. Burton Foret, Pres., Juvenile and Family Court, Judges' Assn.
 4. March 30, 1973
Invited: - Hon. John R. Martzell, Pres. La. Trial Lawyers Assn.
- Hon. Calvin E. Hardin, Jr., Pres., La. State Bar Assn.
- March 30, 1973 (cont.)
Invited: - Mr. Marvin L. Lyons, La. Municipal Assn.
- Mr. Jimmy Hayes, La. Police Jury Assn.
- Hon. _____, Pres., Clerk of Courts Assn.

II. FINANCE, SELECTION, TENURE AND COMPENSATION

1. April 6, 1973
Invited: - Mr. Lowe, Amer. Judicature Society
- Mr. Ben Miller, Past Pres., State Bar
- Frank W. Hawthorne, Assoc. Justice La. State Sup. Ct. (Retired)
- Mr. Dudley Flanders, Attorney-at-law, New Orleans
2. April 13, 1973
3. April 20, 1973
4. May 4, 1973

III. COURT RELATED OFFICERS

1. May 11, 1973
Invited: - Presidents of D.A.'s, Sheriffs, Clerks of Court, Coroners Associations, et al
2. May 18, 1973

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held, pursuant to notice mailed by the Secretary of the Convention on March 5, 1973

State Capitol, Baton Rouge, Louisiana
Friday, March 9, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman

Mr. Philip O. Bergeron, Secretary, called the roll:

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Martin
Ourso
Sandoz
Tate
Tobias
Willis

ABSENT

Vesich

Mr. Deshotels moved to dispense with the reading of last meeting's minutes, with approval, after the following correction to roll call: Mr. Landry "absent," instead of "present." There were no objections.

Chairman Dennis introduced the following speakers, who gave their personal opinions and recommendations concerning the powers,

-2-

structure, and financing of the present Constitution's Judicial System:

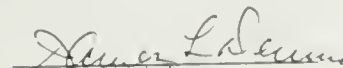
- JUDGE MINOS D. MILLER, JR.
Third Circuit Court of Appeal
- FORMER CHIEF JUSTICE JOHN FOURNET
Louisiana Supreme Court
- JUDGE LUTHER F. COLE
District 19, Division G
- JUSTICE MACK E. BARHAM
Louisiana Supreme Court
- JUDGE PAUL B. LANDRY, JR.
First Circuit Court of Appeal
- JUDGE J. BURTON FORET
City Judge, City of Ville Platte

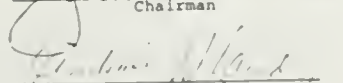
Mr. Edgar Coltharp, reporter for The Shreveport Times Newspaper, made brief comments about establishing an advisor or legal counsel to jurors.

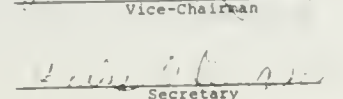
Chairman Dennis appointed Delegates Bel, Bergeron, Gauthier, Tate, and Tobias to a subcommittee to consider polling.

Material on the Illinois Court System, a tentative discussion draft on the scope of the committee's charge, and other items were submitted to the committee members by Chairman Dennis for review and discussion at next meeting.

MEETING ADJOURNED AT 5:30 p.m.


Chairman


Vice-Chairman


Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held, pursuant to notice mailed by the Secretary of the Convention on March 2, 1973.

State Capitol, Baton Rouge, Louisiana
Friday, March 16, 1973, 9:30 a.m.

Presiding: Mr. Ambrose H. Landry, Vice-Chairman of the Judiciary Committee (Judge James L. Dennis, Chairman, took the chair at 10:25 a.m.)

Mr. Philip O. Bergeron, Secretary of the committee called the roll:

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Martin
Ourso
Sandoz
Tobias
Vesich
Willis

ABSENT

Tate

Mr. Tobias objected to dispensing with the reading of last meeting's minutes. Mr. Bergeron read the minutes.

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It was moved by Mr. Tobias and seconded by Mr. Bergeron that the word "Appeals" on Page 2 of the March 9, 1973, minutes be amended by correcting the word to read "Appeal;" and to include the appointment by Judge Dennis of Delegates Bel, Bergeron, Gauthier, Tate, and Tobias to a subcommittee to consider polling. The minutes were adopted as corrected without objection.

The committee heard testimony from the following speakers on the powers, organization and administration of courts:

- MR. BOB WILKES, President of Louisiana Justices of the Peace and Constables Association
- MR. LEYCHESTER L. TRAUTH, Justice of the Peace for the Town of Gretna
- MR. PHILIP N. PECQUET, Justice of the Peace, City of Port Allen
- MR. WELDON L. LeBOEUF, Justice of the Peace, LaFourche Parish
- MR. RONALD MARTIN, District Attorney Tenth Judicial District, representing District Attorneys Association
- MR. EO WARE, District Attorney, Ninth Judicial District; President, District Attorneys Association
- JUDGE DOMINIC C. GRIESHABER, New Orleans First City Court, Section B
- JUDGE EDWARD N. ENGOLIO, Eighteenth Judicial District
- JUSTICE WINSLOW CHRISTIAN, Director of the National Center for State Courts, Washington, D. C.
- MR. STEPHEN B. MURRAY, President of Orleans Parish Criminal Courts Bar
- MR. MURPHY BELL, Director of the Baton Rouge Public Defender's Office

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Reverend James L. Stovall asked and received permission to appear before the committee on behalf of the Committee on the Executive. He asked the committee questions concerning jurisdiction of the committee with respect to certain officials included in Article VII.

Judge Dennis announced that Chief Justice Joe W. Sanders and Judge Bernard J. Bagert were tentatively scheduled for the next meeting, Friday, March 23, 1973, 9:30 a.m.; and that he was late because of attending a Composite Committee meeting which started at 9:30 a.m., therefore could not be at the beginning of Judiciary meeting.

James L. Dennis
Chairman
Antoine H. Landry
Vice-Chairman
Philip O. Bergeron
Secretary

MINUTES

Minutes of the Judiciary Committee of
the Constitutional Convention of 1973

Held, pursuant to notice mailed by the
Secretary of the Convention on March 14,
1973.

State Capitol, Baton Rouge, Louisiana
Friday, March 23, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman

Mr. Philip O. Bergeron, Secretary, called the roll:

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Martin
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

The committee heard testimony from the following speakers on the organization, administration and powers of courts:

-2-

CHIEF JUSTICE JOE W. SANDERS
Louisiana Supreme Court

ASSOCIATE JUSTICE JOHN A. DIXON, JR.
Louisiana Supreme Court

Judges of the Parish Courts of Jefferson Parish:

Mr. Bel moved to invite one judge from each court in city of New Orleans to appear for one day to present their side. Seconded by Mr. Bergeron; no objections.

Chairman Dennis placed the problem of meeting schedules before the committee for discussion. Mr. E. L. Henry, Chairman of the Constitutional Convention, asked that all future meetings be cancelled because of conflicting schedules with other committees. After deliberation, the committee asked Chairman Dennis to meet with Mr. Henry and request retention of meeting schedules for Friday because of previous plans and availability of committee members. Chairman Dennis will report results at next meeting.

Mr. Bergeron read resolution presented to the committee by Mr. Drew to amend resolution adopted on March 2, 1973, regarding plan of committee meetings (hereto attached and made part of these minutes). After making noted changes to resolution, it was unanimously adopted.

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Mr. Tobias commented on behalf of the subcommittee appointed to investigate polling lawyers. After deliberation, Mr. Kelly moved that the committee not take this poll, unless a true cross-section of people be represented. Mr. Sandoz amended this motion, to take no poll of any kind at this time. Motion as amended carried without objection.

Chairman Dennis moved to amend the March 16, 1973, minutes by correcting them to show he was late because of attending a Composite Committee Meeting which started at 9:30 a.m., and could not be at the beginning of Judiciary Meeting; and to correct Reverend Stovall's name to "James" instead of Jasper, on Page 2 of the minutes.

MEETING ADJOURNED AT 4:40 p.m.

James L. Dennis
Chairman
Antoine H. Landry
Vice-Chairman
Philip O. Bergeron
Secretary

Louisiana Constitutional Convention

JUDICIARY COMMITTEE RESOLUTION

BE IT RESOLVED by the Judiciary Committee of the Louisiana Constitutional Convention in session duly convened this ___ day of March, 1973 that resolution adopted on March 2, 1973 be amended to set forth plan of committee meetings as follows:

Next two
The meetings scheduled for March 23 and 24, 1973,

shall be devoted to hearing testimony from those parties previously invited to speak on those dates.

That for all future meetings, the basic draft prepared by Mr. C. B. Forgotson at the request of Justice Al Tate through the chairman of this committee be ^{Considered with any} further testimony and advice offered before the committee with the view in mind of confining the witnesses to constitutional questions alone.

That as soon as possible, discussions and vote of the committee be taken on major issues pertaining to the constitutional provisions this committee is delegated to draft and that every effort be made to have a proposal for the research staff and committee on style and drafting to consider no later than May 11, 1973.

That in the future, ^{we will attempt to limit} persons invited to speak before the committee ~~will be limited~~ basically to those authorized to express the opinions and consensus of associations and related groups.

Which motion was offered by R. Harmon Drew, duly seconded by _____, and received the following yeas and nays votes.

Yeas _____ Nays _____

Which motion was duly adopted.

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on March 26, 1973.

State Capitol, Baton Rouge, Louisiana
Friday, March 30, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman

Mr. Philip O. Bergeron, Secretary, called the roll:

<u>PRESENT</u>	<u>ABSENT</u>
Avant	Bel
Bergeron	Drew
Burns	Tate
Dennis	Vesich
Deshotels	
Gauthier	
Kelly	
Kilbourne	
Landry	
Martin	
Ourso	
Sandoz	
Tobias	
Willia	

Mr. Avant moved to dispense with the reading of March 23, 1973 minutes and to adopt them as written; motion carried without objection.

Judge Dennis reported on a meeting with the Coordinating Committee of the Constitutional Convention with respect to re-scheduling meeting dates. A tentative schedule of meetings was given to the Committee members.

The Committee heard testimony from the following speakers on the organization, administration and powers of the courts:

MR. HARVEY SOLOMAN, Director of Studies
Institute for Court Management

MR. BEN R. MILLER, SR., Attorney at Law

MR. ALLAN ASHMAN, Director of Research
American Judicature Society

JUDGE RICHARD J. GARVEY
Civil District Court, Orleans Parish

JUDGE S. SANFORD LEVY
Civil District Court, Orleans Parish

JUDGE EDWARD G. GILLIN
Juvenile Court, Orleans Parish

JUDGE SOL GOTHARD
Juvenile Court, Jefferson Parish

JUDGE LOUIS P. TRENT
Traffic Court, Orleans Parish

JUDGE MATTHEW S. BRANIFF
Criminal District Court, Section B, Orleans Parish

JUDGE OLIVER P. SCHULINGKAMP
Criminal District Court, Section F, Orleans Parish

Judge Dennis announced receipt of a letter from Mr. Vesich stating that he was hospitalized with pneumonia and unable to attend meeting; and that Justice Tate's father died, therefore he was unable to attend meeting.

The Coordinating Committee authorized Mrs. Norma Duncan, Research Director, to make the following request from the Judiciary Committee: Submit a written commitment as to what provisions will definitely be considered and not considered in the present constitution by the Judiciary Committee, and to state in what areas there might be some conflict between the Judiciary Committee and other committees. The research staff needs to know this information by April 6. Judge Dennis read discussion draft, and opened discussion from Committee.

The Judiciary Committee will definitely consider everything in Article VII in present constitution as within Judiciary jurisdiction, with the exception of that portion of Section 69 dealing with vacancies in offices not found in Article VII; Article IX, Section 4: Judiciary Commission--removal of Judges; Article IX, Sections 1-3, insofar as those sections apply to officials covered by Article IX: Impeachment and Removal of Officials. Judge Dennis questioned whether the Committee would consider removal of all officials or just judges. Mr. Deshotels moved that the Committee should include all officers in Judiciary Article, including sheriffs, as provided by the convention rules of procedure for establishing jurisdiction. Mr. Ourso seconded; motion carried without objection.

Judge Dennis questioned whether the Judiciary Committee should allow retirement of all public officials to be treated by some committee other than Judiciary, or should they be considered as presently provided. Mr. Tobias stated that as a matter of continuity, follow it all the way through; if we take jurisdiction over judges, follow it all the way through as to what pertains to judges, unless really collateral. Judge Dennis agreed. Mr. Bergeron questioned retirement of other officers. The Committee will consider District Attorneys--Judge Dennis will determine if retirement provisions are included in Article VII. After deliberation, the Committee decided definitely not to consider other parts of the discussion draft, and to approve the draft as amended.

Judge Dennis asked the Committee about meeting on Good Friday, April 20, stressing that if the meeting were cancelled it might

not be possible to reschedule. The Committee agreed to meet on Good Friday.

For the next meeting, Judge Dennis requested the research staff to develop as much financial information possible pertaining to what is realistic and not realistic in structure of courts. Judge Reggie will be invited to appear and give the views as to what the city court judges want.

-4-

After deliberation on whether to hear additional testimony from judges other than the New Orleans area, Mr. Kelly moved to invite four district judges to appear on the 13th of April: Two from metropolitan areas, outside of Orleans and East Baton Rouge Parishes, and two rural judges from cities in judicial districts of about 35-40,000 people, one each from north and south Louisiana. Motion carried without objection.

On the 14th of April, the Committee will conduct a business meeting and take some preliminary votes on organization, administration and powers of the courts.

MEETING ADJOURNED AT 6:15 P.M.

James L. Dennis
Chairman
Ambrose Landry
Vice-Chairman
Philip O. Bergeron
Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on April 4, 1973.

State Capitol, Baton Rouge, Louisiana
Friday, April 13, 1973, 9:30 a.m.

Mr. Philip O. Bergeron, Secretary, called the meeting to order at 9:37 a.m. (Judge James L. Dennis, Chairman, delayed because of plane trouble.)

Mr. Bergeron called the roll:

<u>PRESENT</u>	<u>ABSENT</u>
Avant	Landry
Bel	
Bergeron	
Burns	
Dennis	
Deshotel	
Drew	
Gauthier	
Kelly	
Kilbourne	
Martin	
Ourso	
Sandoz	
Tate	
Tobias	
Vesich	
Willia	

-2-

Mr. Bergeron read two announcements to the committee: (1) letter from Clerks of Court Convention in Lafayette, inviting members to attend; (2) letter from Judge Levy, complimenting the committee on his appearance before them.

Testimony on the organization, structure and powers of the courts was heard from the following speakers:

MR. GLENN R. WINTERS, Executive Director
American Judicature Society

JUDGE PATRICK M. SHOTT
Fourth Circuit Court of Appeal

JUDGE EARL E. VERON
Fourteenth Judicial District Court
Calcasieu and Cameron Parishes

Chairman Dennis recessed the meeting at 12:15 p.m. for lunch; resumed at 2:05 p.m. Testimony continued:

JUDGE EDWARD A. de la MOUSSAYE, III
JUDGE E. "BUBBER" GUIDRY, JR.
JUDGE S. O. LANDRY
Sixteenth Judicial District
Iberia, St. Martin and St. Mary Parishes

JUDGE DAVID T. CALDWELL
Second Judicial District Court
Bienville, Claiborne and Jackson Parishes

JUDGE C. J. BOLIN, JR.
First Judicial District Court, Caddo Parish

Chairman Dennis recessed the meeting at 3:55 p.m.; resumed at 4:05 p.m. Testimony continued:

JUDGE C. J. BOLIN, JR.
First Judicial District Court, Caddo Parish

Mr. M. W. Dennery, Secretary of the Convention, forwarded a letter to Judge Dennis asking the committee's thoughts on

-3-

a proposed draft dealing with Department of Civil Service being included in the Judiciary Article. After committee discussion, it was decided by the committee not to include in Judiciary Article, and authorized Chairman Dennis to notify Mr. Dennery of their feelings.

Mr. Edwin D. Ware, District Attorney, wrote Judge Dennis a letter stating that at the annual convention of the Louisiana District Attorney's Association held in New Orleans in March, the district attorneys and assistants voted unanimously in favor of the Judiciary Committee writing the articles dealing with district attorneys.

Mr. Tobias moved to adjourn the meeting until Saturday, April 14, at 9:30 a.m. No objections; meeting adjourned at 4:35 p.m.

James L. Dennis
Chairman
Ambrose Landry
Vice-Chairman
Philip O. Bergeron
Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on April 4, 1973.

State Capitol, Baton Rouge, Louisiana
Saturday, April 14, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman. The meeting was called to order at 9:37 a.m.

Mr. Philip O. Bergeron, Secretary, called the roll: All members were present.

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Martin
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

-2-

Mr. C. B. Forgotston, Jr., Senior Research Assistant, reported to the committee on facts and figures on the financing of city courts in the State of Louisiana. This information was not fully developed because of incomplete statistics from various courts. Chairman Dennis asked the committee if they wanted Mr. Forgotston to continue developing the statistical information. After discussion, the committee decided they wanted research staff to continue through aid of the legislative auditor, to secure as accurate information as possible. A member of the research staff will report further at next meeting, Friday, April 20.

Chairman Dennis introduced Judge Hillary J. "Buddy" Crain, Twenty-Second Judicial District Court, St. Tammany and Washington Parishes, who gave his views on the organization, structure and powers of the courts.

Chairman Dennis recessed the meeting at 11:15 a.m.; resumed at 11:25 a.m.

Preliminary, non-binding proposals were placed before the committee. Chairman Dennis stated that anything decided today is merely a guide to the research staff in drafting first part of Judiciary Article relating to structure of the court system. He suggested that the Judiciary Committee first decide whether to include all of the courts thought ought to be existing in the state at this time in the constitution, or whether to simply state that the "judicial power is vested in the Supreme Court and such other courts as the legislature wants to establish, or in the Supreme Court, Courts of Appeal, District Courts, and such other courts as the legislature would establish."

After deliberation Mr. Landry moved that judicial power shall be vested in Supreme Court, Courts of Appeal and

-3-

District Courts. The legislature may by two-thirds vote, subject to approval of the electors of the area affected, establish, abolish or otherwise affect other courts of trial jurisdiction.

Mr. Burns made a substitute motion amending to "majority of legislature." Mr. Vesich objected. Mr. Bergeron called the roll for voting on the proposed amendment: Defeated by twelve to four vote, with one abstention.

<u>No</u>	<u>Yea</u>	<u>Abstains</u>
Avant	Burns	Willis
Bel	Drew	
Bergeron	Gauthier	
Deshotels	Sandoz	
Kelly		
Kilbourne		
Landry		
Martin		
Ourso		
Tate		
Tobias		
Vesich		

Mr. Deshotels offered substitute motion to include "...and such other courts as this constitution may authorize..." Without objection, amendment was approved.

Amended Motion:

Judicial power shall be vested in the Supreme Court, Courts of Appeal, District Courts, and such other courts as the constitution may authorize. The legislature may by two-thirds vote, with approval of the electors of area affected, establish, abolish or otherwise affect other courts of trial jurisdiction.

Motion as amended adopted without objection.

After discussing continuation of courts and change by the legislature, Mr. Vesich moved that in parish of Orleans

-4-

Criminal and Civil District Courts remain as they presently are, subject to provision as established in constitution.

Mr. Avant made substitute motion that all presently existing courts are continued. The legislature may by a two-thirds vote and with approval of electors of the jurisdictions involved, merge, consolidate, realign, or separate any courts provided for in this constitution, subject to provisions of Section ____ of this article (salary and jurisdiction of no judge shall be changed or terminated during his term of office).

Mr. Justice Tate offered an amendment to substitute motion: "...except that this provision shall not apply to Civil and Criminal Districts in New Orleans." Because of disagreement among committee, Mr. Bergeron called the roll and took vote: Proposed amendment defeated by twelve to four votes, with one abstention.

<u>No</u>	<u>Yea</u>	<u>Abstains</u>
Avant	Gauthier	Sandoz
Bel	Tate	
Bergeron	Tobias	
Burns	Willis	
Deshotels		
Drew		
Kelly		
Kilbourne		
Landry		
Martin		
Ourso		
Vesich		

Substitute motion adopted without objection.

Mr. Justice Tate moved that the present system of review of facts in civil cases be continued. Without objection, motion carried.

1. The first part of the document is a letter to the...

2. The second part of the document is a letter to the...

3. The third part of the document is a letter to the...

4. The fourth part of the document is a letter to the...

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Vertical handwritten text

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27. The twenty-seventh part of the document is a letter to the...

28. The twenty-eighth part of the document is a letter to the...

Mr. Kelly moved to adopt §9 of "Draft A." Motion carried without objection.

Mr. Sandoz moved to provide in §6 the power for Supreme Court justices to appoint judges to other courts, including all retired judges. Motion carried. Mr. Vesich voted against.

Mr. Drew moved to leave in the first sentence of §11(a) and insert the words either "four or more" or "at least four" and delete the second sentence of §11(a) and delete all of §11(b) and (c). Motion carried without objection.

Mr. Kelly moved to combine §§11 and 12, and in §12(a) leave out the word "rotating" and leave out §12(c). Motion carried without objection.

Mr. Avant moved to insert in §13(b) the words "at least" between the words "into" and "three." Motion carried without objection. Mr. Tobias moved to provide for at least three equally apportioned districts. Motion was withdrawn.

Mr. Bel moved to retain the present twelve-year terms for Courts of Appeal judges and leave out the second sentence in §13(c). Motion carried without objection.

Mr. Tobias moved to add the word "civil" between the words "all" and "cases" in §14(a). Motion was withdrawn.

Mr. Sandoz moved to delete §14(b) and insert the word civil in §14(a) between the words "all" and "cases." Motion carried

3

without objection.

There was much discussion about appeals from decision of administrative agencies. §14(c) was adopted without objection, deleting the words "civil service or."

Mr. Tobias moved to have the staff determine a way to combine §§14(a) and (b). Motion carried without objection.

Mr. Kelly moved to keep appeals of juvenile cases in the Courts of Appeal and use the language of the present §29. Motion carried without objection.

Mr. Gauthier offered a substitute motion to direct the staff to put juveniles appeals in the Supreme Court. Motion failed four to nine.

Mr. Willis moved the adoption of §15 of "Draft A" with an amendment to delete the words "shall have the power to" and insert in lieu thereof the word "may." Motion carried without objection.

Mr. Avant moved to provide in §16 for the election of a chief judge in the Court of Appeal for a five-year term and provide the same term for the chief justice of the Supreme Court. Motion carried without objection.

Mr. Sandoz moved to change the word "appoint" in §17 to "select" and delete the last sentence and make the same change in the Supreme Court provision. Motion carried without objection.

Judge Tate moved to delete §18 of "Draft A." Motion carried without objection.

The committee recessed at 12:40 for lunch. The meeting resumed at 2:30 p.m.

4

Chairman Dennis moved the adoption of §19 of "Draft A." Motion carried without objection.

After discussion by the committee, §§20(b) and (c) were deleted.

Mr. Avant moved to insert the language calling for two-thirds of the legislature and a vote of the people to make changes in the court structure and it shall apply to all courts except Justices of the Peace and Mayors into §20(b).

Mr. Sandoz offered a substitute motion to delete the requirement of a vote of the people in Mr. Avant's motion. Motion failed five to nine.

Mr. Kelly offered a substitute motion to insert "a majority of the legislature," in lieu of two-thirds in Mr. Avant's proposal, and excluding Mayors and Justices of the Peace Courts. Motion carried nine to six.

After some discussion, §20(d) was deleted.

Mr. Tobias moved for twelve-year terms for all District Court judges. Mr. Avant offered a substitute motion to provide six-year terms for all District Court judges. Motion carried eight to seven.

Mr. Gauthier moved that District Court judges shall have six-year terms except in a judicial district having a population in excess of 300,000, wherein they shall be elected for twelve-year terms. Motion failed seven to nine.

Mr. Tobias moved to provide that District Court judges have initial terms of six years and then run for twelve-year terms. Motion failed seven to nine.

5

Judge Tate moved to provide terms for all District Court judges of not less than six, nor more than twelve years, and the legislature shall provide the terms. Provided that the present terms of judges shall not be affected.

Mr. Kilbourne offered a substitute motion to provide twelve-year terms in Orleans and six-year terms in the rest of the state. Mr. Avant called for a roll call vote and the motion carried eight to two with four abstentions.

Mr. Tobias moved to provide twelve-year terms for District Court judges in Jefferson Parish.

Mr. Landry offered a substitute motion to provide twelve-year terms for District Court judges in judicial districts comprised of one parish, having a population in excess of 300,000, based on the latest official U. S. Census. Motion carried eleven to three.

Judge Tate moved to adopt §21 as written. Motion carried without objection.

Mr. Avant offered a proposal for a special three-judge panel. Motion was withdrawn.

Mr. Drew asked the staff to draft a proposal to continue

present terms of office of judges now sitting and their jurisdiction, benefits, etc.

Mr. Avant asked the staff for a copy of the proposal of Article VII thus far.

6

Chairman Dennis stated that the draft would be prepared and mailed out as soon as possible.

Meeting adjourned at 5:15 p.m.

James L. Dennis
Chairman

Gene Hardy
Vice-Chairman

Philip O. Bergeron
Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on May 3, 1973

State Capitol, Baton Rouge, Louisiana
Friday, May 11, 1973

Presiding: Judge James L. Dennis. The meeting was called to order at 9:30 a.m.

Mr. Philip O. Bergeron, secretary, called the roll. Fourteen members were present, representing a quorum. All members attended meeting.

Present

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Martin
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

Absent

None

2

Professor Geoffrey C. Hazard, Jr., spoke on the merit selection of judges.

Attorney General William J. Guste, Jr., spoke on placing the attorney general's office in a separate article or retaining it in the judiciary article; also on the secrecy of the grand juries.

Mr. Aaron Kohn, managing director of the Metropolitan Crime Commission in New Orleans, discussed consolidation of

courts in New Orleans and the screening of judges before they run for office.

After a five-minute recess, Sheriff Bailey Grant of Ouachita Parish requested that the committee not change the constitutional status of sheriffs.

Chairman Dennis recessed the meeting for lunch at 12:45 p.m. to reconvene at 2:00 p.m.

The committee reconvened at 2:00 p.m. with Vice Chairman Landry presiding. Chairman Dennis took the chair at 2:30 p.m.

Dr. Hypolite Landry, Jr., coroner of East Baton Rouge Parish, spoke on the present constitutional provisions concerning coroners, requesting that the same provisions be in the new constitution.

The minutes of April 20, 1973, were read by Secretary Bergeron. Mr. Tobias moved to correct the spelling of "judgment" on page four, line two. Motion carried. Judge Tate moved to add his reason for voting against Section 4, page four, line three. Mr. Bergeron moved the minutes be adopted with changes. Motion carried.

3

Chairman Dennis circulated a letter from the Clerk of First District Court in Caddo Parish, who stated that he thought the clerks of court should not be ex officio clerks in juvenile courts. (presented by Tom Stagg)

Chairman Dennis read a memo from Mr. Gene Murret, judicial administrator to the members of the Judicial Committee. It stated what action the Judicial Council took concerning terms of judges when it met on April 27, 1973.

A memo presented to the Composite Committee from District Attorney John Richardson of Caddo Parish was filed with the committee.

Mr. Deshotels introduced a copy of a letter from Justices of the Peace Johnson and Leger, Allen Parish, asking that the section of the constitution pertaining to justices of the peace be left as it is. A copy was filed with the committee.

The decision was made to continue taping the meetings. Discussion continued on Draft "A."

Mr. Kilbourne moved the committee defer action on Section 22. Motion carried without objection.

Mr. Tobias moved to change "presiding" judge to "chief" judge in Section 23(a). Motion carried without objection.

Mr. Kelly moved to delete Section 23(a). Motion failed.

Mr. Gauthier moved that the judges elect a chief judge. Motion failed.

Mr. Deshotels moved to adopt a plan of appointing judges on merit. Motion failed.

Mr. Willis moved that Section 23(a) and (b) be combined to read "Each multi-judge district court may elect from its

4

members a chief judge who shall exercise such administrative functions as may be prescribed by rule of that court." Motion carried, with Mr. Kelly objecting.

Mr. Sandoz moved to delete Section 24. Motion carried without objection.

Judge Tate moved to delete Section 25. Motion carried without objection.

Mr. Avant moved to have the staff prepare a provision concerning Section 26 that would not conflict with anything the committee has tentatively done concerning courts and how they can be altered, changed, or abolished, but which would give to the legislature the right to define the age of juveniles and what circumstances certain persons within that age could be excluded from the category of juveniles. Motion carried without objection.

It was moved that Section 28 be deleted. Motion carried without objection.

Mr. Bel moved that the committee adopt Section 29(a). Motion carried with Mr. Kilbourne objecting.

Mr. Bel moved to adjourn the meeting at 5:15 p.m. until 9:00 a.m. Saturday. Motion carried.


Chairman


Vice Chairman


Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973.

Held pursuant to notice mailed by the Secretary of the Convention on May 3, 1973

State Capitol, Baton Rouge, Louisiana
Saturday, May 12, 1973.

Presiding: Judge James L. Dennis, Chairman. The meeting was called to order at 9:20 a.m.

Mr. Philip O. Bergeron, secretary, called the roll. Fifteen of eighteen members were present, representing a quorum. Seventeen members attended meeting.

Present

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Martin
Sandoz
Tate
Tobias
Vesich
Willis

Absent

Ourso

2

Louisiana Supreme Court Justice Frank W. Summers appeared before the committee to discuss his objection to the committee's

tentative proposal that the supreme court elect a successor to the office of chief justice. Justice Summers feels that the present system of seniority should govern the selection of chief justice.

The meeting was recessed at 9:45 a.m. and reconvened at 10:00 a.m.

Mayor Dorris Godet of Port Barre spoke on the mayor's court. He stated that he wanted the revenue produced by this court, but he did not care if the new constitution abolished the court.

Mayor Nall of Krotz Springs asked Chairman Dennis if he could appear briefly before the committee to ask questions. He questioned the committee's right to change the Lawrason Act.

The committee recessed for twenty minutes.

The committee was presented by Mr. Leander Perez, Jr. with a resolution submitted by the Louisiana District Attorney Association to be placed in the files of the committee.

Discussion of Draft "A" continued.

Mr. Bergeron moved to delete Section 29(b) (c) (d). Motion carried without objection.

Mr. Avant moved to ask the staff to prepare a provision prohibiting the changing of a judge's term of office or compensation during his term of office, that will prohibit reducing his subject matter jurisdiction during his term of office, and will prohibit changing his territorial jurisdiction during his term of office, unless it is done in accordance with Section 15(a). Motion carried.

3

Mr. Sandoz moved that in Section 30, the committee go on record as opposing nonpartisan election. Motion withdrawn.

Mr. Avant moved that the legislature shall provide for the election of judges at a time when the congressmen are elected. Under no circumstances shall any judge who is appointed be eligible to run for the office for which he is appointed. When the governor appoints someone to fill a vacancy, he shall appoint someone who is ineligible to run for office. Motion withdrawn.

Mr. Willis offered a substitute motion for Section 30(a) and (b) to read: (a) The election of judges shall be held at the regular congressional election; (b) If a vacancy occurs, a special election is to be held to fill the vacancy within six months. Until the vacancy is filled, the supreme court shall assign or appoint an otherwise qualified individual to the duties of the office at pleasure, who shall be ineligible to be a candidate for election to the vacancy. Motion carried.

Mr. Tobias moved to change "four months" to "three months" in Section 30(b). Motion withdrawn.

Mr. Avant moved to hold the election at the next regularly scheduled election. Motion withdrawn.

Mr. Willis moved to change "four months" to "six months" in Section 30(b). Motion carried.

Judge Tate asked that the resolution be typed as amended during lunch. The committee recessed for lunch at 12:20 p.m.

The committee reconvened at 2:05 p.m. The committee read

the section as amended and voted to consult Mr. "Red" Wood concerning the election of judges and have him appear and give a written memo to the committee on it.

4

Sections 30(a) and (b) were adopted as amended.

Judge Tate moved the committee express themselves regarding nonpartisan election of judges. Motion withdrawn.

Mr. Sandoz moved to delete (c) of Section 30. Mr. Drew objected. Mr. Drew moved to table Section 30(c). Motion failed 4-8.

Mr. Sandoz moved to oppose nonpartisan election of judges. Motion carried 7-5.

Mr. Sandoz moved the adoption of Section 30(d). He also moved to instruct the research staff to "make it better," with the advice of Mr. "Red" Wood. Motion carried.

Mr. Willis moved to strike Section 30(e). Motion carried 9-4 with one abstention.

Mr. Avant moved to insert between "judges" and "of" in Section 31(a), "and a system of survivors's benefits for widows and minor children." After the period "." add "These systems may be on a contributory basis." Motion was withdrawn.

Mr. Sandoz offered a substitute motion to adopt Section 31(a) as written. Motion carried.

Mr. Tobias offered a substitute motion to add "at least equal to all other state employees." Motion was withdrawn at Mr. Drew's request.

Mr. Tobias moved to add "or judicial administrator" after "judge" on the first line of Section 31(b), and strike the last sentence. Motion carried.

Mr. Landry moved to have a new system for all judges not retired. Motion failed.

Mr. Avant moved that until the legislature shall provide

5

any retirement system different from the present constitution, any judge who takes office after the adoption of this constitution shall be covered by the old system. Motion carried.

Mr. Bergeron moved to delete Section 31(c). Motion failed.

Judge Dennis moved to amend Section 31(c) to read: If he is found to be incompetent, he shall be retired. His benefits shall be two-thirds of his pay. If he is not under the statutory program, he shall receive the same benefits as under the 1921 constitution. No action taken.

Mr. Avant moved to add to Section 31(c) "or any such greater sum to which he is legally entitled by law." Motion carried 10-3.

Mr. Kelly moved to adopt Section 31(d), striking the last sentence. Motion carried 8-4.

Mr. Willis moved to strike Section 31(e) and make Section 31(a) read "full time judges of courts of record." Motion withdrawn.

Mr. Vesich moved to adopt Section 31(e). Motion carried without objection.

Mr. Avant moved to reconsider Section 31(c), and make first line read "A judge of a court of record who has served six years or more and who is found by two..."

Mr. Kelly moved to delete Section 31(c) in its entirety.

Judge Dennis asked Mr. Avant to withdraw his amendment and Mr. Kelly to withdraw his substitute motion and the committee would reconsider Section 31(c) at a later date. Both motions withdrawn.

6

Mr. Tobias moved that Section 32 should prohibit all judges from practicing law. Motion failed. / / - /

Judge Tate moved to adopt Section 32. Motion carried.

Mr. Willis moved to change the wording of Section 32 so that the subject would be first and add "all others that the legislature shall prescribe" between "judges" and "shall." Mr. Tobias objected. Motion carried 10-1.

Mr. Avant moved that the chairman appoint a three man subcommittee to look into the question of judges' retirement.

Judge Dennis appointed Mr. Avant, Mr. Vesich, and Mr. Drew, with Mr. Drew as chairman.

Meeting was adjourned at 5:10 p.m.

James L. Dennis
Chairman
James H. Landry
Vice-Chairman
Walter S. Bergeron
Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on May 17, 1973

Law Center, L. S. U., Baton Rouge, Louisiana, Friday May 25, 1973
9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee.

PRESENT

ABSENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Martin
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

None

The committee heard the following speakers on the Orleans Parish Prison and the criminal sheriff:

State Rep. Edward Booker, New Orleans;
Mr. Raymond Nance, president, Community Action for Correction;
Mr. Robert Blomberg, inmate, Orleans Parish Prison.

Mr. Joseph W. Joachim, executive vice president and general counsel, Louisiana City Marshals and Constables Association, spoke to the committee concerning the standardization of terms for city marshals and city constables and increasing city court jurisdiction.

The committee recessed for lunch at 12:30 p.m.

The committee reconvened at 2:00 p.m. and Mr. Bergeron, secretary, read the minutes of the May 11, and May 12, 1973 meetings.

Mr. Bel moved that the minutes of May 11, 1973, be adopted as amended. Motion carried.

Mr. Tobias moved to add "no action taken" to Judge Dennis's motion on page five of the May 12, 1973 minutes. Motion carried.

Mr. Tobias moved to insert into the minutes of May 12, 1973, his motion prohibiting judges from practicing law, which failed. Motion carried.

The motion was made to correct the spelling of Mayor Nall's name on page two of the May 12 minutes. Motion carried.

Mr. Bel moved the minutes of May 12, 1973, be adopted as amended. Motion carried.

Mr. Tobias moved that the committee consider Section 5(A) of Draft "A," qualifications of judges, to be combined with the provision prohibiting judges from practicing law.

2

Motion carried.

Mr. Tobias moved that a judge shall be an elector of this state who has been admitted to the practice of law in this state. He shall have resided within the territory of the district from which elected for two years immediately preceding his election. Motion carried.

Mr. Avant moved as a substitute that the qualifications of judges of the supreme court, court of appeal, and district courts shall be: an elector of this state who has been admitted to the practice of law for five years preceding his election, residing in the territory of the district for two years prior to his election. Motion carried.

Mr. Avant moved that the Judiciary Commission be contained in the constitution, with its membership and the grounds for removal clearly defined.

Mr. Deahotels made a substitute motion that the committee defer voting on whether there should be a Judiciary Commission and whether it should be put in the constitution, and requested the staff to prepare a brief on how the other states handled this question. Motion failed.

Mr. Tobias moved that the chairman appoint a subcommittee to explore the matter and report back to the committee. Motion failed.

Mr. Avant's primary motion was adopted.

Mr. Avant moved that the Judiciary Commission consist of one appeal court judge, two district court judges, one lawyer, and three citizens, the latter appointed by the Judicial Council.

3

Mr. Willis offered a substitute motion that the Judiciary Commission consist of one court of appeal judge and two district court judges, appointed by the supreme court, three members of the bar appointed by the District Judges' Association, and three citizens appointed by the District Judges' Association.

Mr. Willis amended his motion to provide that the members of the bar shall have practiced for at least ten years prior to his appointment.

Mr. Avant offered an amendment to the substitute stating that the three lawyers be appointed by the Louisiana Court of Appeal Judges' Association and the three citizens be appointed by the District Judges' Association, or their successor. Motion carried.

Mr. Willis's substitute motion as amended was adopted.

Mr. Burns moved that Section 33(B) of Draft "A" be adopted. Motion carried.

Mr. Kelly moved that Section 33(C) of Draft "A" be adopted. Motion carried.

Mr. Willis moved that Section 33(D) be adopted. Motion carried.

The committee began discussion of Mr. Eugene Murret's draft proposal for grounds for removal of judges, a copy of which is attached hereto and made a part of these minutes.

Mr. Avant moved that beginning on line five of the Murret proposal, the words "habitual" to "disrepute" be deleted. Motion carried.

Mr. Sandoz moved to accept Mr. Murret's proposal as submitted. Motion withdrawn.

4

Mr. Kilbourne moved to substitute the words "notorious and public conduct prejudicial..." for the phrase "habitual... disrepute," in line five of the Murret proposal. Motion failed.

Mr. Kilbourne moved that "persistent and public conduct prejudicial..." be substituted for the phrase "habitual... disrepute," and to add the words "or conduct while in office which constitutes a felony under law or conviction of a felony." Motion carried.

Mr. Avant moved to adopt each sentence of the Murret proposal separately. Motion carried.

The first sentence was adopted as amended.

The second sentence was adopted.

The third sentence was adopted.

Mr. Vesich moved to strike the fourth sentence. Motion carried.

Mr. Sandoz moved to strike the fifth sentence. Motion carried.

The sixth sentence was adopted.

Mr. Sandoz moved to adjourn the meeting until 9:30 a.m., May 12, 1973.

Motion carried and the meeting was adjourned at 5:00 p.m.

James L. Dennis
Chairman
Embrase Landry
Vice Chairman
Philip J. R. ...
Secretary

5

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973
Held pursuant to notice mailed by the Secretary of the Convention on May 17, 1973

Law Center, L. S. U., Baton Rouge,
Louisiana, Saturday, May 26, 1973,
9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

<u>PRESENT</u>	<u>ABSENT</u>
Avant	Drew
Bel	
Bergeron	
Burns	
Dennis	
Deshotels	
Gauthier	
Kelly	
Kilbourne	
Landry	
Martin	
Ourso	
Sandoz	
Tate	
Tobias	
Vesich	
Willis	

The committee heard the following speakers concerning the judicial system in Louisiana:

Judge William Hawk Daniels, City Court, Division B, Baton Rouge;

Judge J. Cleveland Fruge, Third Circuit Court of Appeal;

Associate Justice Frank W. Hawthorne, retired, Louisiana Supreme Court.

The committee recessed for lunch at 12:30 p.m.

The committee resumed at 2:00 p.m.

Mr. Tobias moved to discuss Section 44 of Draft "A." Motion carried.

Sheriff Martin moved to delete the second paragraph of Section 44. Motion carried without objection.

Mr. Deshotels moved that the question of the sheriff's provision be divided and considered point by point. Motion carried.

Judge Tate moved to provide that there will be a sheriff elected by the qualified electors of each parish who shall be elected at the general state election for a term of four years. Motion carried without objection.

Judge Tate moved to charge the sheriff with executing the orders and process of the court. Motion carried without objection.

Judge Tate moved the sheriff be charged with law enforcement duties and collection of state, parish, and all other taxes, except inheritance and municipal taxes, and such other tax collecting duties as provided by law.

2

Mr. Kilbourne moved to amend Judge Tate's motion to state that "the sheriff be the chief law enforcement officer of the parish, except as otherwise provided by this constitution." Motion carried.

Mr. Tobias moved to amend Judge Tate's motion to omit "inheritance taxes" and add "and such other duties as provided by law." Motion carried.

Judge Tate's primary motion as amended carried.

The committee discussed the tax collecting duties of the sheriff and asked the staff to determine (1) what state taxes the sheriff collects, (2) whether license and occupational taxes are considered taxes, and (3) what laws limit the jurisdiction of the state police.

Judge Tate moved to provide that in any parish at the time of the adoption of this constitution, in which there is a civil sheriff and a criminal sheriff, the office shall be continued and the duties assigned to them continued until changed by a vote of the majority of the legislature and a majority of the electorate concerned at an election called for that purpose.

Mr. Tobias moved to amend the motion to read that there shall be one sheriff in each parish of the state. Motion failed.

Mr. Avant moved to amend the motion to provide that the sheriffs as previously constituted are retained until the legislature with a majority of each house and the electorate change it. Motion failed.

Judge Tate's primary motion was adopted.

3

The committee moved to direct the staff to prepare a provision to prevent reduction of salaries of the elected officers provided for in Article VII. Motion carried.

Judge Tate moved Section 40 be adopted but inserting the word "staff" in lieu of the words "office force" Motion carried without objection.

The committee then considered Section 41 of Draft "A."

Judge Tate moved to adopt Section 41 amending the first sentence to read, "The attorney general and the first and second assistant shall..." and substitute "Attorney general shall attend to..." in the second sentence.

Mr. Kelly moved to amend Judge Tate's motion by striking the last sentence in the first paragraph. Motion carried.

Mr. Burns moved that the committee defer action on Section 41 until the research staff could draft a section to prevent the attorney general from superseding the district attorney except under certain circumstances. Motion failed.

Mr. Avant moved to amend Judge Tate's motion to delete "they deem necessary," substituting "shall be necessary." Motion carried.

Judge Tate's original motion with amendments carried.

The committee tentatively adopted the second paragraph of Section 41.

Mr. Burns moved to adjourn the meeting at 5:00 p.m.

Sheriff Ourso moved to meet on June 1 and June 2, 1973. Motion carried.

Mr. Burns motion carried.

4

Ambrose Landry
Chairman
Jimbria Landry
Vice Chairman
Wesley A. Landry
Secretary

5

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on May 28, 1973

Law Center, L. S. U., Baton Rouge, Louisiana, Friday, June 1, 1973
9:30 a.m.

Presiding: Ambrose Landry, vice chairman of the Judiciary Committee

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT

Martin

Secretary Bergeron read the minutes of the May 25 and May 26, 1973 meetings.

Mr. Tobias moved to add "motion carried" to his motion on page 3 of the May 25, 1973 minutes. Motion carried.

Mr. Bel moved the adoption of the minutes as amended. Motion carried.

Mr. Bergeron moved to defer voting on the minutes of May 26, 1973, pending correction of Judge Tate's motion concerning the tax collecting duties of sheriffs.

The committee began discussion of Section 42 of Draft "A."

Mr. Willis moved to adopt Section 42 as written.

Mr. Kelly amended Mr. Willis's motion to state: "The district attorney shall have been admitted to the practice of law for three years prior to his election and shall be an elector of the judicial district from which he serves for two years." Motion failed.

Mr. Avant amended Mr. Willis's motion to add to the district attorney's qualifications: "He shall be an elector of the judicial district from which he is elected for two years and admitted to the practice of law in Louisiana for five years prior to his election." Motion carried.

Mr. Willis's motion as amended carried.

Mr. Tobias moved to delete Section 43 and refer it to the committee on Legislative Liaison and Transitional Measures with the recommendation that it be included in the statutes. Motion failed.

2

Judge Tate moved that no district attorney nor assistant district attorney shall appear, plead, or in any way defend any criminal prosecution or charge. Motion failed.

Mr. Avant moved to place a period "." after the word "charge," in Section 43 of Draft "A" and omit the remainder of the section. Motion carried.

Judge Tate moved to add a section above Section 43 authorizing the district attorney to select his assistants and other personnel and to prescribe their duties.

Mr. Tobias moved to amend Judge Tate's motion to combine the proposed section with Section 42. Motion carried.

Judge Tate's motion as amended carried.

The committee began discussion of the draft on judges' retirement drafted by Judge Luther Cole and submitted by the Subcommittee on Retirement; Mr. Drew, Mr. Vesich, and Mr. Avant.

After lengthy discussion, Mr. Drew moved to ask the staff to shorten the draft. Motion carried.

The committee recessed for lunch at 12:30 p.m.

The committee reconvened at 2:00 p.m.

Discussion began on Section 45 of Draft "A" concerning clerks of court.

Mr. Landry moved to amend Section 45 to state: "(A) In each parish, a clerk of the district court shall be

elected by the qualified electors of the parish for a term of four years. He shall be ex officio notary public and parish recorder of conveyances, mortgages, and other acts and

3

shall have such other duties and powers as may be prescribed by law. The clerk may appoint deputies, and with the approval of the district judges, may appoint minute clerks with such duties and powers as may be prescribed by law. (B) Notwithstanding subsection (A), in each parish with a criminal and a civil district court, the office of clerk of court shall remain until changed by a majority of the elected members of each house of the legislature and a majority of the electors in the parish, and they shall exercise such duties as may be prescribed by the legislature."

Mr. Willis moved to amend Mr. Landry's motion by adding: "(C) The legislature shall establish statewide uniform office hours for all clerks of district courts." Motion carried.

Mr. Landry's motion as amended carried.

The committee began discussion of Section 47 of Draft "A."

Mr. Sandoz moved: "In each parish a coroner shall be elected for a term of four years with such qualifications and duties as prescribed by law." Motion carried.

The committee began discussion of the staff's proposal prohibiting the reduction of salaries and retirement benefits of elected officials while in office.

Judge Tate moved: "The attorney general, district attorney, sheriff, or clerk of court shall have neither his salary nor retirement benefits diminished during his term of office." He recommended that the staff add any other constitutional officers he omitted. Motion carried.

4

After discussion of Article VII, Section 89, the committee requested the staff to draft a section protecting constitutional officers from abolishment.

The committee took a brief recess after which Chairman Dennis took the chair.

Mr. Willis moved: When a vacancy in the office of an elected official occurs, the person to succeed him be clearly defined in the constitution. He further moved that if there is no such person to assume the duties at the time of the vacancy, the governing authority or the governing body of the parish or parishes concerned shall appoint such a successor until the vacancy is filled by an election called for that purpose.

Judge Dennis amended the motion to state: "Until a vacancy is filled by..." first and the successors stated in the second part. Motion carried.

Mr. Willis's motion as amended carried.

The committee began discussion of the proposal submitted by Mr. Drew and Mr. Landry providing for the creation of parish courts.

Judge Tate moved to combine Sections 15(A) and 18 of Draft "A" and the proposal submitted by Messrs. Drew and Landry with the following points considered: (1) the continuation of the existing courts and that they can be changed only by a two-thirds vote of the legislature; (2) the continuation of existing judicial districts and that they can be changed only by a majority of the legislature and a majority

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of the electors in the district affected; (3) giving the legislature the power to create additional courts such as parish courts; and (4) continue, under the proper wording, to recognize courts and officers of Orleans Parish which can be changed only by a majority of the legislature and a majority of the electors in the district affected. Motion carried.

Mr. Burns moved to adjourn the meeting until 9:30 a.m. Saturday, June 2, 1973.

The motion carried and the meeting adjourned at 5:15 p.m.

James L. Dennis
Chairman
Emilio Landry
Vice Chairman

Secretary

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MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on May 28, 1973

Law Center, L. S. U., Baton Rouge, Louisiana, Saturday, June 2, 1973
9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Drew
Kelly
Kilbourne
Landry
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT

Deshotels
Gauthier
Martin

Discussion began on the provisions referred to the Judiciary Committee by the Coordinating Committee.

Mr. Kelly moved to recommend that in reference to the legislature passing local and special laws, that the Committee on Legislative Powers and Functions use generally the language of the Model State Constitution and continue enumerating the prohibitions but provide that the list be nonexclusive. Motion carried.

Mr. Willis moved that the committee defer action on forced heirship in Article IV, §16, for one week to allow time for study.

Mr. Sandoz amended the motion to request the staff to draft a proposal which would allow the legislature to change the grounds for disinheritance. Motion carried.

Mr. Willis's motion as amended carried.

Mr. Sandoz and Mr. Willis moved to delete §16 of Article XIX of the present constitution. Motion carried.

Mr. Avant moved that: "There shall be a regular grand jury in each parish to serve for six months. On the recommendation of the district attorney, the judges of a district court may cause to be selected one or more special grand juries to consider particular matters designated by the district attorney and approved by the judges of the district court. A special grand jury shall serve until discharged by the court. All proceedings of a grand jury shall be secret, including the identity of witnesses appearing before it until an indictment has been returned. Any violation

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of the secrecy of grand jury proceedings shall constitute a contempt of the court appointing it."

Mr. Kelly offered a substitute motion stating there shall be a grand jury or grand juries in each parish of the state whose qualifications, duties, and responsibilities shall be prescribed by law. The legislature shall also provide for the secrecy of such proceedings.

Judge Dennis moved to amend the substitute motion stating, "The legislature may provide..." Motion failed.

Mr. Kelly's substitute motion passed.

Mr. Avant moved to request the staff to draft a simple and short provision stating that any officer of the court who discloses any information pertaining to the proceedings of the grand jury, including the identity of witnesses who testify before the grand jury, before the return of an indictment, shall be guilty of contempt of the court.

Mr. Tobias moved to table the motion. Motion failed.

Mr. Avant's motion carried 7-6 with Mr. Bergeron abstaining.

The committee recessed for lunch at 12:20 p.m.

The committee reconvened at 1:45 p.m.

Mr. Kelly moved to reconsider the last two motions passed by the committee. Motion carried.

Mr. Kelly moved to delete both motions previously

passed and substitute: "There shall be a grand jury or grand juries in each parish whose qualifications, responsibilities, and duties shall be prescribed by law. The

3

legislature shall further provide for the secrecy of the proceedings including the secrecy of the identity of witnesses appearing before the juries." Motion carried.

Mr. Bergeron read the minutes of May 26, 1973. Mr. Bel moved the minutes be adopted as corrected. Motion carried.

Mr. Landry moved: "A citizen of the state, upon reaching the age of majority shall be eligible to serve as a juror. The supreme court by rule shall provide for the selection and drawing of competent and intelligent jurors for the trial of civil and criminal cases."

Mr. Sandoz moved to amend Mr. Landry's motion to delete "competent and intelligent." Motion carried.

Mr. Landry's motion as amended carried.

Mr. Kelly moved to request the Legislative Liaison and Transitional Measures Committee to explore the possibility of creating an indigent defender system in Louisiana. Motion carried.

Mr. Burns moved to notify the Coordinating Committee that the Committee on Local and Parochial Government and the Judiciary Committee had acted inconsistently concerning the filling of vacancies for district attorney, sheriff, clerk of court, and coroners. Motion carried.

Mr. Avant moved: "No person shall be subjected to any forfeiture, imprisonment, or fine in excess of one hundred dollars without the right of an appeal based upon a complete record of all evidence upon which such judgment is

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based. This section does not limit the power of any court to punish a contempt in its presence as otherwise provided by this constitution."

Judge Tate moved to insert "or supervisory review" between "appeal" and "based."

Mr. Tobias offered a substitute motion stating all proceedings in all courts in Louisiana shall be recorded when requested. Motion carried.

Judge Tate moved that no new court shall be established except such as served by full-time judges with the qualifications of district judges. Motion carried.

Mr. Drew asked the committee to consider at the meeting of June 8, 1973, the use of the words "control of" in Section 5 of the Third Preliminary Draft of the committee.

Mr. Sandoz moved to adjourn.

Motion carried and the meeting adjourned at 5:00 p.m.

James L. Dennis
Chairman
Samwise Handy
Vice Chairman
Walter A. Bergeron
Secretary

Judge Tate moved that the committee use the staff's outline of the courts as a ballot to determine the committee's views on action concerning courts in Louisiana. Motion carried.

Judge Dennis moved to delete the "A" alternative of the outline. Motion carried.

A copy of the vote is attached hereto and made a part of these minutes.

Mr. Stagg spoke to the committee concerning selection of the Judiciary Commission.

Mr. Sandoz moved to request the staff to draft a proposal whereby the creation of a parish court is to be voted on by the electors of a parish, and which would provide for the abolition of city courts and any other courts below that level. Motion carried.

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MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on June 4, 1973

Law Center, L. S. U., Baton Rouge, Louisiana, Friday, June 8, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Gauthier
Kelly
Kilbourne
Landry
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT

Drew
Martin

Judge Dennis read a letter from Mr. Tom Stagg, CC/73 delegate, expressing his views on the committee's nonbinding vote taken concerning the membership and selection of the Judiciary Commission. A copy of Mr. Stagg's letter is filed with the committee.

Judge Dennis also read a letter from Mr. Robert Aertker, Committee on Education and Welfare, concerning Article IV, Section 16. A copy of Mr. Aertker's letter is filed with the committee.

Secretary Bergeron read the minutes of June 1 and June 2, 1973.

Mr. Bel moved to adopt the minutes. Motion carried.

Mr. Kelly moved to reconsider Section 21 of the Fourth Preliminary Draft. Motion carried.

2

Mr. Bel moved to increase the monetary jurisdiction of the first city court in Orleans from one thousand dollars to three thousand five hundred dollars, and give it complete jurisdiction on evictions. Motion failed.

Mr. Avant moved to request the staff to prepare a provision which would incorporate the action the committee took on the written ballot, the proposal offered by Mr. Sandoz on parish courts, the proposal offered by Mr. Bel on constitutional officers in Orleans Parish, and that the proposal be sent to the committee before the next meeting, and that it be the first order of business on June 15. Motion carried.

The committee recessed for lunch at 12:00 noon.

The committee reconvened at 1:45 p.m.

Mr. Avant moved to consider the staff's proposed section on judges' retirement.

Mr. Avant moved to adopt paragraph A. Motion carried.

Mr. Avant moved to adopt paragraph B, and insert "including the right to remain in office as judge during his present term," between "rights" and "provided" on line four.

Mr. Willis moved to amend Mr. Avant's motion to change "a" to "his" and omit "thereof" on line five of paragraph B. Motion carried.

Mr. Avant's motion as amended carried.

Mr. Tobias moved to consider paragraph D before paragraph C. Motion carried.

Mr. Sandoz moved to adopt paragraph D, Alternative One.

After lengthy discussion, the committee asked Judge Luther Cole to appear and answer questions on judges' retirement

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Mr. Avant offered a substitute motion, the adoption of paragraph D, Alternative Two.

Mr. Tobias moved to amend Mr. Avant's motion by changing "one-third" to "two-thirds" in subparagraph 3, and "one-third" to "two-thirds" in subparagraph 4, and "six percent" to "four percent" in subparagraph 6. Motion failed.

Mr. Willis moved to amend Mr. Avant's motion changing the age of unmarried children from "twenty-one" to "eighteen" in subparagraph 4. Motion carried.

Mr. Kelly moved for a roll call vote. The results of the roll call vote was as follows:

<u>Yeas</u>	<u>Nays</u>
Avant	Deshotels
Bergeron	Kelly
Burns	
Dennis	
Gauthier	
Kilbourne	
Landry	
Ourso	
Sandoz	
Tate	
Tobias	
Vesich	
Willis	

Mr. Avant's motion as amended carried.

Mr. Avant moved to adopt paragraph C. Motion carried.

Discussion began on Judiciary Staff Memorandum No. 21, Article IV, Section 16.

Mr. Deshotels moved: "The legislature may authorize the creation of trusts for any purpose; Substitutions are prohibited, except in trusts as provided by law; No law shall be passed abolishing forced heirship, but the legitime may be placed in trust to the extent authorized by the legislature;

An adopted child is a forced heir to the same extent as if born to the adopter and retains his rights as heir of his blood relatives, but his blood relatives lose their rights of inheritance from the adopted child." Motion carried.

The committee decided to meet Friday, June 15, and Saturday, June 16, 1973.

Mr. Burns moved to adjourn. Motion carried and the meeting adjourned at 5:00 p.m.

James L. Dennis
Chairman

Embrise J. Landry
Vice Chairman

Philip O. Bergeron
Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973
Held pursuant to notice mailed by the Secretary of the Convention on June 11, 1973.

Committee Room One, State Capitol
Baton Rouge, Louisiana, Friday,
June 15, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

Secretary Bergeron called the roll.

<u>PRESENT</u>	<u>ABSENT</u>
Avant	None
Bel	
Bergeron	
Burns	
Dennis	
Deshotels	
Drew	
Gauthier	
Kelly	
Kilbourne	
Landry	
Martin	
Ourso	
Sandoz	
Tate	
Tobias	
Vesich	
Willis	

Secretary Bergeron read the minutes of the meeting on June 8, 1973.

Mr. Tobias moved to lower case the letters following the semicolons in the last paragraph on page four, continuing on page five. Motion carried.

Mr. Landry moved to adopt the minutes as corrected. Motion carried.

Mr. Bel moved for the committee to begin discussion of the provision on jurisdiction in coastal waters, Article VI, Section 1(A-1) of the present constitution referred to the committee by the Coordinating Committee.

Mr. Kelly moved that the committee defer action on Article VI, Section 1(A-1) and requested the staff bring to the attention of the Bill of Rights Committee the problems in the provision.

Judge Dennis amended Mr. Kelly's motion to request the staff to draft a comprehensive proposal to apply to waters all over the state and to suggest to the Bill of Rights Committee to allow the legislature latitude. Motion carried.

Mr. Kelly's motion as amended carried.

The committee began discussion on the staff's proposed sections on merger, establishment, and abolition of courts and retaining the Orleans officials.

Mr. Deshotels moved the adoption of Paragraph (A) of the staff proposal. Motion carried.

Mr. Deshotels moved that Paragraph (B) state: "Notwithstanding any provision of Subsection (A) to the contrary, the

legislature may, with the approval in a referendum in the parish affected, create in that parish a court to be called the 'Parish Court of ____ Parish.' The judge of a parish court shall possess the same qualifications as a district court judge and shall not practice law. All other courts of limited jurisdiction in the parish are simultaneously abolished."

Mr. Kelly moved to amend Mr. Deshotels' motion to include: "The term of the judges shall be six years."

Mr. Deshotels moved to add Subsection (C), stating:

"The parish court created under the provisions of Subsection (B) shall have jurisdiction limited to the trial of misdemeanors and three thousand five hundred dollars, exclusive of interest and costs."

Mr. Avant moved to amend Mr. Deshotels' motion to state: "The legislature may establish a parish court of jurisdiction limited to three thousand five hundred dollars and criminal jurisdiction not to exceed one thousand dollars and imprisonment not to exceed six months. When a parish court is created, other courts of limited jurisdiction are simultaneously abolished."

Judge Dennis relinquished the chair to Mr. Landry in order to submit a substitute motion.

Judge Dennis moved: "(A) The following are continued subject to abolition, merger, or realignment by two-thirds vote of each house of the legislature: the judicial districts, the district courts, the family court, juvenile courts, city courts, parish courts, municipal court, traffic court.

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(B) The legislature by two-thirds vote of the elected members of each house, may create new courts."

Judge Tate moved to amend Judge Dennis' motion to delete "the district court" in Section (A). Motion carried.

Judge Dennis' motion failed 4-14.

Mr. Avant moved to have Mr. Deshotels' motion put in writing for the committee.

Mr. Deshotels amended Mr. Avant's motion to state that his written proposal be the first order of business after lunch. Amendment carried.

Mr. Avant's motion as amended carried.

Mr. Sandoz moved to begin discussion on the "Fourth Preliminary Draft." Motion carried.

Mr. Vesich moved the adoption of Section 1 of the draft. Motion carried.

Judge Tate moved to insert in Section 2 of the draft "a writ of habeas corpus," between the words "issue" and "all," and add a new sentence at the end: "The power of the courts to punish for contempt shall be limited by law." Motion carried.

Section 2 was adopted as amended.

Mr. Sandoz moved the adoption of Section 3.

Mr. Tobias moved to amend Mr. Sandoz's motion to delete the words "seven judges" and insert "a chief justice and six associate justices," in Section 3. Motion carried.

Mr. Sandoz's motion as amended carried.

Mr. Burns moved the adoption of Section 4 of the draft. Motion carried.

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Mr. Drew moved to delete the words "control of and" in Section 5 of the draft and have the first line read: "The supreme court shall have general. . ." Motion carried.

Mr. Avant moved to insert the word "other" in lieu of the word "inferior" in the first sentence of Section 5(A). Motion carried.

Judge Tate moved the adoption of Section 5(A) is amended. Motion carried.

The committee recessed for lunch at 12:05 p.m.

The committee reconvened at 1:30 p.m.

The committee adopted Section 5(B) of the "Fourth Preliminary Draft."

Mr. Avant moved to defer action on Section 5(C) until the committee had acted on Mr. Deshotels' motion. Motion carried.

Mr. Tobias moved the adoption of Section 5(D) of the draft. Motion carried.

Mr. Deshotels moved the adoption of his three-part proposal.

Mr. Bergeron moved to discuss each section of Mr. Deshotel's proposal separately. Motion carried.

Mr. Deshotels moved the adoption of Subsection (A) of his proposal.

Mr. Avant moved to amend Mr. Deshotels' motion to insert the word "trial" in lieu of the words "these courts or" in Subsection (A). Motion carried.

Mr. Willis moved to amend Mr. Deshotels' motion changing the word "create" to the word "establish" in Subsection (A). Motion carried.

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Judge Tate moved to insert the words "merge trial courts of limited or specialized jurisdiction or" between the words "or" and "judicial" in Subsection (A). Motion carried.

Mr. Deshotels' motion to adopt Subsection (A) carried as amended.

Mr. Deshotels moved the adoption of Subsection (B) of his proposal.

Mr. Tobias moved to change the word "create" to "establish." Motion carried.

Mr. Avant moved as a substitute motion that Subsection (B) read: "Notwithstanding any provision of Subsection (A) to the contrary, the legislature may, with approval in a referendum in the parish affected, establish in that parish, a parish court, and other courts of limited jurisdiction may be simultaneously abolished. A judge of a parish court shall be elected, for a term which shall not exceed six years."

Mr. Kelly moved to amend Mr. Avant's substitute motion to state: "A judge of a parish court shall be elected for a term of six years." Motion carried.

Mr. Avant's substitute motion as amended carried.

Mr. Deshotels moved the adoption of Subsection (C) of his proposal.

Mr. Willis moved to amend Subsection (C), changing the word "created" to the word "established" and inserting the words "be uniform throughout the state and" between "shall" and "be."

Judge Tate moved as a substitute amendment to Subsection (C) to state: "When the legislature establishes a trial court

of limited or specialized jurisdiction under Subsections (A) or (B), such courts shall have jurisdiction of uniform statewide limits as provided by law."

Mr. Landry moved to amend Judge Tate's motion adding: "The criminal jurisdiction of such courts shall be limited to the trial of misdemeanors." Amendment accepted.

Mr. Deshotels moved to amend the Tate amendment to delete the words "the legislature establishes" and insert between the words "jurisdiction" and "under" the words "is established." Amendment accepted.

Judge Tate moved the adoption of Subsection (C) as amended.

Mr. Avant moved the words "or specialized" in Subsection (C) be deleted. Motion carried.

Judge Tate moved to revert to Subsection (A) of the Deshotels proposal. Motion carried without objection.

Mr. Kelly moved to revert to Subsection (C) of the Deshotels proposal. Motion carried without objection.

Mr. Kelly moved to reconsider everything done in Subsection (C). Motion carried without objection.

Mr. Deshotels moved the adoption of Subsection (C) of his proposal.

Mr. Willis moved to amend Mr. Deshotels' motion changing the word "created" to the word "established" and inserting the words "be uniform throughout the state and" between the words "shall" and "be" in Subsection (C). Motion carried.

Judge Tate moved as a substitute motion for Subsection (C) to state: "When a trial court of limited jurisdiction is

established under Subsection (A) or (B), such courts shall have jurisdiction of uniform statewide limits as provided by law. The criminal jurisdiction of such courts shall be limited to trial of misdemeanors."

Judge Tate's substitute motion failed.

A roll call vote was requested and taken on Mr. Deshotels' motion:

<u>YEAS</u>	<u>NAYS</u>
Avant	Bergeron
Bel	Kelly
Burns	Ourso
Deshotels	Tate
Drew	Tobias
Gauthier	Vesich
Kilbourne	
Landry	
Martin	
Sandoz	
Willis	

Mr. Deshotels' motion as amended carried eleven to six.

Mr. Avant moved the adoption of Mr. Bel's proposal which would continue the officers in Orleans Parish which are presently provided for in Article VII, §89.

Mr. Tobias moved to amend the proposal to include certain changes for style and drafting. Motion carried without objection.

Mr. Bel moved the adoption of the proposal as amended. Motion carried without objection.

Mr. Bergeron moved to revert to Section 5(C) of the "Fourth Preliminary Draft." Motion carried.

Mr. Avant moved to amend the first sentence of Section 5(C) to read: "In civil cases, an appeal to or review by

the supreme court's jurisdiction extends to both law and facts; however, no finding of fact by the trial court shall be set aside or otherwise modified unless found to be manifestly erroneous and then, upon detailed written reason specifying with particularity, the evidentiary basis upon which such action is based and concurred in by five judges."

Mr. Kilbourne moved to amend Mr. Avant's motion to change "five judges" to "four judges." Mr. Avant accepted the amendment.

Mr. Avant's motion as amended failed.

Mr. Burns moved to adjourn until 9:30 a.m., June 16, 1973.

The motion carried and the meeting adjourned at 5:05 p.m.

James L. Dennis
Chairman

Gambrie Handley
Vice Chairman

Philip O. Bergeron
Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973
Held pursuant to notice mailed by the Secretary of the Convention on June 11, 1973

Louisiana State Library, Baton Rouge, Louisiana, Saturday, June 16, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

Secretary Bergeron called the roll.

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Martin
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT

None

Discussion continued on the "Fourth Preliminary Draft of the Judiciary Article."

Mr. Tobias moved to delete the last sentence of Section 5(C). Motion carried.

Judge Tate moved to adopt Section 5(C) as amended. Carried without objection.

Section 5(D) was adopted without objection.

Mr. Deshotels moved to amend Section 5(E) by striking out the first line and the words "on any issue" of the second line and inserting in lieu thereof the words "Subject to the provisions of Subsection (C)"; in the third line strike out the word "other", at the end of the line strike out the period ".", and insert in lieu thereof the words "any civil action properly before it."

Mr. Sandoz moved to adopt Section 5(E) as amended. Motion carried without objection.

Mr. Landry moved to amend Section 6(A) to provide that the selection of the chief justice be by seniority. Motion carried.

Mr. Sandoz moved to adopt Section 6(B). Motion carried without objection.

Mr. Landry moved the adoption of Section 7. Motion carried without objection.

Section 8 was adopted without objection.

Section 9 was adopted without objection.

Section 10(A) was adopted without objection.

Mr. Willis moved the adoption of Section 10(B). Motion carried without objection.

Section 11 was adopted without objection.

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Mr. Landry moved to amend Section 12 to require that the chief judge be selected by seniority. Motion failed 8 to 8.

Mr. Kelly moved to reconsider Sections 6(A) and 12. Motion carried.

Mr. Kelly moved to amend Sections 6(A) and 12 to provide for the selection of the chief justice and chief judge by seniority, and to require that the successor to the offices be the judge oldest in point of service on the court below the age of 65.

Mr. Bergeron moved for a roll call vote. Motion carried.

The results of the roll call vote were:

Yeas

Avant
Bergeron
Deshotels
Drew
Kelly
Landry
Martin
Sandoz
Tate
Tobias
Willis

Nays

Burns
Gauthier
Kilbourne
Ourso
Vesich

Abstentions

Bel

Mr. Kelly's motion carried 11 to 5.

Mr. Bergeron moved the adoption of Section 13. Motion carried without objection.

Mr. Bergeron moved the adoption of Section 14. Motion carried without objection.

Mr. Deshotels moved to defer action on Section 15(A) until the staff could come up with an alternative to the section. Motion carried.

Mr. Willis delivered prepared remarks to the committee concerning the tenure of judges which are attached hereto and made a

-]-

part hereof.

Mr. Willis moved to strike out all of Section 15(B) with the exception of the first line and the second sentence and in the second sentence change the word "lengthen" to the word "shorten".

A roll call vote was requested and ordered; the results were:

Yeas

Avant
Deshotels
Kelly
Landry
Sandoz
Tobias
Willis

Nays

Bel
Burns
Bergeron
Dennis
Drew
Gauthier
Kilbourne
Martin
Ourso
Tate
Vesich

Mr. Willis' motion failed 11 to 7.

Mr. Avant moved to amend Section 15(B) by adding after the word "election" in the fourth line the words "and those in the judicial district where the state capitol is located".

Mr. Tobias moved to amend Mr. Avant's motion to read:

"The term of a district judge shall be twelve years. This provision shall not be construed to lengthen the term for which any judge has been elected."

Mr. Bel moved for a roll call vote. Motion carried without objection. The results were as follows:

Yeas

Bel
Bergeron
Dennis
Deshotels
Gauthier
Kelly
Tate
Tobias
Vesich

Nays

Avant
Burns
Drew
Kilbourne
Landry
Martin
Ourso
Sandoz

Abstentions

Willis

-4-

Mr. Tobias motion carried 9 to 8 with 1 abstention.

Mr. Willis asked to be allowed to change his vote to yea, thereby making the final vote 10 yeas and 8 nays.

Mr. Avant moved to reconsider the vote by which Mr. Tobias' motion carried.

A roll call vote was requested and ordered on the motion to reconsider; the results were as follows:

<u>Yeas</u>	<u>Nays</u>
Avant	Bel
Bergeron	Dennis
Burns	Deshotels
Drew	Gauthier
Kilbourne	Kelly
Landry	Tate
Martin	Tobias
Ourso	Vesich
Sandoz	
Willis	

Motion to reconsider carried 10 to 8.

Mr. Avant moved to withdraw his original motion. The chairman ruled that he could not as objection was urged.

Mr. Kelly moved for a ten-minute recess. Motion carried without objection and the committee recessed.

The committee resumed debate.

A roll call vote was requested and ordered on reconsideration of Mr. Tobias' amendment to Mr. Avant's motion. The results were as follows:

<u>Yeas</u>	<u>Nays</u>
Bel	Avant
Bergeron	Burns
Dennis	Drew
Deshotels	Kelly
Gauthier	Kilbourne
Tate	Landry

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<u>Yeas</u> (continued)	<u>Nays</u> (continued)
Tobias	Martin
Vesich	Ourso
	Sandoz
	Willis

Mr. Tobias' motion on reconsideration failed 10 to 8.

Mr. Avant withdrew his previous motion to amend Section 15 (B)s.

Mr. Kilbourne moved to delete all of the first sentence of Section 15(B) with the exception of the first line and in the second sentence change the word "lengthen" to "shorten".

Mr. Bergeron offered a substitute motion to leave Section 15(B) as drafted.

Mr. Deshotels moved to amend the substitute motion to read as Mr. Kilbourne's motion.

Mr. Bergeron withdrew his motion.

Mr. Tobias moved to amend the main motion to leave Section 15(B) as drafted. A roll call vote was requested and order, the results were as follows:

<u>Yeas</u>	<u>Nays</u>
Tobias	Avant
Bel	Willis
Bergeron	Burns
Vesich	Dennis
Gauthier	Deshotels
Martin	Drew
Ourso	Kelly
Tate	Kilbourne
	Landry
	Sandoz

Mr. Tobias' motion failed 10 to 8.

Mr. Tobias moved to amend the main motion to provide six-year terms for district judges, except in Orleans and Jefferson Parishes where they shall have twelve-year terms, and the pro-

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vision is not to be construed to lengthen any present terms.

A roll call vote was requested and ordered; the results were as follows:

<u>Yeas</u>	<u>Nays</u>
Bel	Avant
Bergeron	Burns
Gauthier	Dennis
Martin	Deshotels
Ourso	Drew
Tate	Kelly
Tobias	Kilbourne
Vesich	Landry
	Sandoz
	Willis

Mr. Tobias' motion failed 10 to 8.

Judge Tate offered a substitute motion to require the legislature to provide uniform statewide terms of not less than six nor more than twelve years, and until they act the terms as they presently are shall be retained.

A roll call vote was requested and ordered and the results were as follows:

<u>Yeas</u>	<u>Nays</u>	<u>Abstentions</u>
Bel	Avant	Drew
Bergeron	Burns	
Dennis	Deshotels	
Gauthier	Kelly	
Tate	Kilbourne	
Tobias	Landry	
Vesich	Martin	
	Ourso	
	Sandoz	
	Willis	

Judge Tate's motion failed 10 to 7 with 1 absence.

Mr. Vesich moved: All terms of district judges shall be six years. The present terms of judges are retained. By a vote of the legislature and a referendum of the people in the parish, in any parish where the judges have terms in excess of six years, they

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may be reduced to not less than six years.

A roll call vote was requested and ordered; the results were as follows:

<u>Yeas</u>	<u>Nays</u>
Bel	Avant
Bergeron	Burns
Deshotels	Dennis
Drew	Kelly
Gauthier	Kilbourne
Martin	Landry
Ourso	Sandoz
Tate	Willis
Tobias	
Vesich	

Mr. Vesich's motion carried 10 to 8.

The committee recessed for lunch at 1:00 p.m. and reconvened at 2:15 p.m.

Debate continued on the "Fourth Preliminary Draft of the Judiciary Article".

Mr. Avant moved the adoption of Section 17.

Mr. Tobias moved to amend the motion to delete the word "multi-judge". Amendment accepted.

Mr. Avant's motion as amended carried without objection.

Mr. Sandoz moved to adopt Section 18. Motion carried without objection.

Section 19 was adopted without objection.

Section 20(A) was adopted without objection.

Mr. Sandoz moved to adopt Section "20 alternative".

Mr. Avant moved to amend the Sandoz motion to allow the supreme court to appoint more than one person to fill a vacancy. Amendment accepted.

Mr. Sandoz's motion as amended failed.

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Mr. Landry moved to adopt Section 20(B). Motion carried without objection.

Mr. Kilbourne moved to reconsider Section 15(B).

A roll call vote was requested and ordered; the results were as follows:

<u>Yeas</u>	<u>Nays</u>
Avant	Bel
Burns	Bergeron
Deshotels	Gauthier
Kelly	Martin
Kilbourne	Ourso
Landry	Tate
Sandoz	Tobias
Willis	Vesich
	Dennis

Mr. Kilbourne's motion to reconsider Section 15(B) failed 9 to 8.

Mr. Deshotels moved the adoption of Section 15(A) on the "special sheet" prepared by the staff.

Mr. Avant moved to amend the motion to add the words "the civil and criminal district courts" after the words "district courts" in the first line, and in the sixth line after the words "judicial districts" add the words "or may merge a criminal and a civil district court in a parish". The amendment was accepted.

Mr. Deshotels' motion as amended carried.

Mr. Avant moved that in Section 16 in the second line strike out the words "or by law" and in the first line after the word "provided" insert the words "or authorized" and in the fourth line after the word "jurisdiction" strike out the word "in" and insert in lieu thereof the words "of all felony cases and". Motion carried.

Section 16 as amended carried without objection.

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Mr. Landry moved the adoption of Section 19 on the "special sheet". Motion carried without objection.

Mr. Bergeron moved the adoption of Section 20(A) on the "special sheet". Motion carried without objection.

Section 20(B) on the "special sheet" was adopted without objection.

Mr. Vesich moved to reconsider Section 16. Motion carried.

Mr. Vesich moved to add to Section 16 a "(B)" section to provide that a civil district court and criminal district court shall have the jurisdiction provided in subsection (A), respectively.

Mr. Avant moved the adoption of Section 21 as amended at the committee meeting on June 8, 1973.

Mr. Willis moved to change "one-third" to "two-thirds" in Section (D)). Motion carried without objection.

Mr. Avant's motion as amended carried without objection.

Mr. Landry moved to amend Section 22 at the beginning of line two by striking out the word "or" and after the word "court"

insert the words "or parish court" and on line four after the word "district" insert the words "or parish". Motion carried without objection.

Judge Tate moved to strike out the word "resided" in line four of Section 22 and insert in lieu thereof the words "domiciled". Motion carried without objection.

Section 22 as amended was adopted without objection.

Mr. Avant moved to adopt Section 23. Motion carried without objection.

Section 24 was adopted without objection.

Mr. Vesich moved to adopt Section 26(A) and to delete Section 26(B).

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Mr. Avant moved to insert in line three of Section 26(A) (A) after the word "parish" the words "except as otherwise provided by this constitution". Motion carried without objection.

Mr. Vesich's motion as amended carried without objection.

Mr. Burns moved to adopt Section 27. Motion carried without objection.

Sheriff Ourso moved to adopt Section 28. Motion carried without objection.

Mr. Kelly moved to adopt Section 29(A) and delete Section 29(B). Motion carried without objection.

Section 29(C) was adopted without objection.

Section 30 was adopted without objection.

Section 31 was adopted without objection.

Mr. Deshotels moved the adoption of Section 32.

Mr. Bel moved to amend the motion to insert in the proposal that the officers in Orleans Parish retained in the constitution be provided for insofar as their terms compensation and retirement benefits be reduced. Amendment accepted.

Mr. Deshotels' motion as amended carried without objection.

Mr. Bergeron moved to adopt Section 33. Motion carried without objection.

Mr. Landry moved to adopt Section 34 as per staff amendments. Motion carried without objection.

The Section prepared by the staff concerning continuing mayors' courts and justices of the peace was adopted without objection.

Mr. Tobias moved to adopt the provision requiring all courts

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to record all proceedings when requested. Motion carried without objection.

Judge Dennis read a letter from some of the judges in Orleans Parish concerning Justice Summers' remarks at a previous committee meeting.

Mr. Avant moved that the proposal as voted on be introduced on July 5, 1973, subject only to technical changes.

The meeting adjourned at 5:20 p.m.

Chairman

Antoine Landry
Vice-chairman

Philip Bergeron
Secretary

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TENURE OF LOUISIANA DISTRICT JUDGES

By virtue of the authority vested in me as a Delegate, I invoke Rule 30 of our Convention for whatever part of 15 minutes I need to precisely speak on this question of tenure for District Judges and, by virtue of being a citizen of Louisiana, I should hope you would, by unanimous consent, allow me more time, if necessary. I will yield to no questions during the interim or until I am done.

We have unanimously decided that the selection of our judges shall be by election; and, I think properly so. We have tentatively decided that the tenure of our district judges shall be for 6 years, except--with cute statistics--those of two of our 64 parishes. The only arguments advanced for this disparity is that campaigns cost more in a "metropolitan area". That is no reason; it is a poor excuse.

I own and hold the view that this unconvincing argument should be more mature and must most certainly discommodate a man of good judgment. Such an argument fertilizes my imagination. It does not bestir my good judgment. It does not convince me. It does not confuse me. It may capture the impressionable mind of the youth, of the unknowledgeable, of the thoughtless, of the inexperienced or of the unimpressionable mind of those locked and bound for some reason or other. It could only be a poor argument to appoint judges by the mule-headed plan of eggheads from the show-me state.

Campaign costs were tallied during the testimony we heard, but we were only partially told from where, to whom or from whom the costs moved and were not told whether or why these movements were all that well-advised. Anyone capable of putting at least two ideas together can understand the necessity of putting this information on the scales to test how lightweight the argument is.

-1-

The argument that, because campaign costs are higher in a "metropolitan area", the terms of district judges should be double that of other areas is pigmy. Dissect the argument and you will immediately see it only bisects our district judges unequally, unjustly and unnecessarily.

We are told that history recommends the retention of this disparity. I tell you that we should not be happy with this bad habit of ancient form. Substitution from the bad to the good is the solution of, by, for, to and with the best. If legal history teaches us anything, it is that adherence to the unequal for the equal is ludicrous and the courtship of its self-destruction.

It is good time for that area on both sides of the crescent of the father of waters, as it meanders through our State, to perish the thought of the lost cause of executive, legislative and judicial secession by way of exceptions and to think of rejoining the State of Louisiana. Just as sure as "[u]nited we stand, divided we fall": equality unites and inequality divides.

Must we rob the transitory present to embrace the bitterness of the past and ignore the sweetness of the future? Should we set the terms by the campaign expenses or population of districts? Why keep the watergates opened? What would that encourage? Where is foresight? Graceto you, gentlemen, and logic to Louisiana! Why is that argument not available to all other less-than-statewide elected officials in a "metropolitan area" including appellate judges and Supreme Court justices and representatives and senators and

lower-level executive and legislative and judicial officials? Should not our three branches of government be co-equal?

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We are dedicated to remove the blemishes and dead wood from our Constitution. The time is ripe for this Committee to remove that speck of imperfection regarding the terms of district judges all over Louisiana.

There is no Commandment saying: Thou shalt not think or learn the difference between right and wrong or truth and falsity or beauty and ugliness.

Give me leave to ask us to ask ourselves if the continuous repetition of wrong makes it right. Simultaneously with that, reflect upon the still-sterling McNaughton Rule [10 Clark & Fin, 200, 8 Eng. Rep. 718 (1843)] and what it means not to know the difference between right and wrong, then contemplate on the echo of this continuous repetition of a wrong. There is no gifted insanity. Also, please ponder the insight of Keats that truth and beauty are synonymous.

It is a fraud on my feelings to be proposed that a "metropolitan judge" is worth twice another judge. That proposal dishonors honor to me. It is a phantom of justice and abolishes feelings which God has planted in my heart. God and good sense decree that injustice--especially to those who dispense justice--may never be justice. To maintain that it may be as rewarding as the attempt to square the circle and as productive as infertility.

If we are to frame the wisest system of justice and especially for those who dispense it, it must not be in bondage or in the frenzy of distempered ambition. We must not travel this Constitution back for such or any sordid gain. It must be in the beautiful atmosphere of righteousness and verity. So, let us come near to each other and have proper understanding.

To do otherwise is to embark on a Titanic with bricks for life preservers, selves for lifeboats, a raenic for food and the salty sea for water. We might as well turn our Constitution adrift upon the turbulent ocean of injustice regarding those who dispense its opposite. Today we launch. Where shall we land?

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The charts we use will tell. The Charter we write will give us an inkling. The articles we sign had better endure the entire cruise. I hope that, when we reach our destination and anchor our judicial ship, it will be in deep-enough waters that the ebbing tide will not set us aground and that, when we weigh anchor for home, our rudder will be sturdy enough and our helmsman steady enough and our captain courageous enough to steer a straight course.

Let us make all atonement we can to all of our district judges by employing the little time which remains to us in endeavoring to undeceive ourselves and balance the scale, which is the symbol of my profession, by making each district judge as ponderous as the other.

I know your devotion to justice is generous and I know you will contribute to it generously. Our reverence to justice demands it; otherwise, we poison the very principle of justice by which we are actuated and allow it to lose its proper definition.

Be not impatient to sacrifice justice for judges. Patience has never lied to

its master. Wrong has never prevailed over right. Equal judges should have equal terms. That is the best emancipation of our judiciary and a noble enterprise. We should have a printed plan regarding our judiciary which is plain and particular and without exception.

I am anxious to suppose that disparity in the term of equal judges will have a brief sojourn in all fair minds. To consign our district judges to this disparity is the consignment of and by the unwise for the wise. I cannot bow in silence to meet the fate that awaits the injustice as her consigned. To do so would be cowardly.

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I know all of you have had a virtuous education which has planted justice in your bosoms and are capable of listening and understanding the voice of reason, if not from me, from your God, when you censure the matter in your wisdom so that you might the better judge. But, I cannot imagine that your minds are so bound as to receive no impression from what I say, because I hope that what I have to say will alter this Committee's thus-far unbending determination by which I cannot abide. I say it to rescue justice, which is more dear to me than gold and silver and more precious than pompous power.

The work of this Committee will die on the last day of this year, but its memory will live, on record, even after our existence is bridged. I seize upon this opportunity to remind us all of that fact, so that we do propose a paragon for our Constitution which will not only be acceptable to us but also to our people, the best depository of power in a true republic, and to our posterity, so that it is not choked again with continual amendments.

You are telling our district judges that most of them must fly our State flag at half-mast or stop half of a mast. You are telling me to address the pleasure of most of them by their "half-honor" or that they be half-pleased because they are half-judges. Imagine my having to say, "May it half-please your honor", or "May it please your half-honor"! That dehumanizes me! Let us give our district judges due process in this matter and upgrade them to their just dimension, thus giving all of them equal protection of the law.

I have heard, to my great astonishment, "gentlemen's agreement" used as catch words or a camouflaged vehicle for support for unequal terms for equal judges. Give me leave to tersely tell you what I think of that. Such an agreement is a nudum pactum, contra bonos mores, and too ugly to be so connoted. No real man, with backbone, could make such a nudum pactum and,

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if he would, he is other than gentle or genteel to himself, the other party or to the public at large. Such a pact is not valid--neither binding nor enforceable--because it cannot be conected in good faith and can only result in disenchantment to the always-vacillating participants sooner or later and mostly sooner.

I lay no such imputations against any member of this Committee or Convention. I warrant and boldly proclaim by the spirit which prompts me that no member is venal and that each is of good faith and that each member will search his soul and vote his sincere conscience and best judgment, unfettered by any one of the seven deadly sins. I further warrant that each member will vote equally for all of Louisiana and for all Louisianians, which include our district judges.

I do not wish to awaken any remorse in any of you, except as may be salutary to you, to our State, and to our district judges.

I am not unalterably against more than 6-year terms for district judges. I am for any district judge having 12-year terms, if he qualifies at the beginning and during the middle of his term. In fact, I am for life terms for district judges, if they qualify every 6 years. What I am unalterably against is injustice or unequal terms for equal judges, regardless of the length of the term for the sole and pitiable excuse that campaigns are costly. I prefer 6 years to give the people appropriate accountability. Very few good judges have had serious opposition. Less than the amount were unsuccessful at election time. Those very few who were defeated did not pass the test of their own peers. A good judge has nothing to worry about. A no-good judge should worry.

If we give credibility to the testimony and statistics supplied this Committee, the so-called "metropolitan judges" get more money, more time off, plus more years between elections and, thus, less worry about campaign costs, less work and less accountability to the people. That to which we must give

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credibility is the quantity and quality of witnesses who testified that equal judges should have equal terms.

The remedy for "metropolitan areas", and there are more than one in Louisiana, if and when there is need, is more judges, not more years to their terms of office or more-divided or more-fragmented courts.

The remedy for high campaign costs is either not running at all or, if a lawyer decides to run or a judge to requalify, the possession of the best qualification, a pledge to judge, if elected ("no brag, just facts"), and better financial judgment to make these known--not 12 years in office. I question the judgment of a judge who runs and spends more money than his salary to campaign or get elected. I would wonder about a judge who wins simply because he promised more than judging or he received (before or after election) or spent more money in his campaign than his opponent. I would think the Legislature should think upon this and give us the remedies. That is the tune of justice.

And, in tune with a well-known prayer, I pray that I possess the serenity to accept that which I cannot change; the courage to change that which I can, and, most importantly, the wisdom to know the difference.

One of the many virtues of William Shakespeare is found in the fifth act of "Measure for Measure":

"Truth is truth to the end of reckoning."

I have one final request. Do not asperse my motives. Assign them as for the perpetual prosperity and glory of justice in Louisiana. Recount them as actuated by what I believe to be right and true and with the sincerity that I would repeat what I said to anyone, anywhere, anytime, because I meant what I said and I said what I meant.

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To facilitate this and prevent misunderstanding or misquotation, I record this transcript of my remarks with the permanent records of this Committee on the Judiciary on this 16th day of June, 1973.

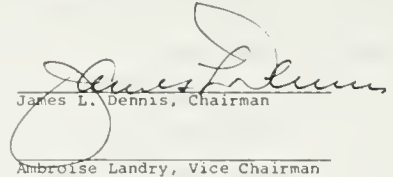

I thank you for your courteous attention.

I now yield to pertinent questions.

J. BURTON WILLIS
Delegate-District 46
Louisiana Constitutional Convention of 1973
422 South Main Street
St. Martinville, Louisiana

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There being no further business, the meeting was adjourned
at 12:00 noon.


James L. Dennis, Chairman

Ambroise Landry, Vice Chairman

Philip O. Bergeron, Secretary

MINUTES

Minutes of the Judiciary Committee
of the Constitutional Convention of
1973
Held pursuant to notice by Secretary

Committee Room One, State Capitol
Baton Rouge, Louisiana, Wednesday,
July 18, 1973, 9:00 a.m.

Presiding: Judge James L. Dennis, Chairman of the
Judiciary Committee

Secretary Bergeron called the roll.

PRESENT

Avant
Bel
Bergeron
Dennis
Deshotels
Drew
Gauthier
Kilbourne
Landry
Martin
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT

Burns
Kelly

Judge Dennis called the meeting to order and introduced
the speaker, Judge Frank J. Shea from Section G, Criminal
Court, New Orleans, who indicated ultimate merger of courts.

Mr. Harry McCall, a New Orleans attorney and President
Elect for the New Orleans Bar Association, appearing indivi-
dually and at the request of judges of the Civil District
Courts of New Orleans, addressed the committee requesting
consideration be given to retention of the operation of Civil
District Courts in New Orleans.

Mr. Frederick J. Gisevius, past president of the Trial
Attorneys' Bar Association, stated he was against the merger
of the courts in Orleans Parish due to specialization by many
judges in either criminal or civil law.

Chairman Dennis requested the members take the minutes
of the previous meetings home to read so they may be approved
at the next meeting.

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MINUTES

Minutes of the Judiciary Committee of
the Constitutional Convention of 1973

Held pursuant to notice by the Secretary
of the Convention.

Committee Room One, State Capitol
Baton Rouge, Louisiana, Thursday,
July 19, 1973, 9:00 a.m.

Presiding: Judge James L. Dennis, Chairman of the
Judiciary Committee

Roll was called.

PRESENT

Avant
Bel
Bergeron
Dennis
Deshotels
Drew
Gauthier
Kilbourne
Landry
Martin
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT

Burns
Kelly

Chairman Dennis called the meeting to order. Roll
was called and a quorum present.

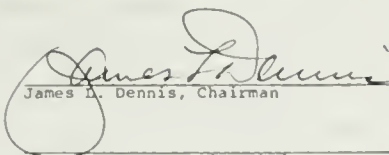
The chairman introduced Captain Robert Shanks from
New Orleans, who directed his remarks to the section in
the constitution pertaining to forced heirship.

Judges Charles Gaudin and Wallace LeBrun from the
Twenty-fourth Judicial District spoke to the committee on
reconsideration of the six-year term for Jefferson Parish
and include it in the twelve-year term.

Mr. Charles Dupuy, representing the South Central
Bell Telephone Company, stated his company's position is
it feels its appeals from the decisions by the Public Service
Commission as it is now written should not be changed.

Chairman Dennis introduced the Committee Proposal on
Forced Heirship. Mr. Landry moved that the committee re-
commend to the Legislative Department Committee that they
introduce it as a proposal in the convention. Adopted.

There being no further business the meeting adjourned
at 11:30 a.m.


James L. Dennis, Chairman
Ambroise Landry, Vice Chairman

Philip O. Bergeron, Secretary

MINUTES

Minutes of the Judiciary Committee of
the Constitutional Convention of 1973

Held pursuant to notice
Committee Room One, State
Capitol, Baton Rouge, La.
Wednesday, July 25, 1973
5:00 p.m.

Presiding: Judge James L. Dennis, Chairman of
the Judiciary Committee
Secretary Bergeron called the roll.

Present

Absent

Avant
Bergeron
Burns
Dennis
Deshotels
Drew
Kelly
Kilbourne

Landry
Martin
Ourso
Tate
Tobias
Vesich
Willis

Bel
Gauthier
Sandoz

Chairman Dennis called the meeting to order.

Secretary Bergeron called the roll. A quorum was
present.

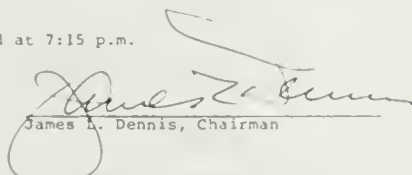
Guest speaker Chief Justice Sanders, Louisiana
Supreme Court, spoke on the unification of the trial
courts. A copy of his speech is attached hereto.

William A. Culpepper, Judge of the Third Circuit
Court of Appeals, appeared as Chairman of the Judiciary
Commission of Louisiana.

Paul B. Landry, Jr., Judge of the First Circuit
Court of Appeals, also appeared.

Professor Leon Hebert, former Chairman of the
Committee on Professional Responsibility for the Louisiana
State Bar Association, spoke to the committee concerning
the retention of Section 4-F, Article IX, in the present
constitution.

Meeting adjourned at 7:15 p.m.


James L. Dennis, Chairman
Ambroise Landry, Vice Chairman

Philip O. Bergeron, Secretary

PRESENTATION OF CHIEF JUSTICE JOE W. SANDERS
TO THE JUDICIARY COMMITTEE OF THE LOUISIANA
CONSTITUTIONAL CONVENTION ON JULY 25, 1973 AT
5 P.M., IN COMMITTEE ROOM 1, STATE CAPITOL,
BATON ROUGE, LA.

Judge Dennis and Members of the Committee:

I appreciate this second opportunity to
appear before you for the purpose of expressing my views
on the judicial article. In my first appearance, on
March 23, I discussed with you eight major points of
court organization. Since then, you have prepared and
filed with the convention a proposed article, providing
for the judicial branch of government.

I have reviewed the proposal and called a
number of drafting problems to the attention of the staff
of the Committee. Today, I would like to center your
attention upon the provisions for unifying the trial courts.
Unification has been an objective of agencies concerned
with the improvement of justice since Roscoe Pound's
famous address to the American Bar Association in 1906.
In 1961, in a study sponsored by the Louisiana State
Bar Association, the National Council on Crim- and
Delinquency recommended court unification by
merging family and juvenile courts into a specialized
division of the district court.¹ In 1972, court
unification in our state was again recommended by the
Institute of Judicial Administration in its state-
wide court study commissioned by the Chief Justice of
Louisiana.² In May of this year, the American Judicature
Society completed a study of our trial courts of limited
jurisdiction and likewise recommended that city, family
and juvenile courts be merged into the district courts.³
Your work draft, as I construe it, leaves all trial
courts--district, juvenile, family, and city--as they are
now. Provision is made for future unification upon the
enactment of legislation approved by a majority of the
elected members of both houses, accompanied by approval
in a referendum election in the area affected.

Although well-intended, the procedure for

- 1. A System of Family Courts for Louisiana (1961), Louisiana Youth Commission.
- 2. A Study of the Louisiana Court System (1972), Institute of Judicial Administration.
- 3. Modernizing Louisiana's Courts of Limited Jurisdiction (1973), American Judicature Society.

unification is cumbersome and defers the problem for
future handling on a piece-meal basis. It also
violates a general objective of the Constitutional

Convention, that of reducing the number of items on which the people are required to vote.

I think it would be far better to face the problem of unification now. It seems to me that there are three alternatives: (1) A three-tier court system: supreme court, court of appeal, and district court, with the city, family and juvenile courts merged into the district court; (2) A four-tier court system: supreme court, court of appeal, district court, and parish court; and (3) An intermediate approach: a constitutionally created three-tier court system--supreme court, court of appeal and district court--with authorization for the legislature to create a parish court where and when needed. Because of its long and unique history in a special court structure, Orleans Parish could well be excepted from strict unification.

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Of these alternatives, I am of the opinion that Number 3, the intermediate approach, is the most reasonable at this time and should be seriously considered.

With this approach, the Constitution would create only one court at the trial level, the district court of general jurisdiction. Into it would be merged the present judges of city and local courts, separate juvenile courts, and family courts. These courts of special and limited jurisdiction would cease to exist.

The district court would have divisions established by court rule, thus providing maximum flexibility. For example, the court rule might well provide for the following divisions: criminal, civil, family, traffic, and small claims.

The present juvenile and family court judges would staff the family division. They would continue to have a specialized staff of probation officers and counsellors to prevent marriage break-up and rehabilitate children.

The traffic and small claims divisions would, of course, be authorized to hold hearings at various places

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in the parish as needed, utilizing when possible the courtroom facilities of the present city courts.

The judicial article would authorize the legislature to create parish courts of uniform limited jurisdiction to serve parish-wide when and where needed under the new court structure. Hopefully, in most parishes, the enlarged district court will provide adequate service and the parish court will not be needed.

Although court reorganization is always difficult and requires a tedious process of practical detail, I believe we should undertake it. This may be our last chance for another half century. I place the matter before you for consideration.

I shall, of course, be happy to answer any questions that you may have.

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MINUTES

Minutes of the Judiciary Committee
of the Constitutional Convention of

1973

Held pursuant to notice
Room 206, State Capitol
Baton Rouge, Louisiana
Thursday, July 26, 1973

9:00 a.m.

Presiding: Judge James L. Dennis, Chairman of
the Judiciary Committee

Secretary Bergeron called the roll.

Present

Avant
Bel
Bergeron
Burns
Dennis
Drew
Kelly
Kilbourne
Landry
Martin
Tate
Tobias
Vesich
Willis

Absent

Deshotels
Gauthier
Ourso
Sandoz

Chairman Dennis called the meeting to order.

Roll was called and a quorum present.

Dr. George Pugh, Professor at Louisiana State University School of Law, spoke concerning a uniform integrated court system.

The meeting adjourned at 11:00 a.m.


James L. Dennis, Chairman


Ambroise Landry, Vice Chairman


Philip O. Bergeron, Secretary

MINUTES

Minutes of the Judiciary Committee
of the Constitutional Convention of

1973

Held pursuant to notice

Room 206 State Capitol, Baton

Rouge, Louisiana, Friday,

July 27, 1973, 9:00 a.m.

Presiding: Judge James L. Dennis, Chairman of the
Judiciary Committee

Roll Call:

	<u>Present</u>	<u>Absent</u>
Avant	Kelly	Martin
Bel	Kilbourne	Ourso
Bergeron	Tate	Sandoz
Burns	Tobias	
Dennis	Vesich	
Deshotels	Willis	
Drew	Landry	
Gauthier		

Chairman Dennis called the meeting to order and opened the floor to discussion on amendments to Committee Proposal No. 6.

Chairman Dennis offered an amendment to Section 15, copy of which is attached marked Exhibit "A". He moved for adoption of the first paragraph of Amendment No. 1, which would become Section 15(A). A roll call vote was taken as follows:

<u>Yeas</u>	<u>Nays</u>	<u>Abstaining</u>	<u>Absent</u>
Bel	Avant	Kilbourne	Willis
Bergeron			
Burns			
Dennis			
Deshotels			
Drew			
Gauthier			
Kelly			
Landry			
Tate			
Tobias			
Vesich			

The motion passed with 12 yeas, 1 nay, 1 abstaining and 1 absent.

Chairman Dennis moved to adopt Paragraph (B) of Section 15, and it was adopted without objection.

The chairman had distributed copies of Dr. Pugh's Memorandum, and a copy of a letter from John F. Pugh addressed to Vice Chairman Landry concerning disciplinary action against judges was also distributed to the committee.

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Mr. Avant moved that under Section 22, on page 6, lines 31 and 32 be deleted in their entirety and to insert in lieu thereof the following:

"Section 22. No person shall be subjected to any imprisonment or fine in excess of one hundred dollars or forfeiture without an appeal of right based upon a complete transcript of all evidence upon which such sentence is based."

The chairman appointed a subcommittee composed of Messrs. Avant, Drew, Kelly and Tate to study the proposal.

Mr. Tobias proposed an amendment to Section 2:

On page 1, line 16, between "2." and "Orders" delete "Needful Writs, Habeas Corpus" and insert in lieu thereof "Habeas Corpus, Needful Writs"

The amendment was adopted with no objections.

Mr. Tobias offered an amendment to Section 3:

On page 1, line 24 in the title, after the word "Court;" delete remainder of line and insert "Composition; Judgments; Terms"

There being no objections, amendment was adopted.

Mr. Tobias offered an amendment to Section 5(A) as follows:

On page 2, line 8, after the word "over" and before the word "all", insert the following:
"and control of"

The amendment failed. Mr. Avant moved to reconsider the matter. Mr. Kilbourne seconded the motion and asked for a roll call vote:

<u>Yeas</u>	<u>Nays</u>	<u>Abstaining</u>	<u>Absent</u>
Tobias	Avant	Vesich	Kelly
	Bel	Willis	
	Bergeron		
	Burns		
	Dennis		
	Deshotels		
	Drew		
	Gauthier		
	Kilbourne		
	Landry		

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The amendment failed 12 to 1 with 1 abstention and 1 absent.

Chairman Dennis moved: On line 10, page 2, immediately after the words "assign a" and before the word "judge" delete the words "sitting or retired" and insert in lieu thereof the following:

"retired judge, with his permission or a sitting"

The roll call vote was as follows:

<u>Yeas</u>	<u>Nays</u>	<u>Absent</u>
Avant	Bel	Kelly
Burns	Bergeron	Vesich
Deshotels	Dennis	
Kilbourne	Drew	
Landry	Gauthier	
	Tate	
	Tobias	
	Willis	

The amendment failed with 8 nays to 5 yeas and 2 absent.

Mr. Deshotels presented an amendment to Section 5, line 10:

"At the end of the line, remove the word "another" and insert in lieu thereof the word "any"

Without objection amendment passed.

Mr. Tobias' amendment:

On page 2, line 20, after the word "law" insert the words "or ordinance"

was passed by roll call vote as follows:

<u>Yeas</u>	<u>Nays</u>	<u>Absent</u>
Avant	Burns	Kelly
Bel	Deshotels	
Bergeron	Gauthier	
Dennis	Kilbourne	
Drew	Tate	
Landry		
Tobias		
Vesich		
Willis		

Page 4

Mr. Landry offered amendment to Section 6(A). On page 2, line 32, immediately after the words "age of" and before the word "years" strike out the word "sixty-five" and insert in

lieu thereof the word "sixty-seven". The amendment was defeated by roll call vote:

Yeas	Nays	Absent
Tobias	Avant	Kelly
Vesich	Bel	
Willis	Bergeron	
	Burns	
	Dennis	
	Deshotels	
	Drew	
	Gauthier	
	Kilbourne	
	Landry	
	Tate	

Defeated 11 to 3 with 1 absent.

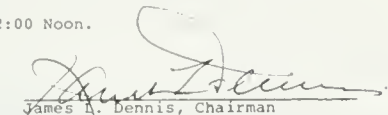
Chairman Dennis moved to insert on page 2, line 32, the following:

"A member of the court may refuse the office of chief justice or resign from the office without resigning from the court."

The amendment was defeated.

An amendment by Chairman Dennis to Section 6(B), page J, lines 2 and J, delete the words "subject to rules adopted by the court." failed.

Meeting adjourned at 12:00 Noon.


 James I. Dennis, Chairman
 Ambroise Landry, Vice Chairman

Philip O. Bergeron, Secretary

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COMMITTEE AMENDMENT

Exhibit "A"

CC 7323

Amendment 8 proposed by Committee on the Judiciary

to Committee

(Delegate or Committee)

Proposal

(Proposed Resolution)

No. 6

by Delegate

Dennis, et al.

Amend

printed

(Original printed engrossed)

proposal

(Proposed Resolution)

as follows.

AMENDMENT NO. 1

On page 4, delete lines 27 through J2, in their entirety and insert in lieu thereof the following:

"Section 15. Courts; Continued; Judicial District Changes; Terms

Section 15(A) The district, parish, city, family, and juvenile courts existing at the time of the adoption of this constitution are retained. Except as provided in Section 17 of this Article, the legislature may establish, abolish, or merge trial courts of limited jurisdiction subject to the limitation in Sections 16 and 21 of this Article.

(B) The judicial districts existing at the time of the adoption of this constitution are retained. The legislature, by a majority vote of the elected members of each house, with approval in a referendum in each district or parish affected, may establish or merge judicial districts, subject to the limitations of Section 23 of this Article."

AMENDMENT NO. 2

On page 5, delete lines 1 through 4 in their entirety

AMENDMENT NO. 3

On page 5, line 5, at the beginning of the line change "(B)" to "(C)"

AMENDMENT NO. 4

On page 6, delete lines 2 through 24 in their entirety

AMENDMENT NO. 5

On page 11, delete lines 18 through 31, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 37. Orleans Parish, Courts, Officials; Continued

Section 37. Notwithstanding any provision of this Article to the contrary, the following courts and officers in Orleans Parish are continued, subject to change by a majority vote of the elected members of each house of the legislature and by approval in a referendum in the parish: the civil and criminal district courts, the city, municipal, traffic and juvenile courts, the clerks of the civil and criminal district courts, the civil and criminal sheriffs, the constables and the clerks of the first and second city courts, the register of conveyances, and the recorder of mortgages. These officers shall be elected for four-year terms with such duties and powers as provided by the legislature and terms of office, retirement benefits, or compensation shall not be reduced during their terms of office."

2

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice

Committee Room No. 1, State

Capitol, Baton Rouge, Louisiana

Thursday, August 2, 1973, 9:30 a.m.

Presiding: Judge James Dennis, Chairman of the Judiciary Committee

Roll Call:

Present

Absent

Avant
 Bel
 Bergeron
 Burns
 Dennis
 Drew
 Gauthier
 Kelly
 Kilbourne
 Landry
 Martin
 Sandoz
 Tate
 Tobias
 Vesich
 Willis

Deshotels
 Ourso

Chairman Dennis called the meeting to order. Roll was called and a quorum was present.

Mr. Avant offered the amendment to page 6, lines J1 and J2, which the subcommittee of Messrs. Tate, Drew, Kelly and Avant were appointed to consider:

"Section 22. No person shall be subjected to imprisonment or fine nor suffer forfeiture without a right of review based upon the complete transcript of all evidence upon which such judgment is based."

Mr. Drew proposed an amendment to the amendment to include after the word "forfeiture" and before the word "without" the words "in any court"

There was no objection to Mr. Drew's amendment to the amendment.

The Chairman asked the subcommittee if they would reconsider the amendment. It was decided that they would not.

Mr. Tobias proposed a substitute motion that chairman create another subcommittee to reconsider the amendment for one week.

Substitute motion carried 10 to 3.

The chairman appointed Messrs. Tobias, Tate, Landry, Bergeron and himself to the subcommittee adding that anyone who desired could attend the meeting.

Mr. Bel proposed an amendment to Section 19.

On page 6, between lines 10 and 11, insert the following:

"The city courts of New Orleans shall have exclusive original jurisdiction in all cases where the amount in dispute or fund to be distributed does not exceed one thousand dollars,

Page 2

exclusive of interest, including suits for the ownership or possession of movable property not exceeding that amount in value, and including suits by landlords for possession of leased premises when the monthly rent does not exceed three hundred dollars. It has concurrent jurisdiction with the civil district court for the parish of Orleans in all cases except divorce, alimony, titles to real estate and probate matters, when the amount in dispute or fund to be distributed exceeds one thousand dollars but does not exceed two thousand five hundred dollars, exclusive of interest, attorneys fees, and penalties, including suits for the ownership or possession of movable property not exceeding one thousand dollars in value."

The amendment was defeated 5 to 4.

Mr. Tobias proposed amendments on page 3, line 4, to capitalize the word "court" and change the word "Clerk" to "Clerks".

Without objection the amendments were adopted.

Chairman Dennis proposed amendments Section 7:

Page 3, line 8, at the end of the line delete the period "." and insert in lieu thereof the following: "and compensation."; and on page 4, line 22, at the end of the line delete the period "." and insert in lieu thereof the following: "and compensation."

Both amendments were adopted without objection.

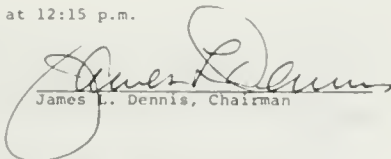
Chairman Dennis proposed amendments to Section 10:

Page 3, line 32, immediately after the word "prosecutions" insert a period "." and delete the remainder of the line; and on page 4, line 1, at the beginning of the line delete the word "juveniles" and delete the period ".".

They were defeated 10 to 1.

Page 3

The meeting adjourned at 12:15 p.m.


James L. Dennis, Chairman

Ambroise Landry, Vice Chairman

Philip O. Bergeron, Secretary

Page 4

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice
Committee Room Nine, State
Capitol, Baton Rouge, La.
Wednesday, August 8, 1973
9:00 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

Secretary Bergeron called the roll:

<u>Present</u>	<u>Absent</u>
Avant	Landry
Bel	Martin
Bergeron	Ourso
Burns	Sandoz
Deshotels	Tate
Drew	Tobias
Kelly	Vesich
Kilbourne	Willis
	Burns Gauthier

Chairman Dennis called the meeting to order. Secretary Bergeron called the roll and a quorum.

The chairman asked delegates to study minutes of previous meetings in order to pass on them at the next meeting.

Chairman Dennis proposed an amendment:

On page 2, line 18, immediately after the letter "(D)" and before the word "following" delete the word "The" and insert in lieu thereof the following: "In addition to appeals provided for elsewhere in this constitution, the"

It was decided to pass by this amendment until later.

Chairman Dennis introduced Amendment No. 1:

On page 5, line 28, immediately after the word "court" and before the word "elect" delete "may" and insert in lieu thereof the word "shall"

Adopted 6 to 4.

Amendment No. 2:

On page 5, line 30, immediately after the partial word "tions" and before "as" insert the following: "administrative functions and for such terms"

Adopted without objection.

Chairman Dennis proposed amendment to Section 16:

On page 5, line 16, immediately after the word "cases" and before the word "involving" insert the words "and cases"

Adopted with one objection.

Mr. Tobias proposed an oral amendment:

On page 4, delete lines 7 and 8.

Adopted without objection.

Page 2

Mr. Tobias proposed:

On page 6, line 25, delete words "Mayors' Courts:"

It was decided to pass over this amendment until later.

Mr. Tobias moved to delete lines 23 through 26 in their entirety, on page 5, and delete capital letter (A)

on line 13. Then pick up the deleted paragraph again in Section 37.

Without objection the amendment was adopted.

Chairman Dennis proposed:

On page 7, line 2, at the end of the line add a semicolon ";" and the words "nonjudicial Functions, Prohibited"

The amendment failed by tie vote 6 to 6.

Mr. Tobias called for reconsideration of the vote.

The reconsideration failed 8 to 5.

Chairman Dennis moved:

On page 7, line 29, immediately after the word "except" delete remainder of line and insert the following:

"that a sitting judge who has attained the age of seventy years at the time of the adoption of this constitution or who will attain that age before the expiration of his present term may remain in office until his seventy-fifty birthday."

Mr. Avant offered substitute motion:

On page 8, line 2, following the word "term" and before the word "provided" delete the comma "," and insert the word "as"

Substitute motion adopted without objection.

Mr. Tobias proposed:

On page 7, line 12, delete the words "the day"
Page 3

and insert in lieu thereof "the date on which"

Adopted.

Chairman Dennis proposed:

On page 8, line 14, immediately after the word "be" and before the word "en-" insert the words "vested with and"

Adopted.

Mr. Tobias moved to add

on page 9, line 23, and page 11, line 12, after the word "law" and before "for" the words "in this state."

Adopted.

Chairman Dennis moved to adopt on page 10, between lines 31 and 32, insert the following:

"(F) Action against a judge under this Section shall not preclude disciplinary action against his practice of law.

Adopted.

Mr. Bel introduced an amendment:

On page 13, between lines 31 and 32, insert the following:

"Section 37(a). City Marshals; Continued Section 37(a). The office of city marshal is continued, subject to change by a majority vote of the elected members of each house of the legislature and by approval in a referendum in the area affected."

Mr. Bergeron sent word he would like to be heard on this amendment. It was decided to hold up temporarily.

Mr. Veach offered amendment:

On page 13, between lines 31 and 32, insert the following:

"A judge of the juvenile court of Orleans Parish shall have practiced law in their state for not less than five years previous to his election and shall have resided in the Orleans Parish for at least two years immediately
Page 4

preceding his election."

It was decided to withdraw this amendment temporarily.

Chairman Dennis proposed:

On page 14, delete lines 1 through 3, and insert:

"Section 38. The supreme court by rule shall provide for the qualification and selection of jurors."

Mr. Willis questioned on page 13, line 32, the word "Selection"

Chairman Dennis asked committee to pass over and requested staff to work on this section.

Mr. Willis recommended Section 38 read:

"All electors are eligible to serve as jurors."

Mr. Ourso moved:

On page 13, line 32, delete the word "Selection" and on page 14, at the end of line 2, delete "The supreme court" and delete line 3 in its entirety.

Motion adopted.

Mr. Tobias moved:

On page 7, line 18, change word "all" to "a" and on line 25, after the word "year" and before the word "the" insert the words "in which"

Adopted.

Mr. Tobias proposed:

On page 8, line 4, delete the word "thereof"

Adopted.

Page 5

Mr. Tobias moved:

On page 9, line 27, in place of "Membership" insert the word "Composition"

Adopted.

Mr. Tobias also moved:

On page 11, line 10, after the phrase "Section 29." add "(A)", and on line 20, before "in" add "(B)"

Adopted.

Mr. Bel introduced amendment adding new Section 40:

On page 14, line 11, add the following:

"Section 40. Fees; Orleans Parish Section 40. The judges of the civil district court and the city courts of Orleans Parish shall set the fees for civil cases filed in their respective courts."

Adopted.

Mr. Landry moved:

On page 4, delete lines 27 through 32, both inclusive, in their entirety and delete the committee amendment approved thereto on July 27, 1973, and insert in lieu thereof the following:

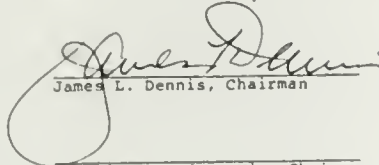
"Section 15. Courts; Continued; Jurisdiction; Judicial District Changes; Terms Section 15(A) The district, parish, city, family, and juvenile courts existing at the time of the adoption of this constitution are retained. Except as provided in Section 37 of this Article, the legislature may abolish or merge trial courts of limited jurisdiction subject to the limitations in Sections 16 and 23 of this Article. Except as provided in Section 37 of this Article, the legislature may establish trial courts of limited jurisdiction which shall be uniform throughout the state."

(B) The judicial districts existing at the time of the adoption of this constitution are retained. The legislature, by a majority vote of the elected members of each house, with approval in a referendum in each district or parish affected, may establish or merge judicial districts, subject to the limitations of Section 23 of this Article."
Page 6

Adopted.

Mr. Tobias moved to adjourn until further notice.

There being no objection, the meeting adjourned at 12:00 noon,


James L. Dennis, Chairman

Ambrose Landry, Vice Chairman

Philip O. Bergeron, Secretary

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MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice
Committee Room One, State
Capitol, Baton Rouge, La.
Wednesday, August 8, 1973
5:00 p.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

Secretary Bergeron called the roll

Present

Absent

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Landry
Ourso
Tate
Tobias
Vesich
Willis

Martin
Sendoz

Meeting called to order by Chairman Dennis. Roll was called by the secretary and a quorum present.

Mr. Bel moved to take up city marshal amendment passed over at the previous meeting.

Mr. Bergeron had no objection to Mr. Bel's amendment.

After discussion, Mr. Bel withdrew his motion in order to redraft and present the amendment at a later date.

Mr. Tobias proposed:

On page 5, line 5, at the end of line delete "terms" and delete remainder of paragraph.

Mr. Drew moved to table amendment.

Motion to table carried.

Judge Tate moved:

On page 5, between lines 26 and 27, insert the following:

"(B) A district court shall have appellate jurisdiction as provided by law.

Adopted.

Judge Tate moved:

On page 3, line 29, after partial word "tution" delete comma ",", and insert "or by law"

The amendment failed by roll call vote of 10 nays and 5 yeas:

<u>Yeas</u>	<u>Nays</u>
Drew	Avant
Gauthier	Bel
Kilbourne	Bergeron
Tate	Burns
Tobias	Deshotels
	Kelly
	Landry
	Ourso
	Vesich
	Willis

Page 2

Judge Tate moved to reconsider. Without objection, the motion passed. Reconsidered motion adopted.

Chairman Dennis offered:

On page 6, line 25, before word "Justices" delete words "Mayors' Courts;"

Amendment failed.

Mr. Tobias moved:

On page 9, delete lines 27 through 32, both inclusive in their entirety.

Amendment withdrawn by Mr. Tobias.

Judge Tate moved to adopt Mr. Tobias' motion and in addition added:

On page 10, delete lines 1 through 13, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 27. Judiciary Commission; Continued Section 27. The Judiciary Commission as presently constituted and its powers, duties, and functions are retained subject to change by a two-thirds vote of the elected members of each house of the legislature."

Defeated.

Mr. Tobias moved:

On page 8, delete Section D.

Defeated.

Mr. Vesich moved:

On page 9, line 22, after "court" insert "or a juvenile court of Orleans Parish"

Mr. AVant proposed substitute motion:

On line 21, after the numeral 26, and on line 22, before "shall" insert:

A judge of the supreme court, court of appeal, district court, family

Page 3

court, parish court or court having solely juvenile jurisdiction"

Mr. Vesich has no objection.

The previous question ordered. Substitute Amendment adopted.

Mr. Tobias moved:

On page 11, line 10, immediately after the period "." delete the remainder of the line and delete lines 11 and 12 in their entirety.

Mr. Deshotels made substitute motion:

On page 11, delete lines 10 through 19, and insert "Section 29."

Mr. Willis added:

"after first sentence before "as" add "except as otherwise provided for in this constitution and"

There being no objection, the amendment was adopted as amended.

Mr. Burns moved to adjourn until immediately after the convention adjourned on August 9.

There being no objection, meeting adjourned at 8:30 p.m.

James L. Dennis
James L. Dennis, Chairman

Ambrose Landry
Ambrose Landry, Vice Chairman

Philip O. Bergeron
Philip O. Bergeron, Secretary

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MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice

Committee Room One, State

Capitol, Baton Rouge, La.

Thursday, August 9, 1973

6:30 p.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

Secretary Bergeron called the roll:

<u>Present</u>		<u>Absent</u>
Avant	Kelly	Martin
Bel	Kilbourne	Vesich
Bergeron	Landry	
Burns	Ourso	
Dennis	Sandoz	
Deshotels	Tate	
Drew	Tobias	
Gauthier	Willis	

The meeting was called by Chairman Dennis. Roll was called and a quorum present.

Mr. Avant offered amendment to Mr. Deshotels' amendment of the previous meeting.

Mr. Kelly suggested substituting the No. 2 we adopted in lieu of Mr. Avant's No. 2. Then instead of "exercising Judicial", say "advise and assist a district attorney in the prosecution of a case."

Mr. Burns moved to put Mr. Deshotels No. 2 in place of

Mr. Avant's No. 2 and use ", advise and assist" and adopt Mr. Avants' amendment.

Adopted.

Mr. Landry:

On page 8, delete lines 5 through 32 in their entirety and insert in lieu thereof the following:

"(C) A judge taking office after the adoption of this constitution and a judge in office who so elects within ninety days of the adoption of this constitution by notifying the secretary of state, shall be vested and entitled to the following retirement benefits:

(1) This subsection applies to a judge of a court authorized by this constitution, except mayors and justices of the peace.

(2) A judge with sixteen years of judicial service may retire at any age; a judge of twelve years of judicial service may retire with benefits commencing at the age of fifty-five. On retirement, a judge shall receive annually as retirement, benefits four percent of his salary times the number of years served, but not more than ninety percent.

(3) A judge who is physically or mentally incapacitated to perform his duties shall be retired. He shall receive as annual retirement benefits two-thirds of his annual salary, or four percent of his salary times the number of years served, whichever is greater, not to exceed the maximum amount provided in paragraph (2).

(4) Upon the death of a judge, in office or retired, the surviving spouse, until remarriage, shall be

Page 2

entitled to one-half of his annual salary as judge prior to death or retirement. If the judge is not survived by a spouse, or if the spouse dies, his unmarried children shall be entitled to the benefits provided in this subsection until the age of eighteen."

This substitution would also delete line 1 through 11 in their entirety on page 9.

By roll call vote the amendment was adopted 11-3 as follows:

<u>Yeas</u>	<u>Nays</u>
Bel	Deshotels
Bergeron	Drew
Burns	Kelly
Gauthier	
Kilbourne	
Landry	
Ourso	
Sandoz	
Tate	
Tobias	
Willis	

Chairman Dennis offered Amendment No. 1 proposed by subcommittee concerning right of appeal:

On page 2, line 25, at the end of the line add the following:

"In other criminal cases an accused shall have the right of appeal or review, as provided by law or by rule of the supreme court not inconsistent therewith."

and Amendment No. 2:

On page 6, between lines 1 and 2, insert the following:

"Section 19. Preservation of Evidence
Section 19. Evidence shall be preserved in all trials. The method of preservation shall be provided by law or by rule of the supreme court not inconsistent therewith."

The amendments being divisible, No. 1 adopted 11 to 1, and Amendment No. 2, adopted 9 to 3.

Page 3

Mr. Bel moved:

On page 14, line 12, add the following:

"Section _____. Judicial Expense Fund; Orleans Parish; Continued
Section _____. The judicial expense fund of Orleans Parish as existing at the time of the adoption of this constitution is retained subject to change by two-thirds vote of the elected members of each house of the legislature."

Adopted.

Vice Chairman Landry assumed the chair.

Judge Dennis moved adoption:

On page 3, between lines 8 and 9, insert the following:

"Section 8. Budget
Section 8. The Supreme Court shall submit an annual consolidated budget for the entire judicial system and the total cost of the system shall be paid by the state. The legislature may provide by law for the reimbursement to the state of appropriate portions of such cost by political subdivisions."

Amendment defeated 8 - 2 with 1 abstention.

Chairman Dennis resumed the chair and introduced the amendment.

On page 5, delete lines 5 through 11, both inclusive, in their entirety, and insert in lieu thereof the following:

"(C) The term of a district judge upon initial election to that office for a full term shall be six years. If, without an interruption in service, he is reelected, each succeeding term shall be twelve years. This provision shall not extend the term which a judge is serving at the time of the adoption of this constitution. It shall apply to a judge who is reelected thereafter."

Defeated.

Mr. Bel suggested stylistic changes be accepted.

There were no objections to reporting the proposal as substitution.

Judge Tate moved stylistic changes be adopted. No objection. Adopted.

Mr. Tobias moved amendments adopted at this meeting be put in substitute proposal as adopted unless another meeting is called.

Motion adopted.

Meeting adjourned at 8:25 p.m.

Handwritten signature of James L. Dennis

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973 Held pursuant to notice on October 5, 1973 Committee Room No. 1, State Capitol Baton Rouge, Louisiana, Thursday, October 11, 1973 at 9:00 o'clock a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

PRESENT

ABSENT

Avant
Bel
Dennis
Deshotels
Kilbourne
Landry
Tate
Tobias
Vesich
Willis

Bergeron
Burns
Drew
Gauthier
Kelly
Martin
Ourso
Sandoz

Delegate Drew's Proposal No. 32 was discussed with respect to court of appeal circuits and districts.

Judge Dennis introduced Judge Jack Watson, presently assigned to the First Circuit Court of Appeal in Baton Rouge and Judge-elect to the Third Circuit Court of Appeal.

Judge Watson spoke on the court of appeal districts as they are presently divided. Delegate Ruth Miller addressed the committee. Judge Minos D. Miller, Jr., at-large from Third Circuit Court of Appeal, opposed Mr Drew's amendment and supported the floor amendment adopted by the convention.

Mr. Bel moved to defer action on Delegate Proposal No. 32. There being no objections, the matter was deferred.

Judge Dennis announced next on the agenda Delegate Johnny Jackson's Proposal No. 43 providing for juvenile court jurisdiction.

Speaking in favor of his proposal were Delegates Johnny Jackson, Robert Pugh and Alphonse Jackson.

Mr. Avant moved to defer action until further notice Delegate Johnny Jackson stated he preferred to defer action to work out problems in the proposal.

Without objection, action was deferred on Delegate Proposal No. 43.

Chairman Dennis appointed a subcommittee of Messrs. Tate, Tobias and Vesich to study the status report of the Judiciary Committee.

Mr. Vesich suggested future committee meetings be called after adjournment of convention.

Mr. Avant moved adjournment of the committee until further notice.

There being no objection, the meeting adjourned at 12:15 p.m.

Handwritten signatures of James L. Dennis (Chairman), Ambrose Landry (Vice Chairman), and Philip O. Bergeron (Secretary)

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973 Held pursuant to notice on October 31, 1973 Convention Floor, Independence Hall, Baton Rouge, Louisiana, Thursday, November 1, 1973 at 12:00 o'clock noon.

Held pursuant to notice in the Treaty Room of the White House Inn, Baton Rouge, Louisiana, November 14, 1973, 5:15 p.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels

ABSENT

Gauthier
Drew
Kelly
Ourso

Kilbourne
Landry
Martin

Sandoz
Tate
Tobiaa
Vesich
Willis

Present

John L. Avant
Clyde F. Bel, Sr.
James L. Dennis
R. Harmon Drew
Wendell H. Gauthier
Richard H. Kilbourne
Ambroise H. Landry
Gordon J. Martin
Albert Tate, Jr.
Anthony J. Vesich, Jr.
J. Burton Willis
Max N. Tobias, Jr.

Absent

Philip O. Bergeron
James T. Burns
Errol D. Deshotels
Donald G. Kelly
Jessel M. Ourso, Sr.
Lawrence B. Sandoz, Jr.

Chairman Dennis called the meeting to order. The subcommittee on Transitional Measures submitted its report to the entire committee. Judge Tate moved that the entire committee accept the subcommittee's report subject to any changes the committee members might want to make within three days from date. Without objection the motion passed. Mr. Bel moved to adjourn. There being no objections, meeting adjourned.

Handwritten signatures of James L. Dennis, Ambroise H. Landry, and Philip O. Bergeron with their printed names below.

Chairman Dennis called the meeting to order. A quorum was present. The chairman announced Delegate Johnny Jackson was present to discuss his Delegate Proposal No. 43 concerning juvenile courts original jurisdiction. Mr. Jackson introduced guests Sidney Barthelemy, Director, City Welfare Department, City of New Orleans; and Mrs. Elayne B. Bryant, Juvenile Protection Chairman, East Baton Rouge Parish PTA. Mr. Jackson stated he would prefer to report the proposal "Without Action". Mr. Avant moved to report the Proposal "Without Action." There being no objections, Delegate Proposal No. 43 will be reported "Without Action." Chairman Dennis read a letter from the judges of the Orleans Parish Juvenile Court urging acceptable provision for Juvenile Courts to have rank of District Courts. (Copy attached hereto) Chairman Dennis then brought the matter of Delegate Proposal No. 32. Mr. Drew stated he had no objection to reporting his proposal "Without Action." Mr. Landry moved to report the proposal "Without Action." There were no objections. Mr. Tobias moved for adjournment. There being no objections, the meeting adjourned at 5:40 p.m.

Handwritten signatures of James L. Dennis, Ambroise H. Landry, and Philip O. Bergeron with their printed names below.

MINUTES

Minutes of the meeting of the Judiciary Committee of the Constitutional Convention of Louisiana of 1973

JUDGES
 LEO B. BLESSING
 JAMES P. DECONNO
 EDWARD G. GILLIN
 ERNEST N. MOBILE



TELEPHONE 824-9263

ORLEANS PARISH JUVENILE COURT
 CIVIL COURTS BUILDING - CIVIC CENTER
 421 LOYOLA AVENUE
 NEW ORLEANS 12 LA
 November 14, 1973

The Honorable James L. Dennis
 Chairman, Judiciary Committee
 State Capitol Building
 Baton Rouge, Louisiana

Dear Judge Dennis:

The Judges of this court are unable to attend the Committee meeting to be held this afternoon at 5:00 P.M. because of a prior commitment which we are unable to cancel. We understand that further efforts are being made to make the Juvenile Courts Constitutional Courts and to set forth the jurisdiction of such Courts in the Constitution.

As you may recall, Judge Gillin has, on two occasions, appeared before your Committee urging that the status of Juvenile Courts as Constitutional Courts be perpetuated. The last provision which we have seen does not so provide. At a time when throughout this Country there is a concerted movement to up-grade Juvenile Courts, it appears that your Committee and the members of the Convention as a whole are prepared to take a step backward. There is no reason or justification for the failure of the Committee and the Convention to advocate that Juvenile Courts have the rank of District Courts (this being the present status of Juvenile Courts in the Louisiana Constitution). If Juvenile Courts are to be subject to the kinds of emotions expressed at the last session of the Legislature, it is predictable with certainty that more harm will result than good considering the worthy postulates of the Juvenile Justice System. We again strongly urge the adoption of a sensible acceptable provision which provides that Juvenile Courts have the rank of District Courts; that the jurisdiction of Juvenile Courts be set forth in the Judicial Article; that the Legislature be given no authority to alter such jurisdiction; and that the language "to abolish Juvenile Courts" be deleted. If these

Presiding: Judge James L. Dennis, Chairman
 Judiciary Committee

PRESENT

John L. Avant
 Clyde F. Bel, Sr.
 Philip O. Bergeron
 James T. Burns
 James L. Dennis
 Errol D. Deshotels
 R. Harmon Drew
 Wendell H. Gauthier
 Richard H. Kilbourne
 Ambroise H. Landry
 Gordon J. Martin
 Albert Tate, Jr.
 Max N. Tobias, Jr.
 J. Burton Willis

ABSENT

Donald G. Kelly
 Jessel M. Ourso, Sr.
 Lawrence B. Sandoz, Jr.
 Anthony J. Vesich, Jr.

Chairman Dennis called the meeting to order. Roll was called by the secretary and a quorum established.

The chairman introduced District Attorney John M. Mamoulidas from Jefferson Parish who spoke in favor of Delegate Proposal No. 35, introduced by Delegate Miller, providing for equally divided supreme court districts with one judge for each district.

Mrs. Miller spoke briefly urging support of her proposal.

Mr. Tobias moved to table Delegate Proposal No. 35. By roll call vote the proposal was tabled with nine yeas and four nays:

<u>Yeas</u>	<u>Nays</u>
Bel	Avant
Bergeron	Deshotels
Burns	Gauthier
Drew	Kilbourne
Landry	
Martin	
Tate	
Tobias	
Willis	

Next Delegate Proposal No. 44, introduced by Delegate Vick, making provisions for the powers, duties and qualifications for the state attorney general was discussed.

Delegate Kendall Vick spoke in favor of his proposal, and District Attorney Edwin O. Ware from Rapides Parish spoke against it. Mr. Gauthier moved to table this proposal. Roll was called and the proposal was tabled by a vote of eleven yeas and one abstention:

-2-

<u>Yeas</u>	<u>Nays</u>	<u>Abstaining</u>
Avant		Tobias
Bel		
Bergeron		
Burns		
Deshotels		
Drew		
Gauthier		
Kilbourne		
Martin		
Tate		
Willis		

Vice Chairman Ambroise Landry assumed the chair. Mr. Deshotels moved to pass over Delegate Burson's Proposal No. 62, making provisions for the grand jury. There being no objections, it was passed over. Chairman Landry requested Delegate Tate to explain the

-2-

provisions are not carried forward into the proposed new Constitution, we can foresee much opposition, which, in turn may further jeopardize the passage of the basic document.

Please read this letter to your Committee and if possible see that each member of the Committee receives a copy before its reading in order that its content may be considered with reflection.

With best personal regards, we remain,

Leo B. Blessing
J.P. Connor
E. N. Mobile
James P. DeConno
Ernest N. Mobile
Edward G. Gillin
 Ad Hoc Judge

MINUTES

Minutes of the Meeting of the Judiciary
 Committee of the Constitutional Convention
 of 1973

Held pursuant to notice in the
 Treaty Room, White House Inn,
 Baton Rouge, Louisiana, Friday,
 December 14, 1973 at 12:00 noon.

caveat to the Judicial Article adopted by the Committee on Style and Drafting on November 27, 1977.

Judge Tate explained that Chairman Dennis had appointed a four-man committee to go over the Article and the subcommittee came up with these changes to be voted on by the Judiciary Committee:

Section 8:

Mr. Drew moved to go along with Style and Drafting on inserting "en banc or" after "reargued" and before "before". There were no objections, motion approved.

Section 9:

Mr. Avant moved that the Judiciary Committee approve Style and Drafting Committee's report and delete the sentence "After January 1, 1975, no judge shall be elected at large from within the circuit." There being no objections, the motion was approved.

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Section 10:

On line 9, page 12, change "cases" to "matters". Judge Tate moved to accept Style and Drafting Committee's change and it was approved without objection.

Section 16:

Mr. Willis moved to adopt the change suggested of the word "subdivision" to "corporation". No objections. Approved.

Section 16:

Mr. Avant moved to retain "constitution" instead of "article". Approved without objection.

Section 18:

Judge Tate moved to amend Section 18 changing "Article" to "Section 16." Approved without objection.

Section 19:

Mr. Avant moved to change "legislature" to "law". Approved.

Section 21:

Mr. Willis moved to retain "shall not practice law". Approved.

Section 27:

Mr. Kilbourne moved to revise section to refer to qualification time for candidates rather than election time with reference to residency and practice requirements. Approved without objection.

Section 32:

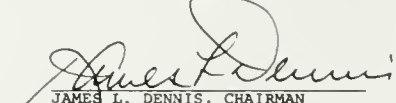


Mr. Avant moved to leave section as written. Approved.

-4-

Section 33:

Mr. Willis moved to adopt the change by Style and Drafting Committee to "change by law." Approved.

There being no further business, the meeting adjourned at 1:55 p.m.


JAMES L. DENNIS, CHAIRMAN

AMBROISE H. LANDRY, VICE CHAIRMAN

PHILIP P. BERGERON, SECRETARY

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B. Subcommittee Minutes

NOTES

Subcommittee Minutes of the Subcommittee on Judicial Retirement of May 17, 1973 were never produced in official typescript format. A staff file bearing a label indicating that its contents are notes and materials from that meeting are set out below in Chapter IV. The informal handwritten minutes have been typed by the Records Commission staff so that this material may be included in this work.

[Typescript made from handwritten notes taken at subcommittee meeting of May 17, 1973, of the Judiciary Committee, Subcommittee on Judicial Retirement prepared by the Louisiana Constitutional Convention Records Commission.]

Meeting in Speaker [']s Office on May 17 at 6 P.M.

Present: Drew- Chair, Avant, Vesich, and Judge Cole and Judge McGehee

Cole: Problem with providing for old judge and then new judges.

Deal is to put reasonable retirement system in the Const.-- Do you want to do this or not?

Need money from legislature to provide for prior service.

McGehee-- 1/3 to 50% of judges in the state would not be interested in a contributory retirement system.--

Cole- need some minimum number of years for retirement under §31(c)

Cole explained the District Judges' plan for retirement.

Cole: Let Judges prepare an optional plan for retirement. Wait and see what happens to HB 97.

Cole: at a stage where there are many young judges.

Avant: Seniority list for all judges.

Cole - will send seniority list of District Judges (119)
(33 on ct. of app. + Sup.Ct.)

Cole- not a retirement system, but a pension plan underwritten by the state. The state would not have to put up money each year, but only in case someone retired. However, the judges would be paying in and a person would invest this fund.

Drew: Ask about 70 yrs.max. retirement age?

Cole said this is good after much study by law Inst. and others.

Cole: Q's for Chief Judge and Chief (sic) Justice being elected.

Cole: asked for guideline? %/yr?, maximum to be earned?

Judges are older when they take the bench therefore, their benefits should vest early.

Comm: Asked Judge Cole to chg. mental or phys. incap. to retire at not less than 25%, but any greater sum he would be entitled to under other provision,

Would get 4%/yr., but not less than 25% retirement.

McGehee: for election of C.J.
(Maybe a Sr. Justice)

Cole: Limits to 75% maximum pay. Salary based on 3 highest yrs. Judge contribute 6% 4%/yr. Judges only want their retirement in Const. if the legislature will provide for HB 97.

If it passes, just need a grandfather clause.

II. Additional Judiciary Committee Materials Relating to Committee Meetings

NOTES

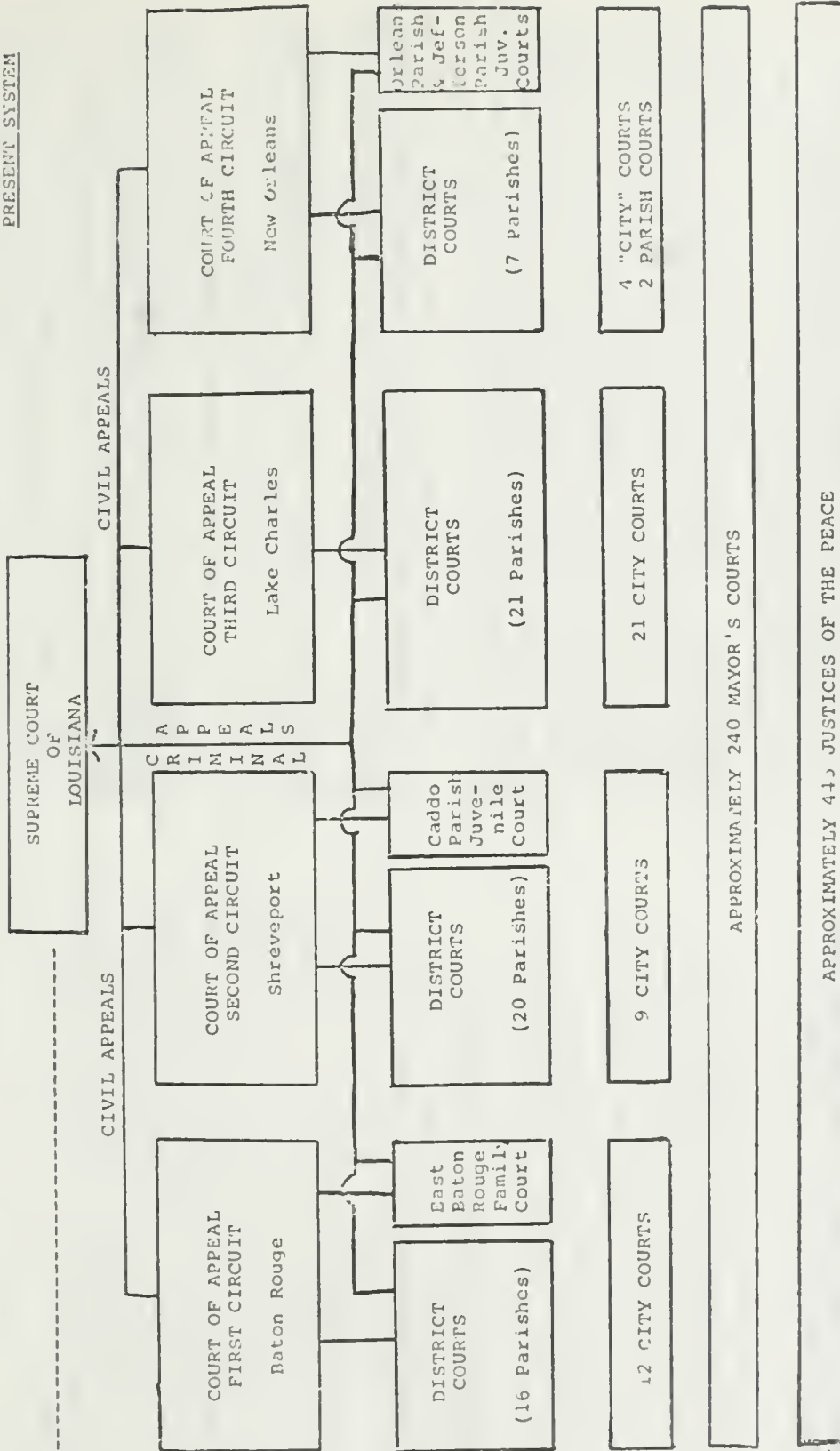
Draft recommendations of the Louisiana Constitutional Revision Commission with regard to the Judiciary of March 9, 1972 have been omitted.

They are found in the working file for the meeting of the Constitutional Convention Judiciary Committee of March 2, 1973.

NOTES

The following documents are found in the work file for the meeting of March 9, 1973.

CHART #
PRESENT SYSTEM



Number of Justices and Judges :

7	Supreme Court
26	Courts of Appeal
118	District, Family and Juvenile
59	City and Parish Courts
<u>210</u>	Total

CHART # 1 NOTES

SUPREME COURT - has general supervisory jurisdiction over all lower courts and exercises appellate jurisdiction and some original jurisdiction. Original and appellate civil jurisdiction is very limited, but the court has exclusive criminal appellate jurisdiction in all but minor misdemeanor cases.

In 1972 the number of appeals filed was 214, an increase of 42% (104% since 1970); the number of writs filed was 822, an increase of 18% (27% since 1970); the number of rehearings applied for was 123, an increase of 20% (34% since 1970) and the number of opinions rendered on the workload was 291, an increase of 38% (68% since 1970).

COURTS OF APPEAL - have only civil appellate and supervisory jurisdiction. Supervisory jurisdiction extends to all lower courts from which an appeal would lie.

In the Courts of Appeal in 1972 there were 1573 appeals filed, an increase of 19% (25% since 1970); rehearings acted upon were 680, an increase of 17% (16% since 1970), and 1367 judgments were rendered in 1972, an increase of 20% since 1971 and 14% more than 1970.

DISTRICT COURTS (Exclusive of Orleans Parish) - There are 33 Judicial Districts, each comprised of from one to three parishes. In general, District Courts have original jurisdiction over all matters within their territorial (parish) jurisdiction. Notable exceptions occur in Orleans, the 1st, 19th, and 21st Districts, which Family and Juvenile Courts have exclusive jurisdiction over certain types of cases. Further, District Courts exercise a limited appellate jurisdiction in trials de novo over minor misdemeanors not appealable to the Supreme Court. In civil matters their appellate jurisdiction extends to cases involving less than \$100.00. 1972 data shows 97,970 civil filings and 162,895 criminal filings.

FAMILY AND JUVENILE COURTS (in their respective parishes only) - These courts have exclusive original jurisdiction of juvenile matters and, in addition, the Family Court has jurisdiction over adoption of minors and marital cases, exclusive of property matters.

The total number of cases filed in these courts in 1972 was 21,700, an increase of 6% over 1971.

4. CITY COURTS - Outside Orleans Parish, these courts, established on a Ward basis, have limited civil and criminal trial jurisdiction and, where no separate juvenile or family court exists, they have juvenile jurisdiction within their wards. At this same court level there is included the 1st and 2nd City Courts of New Orleans which have only limited civil jurisdiction; New Orleans Municipal Court which has jurisdiction is limited to violations of City ordinances except traffic, and the New Orleans Traffic Court which handles only New Orleans traffic ordinance violations. Also included at this court level are the two Parish Courts of Jefferson which have limited civil and criminal (except municipal ordinances) jurisdiction throughout the parish.

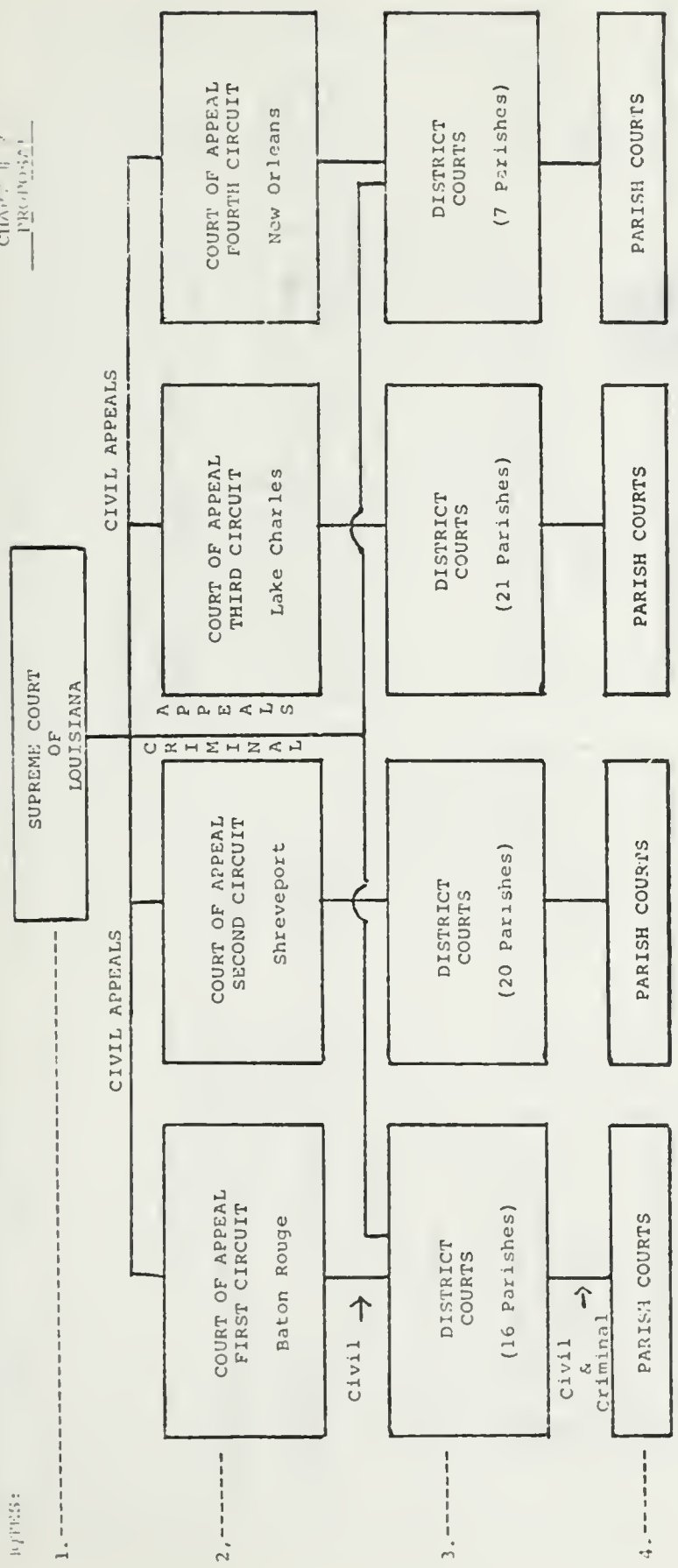
Statistical data collection on these courts was started in 1972 and is not considered substantially complete. Reports received however, show 475,625 cases filed in these courts and 367,935 terminated. The totals include civil, criminal, traffic and juvenile cases.

5. MAYOR'S COURTS - These courts are established in municipalities where city courts do not exist. Their jurisdiction is limited to the trial of municipal ordinance violations.

There is no statistical information available.

6. JUSTICES OF THE PEACE - have no criminal jurisdiction, except as committing magistrates and the issuance of peace bonds. Civil jurisdiction is limited to money claims not in excess of \$100.00. Justices of the Peace are abolished in Wards where city courts exist.

No statistical information is available.

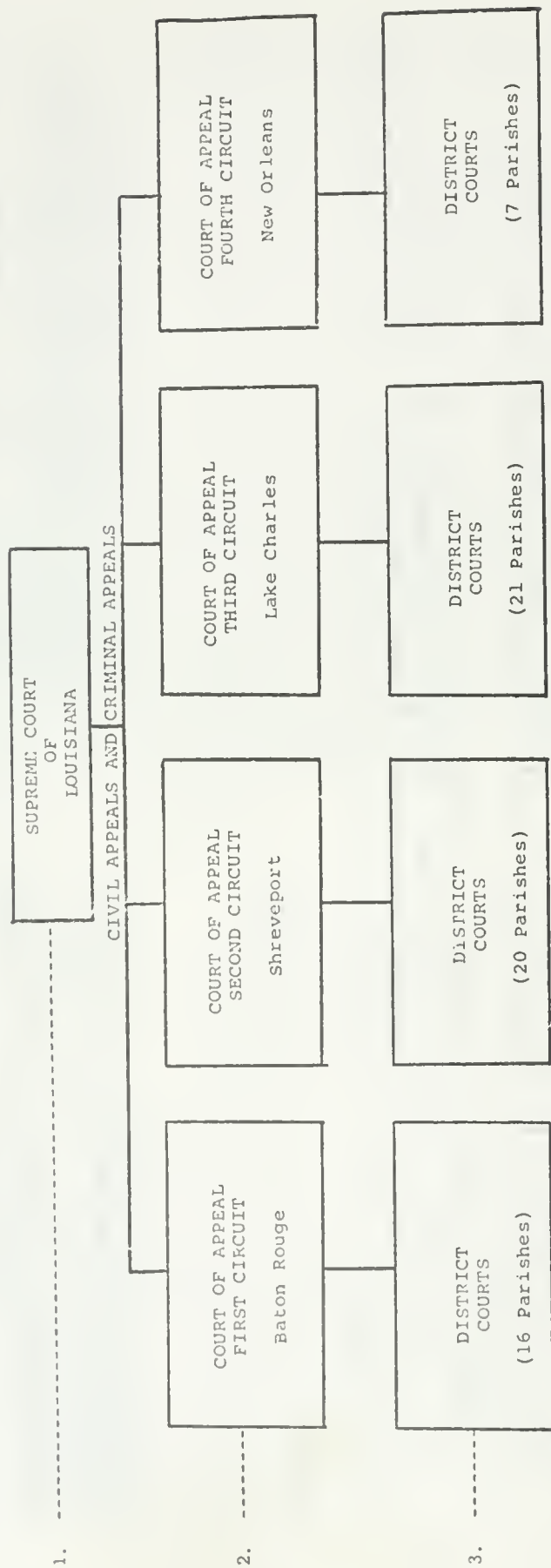


1. -----
2. -----
3. -----
4. -----
5. -----

CHART # 2 NOTES

1. SUPREME COURT - Reduce criminal appellate jurisdiction to felony cases only.
2. COURTS OF APPEAL - Add final criminal appellate jurisdiction to extend to misdemeanors requiring right to trial by jury.
3. DISTRICT COURTS - Reduce criminal jurisdiction to felony cases and those misdemeanors requiring a right to trial by jury. Reduce civil jurisdiction in money claims to amounts involving in excess of \$5,000 and add all juvenile and family case jurisdiction to all district courts by eliminating the Juvenile, Family and City Courts. The various types of jurisdiction
1. PARISH COURTS - Provide for trial jurisdiction in civil claims not to exceed the sum of \$5,000 and criminal trial jurisdiction on all misdemeanors not requiring a right to trial by jury including all municipal ordinance violations within the territorial jurisdiction.
- COURTS ABOLISHED - Family Court, Juvenile Courts, City Courts, Mayors' Courts, and Justice of the Peace Courts.

CHART # 3
PROPOSAL



1. -----

2. -----

3. -----

4. ----- Courts abolished

CHART # 3 NOTES

- 1. SUPREME COURT - Reduce criminal appellate jurisdiction to felony cases only.
- 2. COURTS OF APPEAL - Add final criminal appellate jurisdiction to extend to misdemeanors requiring the right to trial by jury.

DISTRICT COURTS - Provide for original trial jurisdiction of all matters. Court could sit in divisions by type jurisdiction where desirable. Provide for appellate division (3-judge panels) with jurisdiction of criminal appeals in misdemeanor cases not involving the right to trial by jury. Abolish trials de novo on appeal.

COURTS ABOLISHED - Family, Juvenile, Parish, City, Mayors' and Justice of the Peace.

NOTES

The following documents are found in the work file for the meeting of March 16, 1973.

Members of the Judiciary Committee of the Louisiana Constitutional Convention, 1973.

Gentlemen:

My name is Don C. Grieshaber and I am Judge of Section B of the First City Court of New Orleans. I am here representing Judges Seaber, O'Keefe and Wingert of the First and Second City Courts of New Orleans. My purpose in being here is to offer some recommendations for your consideration regarding the City Courts in New Orleans, which we believe are unique in respect to the other City Courts throughout the State of Louisiana.

The First City Court of New Orleans is composed of four Sections, A, B, C and a Section "D" which is presided over by the Judge of the Second City Court in addition to his duties as Judge of the Second City Court. Although the Court is called a City Court, the truth of the matter is it has nothing to do with any Municipal or Traffic matters. This Court is a Court of Record and the Judges' salaries are paid by the State of Louisiana and the Judicial Expense Fund only. The City of New Orleans contributes nothing to our salary.

As a matter of fact, the Court has been looked upon as a District Court of limited jurisdiction and functions as such. We have exclusive original jurisdiction up to \$100.00, concurrent jurisdiction with the Civil District Court up to \$1,000.00 and unlimited jurisdiction on reconventional demands on all money matters.

Historically, many years ago, the maximum jurisdiction of the Court was \$300.00. It was changed to \$1,000.00 jurisdiction because of inflation. Now inflation has eroded the \$1,000.00 jurisdiction to a point where it has become insignificant. We would propose the following:

1. That the First City Court of New Orleans be made a part of the Civil District Court.
2. That the jurisdiction of this Court on money matters be limited to:

- (a) Exclusive original jurisdiction up to ~~\$1,000.00~~ ^{\$3,000.00}
- (b) Concurrent jurisdiction up to \$5,000.00 and unlimited jurisdiction on reconventional demands
- (c) Exclusive jurisdiction on all rent matters.

3. That the terms of the Judges be 12 years, the same as the Civil District Court.
4. That the salaries of the Judges be the same as the Civil District Court Judges.

In all other respects the present Constitutional Article shall remain the same.

We believe if the above recommendations are carried out there would be a definite improvement in the overall administration of justice in civil matters. We might point out that insofar as the removing of the right to practice law, there would be no objection from the Judges of the Court because as a matter of fact, we would be compensated by an increase in our term of office and in increased salaries for our foregoing the practice of law.

The terms of office and salaries should be the same as the Civil District Court Judges since we will be contributing the same amount of

time and effort. It is our opinion that the First and Second City Courts should be consolidated.

There is no doubt that if the above proposals are carried out it will relieve the work load of the Civil District Court Judges whose time could be spent more profitably on other matters such as having more time for jury trials.

Respectfully submitted,

Don C. Grieshaber
Don C. Grieshaber
Judge, First City Court, Section B
Representing all Judges of the
First and Second City Courts of
New Orleans



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 P. BOX 4447 BAYTOWN, LOUISIANA 70084

AGENDA
COMMITTEE ON THE JUDICIARY
MARCH 23, 1973

Roll Call

Reading of the minutes

Announcements

Speakers:

✓ Chief Justice Joe W. Sanders
Louisiana Supreme Court

✓ Associate Justice John A. Dixon, Jr.
Louisiana Supreme Court

✓ Judges of the Parish Courts of Jefferson Parish:

Judge Cyril J. Gracianette (1st Parish Court)
Judge John Jackson Molaison (2nd Parish Court)
Judge Douglas A. Allen (1st Parish Court)

✓ Judge Bernard J. Bagert
Criminal District Court, Orleans Parish

✓ Judge Edward N. Engolio
18th Judicial District Court

Business of the Committee

Adjournment

(3/23/73)

Remarks: First City Court of New Orleans

The first observation concerning the revision of the Louisiana Constitution is applicable not only to the judiciary article, but to the entire Constitution. It is one with which I am sure you are familiar, but has not received much currency in the discussion of the constitutional revision. The observation is that a lengthy Constitution with detailed provisions minimizes the area in which courts will operate in their role of "interpreting" the basic law of the State. On the other hand, the shorter the Constitution, the greater will be the power of the Supreme Court of the State, and the greater will be judicial activity in determining policy matters previously thought to be within the proper realm of the legislative and executive branches of the government.

It does not seem to me that there is any popular demand in the State of Louisiana for increased activity in

the judicial system in deciding matters outside the existing legal structure.

As for the suggestion of shortening the Constitution by relegating certain large bodies of legislative matter to the status of "super statutes" (for example, removing civil service provisions from the Constitution, with a requirement that they can only be amended by two-thirds vote of the legislature) this also will result in a unique judicial activity in Louisiana. We have no body of law in this State governing

- 1 -

the interpretation of "super statutes." It is probable that at one of the first sessions of the legislature there will be legislative acts affecting the subject matter of some "super statutes" which will be passed by a simple majority vote. The tendency in the judicial system will be to uphold the legislative act, in spite of any provision which would prohibit the amendment of the "super statute" except by a two-thirds vote of the legislature.

In my opinion, the initiation of statutory materials with three levels of force and dignity--constitutional, "super statutes," and ordinary statutes--will furnish frequent subject matter for litigation and considerable uncertainty. I think it would be much better to have a lengthy Constitution with some certainty about methods of interpretation than a short Constitution, with greater powers of interpretation given to the judicial system, with a new kind of statute, the methods for interpretation of which have not yet been invented.

- - - - -

A general observation about the judicial article is that there should be two principles considered in deciding each question that will arise before this committee. The principles which should govern all decisions in determining each controversial question in the judicial article are:

1. It is essential for the adoption of the Constitution and for the successful operation of the judicial system that the people of the State have confidence in the judiciary.

- 2 -

2. It is essential to the functioning of representative government that the judiciary be independent.

Neither of these principles requires amplification. They are almost self-evident. If people don't trust the courts, government can't function. If the judiciary is not independent, it can no longer perform the function for which

it is designed--that is, the determination of disputes among the citizens of the state according to law.

Several things may contribute to public confidence in the judicial system. One of the most obvious is the method of selection. The other, of course, is how well the courts do their work.

The so-called merit system of selection has a nice sound to it, and is at present popular among informed people. However, if such a system is adopted in the future, and people realize that they have almost no voice in the selection of the judges in this State, there will be an immediate loss of confidence in the system.

Under any system of merit selection, there is a committee of some sort which determines what names shall be submitted to the appointing authority to fill judicial office.

Who names the committee who names the candidates from whom the judge will be named?

I would not anticipate that this method of selection will, in the long run, increase the confidence which people have in the judicial system.

- 3 -

As a matter of fact, in Louisiana, there have been semi-serious movements (which could easily become much more serious if they had found support in other states) to change as much as possible the appointive method of selecting federal judges.

It would be very difficult to prove that the merit system of selection of judges deserves less public confidence than election. Nevertheless, I am also convinced that the argument will be made, and that there would be a very strong and very vocal opposition to a plan which changes judicial selection from the elective process to a plan of so-called merit selection. Very active in opposition to a change from the existing system of judicial selection will be nearly all the incumbent judges. I have only known a few judges in Louisiana who favored the abolition of the present system of judicial election. Everybody thinks that the way he got the office is the right way, and the way it ought to be, with two important exceptions:

1. Every judge who has been involved in a general election against a Republican opponent is convinced of the danger of partisan elections, that is, elections in which judicial candidates nominated by one party run against judicial candidates nominated by another party. Judicial officers elected in a partisan election are likely to be

John F. Kennedy) might result in a radical change in the personnel of the judiciary--a change wrought not by democratic deliberation, but by a mere accident of politics.

2. The other change which most presently elected judges would like to do something about is the tremendous cost in a contested election. There is no patronage connected with a judicial office, and the only legitimate promise a judicial candidate can make is to work hard and to do justice. Such a promise is not conducive to large numbers of substantial contributions to defray the cost of election.

However, it would probably not be advisable for the Constitutional Convention to attempt to enact a rule for the cost of elections, except to provide for the principle of non-partisan election of judges.

There are several factors contributing to the independence of the judiciary. First, of course, is the method of selection. As an aside, I must say that I have never been able to determine from any study or any research that the quality of judges in any judicial system in the United States depends on the manner of judicial selection. I have been acquainted with studies which were made in an effort to determine whether the administration of justice by judges under one system was superior to the administration of justice by judges under another system. It was found that the quality of justice was equally determined whether the judges were selected by election or by appointment. The quality of justice is determined by the quality of the judges.

There are a few standards by which one can be measured, such as speed, the duration of cases. It has never been determined that judges selected by one system terminate cases faster than judges selected by another system.

Otherwise, it is very difficult to measure the quality of justice. Those who investigate seem to agree however that good judges and bad judges occur indiscriminately, and apparently independently of the method of selection of the judges.

Other things that contribute directly to the independence of the judiciary and the quality of the judicial officehold are the obvious ones--tenure, compensation and other benefits such as retirement.

I imagine there will be some controversy over retaining the judicial retirement system within the Constitution, when so much effort will be made to remove other retirement systems from the Constitution. It seems to me that this decision could be controlled by determining whether leaving the judicial retirement system in the Constitution will tend toward a more independent judiciary. If so done, I think the judicial retirement system ought to stay in the Constitution.

There are some specific matters which will be involved in the revision of the judicial retirement system which would like to make recommendations to the committee.

will be raised by groups who wish to make a change in the present system. Some of them will arise if there are changes.

The particular subjects to which I would like to call your attention are:

1. Retention of the Louisiana system in the trial and appeal of civil cases.
2. Unification of the court system.
3. Management and administration of multi-judge courts.
4. Status of special courts and "fourth-level" courts.
5. Mandatory retirement age.
6. Criminal appeals.
7. Removal of district boundaries from the constitutional article.

1. Retention of Louisiana System in Civil Cases.

Louisiana is a mixed law jurisdiction, both as to substantive law and procedure. Our historical origins enabled our forefathers to draw upon the legal genius of both systems of law in the Western world. As Louisiana procedural law developed, it became a model for other progressive states in the United States. We developed early in our history a very fine technical system of the best procedural law in the United States.

As our civil system developed, it was the best in the world. It was the best in the world because it was the best in the world. It was the best in the world because it was the best in the world.

We have faced numerous problems in the past. We have faced numerous problems in the past. We have faced numerous problems in the past.

of the country. But it is a fact that, at least in one district in Louisiana, there is almost no delay in the trial of civil cases, and the absolute minimum delay in the final disposition of those cases on appeal.

By this I mean that, in almost every non-jury case, a civil action which is ready for trial any Tuesday can be fixed for trial on Wednesday and tried during the next week. I don't know of another place in the country where this can be done.

It is true that sometimes a decision is delayed by a trial judge who does not act expeditiously. However, in the absence of such a delay, a case tried in the district court can be appealed and finally decided in the appellate process within a six months period from the date of trial.

One thing that makes this possible in Louisiana is the general practice of trying civil cases to a judge alone, without a jury. Louisiana lawyers and litigants have been satisfied with this procedure because of the full and complete review of each case on appeal. Our Constitution has provided for review of both the law and the facts by the Court of Appeals in civil cases. Article 7, § 2 of the Constitution provides that appeals from the district courts shall be heard and decided by the Court of Appeals, and the Court of Appeals is an appellate court of the Supreme Court.

On the other hand, Louisiana recognizes the great value in the availability of juries in the trial of some civil litigation. Suits for damages arising out of contracts or torts can be tried by jury in the district court.

Special interest groups in Louisiana complain that our law does not provide that a determination of fact by the jury is final. Sometimes a jury verdict is reversed on appeal on questions of fact. This is not a frequent occurrence, and my experience as a trial and an appellate judge has been that the factual finding of a jury is accorded great weight in the Louisiana judicial system. Appellate judges are much more reluctant to overturn a factual finding of a jury than the factual finding of an individual judge. It is my conviction that the power (and the obligation) of the appellate courts to review the facts in civil cases is a great safeguard to the rights of Louisiana citizens.

4. Unification of the Court System.

The unification of the court system in Louisiana is a subject not far from which you are thoroughly familiar, and I shall only suggest that the consolidation and unification of the court system is only the next logical step forward. The elimination

of the autonomy of special courts will make available more judicial manpower and greater flexibility in providing judicial services. The quality of justice received, consisting of a more efficient and economical trial procedure, could be enhanced by the unification of the court system.

On the other hand, those special courts (like juvenile courts, family courts and city courts) which require specialized knowledge or special talents are much more likely to be staffed by judges with such knowledge and talents in a multi-judge district where the courts can fit the judge to the job, and on shift judges as the burdens in certain areas temporarily increase or decline.

3. Management and Administration of Multi-Judge Courts.

The success of the unification of the court system probably depends on the management of a multi-judge district. At present, each judge is an elected public official. With rare exceptions, he is subject to no one in the performance of his duties. He is completely autonomous and works as he sees fit, subject only to vague political pressures. There is no "head man" in a multi-judge district, under our existing law. Since judges are constitutional officers, it would be desirable, if there is a unification of the court system at the trial level, to include a provision for naming one judge to be the administrative officer of the court.

My experience and observation lead me to the conclusion that necessity is not the best way to choose the person to be administrative judicial officer. Since his job will require the ability to judge and to make decisions, he should be elected to his office for a period of

years by his fellow judges would obtain the best man for the job.

4. Status of Special Courts and "Fourth Level" Courts.

If a system of unification of courts at the trial level is adopted, constitutional status of city courts, justices of the peace and specialty courts should be removed (and probably should be removed whether or not there is a constitutional provision concerning unification).

5. Mandatory Retirement Age.

Some older judges with whom I have discussed the matter consider that mandatory retirement age should be seventy. One immediate advantage of the institution of such a mandatory retirement provision would be to make available for special assignment in emergency areas experienced and competent judges who have already reached mandatory retirement age. This will allow Louisiana not to waste the talents and abilities of those judges who are over seventy who are still vigorous, alert and experienced.

6. Criminal Appeals.

Without discussing the matter in detail, the recent expansion of the Louisiana Supreme Court is becoming current and its criminal docket has demonstrated that there is no need for a separate court for criminal appeals, and there is an additional need to transfer to the Court of Appeals.

7. Repeal of District Boundaries from the

Constitutional Article.

Frequent economic and population changes result in the need to change the boundaries of certain judicial districts. It would be easier if this could be accomplished by legislative act, instead of a constitutional amendment. Therefore, I believe the district boundaries should be removed from the Constitution.

17 -

PRESENTATION OF CHIEF JUSTICE JOE W. SANDERS TO THE JUDICIARY COMMITTEE OF THE LOUISIANA CONSTITUTIONAL CONVENTION RELATIVE TO THE JUDICIAL ARTICLE ON MARCH 23, 1973 AT BATON ROUGE

JUDGE DENNIS AND MEMBERS OF THE COMMITTEE:

I appreciate the opportunity that you have afforded me to express my personal views on the judicial Article. The people of Louisiana are vitally interested in improving their court system. Some improvement, of course, can be achieved in court administration itself. I am sure, however, that other improvement can be achieved by you in designing the court system for the new Constitution.

I commend your committee for the earnest manner in which you have undertaken your duties. Your intensive hearings, supplemented by outside study, should permit you to build an improved structure for the Louisiana courts. I sincerely hope that you can fashion a system that is sound and efficient.

I shall address myself today to no more than eight points, which I regard as of major importance. I shall, of course, be pleased to answer the questions of your committee after formal presentation.

- 1 -

COURT SESSIONS

There has been much discussion in recent years concerning court terms or sessions. Most courts in the urban areas are presently sitting on a wide range of cases throughout the year. The time has come, I think, to recognize in our Constitution that justice is not seasonal. I recommend, therefore, that the judicial article provide that all state courts sit throughout the year, with a provision that the Chief Justice and Judicial Administrator arrange for each judge to have a personal vacation as fixed by Supreme Court rules. I attach to this presentation a nationwide study that I have had made for the use of your committee.

SELECTION OF JUDGES

A public dialogue has been in progress for sometime relating to the method of selecting judges. Such public discussions are to be commended, in that they tend to promote improvement. Some sincere people favor a system whereby judges will be appointed by the Governor from a list of nominees submitted by a nominating committee composed of judges, lawyers, and citizens. The appointment would be followed after a fixed term by a submission to the people of the question of whether the judge

- 2 -

should be retained in office. This system, in my opinion, does not eliminate politics in judicial selection but narrows it to a small group. I have given the matter thoughtful consideration for several years. In my judgment, our elective system of selecting judges should be retained but strengthened by providing that judicial candidates should be placed under a non-party listing on the ballot.

I favor the elective system for many reasons. I mention only three.

First, it is democratic.

Second, it supports the principle of full accountability of judges for their actions while holding judicial office.

Third, it promotes public interest in our court system.

RETIREMENT OF JUDGES

Under the principle already adopted in the 1921 Constitution, the new Constitution should provide for the compulsory

retirement of judges at a fixed age. This provision is designed to prevent the retention of judges in full-time service beyond the time when they lose their full powers and faculties.

- 3 -

I recommend that the compulsory retirement age be fixed at 70 years, with a provision that the new retirement age shall not affect the present term of any judge and as to those who would otherwise be affected in the term, that they mandatorily retire at 75.

The use of retired judges on assignment with their consent should be continued. The assignment provision would, of course, permit the use of any retired judge who is willing and capable to sit during docket emergencies, illness of other judges, and related contingencies.

The retirement pay provisions of the present Constitution should not be changed to the prejudice of any judge now serving or previously retired. Scores of judges now serving left law practices with higher income relying upon the retirement pay presently provided.

DISCIPLINE OF JUDGES

The present Judiciary Commission, composed of Judge, lawyer and citizen representation, has done an excellent job in the discipline of judges for misconduct.

I recommend that it be retained as presently constituted.

- 4 -

I also recommend, however, that the procedure be strengthened in one respect. The Constitution should provide that when the Commission files a petition for removal of a judge in the Supreme Court of Louisiana, the Commission may recommend and the Court may order the immediate suspension of the judge pending the outcome of the case.

The spectacle of a judge under serious charges for removal hearing important cases affecting life, liberty, and property shocks the public conscience.

A nationwide study relating to this recommendation is attached to this presentation.

COURT OF GENERAL JURISDICTION

The court of general jurisdiction should be the district court, merging into it the separate juvenile and family courts now existing in various parts of the state. The unified court would have a flexibility of divisions created by court rule according to need, i.e. criminal division, family division, small claims division, civil division, etc.

Such a unified court, in my opinion, would be an improvement.

- 5 -

CITY COURTS - PARISH COURTS

Consideration should be given to merging the City Courts into Parish Courts, with authority for the court to sit in any locality within the parish as the public need for judicial service would require.

JURISDICTION OF SUPREME COURT

For sometime careful observers have known that the caseload and work of the Supreme Court has increased many times. The volume is such as to detract from the quality of the Court's work. It places an unreasonable burden on the members of the Court. A revision of the Court's appellate jurisdiction is required.

In civil matters, the Supreme Court should have jurisdiction on direct appeal only when a state statute has been declared unconstitutional by the trial court. All other civil matters would follow the regular route through the Court of Appeal.

In criminal matters, the Supreme Court should retain criminal jurisdiction. Convicted defendants should have an appeal as a matter of right in all felonies and in those misdemeanors in which imprisonment of more than six (6) months or a fine of more than Five Hundred (\$500.00) Dollars has actually been imposed.

- 6 -

Such a definition of direct appeal would conform to the jury trial provisions in our code and leave the direct-appeal right broader than it is in some states. In other misdemeanors, the defendant could obtain review by application under the Court's supervisory jurisdiction.

THE OFFICE OF CHIEF JUSTICE

Several legal authorities who have appeared before your committee have recommended that the Judicial Article have a clear statement of the administrative authority of the Chief Justice. I agree with this recommendation.

Again, I thank the Committee for hearing my views on these aspects of the Article. I file with the Committee for its further consideration a copy of this presentation with the studies attached.

- 7 -

II.

CONTINUOUS COURT SESSIONS AND JUDICIAL VACATIONS

(Source: Letters received in June, 1972 from State Court Administrators throughout the United States for the Louisiana Legislative Council, see also Memorandum of Frank Noise outlining the provisions of Louisiana law on the subject)

The courts in the following states are in continuous session throughout the year, and judges' vacations are arranged by the Supreme Court for periods varying from three to six weeks depending upon the State:

- New Jersey
New York
Maryland
North Carolina
Puerto Rico

The courts in the following states are in continuous session throughout the year, and judges' vacations are arranged at the discretion of the individual judge or by the chief judge of the court, rather than by the Chief Justice of the Supreme Court and the Judicial Administrator, with vacation periods varying from three to six weeks depending upon the State:

- Missouri (metropolitan courts only)
Guam
Kentucky
Idaho
Oregon
Arkansas
Connecticut
California
New Mexico
Texas
Iowa
Indiana
Arizona

EXHIBIT 2

I.

COMPULSORY RETIREMENT OF ALL JUDGES AT AGE 70

(Source: The Book of the States, 1972 - 1973, The Council of State Governments, Pages 133-135)

Retirement is compulsory at age 70 in the following states:

- Alabama
Connecticut
Florida
Hawaii
Idaho
Illinois
Kansas
Maryland
Massachusetts
Michigan
Missouri
Montana
Nebraska
New Hampshire
New Jersey
New York
North Carolina (superior court judges)
Ohio
Pennsylvania
Puerto Rico
Utah (trial judges)
Vermont
Virginia
Wisconsin

1 Judge may complete his term if he has served at least half of it when reaching age 70.

2 A Judge may complete a term started before reaching age 70.

3 Retirement must occur within 30 days after reaching age 70 or after ten years' service, whichever is later.

4 For those judges under the Missouri Non-partisan Court Plan.

5 Retiree judges may be certified by an administrative board as active retired justices of the Supreme Court (trial court) for three successive periods of two years, up to age 76.

6 A judge may not be appointed or elected to a term beginning after his 70th birthday.

The following states penalize judges for failing to retire at age 70 by reducing their pension benefits:

- Arkansas (100%)
Minnesota (100%)
Tennessee (50%)
California (judges' and widows' benefits reduced)
New Mexico (forfeits widows' benefits)

Retirement is compulsory at age 71 in the following state:

- Maine

Retirement is compulsory at age 72 in the following states:

- Colorado
Iowa
South Carolina
Utah (Supreme Court)

The following state penalizes judges by reducing all benefits for failure to retire at age 73:

- North Dakota

Retirement is compulsory at age 75 in the following states:

- Louisiana
Oregon
Texas
Virginia (Supreme Court)
Washington

The following states have no compulsory retirement age:

- Delaware
Indiana
Kentucky
Mississippi
Nevada
North Carolina (except age 70 for superior court judges)
Oklahoma
Rhode Island
South Dakota
West Virginia
Wyoming

Attachment to I.

LOUISIANA JUDGES IMMEDIATELY AFFECTED BY A COMPULSORY RETIREMENT AT AGE 70 PROVISION ADOPTED IN FEBRUARY, 1974

Table with 3 columns: Name, Court, Age on 2/74. Lists judges like H. W. Ayres, William T. Bennett, Oliver P. Carriere, James R. Dawkins, J. Cleveland Fruge, W. Blair Lancaster, Jr., S. Sanford Levy, Morris A. Lottinger, Louis Lyons, Arthur J. O'Keefe, Jr.

NOTE: THESE WOULD BE ALLOWED TO SERVE UNTIL THEY REACH 75 YEARS.

III.

SUSPENSION OF A JUDGE AND HIS SALARY PENDING
THE OUTCOME OF A CRIMINAL CHARGE OR A
REMOVAL PETITION FILED BY THE JUDICIARY COMMISSION

(Source: Judicial Disability and Removal Commissions,
Courts and Procedures, American Judicature Society, 1972)

The typical provision on the subject is as follows:

- a) "A judge is disqualified from acting as a judge, without loss of salary, while there is pending
- 1) an indictment or information charging him in the United States with a crime punishable as a felony under 'Alaska' or federal law, or
 - 2) a recommendation to the Supreme Court by the Commission for his removal or retirement.
- b) "On recommendation of the Commission or on its own motion, the Supreme Court may suspend a judge from office without salary when in the United States he pleads guilty or no contest or is found guilty of a crime punishable as a felony under 'Alaska' or federal law or of any other crime that involves moral turpitude under that law. If his conviction is reversed, suspension terminates, and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final the Supreme Court shall remove him from office."

The above provision is essentially found in the following states:

Alaska	Indiana
Arizona	Minnesota
California	Missouri

Provisions in the state of Utah contain only Paragraph (b) above.

The state of Colorado has a slightly more detailed provision, as follows:

"Whenever a justice or judge of any court of this state has been convicted in any court of this state or of the United States or of any state, of a felony or other offense involving moral turpitude, the supreme court shall, of its own motion or upon petition filed by any person, and upon finding that such a conviction was had, enter its order suspending said justice or judge from office until such time as said judgment of conviction becomes final, and the payment of salary of said justice or judge shall also be suspended from the date of such order. If said judgment of conviction becomes final, the supreme court shall enter its order removing said justice or judge from office and declaring his office vacant and his right to salary shall cease from the date of the order of suspension. If said judgment of conviction is reversed with directions to enter a judgment of acquittal or if reversed for a new trial which subsequently results in a judgment of dismissal or acquittal, the supreme court shall enter its order terminating the suspension of said justice or judge and said justice or judge shall be entitled to his salary for the period of suspension. A plea of guilty or nolo contendere to such a charge shall be equivalent to a final conviction for the purpose of this section."

The provision for the District of Columbia is also slightly different, as follows:

"A judge of a District of Columbia court shall be suspended from all or part of his judicial duties, with salary, if the Commission, upon the concurrence of the members, (A) orders a hearing for the removal or retirement of the judge pursuant to this subchapter and determines that his suspension is in the interest of

the administration of justice, and (B) files an order of suspension in the District of Columbia Court of Appeals. The suspension shall terminate as specified in the order (which may be modified, as appropriate, by the Commission) but in no event later than the termination of all appeals."

Likewise, the New Jersey provision differs slightly, as follows:

"The Supreme Court may suspend a judge from office, with or without pay, pending the determination of the proceeding; provided, however, that a judge shall receive pay for the period of suspension exceeding 90 days. L. 1970, c. 151, sec. 5, eff. July 24, 1970."

In Oklahoma, the provisions are as follows:

"Pending the determination of the proceedings, the Trial Division in its discretion may suspend the respondent from the exercise of his office."

"In the event the petition prays for a temporary order suspending the respondent from the exercise of his office during the pendency of the proceedings for removal from office or compulsory retirement from office, said petition shall show upon its face facts that an emergency exists and that great and irreparable harm and injury will occur if the respondent is not so suspended.

"Upon the filing of said petition, the presiding judge shall issue an order to the respondent to appear at a date, time and place certain to show cause why he should not be suspended from the exercise of his office pending further proceedings in said cause.

"The burden of proof at the show-cause hearing shall be upon the prosecution.

"The presiding judge shall convene the Court within five (5) days from the issuance and service of said order to hear said show-cause order.

"At the hearing upon the show-cause order, the respondent may raise any jurisdictional issue he may desire."

The provisions in the state of Oregon are also somewhat differently worded, as follows:

"If, after hearing or after considering the record and report of the masters, the commission finds that the conduct of the judge justifies censure, suspension or removal from office, the commission shall recommend to the Supreme Court the censure or suspension or removal of the judge.

"During the pendency of any proceedings under this section, the Supreme Court by order may disqualify the judge whose conduct is the subject of such proceedings from exercising any judicial function."

NOTES

C.J. Burger dissent in Bivens v. Six Unknown Agents 388 U.S. 403, 411 (1971) and 37 U.Ch.L.Rev.665 (1970) omitted.



AGENDA
COMMITTEE ON THE JUDICIARY
MARCH 30, 1973

F. L. HENDRICH, CHAIRMAN

Roll Call

Reading of the Minutes

Announcements

Speakers:

MR. HARVEY SOLOMAN, Director of Studies
Institute for Court Management

MR. BEN R. MILLER, SR.
Representing the Louisiana State Bar Association

MR. ALLAN ASHMAN, Director of Research
American Judicature Society

JUDGE RICHARD J. GARVEY
Civil District Court, Orleans Parish

JUDGE S. SANFORD LEVY
Civil District Court, Orleans Parish

JUDGE MATTHEW S. BRANIFF
Criminal District Court, Section B, Orleans Parish

JUDGE OLIVER P. SCHULINKAMP
Criminal District Court, Section F, Orleans Parish

JUDGE EDWARD G. GILLIN
Juvenile Court, Orleans Parish

JUDGE LOUIS P. TRENT
Traffic Court, Orleans Parish

A Representative of City Courts, Orleans Parish

A Representative of Municipal Court, Orleans Parish

Business of the Committee

Adjournment

LEO B. BLESSING
JAMES P. O'CONNOR
EDWARD G. GILLIN
ERNEST N. MORIEL



TELEPHONE 524-5393

ORLEANS PARISH JUVENILE COURT
CIVIL COURTS BUILDING - CIVIC CENTER
421 LOYOLA AVENUE
NEW ORLEANS 12 LA
March 30, 1973

Judge James L. Dennis
Chairman, Committee on Judiciary
Constitutional Revision Commission

To the Honorable Judge Dennis and Members of the Committee on the Judiciary:

We, the undersigned Judges of the Orleans Parish Juvenile Court, through the medium of this letter, wish to express our views on the proposed revision of the Judicial Article of the State Constitution with particular reference to the status of separate Juvenile Courts.

Orleans Parish, along with the East Baton Rouge Parish Family Court, the Jefferson Parish Juvenile Court, and the Caddo Parish Juvenile Court are courts having separate and exclusive jurisdiction over juveniles as set forth in the present Constitution. The system of Juvenile Courts, having sole exclusive original jurisdiction in juvenile matters, is, of course, nationwide. There are some thirty-five hundred judge members of the National Council of Juvenile Court Judges. It has long been the position of the National Council that Juvenile Courts should remain separate courts and should not form a part of the civil or criminal system with the ensuing rotation or assignment of Judges to and from other courts. Juvenile Courts represent a separate system distinct from civil or criminal laws and procedures. They are neither civil nor criminal and in many cases both civil and criminal laws and procedures may be involved and applied in the one hearing. In many respects a Juvenile Court is both a court and a clinic with specialized personnel utilizing a variety of techniques not traditional to the criminal or civil system. The National Council has correctly observed that where Juvenile Courts are made a part of the general system of courts, the ensuing product falls short of the desired results.

Juvenile Courts since their origin have struggled for separate identity, with relaxed rules of procedure and definite goals of rehabilitation. However, over the years it has been the fate of Juvenile Courts to receive second-class consideration when it comes to supplying the necessary needs of the Court by public funding. In recent years

great emphasis has been placed upon the work of the Juvenile Courts, resulting in greater receptivity by public officials regarding the needs of Juvenile Courts. We are confident that if the separate identity of Juvenile Courts is maintained, the hard won gains will be preserved. If, on the other hand, Juvenile Courts are integrated into a conglomerate, we envision that the old experience will again return and Juvenile Courts will receive second-class status in the judicial family. Presupposing the evolution toward a centralized administration of courts and the funding of courts, we would be further impressed that the specific and unique needs of Juvenile Courts will not be thoroughly understood or appraised by administrators who have had no experience at all with Juvenile Courts. We urge that your Committee maintain the separate status of those Juvenile Courts which are now separate in jurisdiction and concept. If, upon consideration of the foregoing, the Members of your Committee believe that the thoughts expressed above have merit, or at least create a lingering doubt about integration of Juvenile Courts, then we respectfully request that you take such a position consistent with our views.

Juvenile Court Judges have the rank of District Judges according to the present Constitution, receive the same salary, and must be possessed of the same qualifications as District Judges. We are members of the District Judges Association. Our term is for eight years. Juvenile Court Judges should have the same term of office as District Judges sitting within their Parish, which in Orleans Parish is twelve years. We are of the opinion that District Judges and separate Juvenile Court Judges, having the rank of District Judges, throughout the State should have a uniform term of twelve years. The public complains about politics within the judiciary. The only way to make the judiciary independent of politics is for an informed electorate to vote for their judges and to extend a term sufficiently lengthy to remove the newly elected judges from the pressures which inevitably accompany him to the bench. We call to your attention the many excellent younger men coming to the Louisiana bench. If these Judges cannot feel secure and removed from political pressures and are required to stand for re-election repeatedly, it is likely that the old experience, which gnaws at the public confidence will never vanish. An expression by your Committee advocating twelve-year terms will strike a note of confidence for the future, and a break with the reactionary pressures of the past.

Finally, Juvenile Court Judges feel that jurisdiction over juvenile traffic matters should remain in Juvenile Court rather than placing such cases in specialized traffic courts. The reason is clear when one is reminded of the purpose and philosophy of Juvenile Courts. Judges in a Juvenile Court setting are concerned with the education and development of the juvenile mind and habits of responsibility, not primarily concerned with revenue for the Parish treasury. We have an opportunity to discuss all of the problems with the parent and child, who appear together in Juvenile Court, and can very often lay the foundation for greater communication between the parent and child and greater receptivity on the part of the child of the authority and role of the parent. It is in such hearings as traffic cases that Juvenile Court Judges can do much in preventing delinquency. It is not likely that specialized Traffic Courts can render such individualized consideration and produce such fruitful returns.

We are prepared to assist your Committee in whatever way possible toward the accomplishment of the ends expressed above. We are available for further testimony or advice at your pleasure.

Yours truly,

Leo B. Blessing
Judge Leo B. Blessing

James P. O'Connor
Judge James P. O'Connor

Edward G. Gillin
Judge Edward G. Gillin

Ernest N. Moriel
Judge Ernest N. Moriel

EGG:jcs

March 8, 1973

Miss Mary Elizabeth Wisdom
707 Fern Street
New Orleans, Louisiana 70118

Dear Miss Wisdom:

This will acknowledge receipt of your letter of March 5, soliciting my views with respect to "unification" of the civil and criminal courts in Orleans Parish.

First, there should be a definition of what is meant by unification, or as I have sometimes heard it called, consolidation. If it is meant thereby that all the judges would have both civil and criminal jurisdiction and try both types of cases, I can think of nothing more unjustified, unrealistic, and undesirable. In this day of advanced technology and an expanding area of man's activity

in both the civil and criminal field, not to mention administrative law, it is sheer folly to expect as desirable an increase in the judges' knowledge and expertise. Law generally covers all of man's activities. There can be no doubt that in the past 25 years there has been a burst and expansion of law covering such activities. For example, the growth and development of aviation law, as well as that governing the affairs of increasing numbers of governmental bureaus and divisions.

In every other field, particularly medicine, there has been recognized and applied the need for specialization. It seems to me that the unification of civil and criminal jurisdiction represents the antithesis, and is pointed in the wrong direction. Instead of developing civil and criminal law specialists, this move would serve to attenuate, dilute, and diversify the attention and expertise of the

Miss Mary Elizabeth Wisdom -2- March 8, 1973

judges. It simply does not, to my mind, make good sense. If it is implemented in the field of law, I darsay it would be the only profession which is moving in this backward direction. It amazes me that intelligent people who have had experience in law even contemplate such a retrogressive step.

In the past 12 years, due largely to an activist United States Supreme Court, there has been in the field of criminal law a veritable revolution, with many cases making the great body of federal criminal law applicable to the states. This results in state judges not only having to know state law, but federal law as well. For example, in 1961, the case of Mapp vs Ohio, decided by a divided United States Supreme Court, made the exclusionary rule formerly existing only in the federal jurisdictions applic'ble to all 50 states.

Additionally, with the advent of the great outcropping of applications for writs of habeas corpus by convicted state prisoners who find a receptive ear in the federal judiciary, there has been a great need for state trial judges to explore and become adept in this wide field of law.

I recognize that there are those who state an argument which in substance goes like this: It would be well to consolidate civil and criminal jurisdictions because criminal judges handling nothing but oppressive, melancholy, and sad criminal cases, dealing with the drags of humanity, thereby become warped, calloused, and cold; and it would be a refreshing change were they to handle civil cases as well. My opinion is that this represents an uninformed, superficial, and rather vague position, and is not worthy of more than a casual but firm rejection.

If, on the other hand, "unification" has a reference to the financing and administrative aspects of court operation, I would be one hundred percent for it. For one thing, it would eliminate or at least tend to alleviate the struggles which the criminal judiciary have had in an attempt to secure public recognition of its problems and adequate financing, i.e., the long neglected and horrendous parish prison situation.

Miss Mary Elizabeth Wisdom -3- March 8, 1973

It would also tend to put an end to the condescending attitude which all too many of the bench, bar, and general public entertain with reference to the criminal law and which has resulted in its being considered the "stepchild" of the law, and the neglect which the criminal law has endured for all too long. To illustrate the point: Often have I heard civil lawyers, particularly those from big firms, say publicly in a condescending tone, "Oh, I don't practice criminal law," as if there was something nefarious or unclear about this aspect of the law -- which is so vital, if our very civilization is to continue. In a similar vein, it will be noted that without fail, at any kind of public or bar function, when judges are introduced, the criminal judges invariably come after the civil judges.

In short, I believe that there are many improvements that could be made by unifying the courts from these standpoints, but by having the judges engage in their respective specialties rather than diluting and therefore weakening their capabilities.

I would appreciate the response of the League to my position as stated herein.

I feel certain that I speak for other judges in expressing to the League my appreciation for its interest in judicial affairs.

Sincerely,

Oliver P. Schulingkamp,
Judge, Section "F"

OPS:dg

(Presentation of Judge S. Stanford Levy)

Because of the time element, my age and tenure of office, the latter apparently being protected by the call for the Constitution Convention, I believe that I can qualify as an impartial ^{and objective} witness. I would not, however, consider myself as being a disinterested witness, because I am interested in trying to preserve, what my experience as a practicing attorney for some 35 years and a District Judge for about eight years and a City court judge for one year, has convinced me is one of the best and most practical judicial systems to be found in any large Metropolitan Area. In my attendance at the annual meetings of the National Conference of trial judges I have had an opportunity to learn of the frailties and short comings of the type of system which some now advocate we adopt.

I am primarily opposed to change just for change sake alone, and unless someone can show that our system is not working to the best advantage of litigants I certainly feel that no change should be made.

If it ever becomes possible to adopt what I consider to be the Federal System where there is erected one very large building in which all District, City, Juvenile courts, mortgage and conveyance and Notarial archives, Clerk of court and Sheriff are housed and each Judge has his own fixed docket, whether it be Civil, Criminal or Juvenile, then this may be a step forward-- although I doubt it. In this event, of course, there would be no need for two Sheriffs, four clerks, and a Constable.

However, if you give consideration to any idea of having one set of judges sitting in the building at Broad and Tulane Avenue and the other set sitting in the present Civil Courts Building, interchanging the judges at the direction of either the Supreme Court or the Chief Justice of that Court, then I say to you that you make everybody's business nobody's business and you not only do not improve the system but you actually bring about a lessening of what I consider to be a most efficient judicial system of handling of all civil matters.

I might point out that it is essential for the operation of the Civil Courts that the offices of the Mortgage and Conveyance and now even the Notarial Archives be located in the same or an adjacent building and obviously the Criminal Court must be near some type of detention facilities. These may seem to be details but they are important ones which must be determined before you make any change in the present system. Then there is the matter of finances. The Civil District Court is financed by the self sustaining Judicial Expense Fund which has its counterpart in every other Parish of the State; by what is termed the "Clerk's Salary Fund", while the Criminal Court is financed by the State -- and partially by salary to the Judges -- by the City of New Orleans.

2

Until you are ready to have the State take over the complete financing of all judicial functions to attempt to intermingle the judicial expense fund with any other fund used to finance the criminal court system here would be to place an undue burden on the Civil litigants. At present the civil litigants bear the costs of operation of the civil district Court, except for the major portion of the judges salaries which is paid by the State -- actually the State should pay all of the judges' salaries because they are

states judges and litigants should not be burdened with this cost. On the other hand the state and/or the City, which means the taxpayers of the State and City pay the costs of operating the Criminal District court. This is as it should be because that court is there for the protection of the public - the taxpayer - generally and is not for the benefit of particular litigants.

The best legal brains of those seeking to improve the judicial system and the judicial process are convinced, as I am, that pre-trial conferences are of inestimable value in reducing the backlog of cases, both criminal and civil and especially civil. The use of the pre trial conferences has permitted civil judges to reduce their dockets from a backlog of 600 cases to less than 300 and permits the trial of sometimes two and three civil cases a day as compared to cases which might otherwise take two or more days to try. It is therefore most important that a judge have a docket of cases especially assigned to him. He cannot with facility try a case which has not been pre-tried by him or take over one in which many motions, exceptions or other similar types of pleadings have been heard by another judge. If therefore there is any idea of moving judges from one courtroom or courthouse to another trying cases not heretofore allotted and pre-tried by him you will do violence to the very procedure which, as I have said, the best brains consider to be a most important step forward in the improvement of the judicial process. And as I said before, everybody's business becomes nobody's business and you take away the incentive of every judge to improve his docket. Judges are no different than other individuals and they must have some incentive to do better - to actually compete with their fellow judges - to try to do a better job than the other.

Although I am of the opinion that we are living in an age of specialization and that any professional person can do a better job if he becomes more experienced in one area than another and that the proverb that "a jack of all trades is never master of any", ^{as well as such} I have no hesitancy in saying that I am satisfied that any of our Criminal Judges are just as capable as any of our civil court judges to try a civil matter and similarly any of our civil court judges are as capable as trying a criminal case as any criminal court judge. However, if we are to have a system of elected judges - not appointed - and I for one hope

3

you preserve the elective system in the new Constitution - then I think the public should have the right to elect a Judge to a particular type of court. Certainly a lawyer having devoted his professional career to the trial of criminal cases may be better qualified to be a criminal court judge than one who has never seen the inside of the criminal court building and vice versa. Again I think you do violence to the elective system if you permit any other body, be it the Supreme Court or its Chief Justice to place a judge in a position to which he was not elected, except of course either to fill a temporary vacancy or to relieve a heavily burdened docket.

Now, of course, if you want, for some reason to simply do away with the same Civil District Court, Criminal District Court, Civil Court, Juvenile Court, all in New Orleans and you wish to have a 34th Judicial District Court for the Parish of Orleans, to conform to the name used for the remainder of the State, and you have a criminal, a civil, a juvenile and a small claims court as divisions of that 34th judicial district court with judges elected to a judgeship in a particular division of that court, no one can find fault with such a decision - but you are simply calling a rose by another name. If this is done the method of selecting judges for a particular position or division should be left to the electorate and not to any group of either individuals, lawyers or judges. Either we have a complete elective system or we best abandon it and let judges be appointed by some committee or the Supreme Court.

Until you find a way to have one large building erected to house all of the courts including all offices adjunct to the courts and find some way of meeting political opposition to the abandoning of at least one sheriff, clerk and constable. I plead with you, the members of this Constitutional Convention not to disturb a plan which has worked so well for so long a period of time, with the least possible burden on the already burdened taxpayers of our community.

[Presentation of Judge Richard J. Garvey]

It is my opinion from talking to lawyers, litigants, citizen committees, civic organizations and others, that the prime concern of the citizens is for an independent judiciary; a judiciary independent from pressure and outside influence that will interfere with an efficient, honest, objective administration of justice.

In order to have an independent judiciary, many elements are necessary. First, the salary must be adequate compensation for the responsibility. The salary should be periodically adjusted to keep pace with inflation and other factors without requiring the Judiciary to lobby, plead with or make commitments to the Legislature. This can be accomplished by establishing a Commission which would periodically review the salaries and make recommendations which would become law if not vetoed by the Budget Committee of the Legislature.

Second, the terms of office of a Judge should be of sufficient length to remove him from the political arena.

I do not think it is reasonable to enforce on a Judge the Code of Ethics which prohibits outside Business Interests, Homestead and Bank Board membership, membership in political parties engaging in politics, running for any other office while a Judge and yet tell this same Judge that he must run for office every six years. Reasonable men must conclude that the shorter a Judge's term, the more political he can be expected to become.

The same is true when you consider the retirement of a Judge.

SHEET #2

I know of few Judges who retire voluntarily. Most serve until they are forced to retire because of a love of the law and their profession. But, when a lawyer leaves a successful law practice and becomes a Judge, any defeat prior to twenty-three years leaves him with no pension and no law practice. This necessitates deep concern when an election draws near and there is a serious temptation to protect one's interest by politics. I would seriously recommend to this Committee that they consider that all elections are for a full term and not an unexpired portion of a term and that all terms be for twelve years.

The City of New Orleans differs from most parishes in the State as to its lawyers and its Courts.

Few lawyers practice both Civil and Criminal Law and the majority of lawyers specialize not only in civil law but have specialties within the Civil Law.

The Judges have specialized, and few Civil Judges have ever practiced Criminal Law, and few Criminal Judges have ever practiced Civil Law.

A look at the statistics will show the efficiency of that system. Referring to: Annual Report, 1972 of the Judicial Council:

Jefferson Parish, a parish similar in that small civil cases, misdemeanors and traffic have been removed from the district court, as in Orleans, we see the following from Table 111F & G.

1972 Jefferson - Civil cases terminated by Judge trial,	976
Orleans -- " " " " " " " "	5,586
1972 Jefferson - Criminal Cases terminated by Judge trial	55
Orleans -- " " " " " " " "	1,036

SHEET #3

1972 Jefferson - Civil Cases terminated by Jury trial	14
Orleans - " " " " " " " "	31
1972 Jefferson - Criminal Cases terminated by Jury trial	12
Orleans - " " " " " " " "	171

Gentlemen, I feel that all Judges are capable of handling all types of cases. However, specialization permits a Judge to develop an expertise in a particular branch of law, be it Traffic, Juvenile, Criminal or Civil, and to be more effective.

I thank you for this opportunity to appear before you, and I have confidence in your dedication and sense of obligation.

Richard J. Garvey

STATEMENT OF CHIEF JUSTICE (RETIRED) WALTER B. HAMLIN

Gentlemen:

I would first like to ask your indulgence in my presentation here today. My understanding was that this hearing was to be held in the City of New Orleans, which of course, would not necessitate my traveling out of the City. To be frank with you the current driving habits and trends are not what I consider to be conducive to long life or steady nerves.

Therefore, I would appreciate it very much, if you would allow my remarks to be entered into the record, subject however, to the fact that this committee may request certain questions of me which I would be happy to reply to in writing. Or better still, if a hearing is held in New Orleans, I would be most happy to appear. I trust that you understand that the reasons I have listed here would best be explained by a personal appearance; but again, asking your indulgence for the reasons mentioned above, I trust that

you will allow me the courtesy of having these remarks placed of records.

I have been a member of the Bar of the State of Louisiana for almost 54 years, having been admitted in June, 1919. I practiced both civil and criminal law from 1919 until 1942, when I gave up the practice of criminal law. I was a Judge of the Civil District Court for the Parish of Orleans for 10 years.

Since the Constitution of 1812, more than 161 years ago, there has been a divided jurisdiction.

As far as I have been able to ascertain from articles in the newspapers, those who advocate the merging of the Civil and Criminal District Courts have not advanced cogent reasons for the merger. No one has come forward with an idea as to how the transition is to take place.

I have heard nothing about:

1. The cost of an additional building or buildings. New quarters alone will cost not less than five million dollars.
2. Nothing has been said about bookkeeping and accounting services for the intended merging of the courts. It is well to remember that civil costs will have to be handled, as well as criminal costs - - fines, bond forfeitures, and other expenses incident to the operation.
3. Nothing has been said about the fees collected by the Recorder of Mortgages, Register of Conveyances, and the First and Second City Courts, all of which presently go into the Judicial Expense Fund, which has been in existence since 1879.
4. Nothing has been said about whether the Judicial Expense Fund will continue in existence, and if not, what disposition will be made of same. If it is abolished, then the City or State will have to set up a system to take its place, in order to bear the expenses of the Court. Without a good system the court will not be able to function.
5. What disposition is to be made of the present Clerks of the two courts, and the Civil and Criminal Sheriff? Is there to be one Sheriff? Who will administer the Parish Prison?
6. Has the City of New Orleans, through its proper finance officer, been consulted? The City is going to have to bear a great portion of the expense with regard to the transition and the building or alteration of a new building or buildings. This will amount to an enormous sum.
7. I believe that the members of the Louisiana Bar Association residing in New Orleans and the metropolitan area should be consulted. They are vitally interested. Their clients are vitally interested. They will be able to speak from their viewpoint and that of their clients.



E. L. HENRY, CHAIRMAN

AGENDA
COMMITTEE ON THE JUDICIARY
April 20, 1973

- Roll Call
- Minutes
- Announcements
- Speakers:

MR. BEN R. MILLER
Attorney at Law

JUDGE LUTHER F. COLE
19th Judicial District Court
East Baton Rouge Parish

MR. EUGENE MURRET
Judicial Administrator

JUDGE FRED A. BLANCHE, JR.
First Circuit Court of Appeal

JUDGE THOMAS WICKER
24th Judicial District Court
Jefferson Parish

- Business of Committee
- Adjournment

8. I believe the convenience of the citizens should be taken into consideration. Prospective jurors, witnesses and litigants all have a great interest in the efficiency of the transition and the operation of the new court being considered. At this time, I do not believe that the change should be made. There has not been enough thought and study. It should be approached with great caution and after deep thought and consideration. If the present system is changed, it will be in effect for a very long time: if it should be found unsatisfactory the people will have to bear it for years and years. Vast sums of public money should not be spent without caution.

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E. L. HENRY, CHAIRMAN

AGENDA
COMMITTEE ON THE JUDICIARY
April 13, 1973

- Roll Call
- Reading of the Minutes
- Announcements
- Speakers:

✓ MR. GLEN R. WINTERS, Executive Director
American Judicature Society
Judge Patrick M. Swift, Federal Circuit Ct of Appeal
REPRESENTATIVE EDWARD H. BOOKER
District 91, New Orleans

✓ JUDGE EARL E. VERON
14th Judicial District Court
Calcasieu and Cameron Parishes

✓ JUDGE C. J. BOLIN, JR.
1st Judicial District Court, Caddo Parish

✓ JUDGE DAVID T. CALDWELL
2nd Judicial District Court
Bienville, Claiborne and Jackson Parishes

✓ JUDGE EDWARD A. de la HOUSAYE, III *Also Judges E. "Buddy" Guidry, Jr. S.O. Landry*
16th Judicial District
Iberia, St. Martin and St. Mary Parishes

✓ JUDGE HARRY THOMAS LEMMAN
4th Circuit Court of Appeal

Business of the Committee

Adjournment



Supreme Court
STATE OF LOUISIANA
New Orleans
70112

CHIEF JUSTICE
JOE W. SANDERS
ASSOCIATE JUSTICES
FRANK W. SUMMERS
MACK E. BARNHAM
ALBERT TATE, JR.
JOHN A. DIXON, JR.
PARCAL F. CALOGERO, JR.
WALTER F. MARCUS, JR.
JUDICIAL ADMINISTRATOR
EUGENE J. MURRET

March 28, 1973

MEMORANDUM

TO: Members of the Judiciary Committee of the Louisiana Constitutional Convention

FROM: Eugene J. Murret, Judicial Administrator

Mr. Ben R. Miller, Sr., Chairman of a special committee appointed by the President of the Louisiana State Bar Association to represent the Association before your Committee, will appear before you at 9:30 a.m. on Friday, March 30.

Enclosed are materials which he will discuss with you at that meeting.

EJM/jtm

Enclosures

CC: Mr. Ben R. Miller, Sr.
Mr. Lee Hargrave
Mr. C. B. Forgetston

INTRODUCTION

My name is Ben R. Miller. I am a practicing lawyer in Baton Rouge, Louisiana. My interest in Judicial Administration began some forty years ago when enrolled in the graduate school at LSU. My thesis for my Master's Degree was "The Louisiana Judiciary" which the LSU Press later published



E. L. HENRY, CHAIRMAN

AGENDA
COMMITTEE ON THE JUDICIARY
April 14, 1973

- Roll Call
- Speaker: JUDGE HILLARY J. "BUDDY" CRAIN
22nd Judicial District Court
St. Tammany and Washington Parishes
- Business of the Committee
- Adjournment

under that title. Among the changes I then urged is the so-called Merit System of Selection of Judges.

No doubt because of this background, I was appointed to the Judiciary Committee of the project of the Louisiana Law Institute for a new Constitution. Each of you have that project. For the work of that committee I made a comparative analysis of the judiciary structures of the other states of the union as of the mid-nineteen forties. This was published by the Louisiana Law Review in its volume 7, pages 490, et seq.

In the fifties I served for several years as chairman of both the Selection of Judicial Candidates Committee of the State Bar and its Committee on Jurisprudence and Law Reform; and for the last several years I have again been chairman of the first named committee and vice-chairman of the expanded Law Reform Committee.

For some nine years I served on the Federal Judiciary Committee of the American Bar Association and authored a resolution adopted by the ABA in 1958, urging the institution in the federal system of some such merit system as this for federal court appointments. And I chaired a special committee of the ABA which unsuccessfully sought to have the two political parties accept such a plan on the federal level.

As none of the judges now serving were serving when I first urged a new selection system for our judges and many were not even born at the time some forty years ago when in my book "The Louisiana Judiciary" I first urged such a new system of selecting judges, it is obvious I would hope that I am not reflecting on any incumbent judge in urging such a change. In complete sincerity I believe such a change is in the best interest not only of the public but of the incumbent judges.

This is but one of the suggestions I will offer, however; and since you have already heard much on this topic I will be fairly brief as to it.

I am presently Vice Chairman of the Criminal Law Section of the A B A.

THE RULE-MAKING POWER

The complete rule-making power to govern the practice and procedure in the courts should be vested in the judiciary. It is particularly incongruous for a state which long (and properly) has granted its appellate courts the right to itself determine the facts and overturn the finding of facts by the trial judge and even by the jury, to deny the Supreme Court the complete rule-making power. What would those of you who are legislators say if the Supreme Court undertook to tell you what rules of procedure you must follow?

The Judiciary Committee of the Institute's project for a new Constitution had recommended a section for a new judiciary article to read:

"The Supreme Court shall have the power to make and promulgate general and uniform rules of pleading, practice and procedure in all civil actions in the courts of this state."

And it recommended that the Judicial Council be empowered to prepare and recommend such rules.

I have not researched the present status in the other states but this is a memorandum I wrote at the time:

"THE RULE-MAKING POWER BELONGS TO THE JUDICIARY"

On April 14, 1957, there was a day long meeting of the general membership of the Institute at which the tentative project's provisions

expressly vesting in the Supreme Court the power to exercise complete rule-making authority was not debated. That evening at its meeting those of the council who were present reversed this position, one which had been unanimously taken by the Institute's sub-committee on the judiciary, concurred in by the general committee, and by the Council previously, and incorporated in every tentative draft considered by the Council in almost three years of its regular meetings.²

Minimum Standards of Judicial Administration, edited by Arthur T. Vanderbilt, Chief Justice of the New Jersey Supreme Court, published for the National Conference of Judicial Councils and off the press in early 1950, not only the latest but the best source of ready, comparative reference. Louisiana is shown by this magnificent work to be one of the only twelve states wherein procedure in civil cases is still regulated almost completely by statute.³

The recommendation approved by the American Bar Association in 1938 for 'regulation of procedure by court rule' was said by its Committee to be but a return to fundamental principles.⁴ This book edited by Judge Vanderbilt, then points out that, as it uses the term, 'procedure', includes matters of pleading, practice, evidence and management.⁵ As to the meaning of the term 'rules of court', the book states:⁶

"Rules of Court' is also an ambiguous term, as there are two types of rule making power. The one is a supplementary power; that is, the power of a court to make rules which supplement a set of statutory rules. The other is the complete power; that is, the power completely to regulate procedure by court made rules which supersede statutory enactments. The supplementary power is common. All but a few courts exercise such a power to some extent. The complete power is the true rule-making power both historically and analytically; a court cannot be said to be exercising rule making power unless its rules override statutory rules. Such complete power is the real subject of this chapter."

In an historic address before the American Bar Association in 1926⁷ Dean Roscoe Pound of the Harvard Law School, asked 'How did it

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happen -- that in the United States -- we committed ourselves thoroughly for a season to habitual legislative interference with what ought to be left to the courts?'

Then after giving and analyzing four historical reasons, Dean Pound continues:

"In truth procedure of courts is something that belongs to the courts rather than to the Legislature, whether we look at the subject analytically or historically. It is a misfortune that the courts ever gave it up. Analytically, there is no more warrant for the legislature's imposing a strait-jacket of statutory procedure upon the courts than for it doing the like with the executive. -- Historically the matter is even more clear." (601) --

"It is a misfortune that American courts ever gave up their control of procedure. It may be that today, after seventy-five years of codes and practice acts and prolific procedural legislation, we can't go so far as to pronounce such legislative interference with the operations of a coordinate department to be unconstitutional. -- Equally, however, we should insist that the legislature ought not to do such things, not merely on grounds of expediency and for the sake of a better and more effective administration of justice, but as a matter of due regard for the constitutional system of separation of powers. None of the coordinate and co-equal departments of our polity can do its work effectively if the minute details of its procedural operations, as distinct from the substan-

live law it applies or administers, are dictated by some other department. That the legislature should claim such a power is something that comes down to us from the extravagant claims of the legislatures in the period of legislative hegemony." (001) --

"Experience shows abundantly that regulation of procedure by rules of court is the way to insure a single effective procedure, attained by gradual and conservative overhauling and re-shaping of existing practice. -- Again, rules

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of court have an enormous advantage in that they are interpreted by those who make them. They are not made by one body and then interpreted and applied by another body, which is out of sympathy with them. -- Moreover it is easy to bring professional opinion to bear upon the rule-making power, whereas the difficulty of procuring legislative action with reference to even the most crying needs of judicial procedure is notorious. -- Most of all however, when procedure is governed by rules of court rather than by statute, the tendency is to make procedure subsidiary to the substantive law as it ought to be." (602)

John H. Wigmore, in 1936, in an article entitled "Legislature has no power in Procedural Field",⁸ began in this language:

"It is high time to raise a constitutional question which has long remained in abeyance. We assert that the legislative (federal or state) exceeds its constitutional power when it attempts to impose upon the judiciary any rules for the dispatch of the judiciary's duties; and that therefore all legislatively declared rules for procedure, civil or criminal, in the courts, are void, except such as are expressly stated in the Constitution.

This proposition we found on two bases: first, logic, as deduced from the constitutional terms; and secondly, policy, as verified by experience." (159)

After an eloquent but concise discussion, Dean Wigmore concluded his article in this language:

"Why, then, will not some courageous counsel take an early opportunity to assert before a Supreme Court the following propositions of law:

1. All rules of procedure in courts, not expressly or implicitly prescribed by the constitution, fall under the judiciary power, for the purpose of making or changing them.
2. All rules of procedure made by a Supreme Court or State, notwithstanding any enactment of the legislature that may be inconsistent,
3. All rules of procedure declared by the legislature are void, and have only such effect as the comity of the judiciary may give by following them in the absence of any rules made by the judiciary." (160)

Chief Justice Vanderbilt concluded his chapter on 'Rule-Making'

with this unambiguous statement.

"In conclusion it is to be noted that the authorization of rule-making action by the courts is not sufficient if the legislature retains the right to disapprove rules, and does so, as in Nebraska."

In the Handbook on 'The Improvement of the Administration of Justice'

prepared by the Section of Judicial Administration of the American Bar Association while the Honorable Alfred P. Hurrah, 10th Circuit United States Court of Appeal was the Section's Chairman, 1948, there is this language:

"The Rule-Making Power

"The keystone of the American Bar Association's program for reform of judicial procedure is the first recommendation adopted by the House of Delegates in 1938:

"That practice and procedure in the courts should be regulated by rules of court; and that to this end the

courts should be given full rule-making powers." (Recommendation 1 (1), 63 ABA Rep. 573).

"The conferring of the rule-making power on the courts and its exercise is indispensable to the most thoroughgoing and effective realization of the program.

"The American Bar Association has been committed to the principle of judicial control of court procedure for over a third of a century. For most of that time its efforts were concentrated on securing a grant of power to the United States Supreme Court to prescribe rules of practice for the federal courts. With the adoption of the Enabling Act of 1933, and the subsequent statutes relating to criminal procedure, the Association turned its attention to the state courts.

"The movement for return of rule-making authority to the courts began many years ago, with the enactment of the English Supreme Court of Judicature Act of 1873. Few states joined the trend before 1930, but since then a growing number of jurisdictions have enacted statutes or constitutional provisions empowering the highest court of the state to regulate practice and procedure

in all, or practically all, of the courts of the state, until now the 48 states are equally divided between those in which the court has such power and those in which it does not. In a number of the latter states active efforts are being made to obtain passage of a rule-making act.

"The case for judicial control of procedure. The arguments in favor of judicial rule-making are many. The courts are experts in the matter of procedure; members of the legislature are not versed in the subject. Where the legislature regulates procedure, particular changes may be blocked or pushed through from considerations of personal interest on the part of individual attorneys or litigants. The legislature does not have the time to give careful attention to what most of its members regard as an unimportant subject. Revision by legislation is almost inevitably dilatory, sporadic and piecemeal; by judicial action it should be timely, continuous and thorough." As Judge Cardozo once said:

"The legislature, informed only casually and intermittently of the needs and problems of the courts, without expert or responsible or disinterested or systematic advice as to the workings of one rule or another, patches the fabric here and there, and more often when it could mend."

"It has been pointed out, also, that where procedure is regulated by statute the procedural system tends to become rigid and decisions go off more frequently on points of practice, and that the division of responsibility for the administration of justice between the legislative and judicial departments is apt to result in neither department's assuming proper responsibility. The courts are blamed for defects in the administration of justice and they should have the power to meet such criticism.

"Arguments against judicial rule-making. It will be contended that the highest court of a state is not sufficiently in touch with the practice and procedure in the trial courts. This objection has not held water either in the case of the English Supreme Court of Judicature or the United States Supreme Court. As was done with the Federal Rules of Civil and Criminal Procedure, the Court can appoint an advisory committee to do the spadework, comments and criticisms of the bench and of the bar can be received and any serious conflicts of opinion settled by the court. The objection that matters of procedure cannot be clearly differentiated from matters of substantive right likewise has been shown by experience not to be a serious problem, and the same is true of the argument that the court should not be put in the position of having, in its judicial capacity, to pass on the validity of rules promulgated by it in its legislative capacity. It is true that in the past, in some states, courts have been unwilling to exercise

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Even in England, where there is no written constitution or separation of its government into the three, independent branches, where Parliament is the real sovereign and the 'constitutionality' of its normal enactments may not even be contested in the courts, except for a short period in the 19th century, and continuously since the Judicature Act of 1873, the Judiciary there has possessed complete rule-making power. The possibility of a Parliament veto

is not analogous to America for, as stated, Parliament is in effect the real sovereign in England.

Judge Murrah, in his letter to me of April 5, 1950, said in part that:

"The courts can never fulfill their proper function in our system of government until their rule-making power is restored. I say restored, because not only is it inherent in the power of the court, but it is traditional in Anglo Saxon jurisprudence. One of the prime recommendations of the Section of Judicial Administration, adopted by the American Bar Association in 1938, was the rule-making power of the courts."

And Chief Justice Vanderbilt, in his letter to me of April 11, 1950, states:

"I am sorry to see that there is such a strong effort in your State to slide away from putting the rule-making power where it obviously should be placed - in the court of last resort.

There would seem to be no doubt but that on principle the rule-making power is properly vested in the courts; see the statement of Dean Wigmore on p. 91 of Minimum Standards of Judicial Administration. Dean Pound has been equally emphatic in his articles on the subject in the American Bar Association Journal."

It may well be that when it senses it has the firm backing of an enlightened, courageous, profession, our Supreme Court would assert - as Dean Wigmore urges all Supreme Courts to assert - that inherently

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it has this power and that legislative interference has merely been tolerated, or permitted to supplement the field. This language by our own court is significant:

"And the court, while it will approve legislative acts passed in aid of its inherent power, will strike down statutes which tend to impede or frustrate its authority.¹⁰

But as draftsmen of a modern project, you should spare the Court the necessity of such action.

In this question principle, not expediency, should of course control. Personalities are unimportant. History is being written. The decision should not rest on which body (legislative or judiciary) for the moment seems most cooperative with the Institute, or which on isolated occasions may have seemed more in tune with your own thinking as to correct procedural points. Legislatures and courts change, but fundamental, constitutional principles remain.

There is work and glory aplenty for the profession, and for the Institute in particular, in the drafting of sorely needed revised rules of practice - whether the ultimate power of their promulgation remains in doubt, or be resolved constitutionally by following sound and fundamentally correct principles."

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The trend since I prepared this memorandum is to recognize that inherently the rule-making power belongs to the judiciary, and should be constitutionally so recognized. As of June 21, according to a survey of states by the American Judicature Society the constitutions of some 21 states authorize their Supreme Courts to exercise complete supervisory rule-making power.¹

The existing legislative Code of Civil Procedure would of course continue to be applicable until and unless amendments or changes were made by rule. But needed amendments would not await the protracted legislative process of at least two year intervals.

If any restriction is considered advisable against recognizing such a complete rule-making power in the judiciary, the Alaska provision could be added: that by a two-thirds vote of each House of the Alaska legislature, any rule promulgated by the Supreme Court could be repealed or modified.

¹ Report No. 13, June 1970, of AJS entitled "The Judicial Rule-Making Power in State Court Systems."



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ADDITIONAL TOPICS FOR CONSIDERATION

1. The boundaries of the various judicial districts and the jurisdiction of the various courts:
Should either or both be left to legislative discretion with constitutional restrictions and safeguards such as: not to affect an incumbent during his term; protect his rights under the retirement system; require an extra aiding vote in the legislature; perhaps require ratification by the electorate of the judicial district affected.
2. Declaring acts of the legislature unconstitutional.
Should a two-thirds majority of the appellate court be required?
3. Advisory Opinions.
Should the legislature be expressly authorized or expressly denied to (authorize) (require) the Supreme Court to render advisory opinions to the executive and legislative departments?
4. Comment on the evidence.
Should the judge in a jury case be expressly (authorized to) (denied the right to) comment on the failure of a defendant in a criminal case or a litigant in a civil case to take the stand?
5. Grand Jury.
Should it assemble only on the call of a trial judge, or of its foreman or of two-thirds of its members?



APRIL 20, 1973

TO THE JUDICIARY COMMITTEE OF THE 1973
LOUISIANA CONSTITUTIONAL CONVENTION

This is late in the game for me to try to persuade you to the

merits of proposing a new method of selecting the judges of ^{all} our state courts. I do believe, however, I have a few arguments you haven't yet heard, and a few suggestions for desirable constitutional flexibility particularly of a local home-rule nature.

You may well be the one responsible for a judicial system governing governing your grandchildren and great grandchildren and I know you wish your product to be one that they will be proud of.

On my first appearance before you I stated that approximately half those sitting on our courts first entered the judiciary by appointment from the governor. That was correct as of September 1969 according to the list of the individuals so appointed, furnished to me by the then State Court Administrator and the Secretary of State. In Orleans, for example four of the judges of the Civil District Court, five of the judges of the Criminal District Court, two of the Orleans Juvenile Court, three of the judges of the First City Court of New Orleans, three of its Municipal Court and one of its Traffic Court, came to the judiciary for the first time by appointment.

To the extent these men ~~still in office~~, all appointed by the governor, have made fine judges, why should one fear appointment for a short trial period from a panel of three submitted by an independent commission? To the extent any may not have made fine judges, isn't that of itself proof that the competitive election system by which they have been retained in office isn't the method to obtain judges who are among the best qualified to serve?

The need for a new system is obviously greater in the large metropolitan areas and in the appellate districts than it is in the so-called "country" parishes. Just a few months ago the campaign of the successful candidate for the Orleans Court of Appeals cost over \$100,000, as you heard Judge Patrick M. Schott say last Friday.

Those of you who are lawyers may or may not have received invitations to attend on April 24th a testimonial luncheon at \$100.00 a ticket to help pay the cost of the successful candidate for the Supreme Court ~~from Orleans~~.

Another successful candidate for the district court in Jefferson Parish spent over \$60,000 and those of you who are lawyers may or may not have received a similar request from a committee of Jefferson Parish lawyers. ^{recently}

A district judge/elected in ~~BY~~ parish had the expense of two primary battles and then a general election--plus even the expense of a lawsuit from candidate. an unsuccessful first primary election/ I am not aware of any testimonial dinner for him.

I am told that Chief Justice Fournet's last election campaign cost over \$200,000. ^{These experiences show one of two things: either a man must be rich to seek an elective judgeship in the larger districts or he must be prepared to suffer the embarrassment and the cynical though often anonymous remarks of critics over the implications of such methods of financing a judgeship campaign. And since only the winners receive such testimonial help it really means that in the larger districts one must either be rich enough}

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to face the possibility of losing or else have financial commitments in advance from those who must fall in one of two categories: attorneys who

will be practicing before him, or laymen or corporations who are at least potential litigants before him, ^{of his own}

This would appear especially significant to any of you who may cherish the ambition to some day be a judge, and to those of you who may think the younger aspirant has more advantage under an elective system than he would under a merit selection one. For, believe me, the bitter and costly three campaigns are not far off from even the most rural of districts.

Bloc voting by "party affiliation," by economic, religious, ethnic and racial groups is certainly the trend--here as elsewhere. We are soon to be a real two party, if not three party, state. The United States Supreme Court has already outlawed any lengthy residence period as a qualification even for voting in state-wide elections. No one can foretell how long it will be before the technique John Slidell so skillfully used in the election of 1844, of moving blocs of people from New Orleans ^{by boat} to selected outlying parishes on the eve of/election ^{that} to give him the balance needed over Soule's faction, will be used in some rural parish to elect a particular bloc vote candidate but himself only recently moved to the district.

Some judges express a fear of fighting a phantom at the retention election under this plan. The public would react against any such hidden opposition. And how long could a phantom conceal his identity? What better campaign argument could the judge seeking retention have than to call attention to the cowardly tactics of his hidden adversary. Moreover, what would it gain such a phantom, for one who would engage in such tactics would not be able to be on the panel from which the successor would come.

¹ W. Adophe Roberts, "Lake Ponchartrain," American Lakes Series, Sobbs-Merrill, Indianapolis, 1946, PP. 248-249; John Smith Kenall, History of New Orleans, Lewis Publishing Co., Chicago, 1922, Vol. 1, PP. 206-207.

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There is a misconception, I believe, as to the attitude of the Louisiana voters, particularly in the large metropolitan areas, toward our present so-called elective system for judges. On January 23-25, 1964, a Louisiana conference on judicial selection was held in New Orleans. The merits and demerits of our elective system and of the merit system were fully explained. There, as I believe now, those who favored retaining our present system were more vocal than those who did not, leading the two reporters for the conference to erroneously conclude that the "consensus" favored retention of our present system. ^{However,} a poll of the 100 citizens in attendance, at least 80 of whom were lay leaders from business, education, and labor, showed that a large majority favored a change to such a system as the state bar association is now urging.

In urging that a formal poll be taken, one layman at the Conference on January 28, 1964, wrote the president of the state bar, ⁱⁿ Discussion Group I (his) "The vote was 10 to 3 in favor of some adaptation of the 'Missouri Plan'." And Dean Hebert on January 29, 1964 wrote that "I sat in three of the four groups (II, III and IV) and... had a distinct impression that a majority of the lay participants in the Conference were of the opinion that some adaptation of the Missouri Plan should be worked out for Louisiana to provide a better method of judicial selection than the method we presently have." He, by the way, personally favored the principle of the plan and said, too, that "It is my view that the adoption of some variation of the Missouri Plan would be a protection to sitting judges."

The report of the Advisory Committee to the Mayor of New Orleans on Crime and Delinquency, in June 1969, had expressly "endorse and urge the adoption of the merit selection plan generally of the type used successfully in Missouri for some 26 years and long supported by the American Bar Association and the American Judicature Society." The New Orleans States on June 25, 1969 editorially favored this. The New Orleans Times-Picayune of April 5, 1973, carried the story about 19 area civic organizations establishing a coalition and with it being asked to support such a new system.

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Although the membership has varied considerably over the period of the last 25 years, the Standing Committee of the Louisiana State Bar Association on "Selection of Judicial Candidates" has from time to time reiterated the committee's recommendation that a type of Merit Selection and Retention of Judges System be substituted for our so-called elective system.

Those who as committee members at one time or another during this period, who are on record as favoring such a new system, include six past presidents of the state bar: the late George B. Hall of Alexandria, Thomas W. Leigh of Monroe, the late Cuthbert S. Baldwin of New Orleans, J. J. Davidson, Jr. of Lafayette, Leon Sarpy of New Orleans, and Clarence L. Yancey of Shreveport; as well as Dudley L. Flanders, the late W. Ford Reese, Howard Lenfant, and Michael H. Maloney of New Orleans, Victor Sachse of Baton Rouge, J. Winston Fontenot of Lafayette, Orlando N. Hamilton of Oak Grove, W. R. Jackson, Jr. of Leesville, Charles H. Bass, Jr. and Robert Robert, III and J. Bennett Johnson (of course now Senator) of Shreveport. While it is true that most of our judges who have expressed themselves in many ways, against the plan, when signs of change appear. Some would favor the retention portion of it; while others would favor the selection portion if appellate positions were to be filled only from district courts. One rural

See, for example, Reports, La. Bar Association Vol. 6, pp. 20-21, and 66-74; La. Bar Journal, Vol. IX, No. 1, May 1963, pp. 94-97; Journal, Vol. XIV, No. 4, Feb. 1967, pp. 191-208.

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Judge, Earl Edwards of Marksville, expressed himself in a letter of January 29, 1970:

"(Other) judges look with disfavor upon this proposal; I cannot exactly understand why. It seems they have the most to gain by the plan. . . . I must say that I endorse and like the plan and would favor its adoption."

Such a plan, calling for vacancies and new judgehips to be filled from a select panel submitted by an independent commission, and going before the electorate just two years later on the question of retention for the remainder of the term and at the end of the full term again going before the electorate on the question of retention for another term, is as different from the present federal system as night and day. Indeed it is the model for what two of the South's best loved and respected senators have urged for the federal system. For Senator Stennis of Mississippi as early as 1958 urged the creation of an independent commission to submit a panel of names to the president from which he would be compelled to appoint (or otherwise the Senate would not confirm). And Senator Harry Byrd, Jr. of Virginia has urged that federal judges come back each 8 or 12 years for a study of their record and vote (by the Senate) on reconfirmation and retention for a further such period, or rejection.

3 John Stennis, "Federal Judiciary Selection: The Letter--But the Spirit?" ABA Journal, Dec. 1958, Vol. 44, PP. 1179-1181.

The Republican leader in the Senate, Hugh Scott, urged the same thing in 1967. See "The Selection of Federal Judiciary," Washington & Lee Law Review (1967), pp. 205-226.

-7-


Assuming your committee won't recommend inclusion in a draft of a new Constitution provisions expressly providing for such a merit plan of selection and retention for the larger metropolitan districts and for the appellate courts, I would hope you would at least recommend:

A. Constitutional provisions

1. Permitting the legislature by a majority of the elected members of each House and subject to ratification by the electors of the particular judicial district as to application to the courts of that district, to adopt such a plan for that district subject to certain constitutionally expressed restrictions such as (a) not adversely affecting an incumbent's tenure, jurisdiction, compensation or retirement benefits; or (b) changing the qualifications, tenure, jurisdiction, compensation, retirement, discipline and removal from that applicable to judges of such courts in the other judicial districts of the state.
2. Requiring an election to be held in any particular judicial district upon the petition of at least 10% of the registered voters of such a judicial district, to adopt or reject a specific plan of selection and retention, but subject to the same constitutionally expressed restrictions as set forth above; and if approved by a majority of (those voting at such election) (the registered voters) such plan would be self operative without legislative action.
3. Requiring modification or repeal of such plan as thus adopted to be only by one of the means permitted for its adoption; and subject to the same constitutionally expressed restrictions.

-8-

- B. Submitting as an alternate, to be voted on separately and only by the electorate of Orleans Parish, and if adopted by them to be self-operative without legislative action required, a specific such plan of merit selection and retention. There are many possibilities as to composition of the "commission" for this Orleans suggestion, such as, for example only: one member selected by the Supreme Court, one by the members of the Orleans Court of Appeal, with those two selecting the third who must be a layman unless one of the first two is a layman; or the first two chosen by the presidents of Tulane, Loyola and L.S.U.; or the first two by the (Mayor), (Council) and (Secretary of State) (Governor).


BEN R. MILLER

Honorable Eugene J. Murret
April 17, 1973

SUPREME COURT

- 1st District Walter B. Hamlin, commissioned 4-13-48 as Judge, Civil District Court for Orleans Parish. I do not know if he was elected or appointed. In column for "date of election" the words "election called off" had been written.
- 5th District Joe W. Sanders, appointed 12-10-54 as Judge, Family Court of East Baton Rouge Parish
- 6th District Frank W. Summers, appointed District Judge, 15th Judicial Court on 7-30-52

appropriate and perhaps necessary to attend political gatherings all the time while he is on the bench under these circumstances.

Also, paragraph (4) which has a blanket prohibition against a judge engaging in "any other political activity" is altogether impractical for a man who anticipates running every few years for re-election.

COURT OF APPEAL

- 1st Circuit Paul B. Landry, Jr., appointed 7-17-53 as Judge, 18th Judicial Court
- 1st Circuit G. Lenton Sartain, appointed 11-7-60 as Judge of the Family Court Parish of East Baton Rouge
- 1st Circuit Frederick S. Ellis, appointed 10-31-60 as Judge, 22nd Judicial Court
- 3rd Circuit William A. Culpepper, appointed 10-6-54 as Judge, 9th Judicial Court
- 3rd Circuit J. Cleveland Fruge appointed 11-3-35 as Judge, 13th Judicial Court
- 4th Circuit Luther E. Hall appointed 7-8-48 as Judge of the Civil District Court for the Parish of Orleans
- 4th Circuit William Redmann appointed 8-14-68 to Court of Appeal

With respect to campaign conduct, paragraph (1), subparagraph (c), states that a candidate may not "announce his views on disputed legal or political issues," and here again I cannot reconcile this prohibition with the practical aspects of a campaign. Anyone who has run for office knows that he is forced to appear before literally thousands of people in hundreds of groups numbering from a handful to several hundred at one time. He is asked questions to give the voters an insight into his position, and almost any position could be classified as a "political issue." To tell the judge that he cannot state his views on issues is to say that he can't campaign, in effect, and I do not see how this can be squared with our present system.

Finally, under campaign conduct, paragraph (2) is altogether impractical. When a candidate is required to spend enormous sums of money he should not be told that he cannot personally solicit or accept campaign funds. As a practical matter, many want to contribute to the candidate and not to some committee. This particular suggested provision really takes on ridiculous proportions when you consider the fact that it is designed to make the public have greater respect and confidence in the judiciary and yet no one in the public would ever believe that under



RECEIVED

APR 1 1973

Court of Appeal
FOURTH CIRCUIT
STATE OF LOUISIANA
NEW ORLEANS, LOUISIANA 70112

JUDICIAL ADMINISTRATOR

Honorable Eugene J. Murret
April 17, 1973

- PRESIDING JUDGE DOUGLASS E. REAGAN
- ASSOCIATE JUDGES JULIAN SAMUELS WILLIAM V. REDMANN HARRY T. LEMMON JAMES C. GUILLOTIA EDWARD J. TAYLOR EDWARD J. STOUILL JOHN C. BRUTALL PATRICK W. SCHOTT

April 17, 1973

210 CIVIL COURTS BLDG
441 LOYOLA AVENUE

the system suggested, that is, to have the committees solicit and account for funds, leaving the candidate in the dark as to who is making the contributions, really has that effect. For instance, if a testimonial function is put on for a candidate the candidate who is at the function obviously learns who made the contributions when the candidate sees who attends the function. Furthermore, potential donors have a right to expect the simple courtesy of a thank you from the candidate himself, and it does seem incongruous that under this proposal their thanks would come only from a committee of supporters as opposed to that candidate.

Honorable Eugene J. Murret
Judicial Administrator
Supreme Court of Louisiana
321 Loyola Avenue
New Orleans, La. 70112

Re: Canons of Judicial Ethics

Dear Gene:

In connection with your letter of April 2 I have given some thought to the proposed canons and am particularly concerned about canon 7, which I believe may be somewhat inconsistent with our system of requiring judges to run for re-election in partisan competitive elections at the end of each term of office.

It is apparent from the commentary following this subsection that the purpose for all of this is to prevent the candidate from even knowing the names of his contributors, and certainly no one believes that such a result would ever follow from the adoption of any canons as long as candidates are required to spend as much as they are in order to campaign.

The statement that "a judge should refrain from political activity inappropriate to his judicial office" cannot be reconciled with the requirement that we run for re-election every few years. My point is that I do not know what type of political activity can be inappropriate for one who anticipates running two or four years from now when it is axiomatic to every practical person who must run for office that one runs all the time between elections. This is highlighted by paragraph (2) which prescribes that a judge may attend political gatherings and speak to such gatherings on his own behalf "when he is a candidate for election or re-election." I take the position that a man who is running for office every six years, or perhaps even every 12 years, is always running for re-election and consequently may find it

In conclusion, I would suggest that all of canon 7 is not only inconsistent with our system but as long as we have the present system it is indeed hypocritical for us to adopt such high sounding and idealistic rules which we know cannot be followed. It is my suggestion that the present canons 19 and 20 be retained as they are vague and loose enough to work around in our system of election of judges in Louisiana.

Very truly yours,

Patrick M. Schott

PMS:h

Honorable Walter F. Marcus, Jr.



F. L. HENRY
Chairman
NORMA M. DUNCAN
Director of Research

A G E N D A
COMMITTEE ON THE JUDICIARY
May 11, 1973

- Roll Call
- Reading of the Minutes
- Announcements
- Speakers:

- PROFESSOR GEOFFREY C. HAZARD, JR.
Yale Law School
- WILLIAM J. GUSTE, JR., Attorney General
State of Louisiana
- AARON KOHN, Managing Director
Metropolitan Crime Commission
New Orleans, Louisiana
- DR. HYPOLITE T. LANDRY, JR.,
Coroner, East Baton Rouge Parish
- SHERIFF BAILEY GRANT
Monroe, Louisiana

- Business of the Committee
- Adjournment



[Copy of handwritten note covering correspondence which follows from Dwight D. Pyburn, Clerk First District Court]

To: Judge Jim Dennis
From: T. Stagg

Please note the language about Caddo Juvenile Court.
Best
Tom

DWIGHT D. PYBURN
CLERK FIRST DISTRICT COURT
CADDO PARISH LOUISIANA
SHREVEPORT LOUISIANA 71102

April 4, 1973

Mr. Thomas E. Stagg, Jr.
808 Henry C. Beck Building
Shreveport, Louisiana 71101

Dear Tom:

I have answered the letter you mailed to me from Roy Wenzlock Research Corporation regarding the foreclosures in Caddo Parish in 1971 and 1972.

The articles in the Baton Rouge State-Times on C.C./173 are the same as those in the Advocate, except the political column on Thursday, which I will try to mail to you.

You asked what do I want in the Constitution. I think the Judges and District Clerks should be elected. Article VII

Section 53 of our Constitution states "The Clerks of the District Courts shall be Ex-Officio Clerks of the Juvenile Court." I think this should be eliminated as to Caddo Parish.

The Juvenile Court in this Parish operates on a special tax. I do nothing in operation of the Juvenile Court.

Sincerely,

Dwight D. Pyburn
DWIGHT D. PYBURN
CLERK OF COURT

DDP/crc

[Presentation of Justices of the Peace Johnson and Leger]

TO THE HONORABLE MEMBERS OF THE LOUISIANA CONSTITUTIONAL CONVENTION:

In connection with the proposed revision of our state constitution, it has been indicated by some of our citizens that the office of Justice of the Peace and Constable be abolished or at least omitted from our basic law. Should this be done the people of Louisiana will lose a most useful service of the judicial branch of our government, especially in rural areas.

The advocates of abolishment have advanced the theory that these offices are antiquated, outdated and have outlived their usefulness. Nothing could be further from the truth and it can be seen that the authors of this argument are not familiar with the Justice of the Peace Court and the judicial service it renders to the local citizens of the rural communities. Neither are they oriented to the rural life and problems enjoyed by over half of the population of our great state. On the contrary, they are given to the idea of sophistication and the metropolitan customs of high cost of everything, even equity and common justice.

The Justice of the Peace Court is the lowest rung of the judicial ladder serving the people at the grass roots level and those believing the District Court of innumerable minor matters which, although comparatively unimportant, would have to be heard at the district level were it not for the local Justice of the Peace. One who is familiar with the crowded docket of the district courts will understand the problems of delay as well as the court costs encountered there.

The Justice of the Peace Court is the closest to the people and is available to them at all times. Within its limited jurisdiction, the decrees and orders of the Justice of the Peace Court are equally as valid and enforceable as those of the district court at only a fraction of the time and cost. The conscientious Justice of the Peace is on hand at all hours to hear and evaluate unusual evidence gathered by law enforcement agencies, issue warrants, fix bail, counsel the parties, and often settle the dispute in a friendly manner when no law has been violated. He accepts civil suits, performs marriages and handles evictions in the same manner as the district court. The proceedings are orderly but informal and a case can be disposed of in the Justice of the Peace Court in much less time than is required to have it placed on the district docket and at minimum cost to the litigants.

At present the Justice of the Peace Court has no trial jurisdiction in any criminal matter but only as a "committing Magistrate". Civil jurisdiction is fixed at \$100 exclusive of interest and cost---an amount fixed during the 19th century---and should be increased at least \$500. Ordinary traffic cases and some minor criminal offenses could safely be placed in the hands of the local Justice of the Peace and thus further relieve the District Court docket. The Justice of the Peace Court is truly a court of the people, conducted at local level at minimum cost and by all means should be preserved in the state constitution and with increased jurisdiction. It is quite obvious that the Justice of the Peace Court is a bargain for the taxpayers as well as the litigant parties and at a time when cost of government is all important. Should the proposed new constitution omit the offices of the Justice of the Peace and Constable, it will certainly be defective to that extent at least.

W. Leger
Willed W. Leger
Justice of the Peace
Ward 2 Allen Parish
Kinder Ln. 70648

Professor Geoffrey C. Hazard, Jr.

Professor, Yale Law School

Reporter for the special committee of the American Bar Association of the Standards of Judicial Administration. Drafts new standards of judicial administration.

Attorney General William J. Guste, Jr.

Served in Louisiana State Senate 1968-72

Elected Attorney General in 1972

Aaron Kohn, Managing Director, Metropolitan Crime Commission, New Orleans, Louisiana

FBI, 1930-39, Supervisor of Identification Division, Supervisor of Crime Laboratory Branch, Administrative Assistant to J. Edgar Hoover

~~Eastern Regional Executive, Sears-Roebuck Co.~~

~~Seaman International Corp., 1943-52~~

Emergency Crime Committee of the Commission Council, Chicago
Chief Investigator and Acting Chief Council

Roosevelt College, Chicago, Special lecturer on municipal government and political science

Special Citizens Investigating Committee of New Orleans Commission Council, June 1953 - April 1954

Executive Director and Chief Investigator, Metropolitan Crime Commission, Managing Director, Initiated Staff activities.

Dr. Hypolite Landry, JR., Coroner, East Baton Rouge Parish

Private practice of medicine, 1960-72, Elected coroner in 1972. Chairman of Baton Rouge Area Alcohol and Drug Center; Founder, Past President & Chairman of Baton Rouge Aircraft Pilots Assoc.; Board of Directors of Baton Rouge Council on Alcoholism and Drug Abuse.

Sheriff Bailey Grant, Monroe, Louisiana

Elected Sheriff in 1948, was a U. S. Marshall before being elected sheriff

Is a member and past officer of various charities; mostly concerned with boys clubs.

Member of Masonic Lodge

Past president of Kiwanis Club

Past president of La. Sheriffs' Association

Past Sect.-treas. of La. Sheriffs's Association

Appointed by Governor Edwards to chairmanship of the Louisiana Commission on Law Enforcement and Criminal Justice

Mayor Dorris Godet

Elected Mayor in 1969. Was a business executive in the Port Barre area prior to election.

Justice Frank W. Summers

LLB received from Tulane University

Admitted to the Bar in August, 1938, began practice in Abbeville in 1938.

Became judge of the Fifteenth Judicial District Court in 1952. Elected as Associate Justice in December, 1960. Re-elected in 1968.

Professional Organizations: Past president of the fifteenth Judicial District Bar Association; former member of the Louisiana District Judges Association; former member of the Vermilion Parish Bar Association; Fifteenth District Bar Association; Louisiana State Bar Association; American Bar Association; and American Judicature Association. President of Tulane Law Alumni Club, 1962-63; Honorary member of the Order of Coif, Tulane University Chapter, May 9, 1966.

PROPOSED BY MR. AVANT:

- A. There shall be a three judge court composed of district judges selected as provided in Sub-section B hereof, which shall have exclusive original jurisdiction of:
1. All actions to which an elected or appointed state officer, board, or commission having governmental authority is a party and the constitutionality of a state statute or administrative rule or regulation under which said officer, board, or commission claims to exercise authority is at issue.
 2. All actions containing a prayer for injunctive relief against any elected or appointed state officer, board, or commission in their official capacity.
 3. All election contests or quo warranto proceedings in which the right to or election or nomination of any candidate for a state wide elective office or the office of supreme court justice, court of appeal judge, public service commissioner or member of the State Board of Education is at issue.
- B. Any pleading seeking relief requiring a three judge court shall include a prayer requesting the convening of such court. The Supreme Court shall by rule establish a procedure whereby the district court receiving such a pleading shall immediately communicate that fact to the Clerk of the Supreme Court. Under such rules as the Supreme Court may establish a justice or justices of the supreme court shall convene a three judge court, when appropriate, by designating three district judges to constitute such court. No two of such judges shall be from the same court of appeal circuit.
- C. Appeals from the judgment of a three judge court shall be to the supreme court which shall by rule of court provide for expeditious hearing thereof.



E. HENRY CHAIRMAN

STATE OF LOUISIANA, CONSTITUTIONAL CONVENTION OF 1973, P. O. BOX 44473, BATON ROUGE, LOUISIANA 70804

TO: MEMBERS OF THE COMMITTEE ON THE JUDICIARY
DF CC/73

FROM: C. B. FORGOTSTON, SR. RESEARCH ASSISTANT

Attached is a schedule of receipts and expenditures of each of the District Courts by parish and

by district. The statistical data was furnished to the committee by Mr. Gene Murret, Judicial Administrator.

LOUISIANA
DISTRICT COURTS

PARISH	OPERATIONAL		SURPLUS	DEFICIT
	Receipts	Expenditures		
Acadia	\$ 203,053	\$ 203,492	\$	\$ 439
Allen	83,952	70,134	13,818	
Ascension	141,990	83,685	58,305	
Assumption	49,001	42,668	6,333	
Avoyelles	144,602	113,101	31,501	
Beauregard	95,900	81,625	14,275	
Rienville	83,658	58,783	24,875	
Bossier	235,122	156,137	78,985	
Caddo	480,006	588,046		108,040
Calcaesteu	483,681	680,239		196,558
Caldwell	43,549	40,450	3,099	
Cameron	62,592	105,892		43,300
Catahoula	51,451	46,957	4,494	
Claiborne	113,723	70,990	42,733	
Concordia	105,675	69,150	36,525	
DeSoto	88,920	50,544	38,376	
East Baton Rouge	1,078,802	1,324,503		245,701
East Carroll	56,002	42,543	13,459	
East Feliciana	59,552	58,127	1,425	
Evangeline	87,070	120,152		33,082
Franklin	70,563	52,629	17,934	
Grant	101,731	53,374	48,357	
Iberia	161,819	137,525	24,293	
Iberville	90,480	70,271	20,209	
Ison	67,044	58,685	8,359	
Jefferson	1,131,462	1,398,407		266,945
Jefferson Davis	114,465	84,026	29,529	
Lafayette	360,572	290,462	60,110	
Lafourche	232,451	189,607	42,844	
LaSalle	64,886	65,964		1,078
Lincoln	73,556	59,253	14,303	
Livingston	161,691	123,741	37,953	
Milison	123,400	68,446	55,044	
Morehouse	141,001	87,491	53,590	
Natchitoches	97,819	81,399	16,420	
Orleans	1,710,072	2,033,389		343,317
Ouachita	\$ 459,314	\$ 274,159	\$ 185,155	\$
Plaquemines	210,887	108,200	102,687	
Pointe Coupee	106,437	83,977	22,460	
Rapides	381,687	283,477	98,210	
Red River	65,249	31,861	33,388	
Richland	72,107	58,939	13,168	
Sabine	87,150	58,312	28,838	
St. Bernard	207,730	263,271		55,541
St. Charles	174,480	104,660	69,820	
St. Helena	32,540	68,400		35,860
St. James	44,868	52,054		7,166
St. John	76,151	54,281	21,870	
St. Landry	263,045	215,645	48,300	
St. Martin	144,960	97,182	47,778	
St. Mary	207,268	194,219	103,049	
St. Tammany	430,878	274,134	156,744	
Tangipahoa	166,232	187,789		21,557
Tensas	44,531	37,559	6,972	
Terrebonne	228,008	243,873		15,865
Union	61,091	51,605	9,486	
Vernon	143,249	105,286		52,037
Vernon	98,679	79,168	19,511	
Washington	84,702	71,406	13,296	
Webster	138,222	94,633	43,589	
West Baton Rouge	152,022	93,138	58,884	
West Carroll	66,876	46,486	20,390	
West Feliciana	32,085	25,477	6,608	
Winn	67,188	83,014		16,726
TOTAL	\$12,790,041	\$12,306,092	\$1,927,161	\$1,443,212
TOTAL AGGREGATE SURPLUS			\$ 184,199	

Judicial District	OPERATIONAL		Surplus (Deficit)
	Receipts	Expenditures	
1st	\$ 480,006	\$ 588,046	\$(108,040)
2nd	264,425	188,458	75,967
3rd	134,647	110,858	23,789
4th	600,395	361,650	238,745
5th	209,546	158,054	51,492
6th	224,023	148,548	75,475
7th	157,126	116,107	41,019
8th	168,919	137,288	31,631
9th	381,687	283,477	98,210
10th	163,068	113,260	49,808
11th	176,070	108,856	67,214
12th	144,602	113,101	31,501
13th	87,070	120,152	(33,082)
14th	546,273	786,131	(239,858)
15th	706,874	679,240	27,634
16th	604,046	428,926	175,120
17th	232,451	189,807	42,644
18th	348,939	247,386	101,553
19th	1,078,802	1,324,503	(245,701)
20th	91,647	83,604	8,043
21th	360,466	379,930	(19,464)
22nd	515,580	345,540	170,040
23rd	235,879	178,407	57,472
24th	1,131,462	1,398,407	(266,945)
25th	418,617	371,471	47,146
26th	373,344	250,770	122,574
27th	263,945	215,645	48,300
28th	108,435	106,414	2,021
29th	250,631	158,941	91,690
30th	194,579	160,793	33,786
31st	114,455	84,926	29,529
32nd	228,008	243,873	(15,865)
33rd	83,952	70,134	13,818

Baton Rouge, Louisiana, May 10, 1973. At a meeting of the Board of Directors of the Louisiana District Attorneys Association duly called, the following Resolution was adopted unanimously:

RESOLUTION

WHEREAS, the Judiciary Committee of the Constitutional Convention of 1973, on April 21, 1973, adopted a resolution that the Supreme Court shall elect a Chief Justice by a majority vote, and,

WHEREAS, the present Constitution, in Article VII, Section 7, provides that "Whenever a vacancy shall occur in the office of Chief Justice, the Justice of next in point of service shall succeed thereto, . . . and,

WHEREAS, after discussion on the subject matter,

BE IT RESOLVED that the Board of Directors of the Louisiana District Attorneys Association is unanimously in favor of retaining the present provisions of Article VII, Section 7 of the Constitution of the State of Louisiana, providing

that whenever a vacancy shall occur in the office of Chief Justice of the Supreme Court of the State of Louisiana, the Justice oldest in point of service shall succeed thereto;

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Judiciary Committee of the Constitutional Convention.

The following Members were present:

- Edwin O. Ware, Alexandria, President
- Byron P. Legendre, Lafayette, First Vice-President
- Leander H. Perez, Jr., Belle Chasse, Second Vice-President
- Melvin P. Barre, Edgard, Past President
- Ronald C. Martin
- W. C. Faulkenheimer, Vidalia
- John A. Richardson, Shreveport
- Ossie Brown, Baton Rouge
- John M. Mamoulides, Gretna

P. O. DRAWER "B"

PHONE 388-2222

TOWN OF GRAND COTEAU

"THE TOWN WITH A BRIGHT FUTURE"

Grand Coteau, Louisiana
70541

May 11, 1973

OFFICIALS

- JOHN BOSS, JR.
Mayor
- DANIEL LANEAU,
Marshal
- OGGAR H. HARRIS,
Clerk
- JOHN LEWIS
Supervisor

ALDERMEN

- FRANK WILLIAMS
- LAMAR E. JONES
- JOSEPH BUNSEL, RICHARD
- EDWARD J. BAY
- HOUSTON TREBOREANT

Honorable Chairman and Members
of Judiciary Committee
Louisiana Constitutional Convention

The Town of Grand Coteau is opposed to the proposal to eliminate the bond issue. We should a proposal be successful, the disposition of bond proceeds should be the business of town ordinances.

Very truly yours,
Dorris Godet, Mayor of Port Barre to speak for the town of Grand Coteau on this matter.

Sincerely,

Dorris Godet
Dorris Godet



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 P. O. BOX 17740-A BATON ROUGE LOUISIANA 70803
TELEPHONE 389-9033

A G E N D A

COMMITTEE ON THE JUDICIARY

May 12, 1973

E. L. HENRY
Chairman
NORMA M. QUINCY
Director of Research

Roll Call

Announcements

Speakers:

JUSTICE FRANK W. SUMMERS,
Louisiana Supreme Court

MAYOR DORRIS GODET
Port Barre, Louisiana

Business of the Committee

Adjournment

TOWN OF WASHINGTON

Washington, Louisiana

May 7, 1973

Mayor Dorris Godet
P.O. Box 387
Port Barre, La. 70577

Re: Mayor's Court

Dear Mayor Godet:

May this letter serve as my proxy in behalf of the Town of Washington, La. I request that you represent me at the meeting on Saturday May 12, 1973. I am truly sorry that I cannot attend the meeting.

Sincerely,
D. W. Quirk
D. W. Quirk, Mayor

DWQ/att



TOWN OF PORT BARRE

OFFICE OF THE MAYOR

TELEPHONE 588-2214 585-6213

PORT BARRE, LOUISIANA
70577

May 12, 1973

- ALDERMEN**
- BARNABE THIBODEAUX
MAYOR PRO TEM
 - DONALD LE BLANC
TREASURER
 - DANIEL BRACHOFF
 - JACK BULLIARD
 - GENE TRAYLOR
STREET COMMISSIONER

- OFFICERS**
- DORRIS GODET
MAYOR
 - MELVIN MCGEE
CHIEF OF POLICE
 - ALVARADO ORSI
TOWN ATTORNEY
 - NICHOLAS ROBIN
TOWN CLERK
 - PAUL J. WAYNE
CONSULTING ENGINEER

Honorable Chairman and Members, Judiciary Committee
Louisiana Constitutional Convention

Attached letters from Mayors of Towns and Villages of St. Landry Parish who could not be present today:

1. Town of Grand Coteau
2. Town of Washington
3. Village of Cankton
4. Town of Sunset
5. Villages of Palmetto
6. Town of Melville

Mayors of St. Landry Parish who are present:

1. Dorris Godet, Town of Port Barre
2. J. R. Hall, Town of Krotz Springs
3. James Buval, Town of Arnaudville

Respectfully submitted

Dorris Godet
Dorris Godet

Village of Cankton

CANKTON RURAL STATION 4

Route 1

Sunset, Louisiana 70578

- MAYOR**
Elmo Broussard Jr.
- ALDERMEN**
Dudise Babineaux
Jerome Guity
Earl J. Savo

CLERK OF COURT
Mrs. J. W. Miller
CHIEF MARSHAL
Soshen Menard

5-9-73

Dear Mayor Godet:

You may use this letter to express my views on Mayor's Court to the Judicial Committee of the Constitutional

Conse. tion. I feel that a judge could better handle cases. One condition being any fines levied for violations within a municipality should go to that municipality which it occurred. Cost of this Court could be financed by adding court cost to the fine of the violator.

I am
 Elmo Broussard, Jr. Mayor
 Village of Carleton

TOWN OF SUNSET

"Yam Capital of the U.S.A."

Sunset, Louisiana 70584

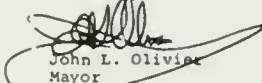
May 10, 1973

Hon. Dorris Godet, Mayor
 Town of Port Barre
 Port Barre, Louisiana 70477

Dear Mayor Godet:

This is being written to authorize you to represent our Mayor's Court before the Constitutional Committee considering the elimination of these courts from our judicial system. It is my opinion that the elimination of Mayor's Courts will improve our system of justice, however, I would object to the fines collected from charges made within our municipal corporation not being returned to the municipality. Any change in the law should contain a provision making it mandatory that all fines be sent to the municipality issuing the tickets or charges.

Sincerely,


 John L. Olivier
 Mayor

JLO:blf

VILLAGE OF PALMETTO

PALMETTO, LOUISIANA

71388

May 8, 1973

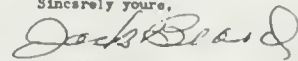
Louisiana Municipal Association
 Jack Tar Capitol House Hotel
 Suite 301
 Baton Rouge, Louisiana 70821

Dear Sirs:

We have heard of your plan to abolish Mayor Courts of Villages and Townships in the State. This is agreeable to me as Mayor of Palmetto but I would like to suggest that provisions be made to keep the fines imposed on violators of the law within our Village. These fines are a part of our operating revenues. We hope that this is possible and would vote for it if it came to a vote.

I would like to attend this meeting but am unable to at present time. Please accept my apology.

Sincerely yours,



Jack Beard
 Mayor of Palmetto

JR/blj

JOSEPH J. ARTAIL Mayor

Address:
 Augustine Circle
 Code C Jones St
 Dumas / Morgan
 Joseph J. Artail
 Jack B. Vachon

Town of Melville

Melville Louisiana

May 25, 1973

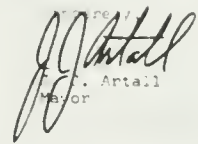
B. TOLSON JAMES EARL RAY

Thomas C. Jones, Rep. Clerk
 & Tax Clerk
 Robert A. Jordan, Marshal
 Joseph W. Martin, Lt. Sheriff
 James H. ...
 Mrs. D. P. ...
 ...


Honorable Chairman and Members
 of Judiciary Committee
 Louisiana Constitutional Convention

The Town of Melville is opposed to the proposal to eliminate Mayor's Courts, however, should a proposal be successful we are concerned about the disposition of bond and fine monies collected for violations of town ordinances.

This will also authorize Mayor Dorris Godet of Port Barre to speak in our behalf concerning this matter.


 J. Artail
 Mayor

NOTES
 The following documents are found in the work file for the meeting of May 25, 1973.


 CHIEF JUSTICE
 JOE W. SANDERS
 ASSOCIATE JUSTICES
 FRANK W. SUMMERS
 NACE E. BARRAN
 ALBERT TATE, JR.
 JOHN A. DIXON, JR.
 FRANK C. CALDWELL, JR.
 WALTER F. MARCUS, JR.
 JUDICIAL ADMINISTRATOR
 EUGENE J. MURRET

Supreme Court
 STATE OF LOUISIANA
 New Orleans
 70112
 April 24, 1973

MEMORANDUM

TO: Members of the Judiciary Committee of the Louisiana Constitutional Convention
 FROM: Eugene J. Murret, Judicial Administrator

In my appearance before you on Friday concerning the Judiciary Commission of Louisiana, I was asked whether some of the present Constitutional provisions on the Judiciary Commission might be taken out of the new Constitution. I indicated that I would provide you with a copy of an alternative draft which relegates procedural matters to be handled by rule of the Supreme Court. Attached is a copy of that draft.

Also attached is a copy of brief materials prepared by the Louisiana State Law Institute explaining the reasons for the creation of the Judiciary Commission. Also note that the Institute took the position that the Judiciary Commission should be placed in Article IX rather than in Article VII. I express no opinion on this point.

Finally, a few of you expressed reservations about accepting our recommendations to add censure and suspension as possible disciplinary sanctions. I simply wish to point out here that you should make a distinction between censure or suspension as a final action, on the one hand, and suspension pending the outcome of proceedings in the Supreme Court on the other hand. Your reservations about censure or suspension as a final action were based on possible impairment of future confidence in a censured or suspended judge who would ultimately continue

on the bench, at least for the remainder of his term. This same reason, in my opinion, does not obtain if a judge were to be temporarily suspended pending the outcome of the proceedings in the Supreme Court. At present, the Supreme Court can remove or involuntarily retire a judge or dismiss the proceedings. In either case, temporary suspension would not have the effect of possible future lack of confidence in the judge for, if the judge is removed or retired, the problem is at an end; conversely, if the proceedings are dismissed, then the public recognizes that grounds for disciplinary action did not exist and that the temporary suspension during the proceedings was invoked because of possible doubts created in the public mind at that stage.

Members of the Judiciary Committee of the
Louisiana Constitutional Convention
April 24, 1973
Page 2

In short, even if you do not additionally grant powers of censure and suspension as final actions, nevertheless we would recommend that you do approve the additional discretionary power of temporary suspension pending the outcome of proceedings in the Supreme Court, for it may be foreseen that instances will arise when public confidence in the judiciary will require such temporary suspensions pending the outcome of the proceedings in the Supreme Court.

EJM/mm
Enc. 2
cc: Hon. W. A. Culpepper

Article 9, Section 4

4. Judiciary Commission; removal or involuntary retirement of judges and justices

Section 4. A. Judiciary Commission; membership; terms.

(Same as at present)

(NEW)

B. Powers and duties; rules. ¹On recommendation of the

Judiciary Commission, the Supreme Court may censure, suspend with or without salary, remove from office or retire involuntarily a justice or judge for wilful misconduct relating to his official duty, wilful and persistent failure to perform his duty, habitual intemperance, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or conviction, while in office, of a felony. ²On recommendation of the Judiciary Commission, the Supreme Court may disqualify a justice or judge from exercising any judicial function, without loss of salary, during the pendency of the proceedings in the Supreme Court. ³On recommendation of the Judiciary Commission, the Supreme Court may retire involuntarily a justice or judge for disability that seriously interferes with the performance of his duties and that is, or is likely to become, of a permanent character. ⁴The Judiciary Commission may recommend, and an order of removal or involuntary retirement by the Supreme Court may provide for, the disqualification of the justice or judge from holding judicial office in this state thereafter, either permanently or for a specified period. ⁵A justice or judge who has been removed is ineligible to receive retirement benefits. ⁶The Supreme Court shall make rules implementing this section and providing for confidentiality and privacy of proceedings.

(OMIT Section 4. C, D, E, F, and G.)

Comments: In keeping with the desire of the Judiciary Committee of the Constitutional Convention to shorten

provisions wherever possible and to relegate as much material as possible to rules of court or statutes, the present constitutional provision regarding the Judiciary Commission has been altered as follows:

Paragraph A on the creation of the Commission and provisions for its membership and their terms has been retained in its entirety. This is in conformity with the constitutional provisions of almost all of the 32 states which have judicial discipline and removal commissions.

Present Paragraph B has been expanded to include censure and suspension provisions (for the reasons noted in the comments on the previous pages), as well as to include all necessary effects of removal or involuntary retirement which are found in the present Paragraph C and D.

Present Paragraphs E, F, and G have been deleted inasmuch as the provisions thereof can be provided for by rules of the Supreme Court as authorized in the last sentence of the proposed new Paragraph B above (this same sentence is found in the provisions of 17 of 30 states which have a judicial discipline and removal commission).

- 2 -

RESUME

Submitted by Joseph W. Joachim
Executive Vice President and General Counsel
Louisiana City Marshals and City Constables Association

To: Judiciary Committee
Judge Dennis, Chairman
Constitutional Convention 1973
Baton Rouge, Louisiana
May 25, 1973

The following is a brief resume submitted to the members of the Judiciary Committee presided over by Judge Dennis, Chairman, at the committee's request, by the undersigned, concerning the status and/or proposed changes in the offices of the City Marshals and City Constables throughout the State and the city courts which they serve.

The city courts, sometimes referred to in certain municipalities as municipal courts, are basically charged with the handling of legal matters smaller than those normally handled by the district courts.

The benefits derived from the city courts include the much swifter disposition of cases for smaller amounts - and generally at a lower cost. Generally speaking, the city courts and their marshals and/or constables have been and are now operating very efficiently and there is no reason seen for any basic changes in this system excepting

- In standardization of their terms of office and procedures
- Adjustment of their jurisdictions.

Concerning "a" above it should be noted that all of the City Marshals and/or Constables in the State serve 6 year

Page 2.

terms excepting those of Baton Rouge and New Orleans who serve 4 year terms which run concurrently with those of the respective mayors of these cities.

It is submitted that the terms of all City Marshals and/or Constables should be standardized to 6 years and their elections held in even years not concurrent with those of the mayors of the cities, as the offices involved do not form a part of the executive branch of municipal government, but rather are a part of the judiciary.

As concerns "b" above the jurisdictions of the city courts, particularly in civil matters, should more realistically meet the modern present day needs of the litigants, (Note The jurisdiction of the city court of New Orleans has not been changed in over 20 years at which time the minimum wage was 70¢ per hour.) Since the time most of the jurisdictions of the city courts were set inflation has effectively reduced these jurisdictions, thus placing a greater work-load on the district courts. For example, the damages now resulting from a relatively small automobile accident can very easily exceed what was at one time the total value of an automobile, the rents resulting from the average modern apartment now exceed what was once the rent for a half of a small double house.

It is submitted that, in civil matters, the exclusive jurisdiction of the city courts be set at \$1500.00 if such jurisdiction concerns the amount in dispute or the funds to be distributed, and that the restrictions on judicial amounts for rents be completely removed.

The city courts are quite often referred to as "the poor man's court" but without the above changes to keep pace with present day economic reality, these persons are being forced to seek relief

Page 3.

at a greater expense and delay in time in the district courts, which in turn crows the dockets of these district courts.

The undersigned, because of his residency in New Orleans, is advised that not only are the changes of the city court of New Orleans in favor of the above changes, but that all of the judges of the Civil District Court will heartedly recommend these realistic adjustments and dollar figure changes in jurisdiction.

The undersigned is also advised, not only by the executive board of this association, but by resolution of all of its members of the Louisiana City Marshals and City Constables Association that such changes are necessary for their offices to keep pace with present day conditions.

Respectfully submitted,

J. W. Joachim
Joseph W. Joachim
Executive Vice President and
General Counsel
Louisiana City Marshals and
City Constables Association
2301 American Bank Bldg.
New Orleans, La. 70130

JWJ/aw

RECOMMENDATIONS TO THE JUDICIARY COMMITTEE OF THE 1973 CONSTITUTIONAL CONVENTION FROM THE NEW ORLEANS CHAPTER OF COMMUNITY ACTION FOR CORRECTIONS, MAY 25, 1973-----L.S.U. LAW CENTER-----Baton Rouge, La.

As citizens of the city of New Orleans, the members of the New Orleans Chapter of Community Action for Corrections propose the following actions by the Judiciary Committee of the Constitutional Convention. It is our feeling that the criminal justice system, composed as it is of various governmental agencies, must be responsive to the needs of the citizens of this state and to the needs of those most directly affected by it; namely, those arrested for a criminal act. We hope that the suggestions we offer will be considered seriously and will be viewed as an attempt to provide a more humane correctional system for the state of Louisiana. The actions that we propose are as follows:

1. That special references to the election of a Criminal Sheriff for Orleans Parish be deleted from the Constitution so that that matter can be turned over to local government.
2. That the terms for judges in the Criminal District Court in Orleans Parish be reduced from twelve years to six years.

3. That a board or panel be established to appoint persons to fulfill vacancies in the District Courts where such vacancies occur within one year of an election.
4. That a full time, professional Pardon Board be established with full authority to grant reprieves or pardons, and furthermore that such a board be constituted by professionals such as psychologists, sociologists, penologists and lawyers.
5. That the constitutional rights of persons arrested for crimes be guaranteed except in cases where those rights are inherently inconsistent with the operation of an institution, such as a penitentiary, and furthermore that those rights be restored when a person is released from prison. Specifically, we refer to the right to vote.

Finally, we wish to affirm those public officials who are trying to create a more humane criminal justice system. We hope that the Constitutional Convention will continue to be responsive to citizens groups and will join with us in these additional efforts to improve the system

Raymond Nance, President
3900 St. Charles Ave.
New Orleans, La. 70115
891-0823



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 • BOX 1762 • BATON ROUGE, LOUISIANA 70801
TELEPHONE 388-5014

E. L. MENRY
Chairman
NORMA M. DUNCAN
Secretary

AGENDA

COMMITTEE ON THE JUDICIARY

May 26, 1973

Roll Call

Announcements

Speakers:

JUDGE WILLIAM HAWK DANIELS, City Court,
Division B, Baton Rouge

ASSOCIATE JUSTICE FRANK W. HAWTHORNE, Retired
Louisiana Supreme Court

Business of the Committee

Adjournment

NOTES

The following documents are found in the work file for the meeting of June 8, 1973.

Filed to C.B. Ferguson



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 • BOX 1762 • BATON ROUGE, LOUISIANA 70801
TELEPHONE 388-5014

E. L. MENRY
Chairman
NORMA M. DUNCAN
Secretary

May 31, 1973

MEMORANDUM:

TO: Honorable James L. Dennis, Chairman,
Committee on Judiciary

FROM: Robert J. Aertker, Chairman, Committee
on Education and Welfare

RE: Review of Article IV, Section 16, relative
to trusts.

The Committee on Education and Welfare has reviewed Article IV, Section 16 and recommends retention of the proviso that authorize the creation of express trusts for educational, charitable or religious purposes.

We would appreciate the results of your decision in reference to this provision.

Respectfully submitted,

Robert J. Aertker
Robert J. Aertker, Chairman,
Committee on Education and
Welfare

RJA/pl

235 Pennsylvania Av
Shreveport, La. 7110
23 May 1973

Legislature
Capital Building
Baton Rouge, La.

Dear Legislators:

Wills written by lawyers force survivors to pay "just debts".

Just Debts should not include entire research and tryouts - without a legal agreement by patient or close relative or guardian. This legal agreement must not cost to survivors as that everyone pays, the hospital, the doctor, the survivor. Those who do not sign must be given same considerations and help but to not pay anything on research and tryouts, since the government and donation organizations give to research and cures.

Those who do not sign the legal agreement assume no debt as to research stop. Some people have already left their bodies for research, lessily, and for transplants and get paid while they live if they want.

Those who conscientiously object naturally do not leave to such banks and research.

Research and tryouts and transplants are failures, thus death and left for survivors to pay as it now stands.

The doctor, in almost all cases, has charged enormous prices already for tryouts in doctor visits and these are considered "just debts". Thus, a doctor may use initiative for finding cures, prolonging visits and eventually hospitalization. So he has had plenty of time to find a cure, possibly in many cases if he had this added incentive. A heart attack was told by his doctor later to lose weight. The patient said I drink beer as weak ends and the doctor said that is alright. The doctor did not make note of it or his answer. Patient doubled up on beer all during the week and became a profound alcoholic (alcoholic). Some years ago one told a lady to start smoking to stop constipation. She cannot stop smoking, now. He gets paid for all such as this classified as just debts. He claims his schooling and experience is worth his charges. But he may not be motivated to study further and keep current progress if not substantiated by a written agreement on research and tryouts.

Please, your honors, check this "just debts" in wills for us. Thank you.

Sincerely,
Mrs. Eniel N. Conway
Mrs. Eniel N. Conway

c.o. Governor
o.c. Constitutional Convention

NOTES

The following documents are found in the work file for the meeting of July 19, 1973.

1501 Teft Park
Metairie, La. 70001

July 3, 1973

Dear Sir:

May I respectfully request you to eliminate the "Forced Heir" from our new Constitution. This old law is at present on our old Constitution and out-dated.

The "Forced Heir" law is an old Napoleonic law over 100 years old, whereby a surviving spouse must give one-half the value of the home and contents (community property) if there are no children and should the surviving spouse remarry, sell out, or die, to the parents of the deceased spouse, people who never subscribed anything to this home and should not have any equity in it. The surviving spouse saved, scraped, done without and slaved in order to build this home. The parents of the deceased spouse have employment, social security, pensions, food stamps, medicare, etc. available to them today and are not destitute.

The community property laws pertain to man and wife, not in-laws or outsiders.

The "Forced Heir" law is against the laws of inheritance, and against the express last wishes of the deceased spouse, should such leave a will or if such die intestate whereby the next of kin, the surviving spouse would be the sole beneficiary if there are no children.

It is against the Constitution of the United States and the right of the surviving spouse's pursuit of health and happiness, condemning the surviving spouse to misery and loneliness for the rest of their life, perhaps making it necessary for the surviving spouse to seek employment (if they can find or do it) at an advanced age in order to survive.

I implore you to give this old law your most earnest attention and consideration to have it eliminated from our new Constitution. Have compassion on its victims, the thousands of widows and widowers, who are surviving spouses and relieve them from the misery and loneliness this ancient law imposes on them. This is the only state in the nation that has this law; abolish it.

Chairman E. L. "Bubba" Henry advises as quote, "That it should not be on our Constitution at all, because it is statutory in nature and doubts that the new Constitution will have anything in it relative to "Forced Heirship".

Thanking you in anticipation. The above are also the views of several surviving spouses I have met recently, and now I am meeting more daily who are emphatic in the elimination of the "Forced Heir" law from our new Constitution. Please advise the other delegates on the "Forced Heir" law as above.

Yours sincerely,

R. Shanks

over
July 18, 1973

Gentlemen

With reference to the letter overleaf on the Forced Heirship we are not alluding to the descendants (children) but to the ascendants (parents of the deceased spouse)

Please eliminate the word ascendants when it occurs on our old constitution on Forced Heirship.

To eliminate the following ancient articles on pages 852, 853 + 854 of an old constitution, - Art-1494, RC1870 Art 1494 C.C. 1825 Art 1481 C.C. 1808 Art 20 C.N. 1804 Art 915 also on C.C. 1808 Art 22 eliminate the word ascendants

The above eliminations will protect the interest and well-being of the descendants (children of the deceased spouse) also the surviving spouse. With best wishes and thank you in anticipation

Yours sincerely
R. Shanks

NOTES

The following documents are found in the work file for the meeting of July 27, 1973.

LOUISIANA STATE UNIVERSITY
AND AGRICULTURAL AND MECHANICAL COLLEGE
BATON ROUGE - LOUISIANA - 70803
Law School

RECEIVED

Judge James Dennis, Chairman
Committee on the Judiciary
Constitutional Convention of Louisiana of 1973
Baton Rouge, Louisiana

Dear Judge Dennis:

First, I should like to express my sincere appreciation to you and the members of your committee for the opportunity twice to appear before you and present my views concerning your most important work. At the request of your committee, I am honored to submit this somewhat hurriedly written memorandum setting forth various problems that occur to me with

respect to the draft proposal. In advance, I apologize for what may appear to be hypertechnical comments, but it is my understanding that this is what the committee felt would be most helpful in its further deliberations.

Structure and Organization of the Courts. First, as to the overall approach, let me reemphasize my hope that the committee and the Convention will adopt a three-tier unified, integrated, and independent judicial system. To my mind, this could best be achieved by abolishing inferior courts and merging them into a three-tier system (the Supreme Court, Courts of Appeal, and District Courts) to be entrusted with the entire judicial power. Specialized needs, such as juvenile, family, and traffic matters, could be handled by



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separate divisions of the district courts in a manner most appropriate to the diversified, particularized needs of the various judicial districts.

Louisiana, I feel, would miss a magnificent opportunity if at this point in our history we continued down the road of judicial fragmentation rather than establish and fully implement a simple well-integrated three-tier system. Instead of frontally attacking the fragmentation of jurisdiction that has occurred since the adoption of the 1921 Constitution, the draft proposal authorizes further proliferation of trial courts of limited or specialized jurisdiction.

Administration of the Courts. In my opinion responsibility for judicial administration should be clearly fixed, and the judicial structure should be one that lends itself to effective, efficient administration. The draft proposal very wisely provides that the Chief Justice shall be the administrative officer of such court, but does not make mandatory the selection of a chief judge for each of the various multi-judge district courts. I would urge that this be done.

Style and Drafting. The draft proposal in my opinion is deceptive in its simplicity, for although it is concise and simply stated, it very often forces one to return to many of the provisions currently on the 1921 Constitution. (See, for example, the provisions governing supreme court, court of appeal, and district court districts, the jurisdiction of the many courts of limited or specialized jurisdiction, etc.) It seems to me that one should be able to

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look to some easily ascertainable place for the laws governing the judiciary, and to this end perhaps thought should be given to preparing a judicial code of the laws governing the organization and structure of the Louisiana courts, some of which may be deemed so important that they could be changed only by a two-thirds vote of the legislature.

Further, it seems to me that the provisions pertinent to the court system in the parish of Orleans are somewhat obscure. If it is determined that Orleans should be given special and separate treatment, then I would think it desirable that it be done openly, as under the existing constitution.

Referendums. The administration of justice is, I feel, a matter of statewide concern and should be determined on a statewide basis after careful study. Although I am much devoted to democratic principles, I believe that allocation of jurisdiction is best determined by the people's representatives who can have the benefit of statistical studies and can view the problem on a statewide basis, rather than by the people through direct vote. In general, Louisiana electors have, by their attitude toward the numerous constitutional provisions presented to them, recently evinced great lack of enthusiasm for referendums, and I think it would be unwise to extend the referendum principle to jurisdictional allocation. If it is felt that some other organ should share responsibility with the legislature for establishment, abolition, etc. of courts, then I feel the Judicial Council is the more appropriate body.

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Appellate Jurisdiction. As I understand it, the draft proposal provides for full appellate review on both law and facts for all civil cases as a matter of right, regardless of the amount in controversy or the subject matter in litigation. (See Sec. 10) On the other hand, it provides for appellate jurisdiction as a matter of right in criminal cases on questions of law only (see Sec. 5(C)) when the defendant has been sentenced to imprisonment for more than six months or fined more than \$500, and in cases where a defendant might have been imprisoned at hard labor (see Sec. 5(D)(2)). Thus, if a person is ordered to pay \$5.00 to a neighbor by a justice of the peace court, there will be the right of appeal on both fact and law to a three-judge court of appeal, whereas a person fined \$500 and imprisoned for six months can secure appellate review merely as a matter of discretion, and even then only as to questions of law. This seems to me wholly undesirable, for it would subordinate a person's freedom to his financial concerns. Although I agree that the constitution should expressly provide that appellate review in civil cases should extend to both the law and the facts, I think it unwise for the constitution to preclude appellate review on the facts in criminal cases. Further, I submit that there should be appellate review to some court as a matter of right whenever a citizen is sentenced to imprisonment. Also, I should think that if a right of appeal is given in a civil case involving a stipulated jurisdictional amount in controversy,

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a defendant in a criminal case fined an equivalent amount should likewise have a right of appeal.

Powers of Attorney General. One of the most critical problems with respect to administration of criminal justice in Louisiana, as elsewhere in the country, is the problem of delay. Some one person should, I feel, be charged with ultimate responsibility for seeing that the prosecutorial function is efficiently and effectively performed. Rather than weaken the powers of the Attorney General, I feel they should be strengthened. In my opinion it is very unfortunate, therefore, that Section 29 of the proposed draft deletes the language now contained in Section 56 providing that the Attorney General and his assistants "shall exercise supervision over the several district attorneys throughout the State".

Judicial Function. I am concerned about the deletion of the important current provision in Section 3: "No function shall ever be attached to any court of record, or to the judges thereof, except such as are judicial". Unless there is a prohibition against assignment of non-judicial function to courts, I feel inroads upon this salutary principle may be made.

Detailed Considerations

Putting these general observations to one side, I should like to discuss problems that occur to me with respect to various individual sections.

Section 2. It may be unwise to give authority to issue writs of habeas corpus and other writs to a city judge, municipal judge, parish judge, etc., and I fear that a justice of the peace

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or a mayor who presides over a mayor's court may for the purpose of this section be regarded as a "judge".

With respect to the courts of appeal, which generally sit in panels, it may be undesirable to provide, as appears to be the case, that exercise of the writ authority by a single judge is subject to review by the "whole court". Generally, I should think that it would be appropriate for supervisory jurisdiction of a court of appeal to be exercised by a three-judge panel of that court, as with other of the court's judicial powers. It therefore might be desirable to say that exercise by a single judge of the court of appeal is subject to review by the panel of which he is then a member.

Section 5(A). To insure that a retired judge not be assigned against his will, I suggest that the last sentence of the paragraph read as follows: "It may assign a sitting or, with his consent, a retired judge to another court." (Page 2, lines 9 and 10.)

Section 5(C). As indicated above, I would delete the provision limiting supreme court review in criminal cases to law only.

Section 5(D)(2). As indicated above, I am very concerned that no right of appeal is given to a defendant in a criminal case who is imprisoned for six months or less or fined \$500 or less, other than criminal cases in which imprisonment at hard labor might have been imposed. Although it might well overburden

the supreme court to give appellate jurisdiction in all such cases, I feel that in many, a right of appeal to some court should be afforded.

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Perhaps there should be a statement in Section 5(D) to coordinate it with Section 27 relative to the jurisdiction of the supreme court concerning the censure, suspension, removal, etc. of judges on recommendation of the Judiciary Commission.

Section 10(A). Since the usual proceedings against juveniles are technically not criminal in character, I would suggest deletion of the phrase "of persons other than juveniles". (Page 1, lines 31 and 32.)

Sections 15(B) and 16(B). As indicated above, if it is decided it is desirable to have longer terms for New Orleans district judges than for others throughout the state, (and I would prefer a uniform eight-year term for all district judges), I feel it is preferable for the constitution openly to recognize the difference. Otherwise it seems to me we are recognizing by these sections three types of district judges and three types of district courts (district, civil district, and criminal district).

Section 17. As suggested above, I feel it is very desirable to make the selection of a chief judge of a multi-judge district court mandatory.

Section 19. As stated earlier, I should much prefer for us to adopt a three-tier unified, integrated system. Aside from this, however, it does not seem to me that the proposal affords needed flexibility in a system, for it freezes in constitutional form the jurisdictional format presently existing. A simple authorization of jurisdictional variation, (as, for example, by insertion of the word "alter" in line 34, page 5), would not

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seem to me satisfactorily to meet the problem, for it would authorize the destruction of whatever uniformity now exists in the court structure, and promote great variation in the jurisdiction of courts of the same category, thereby working great confusion to members of the bar and general public.

Section 20. A three-tier seems to me more desirable than a four-tier system. Establishing parish courts, I feel, would be unnecessarily expensive and duplicative.

As proposed, the plaintiff in a parish having a parish court would, in cases falling within the jurisdiction of the parish court, be privileged to choose whether he would sue the defendant in the parish or district court, and thus often could "choose his judge". Since the establishment of a parish court does not necessitate the abolishment of other courts of limited jurisdiction (as, for example, city courts), often in these localities the plaintiff would have a choice among three courts, all of which would have concurrent jurisdiction over the suit.

Because of the inflationary aspect, I think it unwise to state a \$3500 jurisdictional maximum.

Since the United States Supreme Court has held that a person subject to incarceration for more than six months is entitled to a jury trial, whether or not the offense charged is a misdemeanor, I think it unwise to phrase criminal jurisdiction of the parish court in terms of "misdemeanors"--unless, of course, it is desired that there be jury trials in parish courts.

To help prevent parish judges from being regarded as

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second-class judges and to avoid there being local courts, I believe it would be well to provide that they should serve fulltime, and that the salary of the judge of the parish court should be the same as that of the district judge and paid from the same source.

Since the section says "notwithstanding the provisions of Sections 15 and 19 to the contrary", I assume a parish court can be established and a city court simultaneously abolished without approval by a majority of the persons voting in the city affected, which seems to be out of harmony with the philosophy underlying Section 19.

Perhaps a provision should be inserted as to whether a district attorney, or some other official, is responsible for the prosecution of offenses in a parish court.

Section 21. As indicated above, it seems desirable to me to abolish both the mayor's courts and the justice of the peace courts and merge their jurisdiction into that of the district courts.

Section 22. Although I agree that, if requested, proceedings in a trial court should be transcribed, I fear that the language used ("shall be recorded when requested") may cause confusion by risking the reclassification of certain courts of limited jurisdiction as "courts of record." Further, it is my understanding that it was intended that the right to transcribe testimony apply only to trial courts, rather than "all courts" as stated in the section, and I believe this should be spelled out.

Section 24(B). It seems undesirable to have judgeship

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vacancies of less than six months to be filled by supreme court appointment with persons meeting the qualifications of office, but who then would be ineligible to be elected. I should think it might be difficult to find competent persons to accept such appointment, since it would be very disruptive of a law practice, and so "transient" in character.

Section 24(C). Is it possible that there may be a conflict between this provision and the 75-year-old compulsory retirement provision?

Section 29. As indicated above, I think it unfortunate to delete the provision that the Attorney General and his assistants "shall exercise supervision over the several district attorneys throughout the State"

Section 31. I believe it wise to include a provision that a minute clerk shall serve at the pleasure of a judge.

Section 37. As explained above, I feel the provisions for special exceptions for judicial officials of Orleans Parish, including the provisions relative to referendum, are undesirable.

Section 38. I fear that there may be an implication in the section that no qualifications other than majority or citizenship may be established for jury duty, and I would therefore suggest that language be inserted that the supreme court by rule may provide for both the selection and qualification of jurors.

With the hope that the foregoing will be of assistance, and with warmest best wishes to you and the members of the

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committee in your most significant and challenging task, this memorandum is respectfully submitted.

Yours sincerely,

George W. Pugh
George W. Pugh

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July 17, 1973

Honorable Ambrose H. Landry
Vice Chairman, Judiciary Committee
Constitutional Convention of 1973
P. O. Box 17740-A
Baton Rouge, Louisiana 70803

Dear Mr. Landry:

This is in further reference to the discussion that I had with you several days ago regarding my concern and that of the Committee on Professional Responsibility of the Louisiana State Bar Association in connection with a proposal that the new constitution eliminate the provision contained in the second paragraph of Article IX, Section 4-F of the present constitution which reads as follows:

"Action against a judge under this section shall not preclude disciplinary action against him with respect to his license to practice law."

As Chairman of the Committee on Professional Responsibility of the Louisiana State Bar Association, I sincerely feel that it is most important that this provision be kept in the Judiciary Commission Article.

As I mentioned to you in our discussion, I originally intended to be present at the meeting to be held at 9:30 a.m. on Friday, July 20, 1973, but unfortunately, I cannot attend. However, I have asked Mr. Leon Hebert, a former chairman and present member of the Committee on Professional Responsibility to attend in my place and I would appreciate it if you would make the contents of this letter known to the other members of your committee.

I sincerely hope that you will see fit to leave this very important provision in the new constitution when it is drafted. Thanking you for your consideration to this matter, and with kindest personal regards and best wishes, I remain

Sincerely,

John P. Pugh
John P. Pugh, Chairman
Committee on Professional Responsibility
Louisiana State Bar Association

JPP:cs

NOTES

The following documents are found in the work file for the meeting of August 8, 1973.

COMMITTEE AMENDMENT

CC 7323

Amendment proposed by Committee on the Judiciary
to Committee Proposal No. 6
by Delegate Dennis
Amend Printed Proposal as follows:

AMENDMENT NO. 1

On page 5, delete lines 28 through 30, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 17. There shall be a chief judge of each district court who shall be the judge oldest in point of service on the court below the age of sixty-five years at the time he takes office, who shall exercise such administrative functions as prescribed by rule of court."

Handwritten notes:
This Amendment
is to be
in common with

COMMITTEE AMENDMENT

CC 7323

Amendment proposed by Committee on the Judiciary
to Committee Proposal No. 6
by Delegate Dennis, et al.
Amend printed proposal as follows:

AMENDMENT NO. 1

On page 1, delete lines 18 through 23, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 2. The courts may, in aid of their authority, issue all needful writs, orders, and process. A judge of the supreme court or of a court of appeal, subject to review by the other members of his court, and a judge of a district court may issue writs of habeas corpus in cases within their jurisdiction."

Handwritten notes:
to attach
process
to process

COMMITTEE AMENDMENT

CC 7323

Amendment proposed by Committee on the Judiciary
to Committee Proposal No. 6
by Delegate Dennis, et al.
Amend Printed Proposal as follows:

AMENDMENT NO. 1

On page 14, line 11, add the following:

"Section 40. Judicial Expense Fund; Orleans Parish Section 40. The clerk of the civil district court, the clerks of the first and second city court, the register of conveyances, and the recorder of mortgages, shall keep account of all fees collected in their offices respectively, and they shall furnish daily to the commissioner of public finance of the city of New Orleans transcripts of said accounts, and they shall pay daily into the treasury of the city of New Orleans the whole amount of fees so collected by them, which shall constitute the judicial expense fund of the parish of Orleans, and the salaries of the said above named officers and their deputies, as well as the expenses of their respective offices, shall be paid therefrom upon warrants signed by the chief judge of the civil district court.

The judges of the civil district court shall have control over the judicial expense fund and to this end shall fix and regulate, from time to time, the number of deputies and employees of the offices of the clerk of the civil district court, the city courts, register of conveyances, and recorder of mortgages, and their expenses, and also shall have power to fix the tariff of costs and charges to be paid for official services, in said offices, which are paid into, and constitute said fund; due publications of which tariff, when made, shall be given. They shall have power to determine, whether any amounts from said fund, or its excess, shall be devoted to the expense of taking testimony by deothand and to regulate and provide for the same. The judges of said court shall each receive an additional annual salary which shall be payable out of this fund and, provided further, that the judges are authorized to contribute out of said surplus fund, to the embellishment and maintenance of the courthouse and its furnishings, and may contribute to any pension, retirement system, and group hospitalization plans to which officers and employees paid out of said fund may belong.

The judges of the civil district court shall file with the clerk of the court on January first and July first, of each year, a statement of the condition of the judicial fund showing the receipts and disbursements of said fund accompanied with a certificate of the bank or banks selected as a judicial depository showing the amount in bank actually to the credit of said fund."

III. Staff Memoranda

STAFF MEMORANDA

Committee: Judiciary



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 P. O. BOX 44473 BATON ROUGE LOUISIANA 70804

March 1, 1973

No.	Date	Subject
1	2/27	Brief Outline of Louisiana Judicial System
2	3/1	Opinion and brief, <u>Ward v. Monroeville</u>
3	3/1	Table; number and distribution of Justices of the Peace
4	3/1	Comparative Constitutional Judiciary Provisions
5	3/8	Judiciary Article Draft - deleting "statutory material" - for Mr. Burns
6	3/16	Statistics on Caseload in District courts
7	3/16	Salaries of Justices of the Peace
8	3/16	Figures re allocation of Criminal Court Funds to pay salaries of judges
9		Aspects of Caseload in District Courts (greater detail than March 16 memo)
10		Discussion draft; Scope of coverage of committee
11		Legislative Council Memo: local and special laws
12		Attorney general; role and comparisons
13		Draft B
14		Draft A
15		Draft A with comments
16		Seniority table for judges
17		Additional Jurisdiction of Committee
18		Collection of Taxes by Sheriffs
19		Limits on authority of state police
20		Comparative Judicial removal commissions
21	6/6	Trusts, forced heirship study
22		Retirement system study

E. L. HENRY CHAIRMAN

TO: Members of the Judiciary Committee

FROM: Research Staff

Pursuant to the Committee's request, attached are the following materials prepared by Lee Hargrave and C. B. Forgotston, Jr.:

1. A brief outline of the Louisiana court system.
2. A compilation of the constitutional provisions on the judiciary of various jurisdictions which give an indication, in comparison to Louisiana's provisions, of what matters are normally covered in constitutional provisions, yet presented in a more concise manner.

Also attached are:

3. A table indicating the number and distribution of justices of the peace in the state.
4. The United States Supreme Court decision in Ward v. Village of Monroeville, relative to the constitutionality of mayor's courts, and a brief of the case's implications prepared by the Attorney General's Office.

NOTES

The materials which follow this cover are found compiled in the Judiciary Committee Staff Memo Book as Memos Nos. 1-4. They do not appear in the order recited in the letter but as cited in the Table of Contents of the Staff Memoranda Book, supra, this chapter. It appears that the assignment of numbers did not take place until sometime after June 6, 1973.

STAFF MEMORANDA

Committee:

No.	Date	Subject
22A		PAR Analysis
22A-1		District Judges Salary Proposal
23		Continuation of courts and parish courts study
24		Tentative Draft 1
25		Tentative Draft 2 (missing)
26		Tentative Draft 3
27		Tentative Draft 4
28		Louisiana's Courts of Limited Jurisdiction
29		Illinois Unified court system
29B		Pugh's comments on preliminary draft

[Staff Memo No. 1]

Brief Outline of the Louisiana Judicial System

(Prepared for the Committee on the Judiciary by the Research Staff, CC/73. February 27, 1973)

Supreme Court

One court domiciled in New Orleans, composed of seven justices elected from six districts for fourteen-year staggered terms. Justices must be 35 years old and have practiced law for ten years. Present salary is \$37,500 per year.

Jurisdiction: (1) "control of, and general supervision over all inferior courts"; (2) Original jurisdiction for removal of judges, disbarment of attorneys, and over questions of fact affecting its own jurisdiction; (3) Appellate jurisdiction (appeals of right) in criminal matters when a felony is involved or a misdemeanor in which the actual sentence exceeds \$300 or 6 months imprisonment; in civil matters over (a) cases involv-

NOTES

Judiciary Committee Staff Memoranda do not follow a uniform style indicating Memo number. Numbers are inserted in brackets [] .

ing the constitutionality of a tax, (b) when a statute or ordinance is declared unconstitutional, (c) when the Public Service Commission is party to the suit, and (d) election contests if the electoral district covers more than one court of appeal circuit; (4) Writ jurisdiction (review is discretionary with the court) over all other civil cases, and (5) ability to decide questions certified to the court by courts of appeal.

Courts of Appeal

Four territorial courts: First Circuit in Baton Rouge with six judges, second in Shreveport with five, third in Lake Charles with six, fourth in New Orleans with nine judges. Judges elected for twelve-year staggered terms, must have practiced law for six years. Present salary of \$35,000 per year.

Jurisdiction: Civil appellate jurisdiction (appeals of right) over all civil cases except those where an appeal lies directly to the Supreme Court. No criminal jurisdiction.

District Courts

Courts of record. Thirty-three territorial courts with civil and criminal jurisdiction, plus separate civil and criminal district courts in Orleans Parish. About 116 judges, elected for six-year terms, who must have practiced law for five years. Legislature can create additional judgeships by 2/3 vote. State salary of \$20,500, which can be, and in some cases must be, supplemented by parishes.

Jurisdiction: Original civil and criminal jurisdiction on virtually all cases regardless of the amount in dispute or the type of case. Has appellate jurisdiction to try de novo appeals (hears evidence again) from Mayors Courts, Justices of the Peace, and, if less than \$100 in dispute, from city courts.

Special Courts

Juvenile Courts

Separate juvenile courts exist in Caddo (one judge), Jefferson (one judge) and Orleans (four judges). Qualifications and salary are the same as for district judges.

Jurisdiction: Offenses committed by juveniles under 17 (under 15 for capital offenses and attempted aggravated rape); neglected and abandoned children; adoptions and related matters; also jurisdiction over adults accused of neglect of family.

In districts without a separate juvenile court, the District Court functions as a juvenile court, using a special procedure.

Family Court

One exists in East Baton Rouge Parish, with two judges (one provided for in constitution; one as a special division of the District Court). Jurisdiction is that of a juvenile court, plus authority over marital disputes--separation, divorce, annulment, disavowal of children, etc. Qualifications and salary as for district judges.

Courts of Limited Jurisdiction

City Courts

About 43 exist. Can be created for parish seats and cities of more than 5,000, with authority within the municipality. Judges elected for six-year terms, must be attorneys, but can practice law in addition to the judgeship. Salary paid by the municipality.

Jurisdiction: misdemeanor criminal jurisdiction, preliminary examinations, peace bond proceedings, violations of ordinances, and authority to perform marriages. Also, in civil cases, jurisdiction of cases involving not more than \$500 or \$1,000, depending on population of the municipality.

Mayors Courts

1. municipalities without city courts, the mayor serves as judge of a court with jurisdiction over violation of municipal ordinances. About 250 exist.

Justices of the Peace

Police jury (Orleans excepted) can divide parishes into wards from which justices of the peace serve. The Legislature can abolish the office of the justice of the peace. Must be qualified electors, not necessarily lawyers, who are elected for four-year terms. In civil cases, the justice of the peace collects fees; for criminal work, the parish provides a small salary. Presently 447 in office.

Jurisdiction: civil disputes involving \$100 or less; act as committing magistrate; set bail in minor felonies and misdemeanors; peace bond proceedings; perform marriages.

New Orleans Municipal Court

Jurisdiction over violations of city ordinances, other than traffic regulations.

New Orleans Traffic Court

Jurisdiction over violations of city traffic ordinances.

Jefferson Parish Court

Jurisdiction similar to a city court. Two exist, one with jurisdiction over the territory of the parish east of the Mississippi, the other with jurisdiction over the area of the parish west of the River.

NOTES

Staff Memos Nos. 2 and 3 are omitted. Staff Memo No. 2 reproduces an opinion of the Attorney General dated November 28, 1972 in re: Ward v. Village of Monroeville, 93 S.Ct. 80 [1972]. Staff Memo No. 3 enumerates the number of Justices of the Peace by parish from information compiled from Louisiana Roster of State Officials [1971].

#4

For the purposes of this listing, it is assumed that all provisions in Article VII of the 1921 Constitution are within the charge of the Committee on the Judiciary, as per Rule 49.

This study considers provisions relating to the judiciary that are not part of Art VII.

1. Provisions which might be considered by the Committee

- Art. IV sec. 4 Prohibition on local or special laws applies to: change of venue; procedure, jurisdiction and rule of evidence of the courts; any civil or criminal actions.
- Art. IV sec 2(a) District court jurisdiction in coastal waters.
- Art. VI sec. 5 Review of Public Service Commission orders.
- Art. IX sec. 4 Judiciary Commission--Removal of judges.
- Art. XIX sec. 3 Treason, definition and evidence required to convict.
- Art. XIX sec 17 Limits on the power of courts to punish for contempt.

2. Provisions which probably would not be considered by the commi

- Art 1, secs 6-12 Bill of Rights Guarantees: open courts, legal remedies protected, searches and seizures, indictment, speedy trial, jury trial, venue, witnesses, right to counsel, double jeopardy, information as to accusation, peremptory challenges, self-incrimination, confessions, excessive bail and fines, cruel and unusual punishment.
- Art II secs 1-2 Separation of powers provision
- Art III sec 31 Attorney General on the Legislative Bureau
- Art III sec 35 Suits against the state
- Art IV sec 2(a) Attorney General as member of the Board of Liquidation of State Debt
- Art IV sec 10 Pardon and Commutation of Sentences
- Art VIII sec 23 Corrupt Election Practices

2. (cont'd)

- Art X sec 11 Tax Sales
- Art XIV secs 15 ff. Civil Service System
- Art XIX sec 4 Dual Office Holding
- Art XIX sec 9 Libel--truth as defense
- Art XIX sec 13 Immunity in bribery cases
- Art XIX sec 25 Immunity from suit of special state agencies
- Art XIX sec 27 Governmental Ethics
- Art XX The Penitentiary

PROVISIONS OF THE CONSTITUTION NOT FOUND IN ARTICLE VII THAT
HAVE BEEN ASSIGNED TO THE COMMITTEE ON THE JUDICIARY BY THE
COORDINATING COMMITTEE:

Article IV.

§ 4. Local or special laws; prohibited subjects

Section 4. The Legislature shall not pass any local or special law on the following specified subjects:

- * * *
- Changing the names of persons.
- Changing the venue in civil or criminal cases.
- * * *
- Authorizing the adoption or legitimation of children or the emancipation of minors.
- Granting divorces.
- Changing the law of descent or succession.
- Affecting the estates of minors or persons under disabilities.
- * * *
- Regulating the practice or jurisdiction of any court, or changing the rules of evidence in any judicial proceeding or inquiry before courts, or providing or changing methods for the collection of debts or the enforcement of judgments, or prescribing the effects of judicial sales.
- * * *
- Concerning any civil or criminal actions.
- Giving effect to informal or invalid wills or deeds, or to any illegal disposition of property.
- * * *

§ 16. Trusts; forced heirship; abolition prohibited; adopted children

Section 16. The Legislature may authorize the creation of express trusts for any purpose, including but not limited to private trusts, trusts for the benefit of employees, trusts for educational, charitable, or religious purposes, and mixed trusts for any combination of purposes. Substitutions not in trust are and remain prohibited; but trusts may contain substitutions to the extent authorized by the Legislature. No law shall be passed abolishing forced heirship; but the legitime may be placed in trust to the extent authorized by the Legislature. Children lawfully adopted shall become forced heirs to the same extent as if born to the adopter and shall retain their rights as heirs of their blood relatives, but their blood relatives shall have their rights of inheritance from these children terminated.

Article IX.

§ 4. Judiciary Commission; removal or involuntary retirement of judges and justices

Section 4. A Judiciary Commission; membership; terms. The Judiciary Commission is hereby created. It shall consist of

- (1) one court of appeal judge and three judges of courts of record, other than the supreme court or the courts of appeal, at least two of whom shall be district court judges, all selected by the supreme court; (2) two members of the Louisiana State Bar Association who have practiced law in this state for at least ten years, appointed by the board of governors of the Louisiana State Bar Association, neither of whom shall be a justice or judge of any court, active or retired, nor an elected public official; and (3) one citizen, appointed by the Judicial Council, who shall not be a justice or a judge of any court, active or retired, nor a member of the Louisiana State Bar Association, nor an elected public official.

Members of the commission shall serve for terms of four years; provided, however, that no member of the commission who has served a four-year term shall be eligible to succeed himself.

Membership on the commission shall terminate (1) when a judge ceases to be a member of the court from which he was selected; (2) when a member appointed by the board of governors of the Louisiana State Bar Association becomes a justice or a judge or an elected public official or ceases to be a member of the Louisiana State Bar Association; or (3) when a citizen appointed by the Judicial Council ceases to be a member of the Louisiana State Bar Association or an elected public official.

When a vacancy on the commission occurs for any reason, a successor shall be appointed for a four-year term by the appointing authority for the position for which the vacancy occurred.

B. Grounds for removal or involuntary retirement. A justice or judge may be removed from office or retired involuntarily for willful misconduct relating to his official duty or willful and persistent failure to perform his duty, or for habitual intemperance, or for conviction, while in office, of a felony.

A justice or judge may be retired involuntarily for disability that seriously interferes with the performance of his duties and that is, or is likely to become, of a permanent character.

C. Investigation; hearing; recommendation to supreme court; rules. After such investigation as the judiciary commission deems necessary, it may order a hearing on the question on the removal or involuntary retirement of a justice or judge. After a hearing if the commission concludes that there is cause for removal or involuntary retirement as specified in this section, it shall recommend to the supreme court the removal or involuntary retirement of the justice or judge. The commission may include a recommendation that the justice or judge be disqualified from judicial office in this state thereafter, either permanently or for a specified period.

No action of the commission shall be valid unless concurred in by a majority of its members.

The commission shall adopt rules implementing this section not inconsistent with rules adopted by the supreme court.

D. Justices and judges; removal or involuntary retirement. When the

Judiciary Commission recommends the removal or involuntary retirement of a Justice or Judge, the supreme court shall review the record of the proceedings of the commission on the law and facts, and may permit the introduction of additional evidence. In accordance with its findings, the supreme court shall either order the removal or involuntary retirement of the Justice or Judge, or dismiss the proceedings.

Upon an order for removal, the Justice or Judge is thereby removed from office, and his salary shall cease from the date of the order. An order of removal or involuntary retirement by the supreme court may provide for the disqualification of the Justice or Judge from holding judicial office in this state thereafter, either permanently or for a specified period.

Upon an order for involuntary retirement, the Justice or Judge is retired with the same retirement benefits as if he retired voluntarily pursuant to law. A Justice or Judge who has been removed is ineligible to receive retirement benefits.

E. Proceedings; confidential nature. All documents filed with, and evidence and proceedings before the Judiciary Commission pursuant to this section are confidential. The record filed by the commission with the supreme court and proceedings before the supreme court are not confidential.

F. Recusation; alternative procedures. A Judge who is a member of the commission or a Justice of the supreme court shall be recused in any proceeding involving his own removal or involuntary retirement.

Action against a judge under this section shall not preclude disciplinary action against him with respect to his license to practice law.

This section provides an additional and alternative method by which Justices and Judges may be removed from office or retired involuntarily, and shall not be construed as conflicting with or superseding other methods provided in this constitution.

O. Judicial Administrator is executive officer; duties. The Judicial Administrator is the chief executive officer of the Judiciary Commission, and in that capacity he shall perform such duties as are prescribed by the commission, in addition to his duties prescribed by the supreme court.

Article XIX.

§ 16. Prescription against state

Section 16. Prescription shall not run against the State in any civil matter, unless otherwise provided in this Constitution or expressly by law.

PROVISIONS OF ARTICLE VII OF THE CONSTITUTION ASSIGNED BY THE COORDINATING COMMITTEE TO COMMITTEES OTHER THAN THE COMMITTEE ON THE JUDICIARY:

§41. Selection of jurors; women jurors

§69. Those provisions dealing with the filling of vacancies of offices not dealt with in the Judiciary Department.

PROVISIONS OF ARTICLE VII OF THE CONSTITUTION ASSIGNED BY THE COORDINATING COMMITTEE TO BE CONSIDERED BY BOTH THE JUDICIARY COMMITTEE AND THE COMMITTEE ON LOCAL AND PAROCHIAL GOVERNMENT:

§ 70. Coroners; establishment of office; election; term

§ 71. Coroners; qualifications; acting for sheriff

§ 72. Coroners; vacancy

Preslin. Staff Draft

LOUISIANA CONSTITUTION

ARTICLE VII

JUDICIARY DEPARTMENT

§ 1. Judicial power; change in structure, districts

Section 1. The judicial power shall be vested in a Supreme Court, in Courts of Appeal, in District Courts, and in such other courts as may be authorized by this Constitution. The Legislature may, by a two-thirds vote and upon the concurrence of a majority of those voters in the jurisdiction affected, establish, abolish, or otherwise affect courts of trial jurisdiction. Further the Legislature, by the same vote and procedure, may merge, consolidate, realign or separate any courts provided for in this Constitution subject to the provisions of Section 40 of this Article.

§ 2. Writs of habeas corpus and in aid of jurisdiction; reasons for refusal

Section 2. The Supreme Court, the Courts of Appeal, and each of the judges thereof, subject to review by the court of which he is a member, and each district judge throughout the State including judges of the Federal Criminal District Courts in the Parish of Orleans, may issue writs of habeas corpus and in aid of jurisdiction, and may also, in aid of the respective jurisdictions, original, appellate, or supervisory, issue writs of mandamus, certiorari, prohibition, quo warranto, and all other needed writs, orders and process, and where any of said writs are refused, the appellate courts shall indicate the reasons therefor.

§ 3. Judicial functions; law practice by judges

Section 3. No function shall ever be attached to any court of record, or to the judges thereof, except such as are judicial; nor shall such judges practice law. This shall not apply to judges of city courts, which may become courts of record.

§ 4. Membership; en banc, number necessary to judgment; calling in judge of other court

Section 4. Except when judges of other courts are called in, as elsewhere provided in this Constitution, the Supreme Court shall be composed of a Chief Justice and six Associate Justices, four of whom shall concur to render judgment when the court is sitting en banc, and whenever so sitting, if four members cannot for any cause concur in any case, or in case of illness of any justice causing his absence for more than two weeks, or during any vacancy in the office of any justice which the court is not authorized to fill, the court shall have authority to call on any judge of the Courts of Appeal, or District Courts, whose duty it shall be, when so called upon, to sit in any and all cases as the court may direct. (As amended Acts 1948, No. 615, adopted Nov-2, 1948.)

§ 5. Divisions; number necessary to judgment; applications for rehearings

(OMITTED)

§ 6. Divisions; rotation; consideration of cases; qualifications; terms; compensation

* * *

The justices of the Supreme Court shall be ~~born in the law~~, citizens of the United States and of this State, not less than thirty-five years of age and each shall have practiced law in the State for at least ten years preceding his election, and shall have resided within the territory of the district from which elected, for the two years immediately preceding. They shall be elected for terms of fourteen years, except as hereinafter provided, and each shall receive a salary of eight thousand dollars per annum, payable monthly on his own ~~terms~~.

§ 7. ~~Initial terms; election; expiration of terms; vacancies; presiding justice~~

* * *

Whenever a vacancy shall occur in the office of Chief Justice, the justice oldest in point of service shall succeed thereto; and when sitting in divisions the justice longest in service shall preside.

§ 8. Retirement

The legislature shall provide a retirement system for judges. However, no judge in office, elected or retired prior to the adoption of this constitution shall have his retirement benefits reduced or his contributions to a retirement system increased.

§ 9. Supreme court districts; justices

Section 9. The State shall be divided into six Supreme Court Districts, and the Supreme Court, except as otherwise provided in this Constitution, shall always be composed of Justices from said Districts.

First district. The parishes of Orleans, St. Bernard, Plaquemines and Jefferson shall compose the First District, from which two justices shall be elected.

Second district. The parishes of Caddo, Bossier, Webster, Claiborne, Bienville, Natchitoches, Red River, De Soto, Winn, Vernon and Sabine shall compose the Second District, from which one justice shall be elected.

Third district. The parishes of Rapides, Grant, Avoyelles, Lafayette, Evangeline, Allen, Lemmiegard, Jefferson Davis, Calcasieu, Cameron, and Acadia shall compose the Third District, from which one justice shall be elected.

Fourth district. The parishes of Union, Lincoln, Jackson, Caldwell, Ouachita, Morehouse, Richland, Franklin, West Carroll, East Carroll, Madison, Tensas, Concordia, La Salle, and Catahoula shall compose the Fourth District, from which one justice shall be elected.

Fifth district. The parishes of East Baton Rouge, West Baton Rouge, West Feliciana, East Feliciana, St. Helena, Livingston, Tangipahoa, St. Tammany, Washington, Iberville, Pointe Coupee and St. Landry shall compose the Fifth District, from which one justice shall be elected.

Sixth district. The parishes of St. Martin, St. Mary, Iberia, Terrebonne, Lafourche, Assumption, Ascension, St. John the Baptist, St. James, St. Charles and Vermilion shall compose the Sixth District, from which one justice shall be elected.

§ 10. Supremacy, original and appellate jurisdiction

Section 10. The Supreme Court has control of, and general supervisory jurisdiction over all inferior courts.

It has exclusive original jurisdiction of disbarment cases involving members of the bar with the power to suspend or disbar under authority as the court may admit, of writs for the removal from office of judges of courts of record as provided in the Constitution, and of the determination of questions of fact affecting its own appellate jurisdiction in any case pending before it, and in that case, it may make such orders and decrees as it may deem proper.

In civil cases, its appellate jurisdiction extends to both the law and the facts. In criminal matters, its appellate jurisdiction extends to questions of law only.

The following cases only shall be appealable to the Supreme Court:

(1) Cases in which the constitutionality or legality of any tax, local improvement assessment, toll or impost levied by the state or by any parish, municipality, board or subdivision of the state is questioned;

(2) Cases in which an ordinance of a parish, municipal corporation, board or subdivision of the state, or a law of this state has been declared unconstitutional;

(3) Cases in which orders of the Public Service Commission are in contest, as is provided in Article 11, Section 5 of this Constitution;

(4) Appellate cases involving taxation controversies, but only if the election district from which the suit or contest arises was held lawfully within a court of appeal circuit; and

(5) Criminal cases in which the penalty of death or imprisonment at hard labor may be imposed, or in which a fine exceeding three hundred dollars or imprisonment exceeding six months has been actually imposed.

If a case is required properly to the Supreme Court on any issue, the Supreme Court has appellate jurisdiction over all other issues involved in the case. (Amended Act 1958, No. 561, adopted Nov. 4, 1958.)

§ 11. Certiorari and other writs to courts of appeal; time; judgment of court of appeal

(OMITTED)

§ 12. Assignment of district judges; judge of juvenile court; reports; investigations

(OMITTED)

§ 12.1. Judicial administrator, creation, appointment, salary, tenure; duties; emoluments; retirement

(OMITTED)

§ 13. Salaries and expenses of assigned judges

(OMITTED)

§ 14. Session in New Orleans

Section 14. The Supreme Court shall hold an annual session in the City of New Orleans, ~~beginning on the first Monday of October and continuing for a period of six months thereafter.~~

§ 15. Clerks

Section 15. The Supreme Court shall appoint its own clerks and remove them at pleasure.

§ 16. Court buildings; court library; state library

(OMITTED)

§ 17. Decisions of supreme court and courts of appeal, reporting and publication; stenographers

(OMITTED)

§ 18. Trial of appeals; office of prothonotary

(OMITTED)

§ 19. Constitutional judges; election and terms of office

Section 19. ~~By the people of this state shall be elected and qualified to hold office for a term of twelve years from the date of their election the judges of the Supreme Court and the judges of the courts of appeal.~~

Except as otherwise provided in Article VII, Section 21 of this Constitution, all courts of appeal judges shall be elected for terms of twelve years at the congressional elections for representatives immediately preceding the expiration of their terms and every twelve years thereafter. (As amended Act 1958, No. 561, adopted Nov. 4, 1958.)

§ 20. Circuits and districts

Section 20. A. There shall be four courts of appeal circuits. The first, second and third circuits shall be subdivided into three districts as follows:

First circuit. The parishes of Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Lafourche, Livingston, Point Coupee, St. Helena, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana shall compose the first circuit and the court of appeal for that circuit shall be known as "Court of Appeal, First Circuit, State of Louisiana."

Second circuit. The parishes of Bienville, Bossier, Caddo, Calwell, Claiborne, De Soto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union, Webster, West Carroll, and Winn shall compose the second circuit and the court of appeal for that circuit shall be known as "Court of Appeal, Second Circuit, State of Louisiana."

Third circuit. The parishes of Acadia, Allen, Avoyelles, Beauregard, Cameron, Calcasieu, Catahoula, Concordia, Evangeline, Grant, Iberia, Jefferson Davis, Lafayette, La Salle, Natchitoches, Rapides, Sabine, St. Martin, St. Landry, Vermilion and Vernon shall compose the third circuit and the court of appeal for that circuit shall be known as "Court of Appeal, Third Circuit, State of Louisiana."

Fourth circuit. The parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James and St. John the Baptist shall compose the fourth circuit and the court of appeal for that circuit shall be known as "Court of Appeal, Fourth Circuit, State of Louisiana."

Districts of first circuit. The parishes of Ascension, Assumption, Iberville, Lafourche, Point Coupee, St. Mary, Terrebonne and West Baton Rouge shall compose the first district of the first circuit; the parish of East Baton Rouge shall compose the second district of the first circuit; and the parishes of East Feliciana, Livingston, St. Helena, St. Tammany, Tangipahoa, Washington and West Feliciana shall compose the third district of the first circuit.

Districts of second circuit. The parishes of East Carroll, Franklin, Madison, Morehouse, Ouachita, Richland, Tensas and West Carroll shall compose the first district of the second circuit; the parishes of Bienville, Bossier, Caldwell, Claiborne, Jackson, Lincoln, Union, Webster and Winn shall compose the second district of the second circuit; and the parishes of Caddo, De Soto and Red River shall compose the third district of the second circuit.

Districts of third circuit. The parishes of Acadia, Catahoula, Concordia, Grant, La Salle, Natchitoches, Rapides and Sabine shall compose the first district of the third circuit. The parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis and Vernon shall compose the second district of the third circuit; and the parishes of Acadia, Evangeline, Iberia, Lafayette, St. Martin, St. Landry and Vermilion shall compose the third district of the third circuit. (As amended Act 1958, No. 561, adopted Nov. 4, 1958.)

B. The fourth circuit shall be subdivided into three districts as follows:

Districts of fourth circuit. The parish of Orleans shall compose the first district of the fourth circuit; the parish of Iberville shall compose the second district of the fourth circuit; and the parishes of Plaquemines, St. Bernard, St. Charles, St. James and St. John the Baptist shall compose the third district of the fourth circuit.

§ 21. Circuit courts of appeal; domicile; number of judges, initial terms

Section 21. A. **First Circuit.** The court of appeal for the first circuit, domiciled in the city of Baton Rouge, shall have six judges. Two judges shall be elected from each of the districts of the circuit by the qualified electors of each district, respectively. (As amended Act 1958, No. 561, adopted Nov. 4, 1958.)

B. **Second Circuit.** The court of appeal for the second circuit, domiciled in the city of Shreveport, shall have four judges. One judge shall be elected in the city of Shreveport, and one judge shall be elected from the circuit at large by the qualified electors thereof, and one judge shall be elected from each of the three districts composing the circuit by the qualified electors of each district, respectively. (As amended Act 1958, No. 561, adopted Nov. 4, 1958.)

C. **Third Circuit.** The court of appeal for the third circuit, domiciled in the city of Lake Charles, shall have five judges. Two judges shall be elected from the circuit at large by the qualified electors thereof, and one judge shall be elected from each of the three districts composing the circuit by the qualified electors of each district, respectively. (As amended Act 1958, No. 561, adopted Nov. 4, 1958.)

D. **Fourth Circuit.** The court of appeal for the fourth circuit, domiciled in the city of New Orleans, shall have seven judges. One judge shall be elected from the combined first and third districts of the circuit by the qualified electors thereof, two judges shall be elected from the first district of the circuit by the qualified electors thereof, two judges shall be elected from the second district of the circuit by the qualified electors thereof, and one judge shall be elected from the third district of the circuit by the qualified electors thereof. The seven judges provided by the Constitution and legislative acts

F. **Increase in number of judges.** Upon the recommendation of the Judicial Council and with the approval of two thirds of the members elected to

each house, the Legislature may increase the number of judges in any circuit and fix their initial terms of office in such a manner as to stagger the terms of the judges of each court.

These additional judges shall be elected from their respective circuits at large by the qualified voters thereof, and shall receive the same salary as the other judges of the courts of appeal.

G. Assignment of district judges to courts of appeal. If the docket of any court of appeal becomes congested, the Supreme Court may assign to it one or more district judges to serve as judges pro tempore of that court.

H. Terms of office to end in odd-numbered years. In each of the four circuits and in each of their respective districts, the term of office of each Court of Appeal Judge shall expire in an odd-numbered year. The respective terms

The parishes of Lincoln and Union shall compose the Third District. The parishes of Ouachita and Morehouse shall compose the Fourth District. The parishes of West Carroll, Richland and Franklin shall compose the Fifth District.

The parishes of East Carroll, Madison and Tensas shall compose the Sixth District. The parishes of Catahoula and Concordia shall compose the Seventh District.

The parishes of Grant and Winn shall compose the Eighth District. The parish of Rapides shall compose the Ninth District. The parishes of Natchitoches and Red River shall compose the Tenth District.

The parishes of DeSoto and Sabine shall compose the Eleventh District. The parish of Avoyelles shall compose the Twelfth District. The parish of Bienville shall compose the Thirteenth District.

The parishes of Calcasieu and Cameron shall compose the Fourteenth District. The parishes of Acadia, Lafayette and Vermilion shall compose the Fifteenth District.

The parishes of St. Mary, Iberia and St. Martin shall compose the Sixteenth District. The parish of Lafourcade shall compose the Seventeenth District.

The parishes of Iberville, West Baton Rouge and Pointe Coupee shall compose the Eighteenth District. The parish of East Baton Rouge shall compose the Nineteenth District.

The parishes of East Feliciana and West Feliciana shall compose the Twentieth District. The parishes of Tangipahou, Livingston and St. Helena shall compose the Twenty-First District.

The parishes of Washington and St. Tammany shall compose the Twenty-Second District. The parishes of Assumption, Ascension and St. James shall compose the Twenty-Third District.

The parish of Jefferson shall compose the Twenty-Fourth District. The parishes of St. Bernard and Plaquemines shall compose the Twenty-Fifth District.

The parishes of Bossier and Webster shall compose the Twenty-Sixth District. The parish of St. Landry shall compose the Twenty-Seventh District.

The parishes of LaSalle and Caldwell shall compose the Twenty-Eighth District. The parishes of St. John the Baptist and St. Charles shall compose the Twenty-Ninth District.

The parishes of Breuregard and Vernon shall compose the Thirtieth District. The parishes of Jefferson Davis and Allen shall compose the Thirty-First District.

The parish of Terrebonne shall compose the Thirty-Second District. The parish of Allen shall compose the Thirty-Third District.

The parishes of Iberville, West Baton Rouge and Pointe Coupee shall compose the Eighteenth District. The parish of East Baton Rouge shall compose the Nineteenth District.

The parishes of East Feliciana and West Feliciana shall compose the Twentieth District. The parishes of Tangipahou, Livingston and St. Helena shall compose the Twenty-First District.

The parishes of Washington and St. Tammany shall compose the Twenty-Second District. The parishes of Assumption, Ascension and St. James shall compose the Twenty-Third District.

The parish of Jefferson shall compose the Twenty-Fourth District. The parishes of St. Bernard and Plaquemines shall compose the Twenty-Fifth District.

The parishes of Bossier and Webster shall compose the Twenty-Sixth District. The parish of St. Landry shall compose the Twenty-Seventh District.

The parishes of LaSalle and Caldwell shall compose the Twenty-Eighth District. The parishes of St. John the Baptist and St. Charles shall compose the Twenty-Ninth District.

The parishes of Breuregard and Vernon shall compose the Thirtieth District. The parishes of Jefferson Davis and Allen shall compose the Thirty-First District.

The parish of Terrebonne shall compose the Thirty-Second District. The parish of Allen shall compose the Thirty-Third District.

§ 22. Qualifications of judges; salary

Section 22. The judges of the courts of appeal shall be citizens of the United States and qualified electors of the state, licensed to practice law in the state for at least six years immediately preceding their election. They shall be residents of the circuit or of the district from which they are respectively elected, and must have resided in the respective circuits or districts for at least two years immediately preceding their election.

The salary of the judges of the courts of appeal shall be fixed by the Legislature. (As amended Acts 1956, No. 561, adopted Nov. 4, 1956).

§ 23. Presiding judge; panels; sessions en banc; vacancy in office

(OMITTED)

§ 24. Sessions at domicile; ~~time of sessions; place of sessions~~

Section 24. The sessions of the several courts of appeal shall be held at their respective domiciles only, ~~and shall continue for a period of at least three days in each year.~~

The sessions of the courts of appeal shall be held at the domicile of the presiding judge. (As amended Acts 1954, No. 561, adopted Nov. 4, 1956).

§ 25. Certifications to supreme court of questions of law; determination

(OMITTED)

§ 26. Number necessary to judgment; appointment of district judges or lawyers to sit in the case

(OMITTED)

§ 27. Trial on original record; rules of practice

(OMITTED)

§ 28. Court facilities; clerks; ~~expenses~~

Section 28. The governing authorities of the parishes in which the several courts of appeal are domiciled shall provide adequate court rooms, office, and other facilities for the use of the court, its clerks, and staff.

The courts of appeal shall appoint their respective clerks and deputies who shall serve during the pleasure of the court. ~~The expenses of the courts of appeal shall be paid by the Legislature.~~

The salaries of the clerks and deputies of the courts of appeal shall be fixed by the Legislature. (As amended Acts 1954, No. 561, adopted Nov. 4, 1956).

§ 29. Appellate and supervisory jurisdiction

Section 29. Any provision of the Constitution or law to the contrary notwithstanding, the courts of appeal have appellate jurisdiction in the following cases: of which the Supreme Court has not given appellate jurisdiction under Article VII, Section 10 of this Constitution: all matters appealed from the family and juvenile courts, except criminal prosecutions against persons other than juveniles; all civil and probate matters of which the district courts throughout the state have exclusive original jurisdiction; and all civil matters involving more than one hundred dollars, exclusive of interest, of which the district courts throughout the state have concurrent jurisdiction.

All appeals of which the courts of appeal have appellate jurisdiction as provided in this section shall be on both the law and the facts, except where the appeal is limited to questions of law only by any other section of this Constitution.

Each court of appeal has supervisory jurisdiction, subject to the general supervisory jurisdiction of the Supreme Court, over all inferior courts in all cases to which an appeal would lie to the court of appeal. (As amended Acts 1953, No. 561, adopted Nov. 4, 1956).

§ 30. Disposition of appeals; transfer

(OMITTED)

DISTRICT COURTS

§ 31. Judicial districts

Section 31. JUDICIAL DISTRICTS. A. There shall be ~~fourteen~~ judicial districts in the state; the parish of Orleans, excepted, and each district shall be composed as follows:

The parish of Calcasieu shall compose the First District. The parishes of Jackson, Claiborne and Bienville compose the Second District.

§ 31.1 Twenty-second judicial district; additional judge

(OMITTED)

§ 31.2 Twenty-sixth judicial district; additional judge

(OMITTED)

§ 32. Number of judges

(OMITTED)

§ 33. District judges; election; residence, training, and experience qualifications; bar association membership

Section 33. District Judges shall be elected by a plurality of the qualified voters of their respective districts in which they shall have been actual residents for two years next preceding their election. They shall be ~~at least thirty years of age~~ have practiced law in the State of Louisiana five years previous to their election and shall be a member in good standing of the Louisiana State Bar Association. They shall be elected at the time now prescribed by law and every six years thereafter, ~~provided that when the number of judges in any district is less than the number of judges in any other district, the number of judges in that district shall be increased to the number of judges in the other district.~~ They shall be elected at the time prescribed by law for the election of District Judges throughout the State of Louisiana. (As amended Acts 1936, No. 67, adopted Nov. 3, 1936; Acts 1954, No. 731, adopted Nov. 2, 1951).

§ 34. Rearrangement of districts; change in number of judges

~~Section 34. The Legislature may rearrange the judicial districts and by a two-thirds vote of the members of each house may increase or decrease the number of judges in any district.~~

§ 35. Salaries; jurisdiction

Section 35. Basic salaries. Beginning with the adoption of this Constitution, and continuing until the end of their present terms, the

§ 48. Jurisdiction

Section 48. Jurisdictions of the peace shall have concurrent jurisdiction with the District Courts in all civil matters when the amount in dispute shall not exceed one hundred dollars, exclusive of interest, including suits for the possession or ownership of movable property not exceeding said amount in value, and in suits of landlords for the possession of leased premises, where the monthly or yearly rent, or the rent for the unexpired term of the lease, does not exceed said amount.

They shall have no jurisdiction in succession or probate matters, or when a succession is defendant, or when the State, parish or municipality, or other political corporation, is party defendant, or when the title to real estate is involved.

They shall have criminal jurisdiction, as committing magistrates only, and shall have power to bail or discharge, in cases not capital or necessarily punishable at hard labor, and may require bonds to keep the peace.

§ 49. Constables; election; term of office; qualifications

Section 49. There shall be one constable for the court of each justice of the peace in the several parishes of the State, who shall be elected at the general State election for a term of four years by the qualified electors within the territorial limits of the justice of the peace ward of the court for which he is elected.

He shall be of good moral character, able to read and write the English language, and shall be an elector and resident of the ward from which elected, and shall possess such other qualifications as may be prescribed by law.

§ 50. Fees; salaries

(OMITTED)

§ 51. Justice of the peace courts; city courts

Section 51. A. Abolition of justice of the peace courts; new courts.

The legislature shall have the power to abolish justice of the peace courts in wards containing the parish seat, or containing cities of more than five thousand inhabitants, and to create in their stead courts with such jurisdiction as is now vested in justices of the peace, provided that such courts in cities of not in excess of ten thousand inhabitants shall have civil jurisdiction, concurrent with that of the district court, where the amount in dispute, concurrent with that of the district court, does not exceed five hundred dollars, exclusive of interest and attorney fees, and with criminal jurisdiction which shall not extend beyond the trial of offenses not punishable by imprisonment at hard labor under the laws of this state; and said courts shall have jurisdiction for holding of preliminary examinations in cases not capital, for the requiring of bonds to keep peace and for the trial of cases covering the violations of municipal and parochial ordinances; and the judges of such courts shall have criminal jurisdiction in cases not capital, for the requiring of bonds to keep peace and for the trial of cases covering the violations of municipal and parochial ordinances; and the judges of such courts shall have criminal jurisdiction of all these portions of the parish of Bossier which are within, or which may later be taken into the city limits of the city of Shreveport.

D. Jurisdiction of city courts. The legislature may also confer civil jurisdiction on City Courts in cities where the combined population of the city and the ward or wards of the parish where situated is more than ten thousand inhabitants, but less than twenty thousand, concurrent with that of the District Court, where the amount in dispute, or the value of the movable property involved, does not exceed five hundred dollars, exclusive of interest and attorney fees; and may also confer civil jurisdiction on City Courts in cities where the combined population of the city and the ward or wards of the parish where situated is twenty thousand inhabitants, or more, concurrent with that of the District Court, where the amount in dispute, or the value of the movable property involved, does not exceed one thousand dollars, exclusive of interest and attorney fees; provided that appeals from such courts, where the amount in dispute exceeds one hundred dollars, exclusive of interest, shall be returnable to the Court of Appeal of the circuit in which such city is situated, and where the amount in dispute is one hundred dollars, or less, exclusive of interest, the appeal shall be returnable to the District Court of the district in which such city is situated.

C. Territorial jurisdiction. In addition to the civil jurisdiction conferred in the city court of Bossier City, a District Court shall have jurisdiction over all territory which is now or hereafter may be included within the city limits of the city of Bossier, except the jurisdiction of the city court of Bossier City fall under the territorial jurisdiction of the city court of Bossier City because of the effect of this amendment, that portion of the justice of the peace ward not included within the city limits of Bossier City shall remain under the jurisdiction of the justice of the peace.

D. Judges; compensation, election; term. The compensation of the Judges of such Courts shall be fixed by the Legislature and shall be paid by the parishes and cities in which they are or may be established, in such proportions as may be provided by law. The Judges of said courts, the city of Baton Rouge excepted shall be elected for terms of six years, provided that the Legislature may hereafter authorize and direct that the Judge of the City Court of Baton Rouge may be elected for a term of six years. The Judges of said courts shall be elected at the election for Representatives in Congress.

§ 51(a). Parish courts, Jefferson Parish

Section 51(a). The Legislature shall have the power to create Parish Courts

in the Parish of Jefferson. The boundaries of such Parish Courts shall be fixed by the Legislature, and within such boundaries, they shall have such civil and criminal jurisdiction as may be provided for by the Legislature, providing the civil jurisdiction shall not exceed the value or sum of \$1,000.00, exclusive of interest and costs, and the criminal jurisdiction shall be limited to the trial of offenses not punishable by imprisonment at hard labor under the laws of this State.

The Legislature shall provide for the number of Judges, their qualifications, term of office, compensation, powers and duties. Upon the creation of such Courts, the Legislature shall provide for the election of the judges thereof by the qualified electors residing within the jurisdictional boundaries of such Courts at the same time as district judges are elected within the State. However, the first judge or judges shall be elected at the state general election to be held in 1961, to serve until the election of district judges next following that general election.

The Legislature shall also provide for the necessary personnel for the operation of such Courts and make such other provisions as may be considered necessary to establish and operate such Courts. (Added Acts 1962, No. 547, adopted Nov. 6, 1962.)

JUVENILE COURTS

§ 52. Creation; judges; jurisdiction

Section 52. Creation; district court judges. There shall be a Juvenile Court for every parish of the State. Except as otherwise provided for the parishes of Orleans and Cadeo, the Judges of the District Court shall be ex officio Judges of the Juvenile Court for the parish or parishes within the district, in all cases where the Legislature has not established separate Juvenile Courts.

Sessions. The Court may sit in chambers and hold its sessions irrespective of terms of Court.

City court judges; jurisdiction; additional compensation. In word or words wherein there exists a City Court created under the provisions of Section 51 of Article VII of this Constitution, the judge of said City Court shall be ex officio Judge of the Juvenile Court within his jurisdiction. Said City Judge shall have jurisdiction concurrent with that of the District Court and shall have all the powers now conferred on Judges of the District Court as Judges of the Juvenile Court. In addition to the compensation now paid Judges of City Courts by their respective municipalities and parish, said Judges shall each receive a salary of Twelve Hundred Dollars per annum from the State, payable monthly on their own warrant.

Separate session and records. The sessions of said court shall be held apart from all sessions of the City Court, and its records shall be kept separately. The Court may sit in chambers, and may hold its sessions irrespective of terms of court.

Establishment of separate courts. The Legislature shall have the power to establish a separate Juvenile Court for any parish or group of parishes and designate the title and domicile of said court, upon the petition of the Police Jury or other governing body of the parishes to be affected. The Judge of said Court shall have the same term and possess the same qualifications as required for District Judges, and shall receive a salary equal to the highest salary paid any District Judge in any of such parishes.

Jurisdiction. The said Courts shall have jurisdiction, except for capital crimes and crimes defined by any law denning attempted aggravated rape if committed by children between years of age or older, of cases of the State of Louisiana in the interest of children under seventeen years of age, as may be provided by the Legislature brought before said Courts as delinquent or neglected children and of the trial of all persons charged with the violation of any law now in existence or hereafter enacted for the protection of the physical, moral or mental well-being of children under seventeen years of age not punishable by death or hard labor. Said Court shall also have jurisdiction of all cases of desertion or non-support of children by either parent, or non-support of a wife by her husband, and also of the adoption of children under seventeen years of age.

Appeals. Appeals shall lie to the Supreme Court of the State of Louisiana, from all final judgments rendered by the Juvenile Court. An appeal shall lie on questions of law and of fact when the judgment of the court affects the custody, care or control of children under seventeen years of age, but such appeal shall not discharge the child to whom said judgment relates from the custody of the Juvenile Court or of the person, institution or agency to whose care such child may be committed by the Juvenile Court until the Supreme Court shall so order. An appeal also shall lie on questions of law and of fact on both interlocutory and final judgments in adoption proceedings; in all other cases an appeal shall lie on questions of law alone.

Procedure. The Legislature shall have power to regulate the manner of conducting all proceedings in said Juvenile Courts and Appeals from all final judgments, and the number and duties of the officers thereof and all other matters pertaining thereto, and shall provide for the payment of the expenses of said Courts in any manner it shall see fit. Proceedings in the Juvenile Court are not required to be instituted by bill of indictment or information, and may be by affidavit, or, except in proceedings against adults, may be on petition.

Cadeo parish; judge. Unless otherwise provided by the Legislature under the provisions of this Constitution, there shall be a Judge of the Juvenile Court for the Parish of Cadeo who shall have full and exclusive authority as Judge of the Juvenile Court for Cadeo Parish, except in his absence from the parish or inability to serve, said Court may be presided over by one of the District Judges for Cadeo Parish as acting Judge of said Court. The qualifications, term of office and salary of said Judge shall be the same as that of the District Judges for Cadeo Parish.

Ex-officio clerks. The Clerks of the District Courts shall be ex officio Clerks of the Juvenile Courts for each parish, unless otherwise provided by the Legislature. (Amended Acts 1961, No. 524, adopted Nov. 3, 1961; Acts 1963, No. 198, adopted Nov. 8, 1963; Acts 1964, No. 263, adopted Nov. 2, 1964.)

§ 53. Family court for Parish of East Baton Rouge

Section 53. A. There is hereby established the Family Court for the Parish of East Baton Rouge, which shall be a court of record with exclusive original jurisdiction in the following proceedings:

(1) All proceedings in the interest of children under seventeen years of age as delinquent, neglected or otherwise in need of the protection of the

state except capital crimes and attempted aggravated rape if committed by children fifteen years of age or older.

(2) Of the trial of all persons charged with the violation of any law enacted for the protection of the physical, moral or mental well-being of children under sixteen years of age not punishable by death or hard labor.

(3) All cases of desertion or non-support or criminal neglect of minors by either parent.

(4) All cases of desertion or non-support or criminal neglect of a wife by her husband.

(5) All proceedings under the Uniform Dependent Enforcement of Support Law.

(6) All proceedings for the adoption of minors, for divorce minors abandoned and for the relinquishment or termination of parental rights.

(7) All actions for divorce, separation from bed and board, annulment of marriage, establishment of alimony of the property of children, alimony and support, custody and visitation of children, as well as of all matters incidental to any of the foregoing proceedings including, but not restricted to, the issuance of conservatory writs for the protection of community property, the awarding of attorney fees to the wife in judgments of divorce and separation, the establishment and rendering of a decree of alimony, the issuance of writs of habeas corpus and commitment under judgments of the court for alimony and attorney fees, jurisdiction of which has heretofore been vested in the Nineteenth Judicial District Court for the Parish of East Baton Rouge. The Nineteenth Judicial District Court for the Parish of East Baton Rouge shall, however, retain jurisdiction of all proceedings involving liquidation and partition of the community after a judgment of divorce or separation from bed and board.

(8) All proceedings for writs of habeas corpus for the determination and enforcement of rights to the custody of minors or for the release of any person in actual custody in any case of which the Family Court has original jurisdiction.

The Family Court for the Parish of East Baton Rouge has all such additional jurisdiction, power and authority which the Legislature has conferred, or may hereafter confer, upon the Juvenile Courts and particularly, but not restricted to, the jurisdiction, power and authority under the Juvenile Court Act (R.S. 13:1251-1254). The Legislature is empowered to confer additional jurisdiction, powers and authority upon said Family Court by legislative enactment.

All proceedings of which jurisdiction is herein conferred upon the Family Court for the Parish of East Baton Rouge and which were previously pending in the Nineteenth Judicial District Court or extension juvenile courts in the Parish of East Baton Rouge are hereby transferred to the Family Court for the Parish of East Baton Rouge. The Family Court shall hear and dispose of such cases with the same legal effect as if they had been instituted in said court in the first instance and all proceedings had therein. The transfer of such pending cases to the Family Court under Act Number 733 of 1974 is hereby continued and ratified. Laws amended Act 1976, No. 392, adopted Nov. 6, 1974.

B. Evidence; pleadings; trials; appeals. The rules of evidence, the pleadings, and other matters in the trial of cases in the Family Court shall be the same as are provided for the trial of cases in the juvenile and district courts of the State of Louisiana. Appeals from judgments or orders of the Family Court shall be in the same manner as is provided by law governing appeals in similar matters from the juvenile or district courts of the State of Louisiana.

C. Judge; qualifications; first judge; election. There shall be one judge presiding over the Family Court who shall possess the same qualifications required of district judges. The first judge shall be appointed by the governor for a term to expire at the time the term of the present judges of the Nineteenth Judicial District Court expires; thereafter the judge shall be elected for the same term and at the same time fixed by law for the election of all other district judges throughout the state, except the Parish of Orleans.

D. Salary of judge. The judge of the Family Court shall receive the same salary as the district judges of the Nineteenth Judicial District Court, payable monthly upon his own warrant, in the same manner as the district judges are paid.

E. Clerk. The Clerk of the Nineteenth Judicial District Court shall be ex-officio the clerk of the Family Court.

F. Continuous session; vacation or absence of judge. The Family Court shall be in continuous session throughout the year. The judge, however, shall be entitled to a vacation of one month during each year and in that case, he shall appoint one of the judges of the Nineteenth Judicial District Court to preside in his place. In the event of the judge's absence from the Parish or inability to serve, the judges of the Nineteenth Judicial District Court shall name one of their number to serve temporarily in his place.

G. Place of session; conduct of business; expenses; city and parish to share expenses. The session of the Family Court shall be held separate and apart from the Nineteenth Judicial District Court in quarters which the governing authorities of the City of Baton Rouge and the Parish of East Baton Rouge shall provide. The governing authorities of the City and Parish of East Baton Rouge shall also make all necessary provisions for the conduct of the business of the Family Court and provide all the necessary expenses in connection with its operation, these expenses to be borne proportionately by the parish and city, as determined by the respective governing authorities.

H. Probation officers; powers and duties; investigations; salaries. The judge of the Family Court may appoint and commission a chief probation officer and such other probation officers as may be necessary, who shall be officers of the court. They shall make all investigations and perform such other duties under the supervision of the court as the judge may direct. All commissioned probation officers shall have the power and authority of deputy sheriffs to make arrests and the necessary authority to enable them to perform the duties incident to their office. Probation officers to whom cases involving

minors have been assigned shall be present in court when such cases are being heard, in order that they may properly represent the interests of the minor involved. The salaries of the probation officers shall be fixed and paid by the governing authorities of the City of Baton Rouge and the Parish of East Baton Rouge.

I. Sitting in chambers; amendment self-operative. The Family Court may sit in chambers in any and all matters, whether contested or not, in the discretion of the judge, and any judgment or order rendered or signed shall be as effective as if rendered or signed in open court.

§ 54. Courts; authority in criminal neglect of family cases; rights and procedure

(OMITTED)

DEPARTMENT OF JUSTICE

§ 55. Establishment; composition; attorney general, election and assistants

Section 55. There shall be a Department of Justice consisting of an Attorney General, a First Assistant Attorney General, a Second Assistant Attorney General, and such necessary assistants and office force. The Attorney General shall be elected every four years at the general State election, and the assistants shall be appointed by the Attorney General to serve during his pleasure.

§ 56. Attorney general; qualifications; powers and duties; vacancies

Section 56. The Attorney General and the assistants shall be licensed attorneys in the State for at least five years preceding their election and appointment. They or one of them shall attend to and have charge of all legal matters in which the State has an interest, or to which the State is a party, with respect to the initiation and prosecution of suits, suits on appeal and for other proceedings, civil or criminal, as they may deem necessary for the protection or maintenance of the public interests of the State. They shall exercise supervision over the several district attorneys throughout the State, and perform all other duties imposed by law.

In case of a vacancy in the office of Attorney General, the First Assistant Attorney General shall have the duties of the Attorney General until his successor shall have been duly elected and qualified.

§ 57. Salaries

(OMITTED)

DISTRICT ATTORNEYS

§ 58. Establishment of office; election; term

Section 58. There shall be a district attorney for each judicial district in the State, who shall be elected by the qualified electors of the judicial district at the same time and for the same term as is provided herein for district judges.

§ 59. Salaries; qualifications

Section 59. He shall be an actual resident of the district and a qualified elector of the same, and shall have practiced law in the State for at least three years. His salary shall be fixed by the Legislature and shall be paid in arrears, payable by the parish in which he is appointed and in judicial districts composed of more than one parish, the Legislature shall fix the proportion of such salary to be paid by each of the parishes in a district. He shall receive no fee or reward. It shall be the duty of the Legislature at its next session, regular or special, to fix the salaries of the various district attorneys, payable in the parish in which they are appointed, and in judicial districts composed of more than one parish, the Legislature shall fix the proportion of such salary to be paid by each of the parishes in a district.

§ 59.1. Retirement

(OMITTED)

§ 60. Assistants

(OMITTED)

§ 61. Assistants; qualifications; powers

(OMITTED)

§ 62. Assistants; salary

(OMITTED)

§ 63. Defense of criminal prosecutions; removal from office

(OMITTED)

§ 64. Salary provisions; effective date; fees

(OMITTED)

SHERIFFS

§ 65. Establishment of office; election; ex-officio tax collector;

~~bond; collection of taxes~~

Section 65. There shall be a sheriff elected by the qualified electors of each parish in the State ~~(except the parish of Orleans)~~, who shall be elected at the general State election and hold office for four years. The sheriff, ~~except in the parish of Orleans~~, shall be ex-officio collector of State, parish and all other taxes, except municipal taxes, which, however, under legislative authority, he may also collect.

~~He shall, with the exception of the parish of Orleans, be bonded by a separate bond, as provided by law, for the faithful performance of his duties in each capacity, and the amount of such bond shall be declared by the legislature. He shall not be re-elected as tax collector until he has been re-elected to the office of sheriff by the qualified electors of the parish.~~

CLERKS

§ 66. Establishment of office; election; powers and duties

Section 66. There shall be a clerk of the District Court in each parish, ~~who shall be elected by the qualified electors of the parish every four years, and shall be ex-officio notary public and parish recorder of conveyances, mortgages, and other acts.~~

The Legislature shall have power to vest in clerks of court authority to grant such orders and to do such acts as may be deemed necessary for the furtherance of the administration of justice; and in all cases the powers thus vested shall be specified and determined.

§ 67. Deputies

(OMITTED)

§ 68. Bonds

(OMITTED)

VACANCIES

§ 69. Vacancies; appointments; ~~mode of appointment~~

(Section 69) ~~and mode of appointment~~

(1) Vacancies in the offices of judge of a district court, district attorney, sheriff, assessor, clerk of a district court and registrar of conveyances, recorder of mortgages, ~~and notary public, shall be filled by appointment by the Governor, with the advice and consent of the senate.~~

COMMENT: In Section 69 there are provisions for vacancies in offices not within the purview of Article VII.

CORONERS

§ 70. Establishment of office; election; term

Section 70. Unless otherwise provided by law, there shall be a coroner elected by the qualified electors of each parish, ~~except the parish of Orleans~~, who shall be elected at the general State election and who shall hold office for four years.

§ 71. Qualifications; acting for sheriff

(OMITTED)

§ 72. Vacancy

(OMITTED)

FEES

§ 73. Regulation of fees and costs; compensation of officers; service of process and pleadings by litigants

(OMITTED)

§ 74. Compensation of sheriffs and clerks of court

(OMITTED)

COURTS AND OFFICERS FOR THE PARISH OF ORLEANS

§ 75. Qualifications

Section 75. Except as herein otherwise provided, the judicial officers of the parish of Orleans shall be licensed by the law and shall have practiced law, or shall have held public office in this State for five years, and shall have been actual residents of the parish of Orleans for at least two years next preceding their election or appointment.

COURT OF APPEAL FOR THE PARISH OF ORLEANS

§ 76-79. Repealed Acts 1938, No. 561, § 2, adopted Nov. 4, 1938. Effective July 1, 1940.

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

§ 80. Establishment; composition; compensation; additional sections; assignment of judges

Section 80. There shall be one "Civil District Court for the Parish of Orleans." It shall be composed of not fewer than five judges; they shall be elected by the qualified electors of the parish of Orleans for terms of twelve years, and shall each receive an annual salary of four

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

§ 81. Civil and appellate jurisdiction

Section 81. The civil district court for the parish of Orleans has the same civil jurisdiction as the district courts throughout the state, except as otherwise provided in this Constitution.

It has appellate jurisdiction over all cases tried in the city courts of New Orleans where the amount in dispute, value of the movable property involved, or fund to be distributed, does not exceed one hundred dollars, exclusive of interest. These appeals shall be tried de novo by a single judge, and without a jury, but the civil district court for the parish of Orleans may proceed by rule that no evidence shall be admitted on the trial de novo which was not offered in the city court unless it is shown to the satisfaction of the court that, despite the exercise of reasonable diligence by the party offering it, such evidence could not have been produced at the trial in the city court. (As amended Acts 1938, No. 561, adopted Nov. 4, 1938.)

CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS

§ 82. Establishment; composition

Section 82. Number of judges; election; term; salary. There shall be one "Criminal District Court for the parish of Orleans," from and after October 1, 1921. It shall be composed of five judges, who shall be elected by the qualified electors for the parish of Orleans for terms of twelve years. Each judge shall receive an annual salary of

Sections; court building. There shall be five separate sections of said Criminal District Court for the parish of Orleans, each presided over by one of said judges. All of said judges shall hold court in one building to be provided by the City of New Orleans.

Clerk and deputies. Until otherwise provided by law, the Clerk of said Criminal District Court shall appoint, with the approval of the judges of said court, such additional deputy clerks as may be necessary to conduct properly the business of his office and of said court, at such salaries as are now provided by law for similar deputy clerks of said Court.

§ 83. Jurisdiction and powers

Section 83. Jurisdiction and powers. The Criminal District Court for the parish of Orleans shall have exclusive jurisdiction of the trial and punishment of the same offenses over and offenses committed within the parish of Orleans, the jurisdiction of which is not vested by this Constitution in some other court.

Appellate jurisdiction. It shall have jurisdiction of all cases tried in the Juvenile Court for the parish of Orleans and the Recorders' Courts of the City of New Orleans, as may be provided in this Constitution, and shall have jurisdiction of all cases tried in the law and equity courts and shall on trial upon the records in all the evidence received in said courts by the judge to whom the appeal shall be allotted. In all cases tried before the judges of the said Criminal District Court in which an appeal does not lie to the Supreme Court, and in cases tried before the Juvenile Court, an appeal shall be on questions of law and fact to two or more of the judges of the said Criminal District Court, as may be prescribed by said court; and the court shall adopt rules regulating the manner of taking and hearing and deciding said appeals.

Supervisory jurisdiction; writs. The said Criminal District Court shall have general and supervisory jurisdiction over the Recorders' Courts of the City of New Orleans, and shall have authority to issue writs of habeas corpus in criminal cases, and such other writs and orders as may be necessary in aid of the jurisdiction of said court.

Judges; powers. The judges of the said Criminal District Court for the parish of Orleans shall have power to act as committing magistrates in all felony charges and hold preliminary examinations with authority to bail, or discharge, or to hold for trial, in all cases before the said court, and shall have the power to adopt all necessary rules with respect thereto.

§ 84. Transfer of cases

(OMITTED)

§ 85. Stenographers; minute clerks; salaries; deputy sheriffs; judges' vacations and absences

Section 85. Each of the judges of the said Criminal District Court shall appoint his stenographer and his minute clerk with such salaries as may be now or hereafter authorized by law. The Criminal Sheriff for the Parish of Orleans shall assign a deputy sheriff to each of said divisions or sections of said court to act as clerk.

The judges of the said Criminal District Court shall have the power to regulate the order of their vacations, and to authorize any judge of said court to act in the place of an absent judge.

§ 86. Distribution of cases; control; rules

Section 86. All prosecutions instituted, or cases filed on appeal or otherwise in the Criminal District Court for the parish of Orleans, and all cases transferred to said court, shall be equally allotted by classes among the judges of said court, and each judge or his successor shall have exclusive control over any case allotted to him from its inception to its final disposition in said court. Provided, however, the said judges shall have authority to provide by rule for the exercise of jurisdiction by any judge over any case previously allotted. The judges of said court shall have power to adopt all necessary rules regulating the order of trial, and the proceedings in the trial of all cases in said court not in conflict with the law, and to provide by rule for the receiving of all writs charging crimes and offenses against the State; said writs to be taken and filed by the clerk of the Criminal District Court for the Parish of Orleans or his assistants.

§ 87. Change of provisions relating to criminal courts

Section 87. The Legislature, by a two-thirds vote of all members, shall have authority to amend, alter or repeal any or all of the provisions of this Constitution relating to the criminal courts of the City of New Orleans and the parish of Orleans.

§ 88. Salaries of parish and city officers

(OMITTED)

§ 89. Parish officers; election; continuation of prior law

Section 89. There shall be one clerk of the Criminal District Court, one clerk for the Criminal District Court, one vice clerk, one recorder and sheriff for the parish of Orleans, one clerk, one vice clerk, one recorder and sheriff for the City of New Orleans, one clerk, one vice clerk, one recorder and sheriff for the parish of Orleans, one clerk, one vice clerk, one recorder and sheriff for the parish of Orleans, and one clerk, one vice clerk, one recorder and sheriff for the parish of Orleans, all to be elected by the people of the parish of Orleans, as may be provided in the Constitution and the provisions of the laws of the State.

§ 90. First city court; judges; terms; salary

Section 90. There shall be a First City Court of the City of New Orleans, composed of three judges, who shall be elected to terms of eight years by the qualified electors of the City of New Orleans on the

1st of October

§ 91. First city court; jurisdiction; pleadings; authority; procedure; costs; appeals; small claims

Section 91. A. The terms of jurisdiction of the first city court shall be all that part of the city of New Orleans on the left bank of the Mississippi River. It has exclusive original jurisdiction in all cases where the amount in dispute or fund to be distributed does not exceed one hundred dollars, exclusive of the cost, the disbursements for the ownership or possession of any real property and the cost of premises when the market value does not exceed one hundred dollars. It has concurrent jurisdiction in all cases where the cost of real estate and probate matters, when the amount in dispute or fund to be distributed exceeds one hundred dollars but does not exceed one thousand dollars, exclusive of interest, attorney fees, and costs, and in all cases for the ownership or possession of real property not exceeding one thousand dollars in value, as may be the necessary writs in all cases to carry its jurisdiction into effect, irrespective of the value of the property so real. It has jurisdiction over inchoate and unperfected interests in real property consisting of or growing out of any principal that is heretofore or hereafter in dispute or of the value of the property. Pleadings therein shall be in writing, except as otherwise provided in this Section.

B. In all cases where the amount involved is less than twenty-five dollars, the pleadings need not be in writing, but the court shall preserve a record of the proceedings in the manner provided by law for trials before justices of the peace. The judges of the court shall assign one of their magistrates, during stated periods, such cases under rules and regulations adopted and prescribed by the court.

C. Until otherwise provided by the Legislature, the allotment, re-assignment, and trial of cases, the rules of procedure, the taking of evidence, the rendition and execution of judgments, the service of process, the execution of writs, and the manner of taking appeals, shall remain as now provided by law. Costs in the first city court shall be paid and regulated by the judges in control of the judicial case file fund for the parish of Orleans.

D. Appeals from the first city court in cases where the amount in dispute or the fund to be distributed does not exceed one hundred dollars, exclusive of interest, shall be taken to the civil district court for the parish of Orleans, where they shall be tried de novo, as provided in Article VII, section 81 of this Constitution. Appeals in all other cases shall be taken to the court of appeal for the fourth circuit.

E. The judges of the first city court have authority to celebrate marriages, to issue the necessary licenses therefor, to receive commissions to take testimony, and to receive the fees allowed by law therefor.

§ 92. Second city court; jurisdiction; officers; interchange of judges and clerks

(COMBINED WITH THE FIRST CITY COURT AS PER MR. TEL'S SUGGESTION)

§ 93. Vacancies; temporary filling by district judges

Section 93. Vacancies in the office of civil sheriff, clerk of the Civil District Court, recorder of mortgages, and registrar of conveyances, shall be filled temporarily by the judges of the Civil District Court of the Parish of Orleans sitting en banc; vacancies in the office of the criminal sheriff, clerk of the Criminal District Court, clerk and constable of the city courts, shall be filled temporarily by the judges of the courts to which they are attached, and all of said appointments shall serve until such vacancies are filled by election or appointment, as provided by law.

MUNICIPAL COURT OF NEW ORLEANS

§ 94. New Orleans; municipal and traffic courts; personnel; jurisdiction; appeals

Section 91.

I. Municipal court

(n) There shall be a "Municipal Court of New Orleans".

(b) Said Court shall consist of four (4) judges, all of whom shall be attorneys-at-law; they shall be elected by the qualified electors of the Parish of Orleans and shall not be less than thirty years of age, each shall have practical law in the State of Louisiana for at least five years preceding his election and shall be a duly qualified elector of the Parish of Orleans.

(c) The successors to the judges of the court in case at the time of the final expiration of their terms are to be determined shall be elected for an eight year term at the next regular municipal Convention election preceding the expiration of their present terms of office of such judges. Every term shall expire on December 31 of the first year thereof. Any vacancy in said Court for any cause where the unexpired term is less than one year shall be filled temporarily by appointment by the Governor until the next succeeding municipal election, at which time such vacancy shall be filled by the remainder of the unexpired term by election. All judges so elected shall take office on the first day of January following their election.

(d) Each of said judges shall receive a salary of Six Thousand Five Hundred Dollars (\$6,500.00) per annum, payable monthly by the City of New Orleans on his own warrant.

(e) The jurisdiction of said court shall extend to the trial of offenses against Ordinances of the City of New Orleans; provided that if and when the Commission Council of the City of New Orleans shall implement the "Traffic Court of New Orleans" hereinafter created, the "Municipal Court of New Orleans" shall no longer have jurisdiction of offenses against Ordinances regulating traffic upon the public streets of the City of New Orleans; it shall have no other jurisdiction.

(f) Said Court shall have the power to adopt such rules and regulations governing the operation thereof as may be necessary for the proper functioning of the Court.

(g) There shall be one Clerk of the said Court who shall be appointed by the Judges thereof and shall be subject to removal by a majority of the Judges of said Court, at will. The salary of the said Clerk shall be Five Thousand Dollars per annum, payable monthly by the City of New Orleans on his own warrant; and the Court shall adopt such rules and regulations governing the functions, duties, operation and procedure of the Clerk's office as may be necessary.

(h) Each Judge shall appoint his own minute clerk and stenographer and the Clerk of the Municipal Court of New Orleans shall appoint such deputies, assistants and employees as the Legislature may provide.

(i) There shall be a right to appeal in all cases from the Municipal Court of New Orleans to the Criminal District Court for the Parish of Orleans; said appeals shall be on the law and the facts and shall be tried by the Judge of the Criminal District Court to whom the appeal shall be allotted upon the records made and the evidence offered in the Municipal Court of New Orleans. The said Criminal District Court shall have general and supervisory jurisdiction over the Municipal Court of New Orleans, and shall have the right to issue such writs and orders as may be necessary in aid of its appellate and supervisory jurisdiction.

11. Traffic Court

(a) There shall be a "Traffic Court of New Orleans."

(b) The Traffic Court of New Orleans shall consist of not more than four judges, in the discretion of the City Council of the City of New Orleans. They shall be elected by the qualified electors of the parish of Orleans. All of such judges shall elect a clerk and two qualified electors of the parish of Orleans, and attorneys at law who have practiced in Louisiana for at least five years, to preside over their election.

(c) The two judges who, under the provisions of this provision shall continue in office until the expiration of their term and thereafter their successors shall be elected at the congressional election preceding the expiration of their term, for terms of six years. All of successors shall take office on the first day of January following their election, and every eight years thereafter.

(d) The two additional judges provided for by this Section, as hereby amended in 1964, shall be elected for an eight year term at the next Congressional election. Every term of the judge or judges so elected shall expire on December 31st of the first year thereof.

Whenever any of the judges is temporarily absent because of illness or while on vacation, the Mayor shall appoint a judge ad hoc to serve during the period of such temporary absence. The judge ad hoc shall have the qualifications for election to the office and his compensation shall be proportionately equal to that of the judge for whom he is appointed to serve, and shall be payable in the same manner and from the same source as that of such judge.

Any vacancy in said court for any cause shall be filled temporarily by appointment by the Mayor of New Orleans until the next succeeding congressional election, at which time such vacancy shall be filled for the remainder of the unexpired term by election. Such interim appointments shall be made by the Mayor of New Orleans on the recommendation of a citizens committee composed of a representative designated by each of the following organizations, namely, the New Orleans Bar Association, the Metropolitan New Orleans Safety Council, Inc., the Chamber of Commerce of the New Orleans Area, the League of Women Voters of New Orleans, and the Young Men's Business Club of New Orleans. This committee shall meet within one week after the vacancy occurs. The committee shall report in writing to the Mayor the names of three persons having the qualifications set forth for the judges of the court. From the three names so recommended by the committee the Mayor shall appoint a judge to fill the vacancy. The term of the judge appointed by the Mayor shall expire on December 31st of the year in which the next succeeding congressional election is held, and the successor to the judge so appointed shall be elected at said congressional election for the remainder of the unexpired term.

The five civic organizations referred to in the above paragraph shall be understood and construed to be the five organizations presently existing in the City of New Orleans to be the qualified names of their respective legal successors. If for any reason one or more of the said organizations shall not name a representative to the said committee, then the representatives of the remainder shall submit the nominees for the judges to the Mayor as above provided. In the event that for any reason the said committee shall fail to certify to the Mayor the three nominees for the judges within two weeks after the vacancy occurs the Mayor of the City of New Orleans shall have the right, and it shall be his duty to proceed forthwith to make the appointment of the judge to the said court. (As amended Acts 1964, No. 548, adopted Nov. 2, 1964)

(d) Each of said judges shall receive a salary in the same amount as that provided for each of the judges of the Municipal Court of New Orleans, payable monthly by the City of New Orleans on his own warrant.

(e) The jurisdiction of said court shall extend to the trial of offenses against the ordinances of the City of New Orleans regulating traffic upon the public streets of the City of New Orleans; it shall have no other jurisdiction. (As amended Acts 1964, No. 548, adopted Nov. 2, 1964)

(f) Said Court shall have the power to adopt such rules and regulations governing the operation thereof as may be necessary for the proper functioning of the Court.

(g) There shall be one Clerk of the said Court who shall be appointed by the Judges thereof and shall be subject to removal by the concurrence of the judges of said court at will. The salary of the said

Clerk shall be the same as that provided for the Clerk of the Municipal Court of New Orleans, and shall adopt such rules and regulations governing the functions, duties, operations and procedure of the Clerk's office as may be necessary.

(h) Each Judge shall appoint his own minute clerk and stenographer and the Clerk of the Traffic Court of New Orleans shall appoint such deputies, assistants and employees as the Legislature may provide.

(i) There shall be a right to appeal in all cases from the Traffic Court of New Orleans to the Criminal District Court for the Parish of Orleans; said appeals shall be on the law and the facts and shall be tried by the Judge of the Criminal District Court to whom the appeal shall be allotted upon the records made and the evidence offered in the Traffic Court of New Orleans. The said Criminal District Court shall have general and supervisory jurisdiction over the Traffic Court of New Orleans, and shall have the right to issue such writs and orders as may be necessary in aid of its appellate and supervisory jurisdiction.

JUDICIAL EXPENSE FUND

§ 95. Source of fund; control and administration; apportioning

Section 95. The clerk of the Civil District Court, the clerks of the First and Second City Courts, the reporter of court cases, and the recorder of mortgages, shall keep accurate and detailed accounts, in book, to be used for that purpose, of all fees collected in their offices, respectively, and they shall furnish daily to the Commission Council of Public Finance of the City of New Orleans, true copies of such accounts, certified by them or by their authority, and they shall pay directly into the treasury of the City of New Orleans the whole amount of fees so collected by them, which shall be held in a special deposit fund of the parish of Orleans, and the salaries of the officers so named officers and their deputies, as well as the expenses of their respective offices, shall be paid therefrom upon warrants signed by the presiding judge of the Civil District Court.

The judges of the Civil District Court for the parish of Orleans, court en banc, shall have control over the judicial expense fund for the parish of Orleans, including, said account, and they shall fix and regulate, from time to time, the number of deputies and employees of the clerk of the Civil District Court, the city courts, register of conveyances and recorder of mortgages of said parish and their expenses, and also shall have power to fix the tariff of costs and charges to be paid for official services, and other matters which are paid into, and constitute said fund, due public actions of which benefit, when made, shall be given. They shall have power to determine, when in any amount, from said fund, or its assets, shall be devoted to the expense of a law firm, through its disbursement, and to regulate and provide for the same. The purpose of said fund shall be to provide an additional source of salary of Six Thousand Dollars, payable monthly upon their own warrants, which could be payable out of this fund, and a special additional salary of in lieu of the Six Thousand Dollars provided for in R.S. 1:1142, and, provision further, that the said judges are authorized to contribute out of said source of fund, to the maintenance and maintenance of the court house, and its furnishings, and may contribute to any pension, retirement system and group benefit plan to which officers and employees paid out of said fund may belong.

The judges of said Civil District Court shall file with the clerk of said court on January 1st and July 1st of each year, a statement of the operation of said fund, and shall show the receipts and disbursements of said fund accompanied with a certificate of the bank or banks selected as a judicial depository showing the amount in bank actually to the credit of said fund. (As amended Acts 1967, No. 131, adopted February 6, 1968)

THE JUVENILE COURT

§ 96. Establishment; jurisdiction; appeals; procedure; judges

Section 96. Parish of Orleans—Jurisdiction—Appeals—Procedure—Judge—Salary and term of office. There shall be a Juvenile Court for the Parish of Orleans, which shall have jurisdiction, except for capital crimes and crimes defined by any law defining aggravated aggravated rape committed by children fifteen years of age or older, of proceedings concerning neglected or delinquent children under seventeen years of age. The court shall also have jurisdiction of all cases of desertion or non-support of \$2,000.00 or other payment, or of non-support of wives by their husbands and wives of the obligation of children under seventeen years of age. Upon the effective date of this amendment the Juvenile Courts shall be divested of jurisdiction and trial of all persons charged with contributing to the neglect or delinquency of children under seventeen years of age, and all persons charged with the violation of any law now in existence or hereafter enacted for the protection of the physical, mental or mental well-being of children under seventeen years of age, not punishable by death or hard labor, the jurisdiction and trial of all persons so charged is hereby vested in the Criminal District Court for the Parish of Orleans. All such cases, pending and untried, and the records thereof upon the effective date of this amendment, shall be transferred by order of a Juvenile Court Judge in the Criminal District Court for the Parish of Orleans for further proceedings in accordance with law, and such transfer shall be deemed perfected upon the signing of such order.

(Amended by A. 1968, No. 689, adopted Nov. 5, 1968.)

Appeals shall lie to the Supreme Court of the State of Louisiana from all final judgments rendered by the Juvenile Court. An appeal shall lie on questions of law and of fact when the judgment of the court affects the custody, care or control of children under seventeen years of age, but such appeal shall not discharge the child to whom said judgment relates from the custody of the Juvenile Court or of the person, institution or agency to whose care such child may be committed by the Juvenile Court, unless the Supreme Court shall so order. An appeal also shall lie on questions of law and of fact in adoption proceedings. In all other cases an appeal shall lie on questions of law alone.

The Legislature shall have power to regulate the manner of conducting all proceedings in said Juvenile Court and appeals from all final judgments, and the powers and duties of the office of them and all other matters pertaining thereto. Proceedings in the Juvenile Court concerning neglected or delinquent children and a seventeen years of age and as required to be maintained by appointment, information or support.

§ 9. Supreme court districts; justices

Section 9. The State shall be divided into six Supreme Court Districts, and the Supreme Court, except as otherwise provided in this Constitution, shall always be composed of Justices from said Districts

COMMENT: Possible rewording: "The state shall be divided into six Supreme Court Districts and not more than two justices shall be elected from a single district."

§ 10. Supervisory, only ~~not~~ appellate jurisdiction

Section 10. The Supreme Court has control of, and general supervisory jurisdiction over all inferior courts.

* * *

§ 14. Session in New Orleans

Section 14. The Supreme Court shall hold an annual session in the City of New Orleans, ~~beginning not later than the first Monday in the month of October and ending not earlier than the thirtieth of June in each year.~~

§ 15. Clerks

Section 15. The Supreme Court shall appoint its own clerks and remove them at pleasure.

* * *

§ 19. ~~Qualification of judges; election and terms of office~~

Section 19. ~~The judges of the courts of appeal shall be elected as here provided and no person shall be elected unless he has been a resident of the State for at least six years immediately preceding the date of his election.~~
Except as otherwise provided in Article VII, Section 21 of the Constitution, all courts of appeal judges shall be elected for terms of twelve years at the congressional elections for representatives immediately preceding the expiration of their terms and every twelve years thereafter. (As amended Acts 1938, No. 381, adopted Nov. 4, 1938).

§ 20. Circuits ~~and districts~~

Section 20. A. There shall be ~~three~~ courts of appeal circuits. ~~The first, second and third circuits shall be subdivided into three districts as follows:~~

COMMENT: Combine Sections 20, 31, 34 and 40 as follows:

"The Legislature shall provide for judicial districts and for court of appeal circuits, and may by two-thirds vote of the membership of each house, may increase or decrease the number of judges in any district or circuit. Provided, however, no elected judge of any court of the state, except as otherwise provided, shall be affected in his term of office, salary, or jurisdiction as to amount, during the term or period for which he was elected."

* * *

§ 22. Qualifications of judges; salary

Section 22. The judges of the courts of appeal shall be citizens of the United States and qualified electors of the state, licensed to practice law in the state for at least six years immediately preceding their election. They shall be residents of the circuit or of the district from which they are respectively elected, and must have resided in their respective circuits or districts for at least two years immediately preceding their election.

~~The salary of each of the judges of the courts of appeal shall be payable during the term of office, and the Legislature shall make the necessary appropriations.~~ (As amended Acts 1906, No. 561, adopted Nov. 4, 1906).

* * *

§ 24. Sessions at domicile; ~~time of appeal; election of judges~~

Section 24. The sessions of the several courts of appeal shall be held at their respective domiciles only, ~~and shall continue for a period of at least six months, beginning and ending at the first Monday of October in each year, and ending not earlier than the thirtieth day of June in the following~~

~~year. Appellate jurisdiction of the courts of appeal shall be given to the courts of appeal by the Legislature, and the Legislature shall provide by rule for the giving of such action. (As amended Acts 1938, No. 561, adopted Nov. 4, 1938).~~

* * *

§ 28. Court facilities; clerks; ~~work~~

Section 28. ~~The governing authorities in the parishes in which the several courts of appeal are organized shall provide adequate court rooms, offices, and other facilities for the use of the courts as judges and staff.~~

The courts of appeal shall appoint their respective clerks and deputies, who shall serve during the pleasure of the court. Their compensation shall be fixed by the Legislature.

~~The sheriff of the respective parishes in which the courts of appeal for the first, second, and third circuits are organized, or one of his or other, shall attend each session of the courts to carry the records of the courts. (As amended Acts 1938, No. 561, adopted Nov. 4, 1938).~~

* * *

§ 31. Judicial districts

Section 31. JUDICIAL DISTRICTS. A. There shall be ~~three~~ judicial districts in the state; the parish of Orleans, excepting and each district shall be composed as follows:

(See Comment under Sec. 20)

* * *

§ 33. District judges; election; residence, training, and experience qualifications; bar association membership

Section 33. District Judges shall be elected by a plurality of the qualified voters of their respective districts in which they shall have been actual residents for two years next preceding their election. They shall be ~~licensed in the law~~ and shall have practiced law in the State of Louisiana five years previous to their election and shall be a member in good standing of the Louisiana State Bar Association. They shall be elected at the time now prescribed by law and every six years thereafter, provided that, when in any judicial district of this state, the Legislature shall, in the manner prescribed by the Constitution, create one or more additional judges, such newly created judge or judges shall be elected at a special election called by the Governor for the first term which shall not extend beyond the term of the other District Judge's term in office. Thereafter, such judge or judges shall be elected at the time fixed by law for the election of District Judges throughout the State of Louisiana. (As amended Acts 1936, No. 67, adopted Nov. 3, 1936; Acts 1934, No. 751, adopted Nov. 2, 1934)

§ 34. Rearrangement of districts; change in number of judges

Section 34. The Legislature may rearrange the judicial districts, and by a two-thirds vote of the membership of each house, may increase or decrease the number of judges in any district.

(See Comment under Sec. 20)

* * *

§ 39. Practice of law; service as justice or judge included

Section 39. Wherever in this Constitution the qualifications of any justice or judge shall be the previous practice of law for a term of years, there shall be included in such term the time such justice or judge shall have occupied the bench of any court of record in this State.

§ 40. Judges; effect of laws changing term of office, salary or jurisdiction

Section 40. No elected judge of any court of the State, except as otherwise provided in this Constitution, shall be affected in his term of office, salary, or jurisdiction as to amount, during the term or period for which he was elected, and any legislation so affecting any such judge or court shall take effect only at the end of the term of office of such judge or judges, incumbents of the court, or courts, to which such legislation may apply at the time of its enactment, provided however that nothing in this amendment shall affect the present provisions of this Constitution with respect to judges appointed to fill an unexpired term of less than one year under the provisions of this Constitution. The term of office, salary, or jurisdiction as to amount, during the term or period for which such judges were appointed shall in no way be changed by this amendment. (As amended Acts 1910, No. 386, adopted Nov. 6, 1910).

(See Comment under Sec. 20)

§ 41. Selection of jurors; ~~woman jurors; trial by judge; trial by jury~~

Section 41. The Legislature shall provide for the election and

drawing of competent and intelligent jurors for the trial of civil and criminal cases, provided that the punishment for a crime shall be death or life imprisonment, or the punishment for a crime shall be at hard labor, and the case shall be provided by law, as provided by the judge without a jury. In cases in which the punishment may be at hard labor, shall be tried by a jury of twelve, all of whom must concur to render a verdict, cases in which the punishment may be at hard labor, by a jury of twelve, all of whom must concur to render a verdict, cases in which the punishment may be capital, by a jury of twelve, all of whom must concur to render a verdict.

§ 42. Grand jury; district judges, authority in criminal cases

Section 42. A grand jury of twelve, nine of whom shall constitute a quorum and must concur to find an indictment, shall be empanelled in each parish ~~twice in each year~~, and shall remain in office until a succeeding grand jury shall have been empanelled, ~~except in the parish of Cameron in which at least one grand jury shall be empanelled each year.~~

The district judges shall have authority to try at any time misdemeanors, and, when the jury is waived by the defendant, all cases not capital or necessarily punishable at hard labor, and to receive pleas of guilty in all cases less than capital.



§ 44. Waiver of citation; confession of judgment

Section 41. Service of citation shall not be waived, nor judgment confessed, prior to the maturity of the obligation sued on, except for the purpose of executory process; ~~provided, this prohibition shall not apply to contracts by authentic acts passed prior to the adoption of this Constitution.~~

COMMENT: There is some question as to the executory process exception should be left in, in light of recent court decisions declaring some states' process unconstitutional.

§ 45. Change of venue

Section 45. The Legislature shall provide by law for change of venue in civil and criminal cases.

JUSTICES OF THE PEACE AND CONSTABLES

§ 46. Justice of the peace wards; ~~abolition~~; abolition of office

Section 46. Any parish of the state, ~~the jurisdiction of which shall~~, may be divided by the police jury thereof into ~~as many~~ ~~as many~~ justice of the peace wards, from each of which there shall be elected one justice of the peace; provided, that the Legislature may reduce such number or even abolish the office of justice of the peace throughout the state.

~~The jurisdiction of the justice of the peace shall be as follows: In parishes where the population is less than one hundred and fifty, the jurisdiction shall be over all civil and criminal cases in which the amount in dispute does not exceed one hundred dollars, exclusive of interest, and over all cases in which the punishment may be at hard labor, and over all cases in which the punishment may be capital. In parishes where the population is more than one hundred and fifty, the jurisdiction shall be over all civil and criminal cases in which the amount in dispute does not exceed one hundred dollars, exclusive of interest, and over all cases in which the punishment may be at hard labor, and over all cases in which the punishment may be capital.~~

(Approved by Acts 1964, No. 64, adopted Nov. 3, 1968.)

§ 47. Justice; qualifications; election; term of office

Section 47. Justices of the peace shall be ~~of good moral character, freeholders, and empanelled electors, able to read and write the English language, and shall possess such other qualifications as may be prescribed by law.~~

They shall be elected at the general state election for terms of four years, by the qualified voters within the territorial limits of their jurisdiction.

§ 48. Jurisdiction

Section 48. Justices of the peace shall have concurrent jurisdiction with the District Courts in all civil matters where the amount in dispute shall not exceed one hundred dollars, exclusive of interest, including suits for the possession or ownership of movable property

not exceeding said amount in value, and in suits of landlords for the possession of leased premises, where the monthly or yearly rent, or the rent for the unexpired term of the lease, does not exceed said amount.

They shall have no jurisdiction in succession or probate matters, or when a succession is defendant, or when the State, parish or municipality, or other political corporation, is party defendant, or when the title to real estate is involved.

They shall have criminal jurisdiction, as committing magistrates only, and shall have power to bail or discharge, in cases not capital or necessarily punishable at hard labor, and may require bonds to keep the peace.

COMMENT: This provision was left in the constitution, even though this could be left entirely to the Legislature, in order to limit the Justices of the Peace rather than to protect them.

§ 49. Constables; election; term of office; qualifications

Section 49. There shall be one constable for the court of each justice of the peace in the several parishes of the State, who shall be elected at the general State election for a term of four years by the qualified electors within the territorial limits of the justice of the peace ward of the court for which he is elected.

He shall be of good moral character, able to read and write the English language, and shall be an elector and resident of the ward from which elected, and shall possess such other qualifications as may be prescribed by law.



MUNICIPAL COURTS

§ 51. Justice of the peace courts; city courts

Section 51. A. Abolition of justice of the peace courts; new courts. The Legislature shall have the power in abolishing justice of the peace courts to create in their stead courts with such civil jurisdiction as is now vested in justices of the peace, ~~and with criminal jurisdiction which shall not extend beyond the trial of offenses not punishable by imprisonment at hard labor under the laws of this state, and said courts shall have jurisdiction for holding of preliminary examinations in cases not capital, for the fixing of bonds to keep peace and for the trial of cases covering the violations of municipal and parochial ordinances; and the judges of such courts shall have authority to perform marriage ceremonies.~~ In addition to all other jurisdiction now vested in the city court of the city of Shreveport, said court shall have criminal jurisdiction of all ~~the~~ portions of the parish of Bossier which are within, or which may be within, the state limits of the city of Shreveport.



DEPARTMENT OF JUSTICE

§ 55. Establishment; composition; attorney general, election and assistants

Section 55. There shall be a Department of Justice consisting of an Attorney General, ~~a First Assistant Attorney General, a Second Assistant Attorney General, and other necessary assistants and office force.~~ The Attorney General shall be elected every four years at the general State election, and the assistants shall be appointed by the Attorney General to serve during his pleasure.

§ 56. Attorney general; qualifications; powers and duties; ~~immunities~~

Section 56. The Attorney General and the assistants shall be ~~learned in the law and shall have actually resided and practiced law, as~~ duly licensed attorneys in the State for at least five years preceding their election and appointment. ~~They, or one of them, shall attend to, or have charge of, all legal matters in which the State has an interest, or to which the State is a party, with power and authority to institute and prosecute or to defend, in any and all suits or other proceedings, civil or criminal, as far as may be necessary for the assertion or protection of the rights and interests of the State.~~ They shall exercise supervision over the several district attorneys throughout the State, and perform all other duties imposed by law.

~~In case of a vacancy in the office of Attorney General, the First Assistant Attorney General shall perform the duties of the Attorney General until his successor shall have been duly elected and qualified.~~



DISTRICT ATTORNEYS

§ 58. Establishment of office; election; term

Section 58. There shall be a district attorney for each judicial district in the State, who shall be elected by the qualified electors of the judicial district at the same time and for the same term as is provided herein for district judges.

§ 59. Salary; qualifications

Section 59. He shall receive from the State a salary of two thousand five hundred dollars per annum, payable in advance, his own warrant. He shall be an actual resident of the district and a qualified elector of the same, and shall have practiced law in the State for at least three years. He shall also receive such additional salary as may be prescribed by the Legislature, payable by the parish or parishes situated within the judicial district in which he is elected, provided that in judicial districts composed of more than one parish, the Legislature shall fix the proportion of such salary to be paid by each of said parishes in a district. He shall receive no fees of any kind. It shall be the duty of the Legislature at its next session, regular or special, to fix the salaries of the various district attorneys, payable by the parish or parishes situated within the several judicial districts of the State.



SHERIFFS

§ 65. Establishment of office; election; ex-officio or collector-bonds; discharge as collector

Section 65. There shall be a sheriff elected by the qualified electors of each parish in the State except in the parish of Orleans, who shall be elected at the general State election and hold office for four years. The sheriff, except in the parish of Orleans, shall be ex-officio collector of State, parish and all other taxes, except municipal taxes, which, however, under legislative authority, he may also collect.

He shall, within sixty days from the date of his commission, give separate bonds as required by law, for the faithful performance of his duties in each capacity, and in default thereof the office shall be declared vacant. He shall not be discharged as tax collector until he furnishes satisfactory proof that he has exhausted the legal remedy to collect taxes.

CLERKS

§ 66. Establishment of office; election; powers and duties

Section 66. There shall be a clerk of the District Court in each parish, the parish of Orleans excepted, who shall be elected by the qualified electors of the parish every four years, and shall be ex-officio notary public and parish recorder of conveyances, mortgages, and other acts.

The Legislature shall have power to vest in clerks of court authority to grant such orders and to do such acts as may be deemed necessary for the furtherance of the administration of justice; and in all cases the powers thus vested shall be specified and determined.



VACANCIES

§ 69. Vacancies; appointments; special elections; times

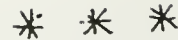
[Section 69] A. ~~With respect to the provisions of Article VII, C.~~
(1) Vacancies in the office of judge of a district, ~~judge of a district court and clerk of court, district attorney, sheriff, assessor, clerk of a district court and registrar of conveyances, recorder of mortgages and state notary public in Orleans Parish~~ shall be filled by appointment by the Governor, with the advice and consent of the senate.

COMMENT: In Section 69 there are provisions for vacancies in offices not within the purview of Article VII.

CORONERS

§ 70. Establishment of office; election; term

Section 70. Unless otherwise provided by law, there shall be a coroner elected by the qualified electors of each parish, ~~except in the parish of Orleans~~, who shall be elected at the general State election and who shall hold office for four years.



COMMENT. The provisions as to the qualifications of Coroners was omitted unlike what was done for other officials in the Constitution to protect those parishes which in the future may not have a medical doctor available.

COMMENT: ALL PROVISIONS AFFECTING THE PARISH OF OF ORLEANS WERE OMITTED. THOSE PROVISIONS BEING ARTICLE VII SECTIONS 75 THROUGH 97.

NOTE: All provisions excluded (denoted by asterisks) were considered to be of the nature that could best be provided for either by the Legislature or by court rules.

LOUISIANA CONSTITUTION AS AMENDED THROUGH FEBRUARY, 1973

ARTICLE VII

JUDICIARY DEPARTMENT

§ 1. Judicial power; judges; conservators of peace; state of process; reasons for judgment; appeal

Section 1. The judicial power shall be vested in a Supreme Court, in Courts of Appeal, in District Courts, and in such other courts as are hereinafter provided.



§ 2. Writs of habeas corpus and in aid of jurisdiction; reasons for refusal

Section 2. The Supreme Court, the Courts of Appeal, and each of the judges thereof, subject to review by the court of which he is a member, and each district judge throughout the State including judges of the Civil and Criminal District Courts in the Parish of Orleans, may issue writs of habeas corpus in behalf of any person in actual custody in cases within their respective jurisdictions and may also, in aid of their respective jurisdictions, original, appellate, or supervisory, issue writs of mandamus, certiorari, prohibition, quo warranto, and all other needful writs, orders and process, and where any of said writs are refused, the appellate courts shall indicate the reasons therefor.

§ 3. Judicial functions; law practice by judges

Section 3. No function shall ever be attached to any court of record, or to the judges thereof, except such as are judicial; nor shall such judges practice law. This shall not apply to judges of city courts, which may become courts of record.

§ 4. Membership; en banc, number necessary to judgment; calling in judge of other court

Section 4. Except when judges of other courts are called in, as elsewhere provided in this Constitution, the Supreme Court shall be composed of a Chief Justice and six Associate Justices, four of whom shall concur to render judgment when the court is sitting en banc, and whenever so sitting, if four members cannot for any cause concur in any case, or in case of illness of any justice causing his absence for more than two weeks, or during any vacancy in the office of any justice which the court is not authorized to fill, the court shall have authority to call on any judge of the Courts of Appeal, or District Courts, whose duty it shall be, when so called upon, to sit in any and all cases as the court may direct. (As amended Acts 1948, No. 515, adopted Nov. 2, 1948.)

§ 5. Divisions; number necessary to judgment; applications for rehearings

(OMITTED)

§ 6. Divisions; rotation; consideration of cases; qualifications; terms; compensation

* * *

The justices of the Supreme Court shall be ~~chosen in the law~~, citizens of the United States and of this State, not less than thirty-five years of age, and each shall have practiced law in the State for at least ten years preceding his election, and shall have resided within the territory of the district from which elected, for the two years immediately preceding. They shall be elected for terms of fourteen years, except as hereinafter provided, ~~and each shall receive a salary of eight thousand dollars per annum, payable monthly on his own warrant.~~

§ 7. Initial terms; election; expiration of terms; vacancies; presiding justice

* * *

Whenever a vacancy shall occur in the office of Chief Justice, the justice oldest in point of service shall succeed therein; and when sitting in divisions the justice longest in service shall preside.

§ 8. Retirement

(OMITTED)

§ 9. Supreme court districts; justices

Section 9. The State shall be divided into six Supreme Court Districts, and the Supreme Court, except as otherwise provided in this Constitution, shall always be composed of Justice from said Districts.

COMMENT: The actual districts have been omitted therefore it would be necessary to provide for two Justices from one district.

§ 10. Supervisory, original and appellate jurisdiction

Section 10. The Supreme Court has control of, and general supervisory jurisdiction over all inferior courts.

* * *

§ 11. Certiorari and other writs to courts of appeal; time; judgment of court of appeal

(OMITTED)

§ 12. Assignment of district judges; judge of juvenile court; reports; investigations

(OMITTED)

§ 12.1. Judicial administrator, creation, appointment, salary, tenure; duties; emoluments; retirement

(OMITTED)

§ 13. Salaries and expenses of assigned judges

(OMITTED)

§ 14. Session in New Orleans

Section 14. The Supreme Court shall hold an annual session in the City of New Orleans, ~~beginning not later than the first Monday in the month of October and ending not earlier than the thirtieth of June in each year.~~

§ 15. Clerks

Section 15. The Supreme Court shall appoint its own clerks and remove them at pleasure.

§ 16. Court buildings; court library; state library

(OMITTED)

§ 17. Decisions of supreme court and courts of appeal, reporting and publication; stenographers

(OMITTED)

§ 18. Trial of appeals; order of preference

(OMITTED)

§ 19. Qualifications of judges; election and term of office

Section 19. ~~The term of the term of a trial judge shall be four years, beginning on the first day of the year of expiration of the term for which they were respectively elected.~~

Except as otherwise provided in Article VII, Section 21 of this Constitution, all courts of appeal judges shall be elected for terms of twelve years at the congressional elections for representatives immediately preceding the expiration of their terms, and every twelve years thereafter. (As amended Acts 1958, No. 561, adopted Nov. 4, 1958.)

§ 20. Circuits and districts

Section 20. A. There shall be four courts of appeal circuits. ~~The second and third circuits shall be subdivided into three districts as follows:~~

* * *

§ 21. Circuit courts of appeal; domicile; number of judges; initial terms

(OMITTED)

§ 22. Qualifications of judges; salary

Section 22. The judges of the courts of appeal shall be citizens of the United States and qualified electors of the state, licensed to practice law in the state for at least six years immediately preceding their election. They shall be residents of the circuit or of the district from which they are respectively elected, and must have resided in their respective circuits or districts for at least two years immediately preceding their election.

The salary of each of the judges of the courts of appeal shall be payable monthly on his own warrant for the amount of which the Legislature shall make the necessary appropriations. (As amended Acts 1958, No. 561, adopted Nov. 4, 1958.)

§ 23. Presiding judge; panels; sessions en banc; vacancy in office

(OMITTED)

§ 24. Sessions at domicile; ~~times; places of appeals; notice of judgment~~

Section 24. The sessions of the several courts of appeal shall be held at their respective domiciles only, ~~and shall continue for a period of at least nine months beginning not later than the first Monday of October in each year and ending not earlier than the thirtieth day of June in the following year. Appointments by the courts to the sessions of the several courts of appeal in the manner and within the time shall be made by the courts and shall be given to counsel of record, and the courts shall provide by rule for the giving of such notices.~~ (As amended Acts 1958, No. 561, adopted Nov. 4, 1958.)

§ 25. Certifications to supreme court of questions of law; determination

(OMITTED)

§ 26. Number necessary to judgment; appointment of district judges or lawyers to sit in the case

(OMITTED)

§ 27. Trial on original record; rules of practice

(OMITTED)

§ 28. Court facilities; clerks; ~~salaries~~

Section 28. The governing authorities of the parishes in which the several courts of appeal are domiciled shall provide adequate court rooms, offices, and other facilities for the use of the court, its judges and staff.

The courts of appeal shall appoint their respective clerks and deputies, who shall serve during the pleasure of the court. ~~Their compensation shall be fixed by the Legislature.~~

~~The period of the successive periods in which the courts of appeal for the first, second, and third circuits are composed of one of his district, shall be a division of the court in which the period of the court. (As amended Act 1935, No. 561, adopted Nov. 4, 1935).~~

§ 29. Appellate and supervisory jurisdiction

(OMITTED)

§ 30. Disposition of appeals; transfer

(OMITTED)

§ 31. Judicial districts

~~Section 31. JUDICIAL DISTRICTS. A. There shall be thirty-two judicial districts in the state; the parish of Orleans excepted, and each district shall be composed as follows:~~

§ 31.1 Twenty-second judicial district; additional judge

(OMITTED)

§ 31.2 Twenty-sixth judicial district; additional judge

(OMITTED)

§ 32. Number of judges

(OMITTED)

§ 33. District judges; election; residence, training, and experience qualifications; bar association membership

Section 33. District Judges shall be elected by a plurality of the qualified voters of their respective districts in which they shall have been actual residents for two years next preceding their election. They shall be ~~learned in the law, and shall have practiced law in the State of Louisiana five years previous to their election and shall be a member in good standing of the Louisiana State Bar Association.~~ They shall be elected at the time now prescribed by law and every six years thereafter, ~~provided that, when in any judicial district of this state, the Legislature shall, in the manner prescribed by the Constitution, create one or more additional judges, such newly created judge or judges shall be elected at a special election called by the Governor for the first term which shall not extend beyond that of the other District Judge's term in office. Thereafter, each judge or judges shall be elected at the time fixed by law for the election of District Judges throughout the State of Louisiana.~~ (As amended Acts 1936, No. 67, adopted Nov. 3, 1936; Acts 1954, No. 754, adopted Nov. 2, 1954.)

§ 34. Rearrangement of districts; change in number of judges

Section 34. The Legislature may rearrange the judicial districts, and by a two-thirds vote of the membership of each house, may increase or decrease the number of judges in any district.

§ 35. Salaries; jurisdiction

(OMITTED)

§ 36. Appellate jurisdiction; trials de novo

(OMITTED)

§ 37. Cases within concurrent jurisdiction; procedure; clerks; defaults; judgments by default or confession

(OMITTED)

§ 38. Trial of recused cases

(OMITTED)

§ 39. Practice of law; service as justice or judge included

Section 39. Whenever in this Constitution the qualifications of any justice or judge shall be the previous practice of law for a term of years, there shall be included in such term the time such justice or judge shall have occupied the bench of any court of record in this State.

§ 40. Judges; effect of laws changing term of office, salary or jurisdiction

Section 40. No elected judge of any court of the State, except as otherwise provided in this Constitution, shall be affected in his term of office, salary, or jurisdiction as to amount, during the term or period for which he was elected; and any legislation so affecting any such judge or court shall take effect only at the end of the term of office of such judge or judges, incumbents of the court, or courts, to which such legislation may apply at the time of its enactment, ~~provided however that nothing in this amendment shall affect the present provisions of this Constitution with respect to judges appointed to fill an unexpired term of less than one year under the provisions of this Constitution. The term of office, salary, or jurisdiction as to amount, during the term or period for which such judges were appointed shall in no way be changed by this amendment.~~ (As amended Acts 1910, No. 386, adopted Nov. 5, 1910.)

§ 41. Selection of jurors; woman jurors; trial by judge; trial by jury

Section 41. The Legislature shall provide for the election and drawing of competent and intelligent jurors for the trial of civil and criminal cases; ~~provided however that no woman shall be drawn for jury service unless she shall have previously filed with the clerk of the District Court a declaration of her desire to be subject to such service. All cases in which the punishment may not be at hard labor shall, and otherwise provided by law, be tried by the judge without a jury. Cases in which the punishment may be at hard labor shall be tried by a jury of five, all of whom must concur to render a verdict, cases in which the punishment is necessarily at hard labor by a jury of twelve, nine of whom must concur to render a verdict, cases in which the punishment is at capital by a jury of twelve, all of whom must concur to render a verdict.~~

§ 42. Grand jury; district judges, authority in criminal cases

Section 42. A grand jury of twelve, nine of whom shall constitute a quorum and must concur to find an indictment, shall be empanelled in each parish twice in each year, and shall remain in office until a succeeding grand jury shall have been empanelled, except in the parish of Cameron, in which at least one grand jury shall be empanelled each year.

The district judges shall have authority to try at any time misdemeanors, and when the jury is waived by the defendant, all cases not capital or necessarily punishable at hard labor, and to receive pleas of guilty in all cases less than capital.

§ 43. Sessions; findings of fact and reasons for judgment

(OMITTED)

§ 44. Waiver of citation; confession of judgment

Section 44. Service of citation shall not be waived, nor judgment confessed, prior to the maturity of the obligation sued on, except for the purpose of executory process; ~~provided, this prohibition shall not apply to contracts by authentic acts passed prior to the adoption of this Constitution.~~

COMMENT: There is some question as to the executory process exception should be left in, in light of recent court decisions declaring some states' process unconstitutional.

§ 45. Change of venue

Section 45. The Legislature shall provide by law for change of venue in civil and criminal cases.

JUSTICES OF THE PEACE AND CONSTABLES

§ 46. Justice of the peace wards; ~~members reduction~~; abolition of office

~~Section 46. Any parish of the state, the parish of Orleans excepted, may be divided by the police jury thereof into not more than one or more than three justice of the peace wards, from each of which there shall be elected one justice of the peace; provided, that the Legislature may reduce such number or even abolish the office of justice of the peace throughout the state.~~

The number of justices of the peace in the several parishes shall be ascertained by the legislature in the several parishes... (Amended by Acts 1968, No. 600, adopted Nov. 3, 1968.)

§ 62. Creation; judges; jurisdiction

(OMITTED)

§ 63. Family court for Parish of East Baton Rouge

(OMITTED)

§ 64. Courts' authority in criminal neglect of family cases, rights and procedure

(OMITTED)

DEPARTMENT OF JUSTICE

§ 47. Justices; qualifications; election; term of office

Section 47. Justices of the peace shall be of good moral character, ~~sober~~ and qualified electors, able to read and write the English language ~~correctly~~, and shall possess such other qualifications as may be prescribed by law.

They shall be elected at the general state election for terms of four years, by the qualified voters within the territorial limits of their jurisdiction.

§ 48. Jurisdiction

Section 48. Justices of the peace shall have concurrent jurisdiction with the District Courts in all civil matters when the amount in dispute shall not exceed one hundred dollars, exclusive of interest, including suits for the possession or ownership of movable property not exceeding said amount in value, and in suits of landlords for the possession of leased premises, where the monthly or yearly rent, or the rent for the unexpired term of the lease, does not exceed said amount.

They shall have no jurisdiction in succession or probate matters, or when a succession is defendant, or when the State, parish or municipality, or other political corporation, is party defendant, or when the title to real estate is involved.

They shall have criminal jurisdiction, as committing magistrates only, and shall have power to bail or discharge, in cases not capital or necessarily punishable at hard labor, and may require bonds to keep the peace.

§ 49. Constables; election; term of office; qualifications

Section 49. There shall be one constable for the court of each justice of the peace in the several parishes of the State, who shall be elected at the general State election for a term of four years by the qualified electors within the territorial limits of the justice of the peace ward of the court for which he is elected.

He shall be of good moral character, able to read and write the English language, and shall be an elector and resident of the ward from which elected, and shall possess such other qualifications as may be prescribed by law.

§ 50. Fees; salaries

(OMITTED)

MUNICIPAL COURTS

§ 51. Justice of the peace courts; city courts

Section 51. A. Abolition of justice of the peace courts; new courts. The legislature shall have the power to abolish justice of the peace courts in ~~any~~ ~~parishes~~ and to create in their stead courts with such civil jurisdiction as is now vested in justices of the peace, ~~and~~ concurrent with that of the district court, where the amount in dispute be the value of the movable property involved does not exceed five hundred dollars, exclusive of interest and attorney fees, with criminal jurisdiction which shall not extend beyond the trial of offenses not punishable by imprisonment at hard labor under the laws of this state, and said courts shall have jurisdiction for holding of preliminary examinations in cases not capital, for the holding of bonds to keep peace and for the trial of cases covering the violation of municipal or parishes ordinances; and the judges of such courts shall have authority to perform marriage ceremonies. In addition to all other jurisdiction now vested in the city court of the city of Shreveport, said court shall have criminal jurisdiction of all those portions of the parish of Louisiana which are within, or which may be taken into the city limits of the city of Shreveport.



§ 51(a). Parish courts, Jefferson Parish

(OMITTED)

§ 59. Salaries; qualifications

Section 59. He shall receive from the State a salary of two thousand dollars per annum, payable monthly on his own account. He shall be an actual resident of the district and a qualified elector of the same, and shall have practiced law in the State for at least three years. ~~He shall also receive an additional salary as may be prescribed by the legislature, payable by the parish or parishes situated within the judicial district in which he is elected, provided that in judicial districts composed of more than one parish, the Legislature shall fix the proportion of such salary to be paid by each of said parishes in a district. He shall receive no fees of any kind. It shall be the duty of the legislature at its next session, regular or special, to fix the salaries of the various district attorneys, payable by the parishes situated within the several judicial districts of the State.~~

§ 59.1. Retirement

(OMITTED)

§ 60. Assistants

(OMITTED)

§ 61. Assistants; qualifications; powers

(OMITTED)

§ 62. Assistants; salary
(OMITTED)

§ 63. Defense of criminal prosecutions; removal from office
(OMITTED)

§ 64. Salary provisions; effective date; fees
(OMITTED)

SHERIFFS

§ 65. Establishment of office; election; ex-officio tax collector;
~~bonds; discharge as collector~~

Section 65. There shall be a sheriff elected by the qualified electors of each parish in the State ~~except in the parish of Orleans, who shall be elected at the general State election and hold office for four years.~~ The sheriff, ~~except in the parish of Orleans, shall be ex-officio collector of State, parish and all other taxes, except municipal taxes, which, however, under legislative authority, he may also collect.~~

~~He shall, within sixty days from the date of his commission, give separate bonds as required by law, for the faithful performance of his duties in each capacity, and in default thereof the office shall be declared vacant. He shall not be discharged as tax collector until he makes satisfactory proof that he has exhausted the legal remedy to collect taxes.~~

CLERKS

§ 66. Establishment of office; election; powers and duties

Section 66. There shall be a clerk of the District Court in each parish, ~~the parish of Orleans excepted~~, who shall be elected by the qualified electors of the parish every four years, and shall be ex-officio notary public and parish recorder of conveyances, mortgages, and other acts.

The Legislature shall have power to vest in clerks of court authority to grant such orders and to do such acts as may be deemed necessary for the furtherance of the administration of justice; and in all cases the powers thus vested shall be specified and determined

§ 67. Deputies
(OMITTED)

§ 68. Bonds
(OMITTED)

VACANCIES

§ 69. Vacancies; appointments; appointment election; notice

[Section 69] A ~~Sub-section to the provisions of Paragraph C:~~

(1) Vacancies in the office of judge of a district, ~~justice, family judge or city court, district attorney, sheriff, assessor, clerk of a district court and registrar of conveyances, recorder of mortgages and state tax collector in Orleans Parish~~ shall be filled by appointment by the Governor, with the advice and consent of the senate

COMMENT: In Section 69 there are provisions for vacancies in offices not within the purview of Article VII.

CORONERS

§ 70. Establishment of office; election; term

Section 70. Unless otherwise provided by law, there shall be a coroner elected by the qualified electors of each parish, ~~except in the parish of Orleans, who shall be elected at the general State election and who shall hold office for four years.~~

§ 71. Qualifications; acting for sheriff
(OMITTED)

§ 72. Vacancy
(OMITTED)

FEES

§ 73. Regulation of fees and costs; compensation of officers; service of process and pleadings by litigants
(OMITTED)

§ 74. Compensation of sheriffs and clerks of court
(OMITTED)

COMMENT: ALL PROVISIONS AFFECTING THE PARISH OF OF ORLEANS WERE OMITTED. THOSE PROVISIONS BEING ARTICLE VII SECTIONS 75 THROUGH 97.

NOTES

Staff Memo No. 6 is omitted. It reproduces 1972 Annual Report of the Judicial Council of the Supreme Court of Louisiana, 28-49.



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 P. O. BOX 44473 BATON ROUGE LOUISIANA 70804

[Staff Memo No. 7]

March 16, 1973

MEMORANDUM

To: Members of the Judiciary Committee

From: C. B. Forgetson, Jr., Sr. Research Assistant

Subject: SALARIES OF JUSTICES OF THE PEACE

As requested, the following is the result of a recent survey of salaries of Justices of the Peace throughout the state made by Mr. Gene Murret, Judicial Administrator, based on 100 replies:

Number of Justices	Monthly Salary
61	\$30
21	\$ 31 - \$ 50
12	\$ 50 - \$100
4	\$100 - \$200
4	\$350 - \$400

It is assumed that most of the approximately 445 Justices of the Peace, in the state, are paid the \$30.00 per month by the parish police jury required by P.S. 33:1702.

CBF/mmb

[Staff Memo No. 8]

DISTRICT JUDGES' SALARY PROPOSAL

(1/2 or 1/4 of Criminal Court Fund of each Parish to be paid to the State; State pays additional salary of \$15,300 to each District Judge, including Juvenile and Family Court Judges, to equal salary of \$35,800, highest salary now paid in State to District Judges.)

Jud. Dist.	Parish	# of Judges	Total Supp. Now Paid		1/2 Crim. Ct. Fund		Gain/Loss Parish		1/4 Crim. Ct. Fund		Gain/Loss Parish	
			\$	\$	\$	\$	-\$	\$	-\$	\$	-\$	\$
1	Caddo	6	30,000	30,000	80,000	80,000	50,000	50,000	40,000	40,000	-	10,000
2	Bienville Claiborne Jackson	2	3,600 3,600 3,600	3,600 3,600 3,600	20,615 33,500 11,756	20,615 33,500 11,756	17,015 29,900 8,156	17,015 29,900 8,156	10,307 16,750 5,878	10,307 16,750 5,878	-	6,707 13,150 2,278
3	Lincoln Union	1	2,400 2,400	2,400 2,400	13,890 8,400	13,890 8,400	11,490 6,000	11,490 6,000	6,945 4,200	6,945 4,200	-	4,545 1,800
4	Morehouse Quachita	4	18,000 18,000	18,000 18,000	40,165 121,000	40,165 121,000	22,165 103,000	22,165 103,000	20,082 60,500	20,082 60,500	-	2,082 42,500
5	Franklin Richland West Carroll	2	3,360 3,360 2,880	3,360 3,360 2,880	12,650 16,800 13,550	12,650 16,800 13,550	9,290 13,440 10,670	9,290 13,440 10,670	6,325 8,400 6,775	6,325 8,400 6,775	-	2,965 5,040 3,895
6	East Carroll Madison Tensas	1	- - -	- - -	9,870 30,640 11,085	9,870 30,640 11,085	9,870 30,640 11,085	9,870 30,640 11,085	4,935 15,320 5,542	4,935 15,320 5,542	-	4,935 15,320 5,542
7	Catahoula Concordia	1	- -	- -	6,750 19,120	6,750 19,120	6,750 19,120	6,750 19,120	3,375 9,560	3,375 9,560	-	3,375 9,560
8	Grant Winn	1	1,200 1,200	1,200 1,200	31,470 15,300	31,470 15,300	30,270 14,100	30,270 14,100	15,735 7,650	15,735 7,650	-	14,535 6,450
9	Rapides	4	36,000	36,000	76,725	76,725	40,725	40,725	38,362	38,362	-	2,362
10	Natchitoches Red River	2	2,300 2,300	2,300 2,300	23,500 16,730	23,500 16,730	21,200 14,430	21,200 14,430	11,750 8,365	11,750 8,365	-	9,450 6,065

Page 2 - District Judges' Salary Proposal

Jud. Dist.	Parish	# of Judges	Total Supp. Now Paid	1/2 Crim. Ct.		1/4 Crim. Ct.		Gain/Loss Parish
				Fund	Gain/Loss Parish	Fund	Gain/Loss Parish	
11	DeSota Sabine	2	\$ 2,400 2,400	\$ 19,000 18,420	-\$ - -	\$ 9,500 9,210	-\$ - -	7,100 6,810
12	Avoyelles	1	-	41,075	-	20,537	-	20,537
13	Evangeline	1	2,400	9,390	-	4,695	-	2,295
14	Calcasieu Cameron	5	40,000 8,500	74,600 11,730	- -	37,300 5,865	+ +	2,700 2,635
15	Acadia Lafayette Vermillion	5	7,500 7,500 7,500	38,200 27,265 16,650	- - -	19,100 13,632 8,325	- - -	11,600 6,132 825
16	Iberia St. Martin St. Mary	4	11,200 11,200 11,200	26,330 30,000 68,600	- - -	13,165 15,000 34,300	- - -	1,965 3,800 23,100
17	Lafourche	2	8,400	54,000	-	27,000	-	18,600
18	Iberville West Baton Rouge Pointe Coupee	3	4,000 4,000 4,000	12,380 42,000 20,075	- - -	6,190 21,000 10,037	- - -	2,190 17,000 6,037
19	East Baton Rouge	12	183,600	67,200	+	33,600	+	150,000
20	East Feliciana West Feliciana	1	2,400 2,400	12,450 7,330	- -	6,225 3,665	- -	3,825 1,265
21	Livingston St. Helena Tangipahoa	3	8,460 2,025 8,100	38,000 1,400 16,120	- + -	19,000 700 8,060	- + +	10,540 1,325 40
22	St. Tammany Washington	3	18,750 18,750	123,700 45,000	- -	61,850 22,500	- -	43,100 3,750
23	Ascension Assumption St. James	3	9,000 9,000 9,000	28,000 7,000 7,950	- + +	14,000 3,500 3,975	- + +	5,000 5,500 5,025

Page 3 - District Judges' Salary Proposal

Jud. Dist.	Parish	# of Judges	Total Supp. Now Paid	1/2 Crim. Crt. Fund	Gain/Loss Parish	1/4 Crim. Crt. Fund	Gain/Loss Parish
24	Jefferson	10	\$ 135,000	\$ 156,400	-\$ 21,400	\$ 78,200	+\$ 64,700
25	Plaquemines St. Bernard	4	14,400 14,400	57,750 18,050	- -	28,875 9,025	- +
26	Bossier Webster	3	9,000 9,000	68,500 32,370	- -	34,250 16,185	- -
27	St. Landry	3	13,200	48,215	-	24,107	-
28	Caldwell LaSalle	1	2,500 2,500	8,945 7,080	- -	4,472 3,540	- -
29	St. Charles St. John	3	13,500 13,500	33,640 24,190	- -	16,820 12,095	- +
30	Vernon Beauregard	2	2,500 2,500	14,085 16,500	- -	7,042 8,250	- -
31	Jefferson Davis	1	2,500	17,530	-	8,765	-
32	Terrebonne	3	12,600	41,000	-	20,500	-
33	Allen	1	5,000	15,650	-	7,825	-
Orleans:							
	Criminal	11	148,500	178,000	-	89,000	+
	Civil & Juvenile	14	189,000	-	+	-	+
	TOTAL		\$1,127,485	\$2,215,286		\$1,107,638	

1/2 of Criminal Court Funds to State - Total..... \$2,215,286
 125 Judges at \$15,300 additional salary paid..... 1,912,500
 Gain to State..... \$ 302,786

1/4 of Criminal Court Funds to State - Total..... \$1,107,638
 125 Judges at \$15,300 salary paid..... 1,912,500
 Additional Expense to State..... \$ (804,862)

NOTES

Staff Memo No. 9 is omitted. It consolidates material set out in Staff Memo No.6. See Notes , above.

4. May 4, 1973

III. COURT RELATED OFFICERS

- 1. May 11, 1973 Invited: - Presidents of D.A.'s, Sheriffs, Clerks of Court, Coroners Associations, et al
2. May 18, 1973

[Staff Memo No. 10] TENTATIVE SCHEDULE -- DISCUSSION DRAFT

ORGANIZATIONAL MEETINGS AND ORIENTATION

- i. February 23, 1973 - Organization - General remarks on La. Judiciary by Eugene Murrett, Judicial Administrator
ii. March 2, 1973 - Organization - General remarks on La. Judiciary by Dean Cecil Morgan, Ch., Jud. Comm., La. Constitutional Revision Commission; Delmar Karlay, Institute of Judicial Administration; George W. Pugh, Professor of Law, LSU Law School, first La. Jud. Admin.

I. POWERS, ORGANIZATION AND ADMINISTRATION OF COURTS

- 1. March 9, 1973 Scheduled: - Hon. John B. Fournet, Ret. Chief Justice, La. Sup. Ct. Invited: - Hon. Luther P. Cole, Pres., La. Dist. Judges' Assoc. - Hon. Paul Landry, Pres., La. App. Judges' Assoc. - Hon. Edmund Reggie, Pres., La. Municipal Judges' Assoc.
2. March 16, 1973 Scheduled: - Hon. Bob Wilkes, Pres. of La. Justices of Peace and Constables Assn. Invited: - Hon. Wm. Guste, Atty. Gen., State of La. - Hon. Roy D. Webb, Pres., Sheriffs' Assn. - Hon. Melvin P. Barre, Pres., District Attorneys' Assn. - Mr. Christian, Nat. Center of State Courts - Mr. Solomon, Inst. of Court Mgt.
3. March 23, 1973 Scheduled: - Hon. Joe W. Sanders, Chief Justice, La. Sup. Ct. Invited: - Hon. Ben Bagert, Pres., Fourth Circuit Judges' Assn. - Hon. J. Burton Foret, Pres., Juvenile and Family Court, Judges' Assn.
4. March 30, 1973 Invited: - Hon. John R. Matzell, Pres. La. Trial Lawyers Assn. - Hon. Calvin L. ... Bar Assn.
March 30, 1973 (cont.) Invited: - Mr. Marvin L. Lyons, La. Municipal Assn. - Mr. Jimmy Hayes, La. Police Jury Assn. - Hon. ... Pres. Clerk of Courts Assn.

II. FINANCE, SELECTION, TENURE AND COMPENSATION

- 1. April 6, 1973 Invited: - Mr. Love, Amer. Judicature Society - Mr. Ben Miller, Past Pres., State Bar - Frank W. Hawthorne, Assoc. Justice La. State Sup. Ct. (Retired) - Mr. Dudley Flinders, Attorney-at-law, New Orleans
2. April 13, 1973
3. April 20, 1973

NOTES Staff Memo No. 11 has been omitted. It reproduces Louisiana Legislative Council Memorandum in re: Local and Special Laws, June 20, 1968.



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[Staff Memo No. 12] State of Louisiana DEPARTMENT OF JUSTICE Baton Rouge August 21, 1973

Constitutional Convention 1973 Independence Hall Baton Rouge, Louisiana

Dear Delegate:

I am very concerned with the proposed article on the powers of the Attorney General which has been reported to the Convention floor by the Committee on the Judiciary.

In this connection, I am enclosing a copy of Public Affairs Research Council (PAR) Convention Commentary dated August 21, 1973.

As PAR points out, the Committee's proposal "would weaken the present authority of the Attorney General."

"The present Constitution gives the attorney general the power to institute and prosecute or intervene in any civil or criminal case as is necessary to protect the rights and interests of the state. In addition, he has the power to supervise district attorneys. It is essential that the attorney general have not only the authority to supervise district attorneys but to supercede and intervene in cases where the district attorney is not properly serving the best interest of the state. The power of the attorney general to use these functions is a must in cases such as organized crime and labor racketeering in which large financial resources may be used to insure protection from local law enforcement and prosecution officials. These types of criminal activity are also state and nationwide in character, and therefore the attorney general should have the power to go beyond parish boundaries." (PAR August 21, 1973).

Constitutional Convention 1973 August 21, 1973 Page -2-

Furthermore, the ... of the Attorney General would be weakened in its effort

- to persuade public officials to repay the state for misuse of public property,
• to conduct investigations involving alleged public bribery or payroll

padding and act with respect to same,
and

- to take original action in cases of public contract fraud or where the public bidding statutes of the state are violated,
- to act in criminal matters in the interest of the public when a district attorney refused to act in the face of patent violation of the law, or when a district attorney was misusing the office without original criminal jurisdiction.

The present Constitution empowers the Attorney General

- to institute and prosecute or intervene in any civil or criminal case as is necessary to protect the rights and interests of the state. In addition, he has the power to supercede district attorneys. As we interpret the case law, it holds that the attorney general can supercede district attorneys for cause.

The proposal presently before the Convention does not permit the Attorney General to act in criminal cases unless requested to do so by a district attorney. It does not provide that the attorney general can supervise district attorneys.

It provides that the Attorney General can supercede any attorney representing the state in civil or criminal cases

Constitutional Convention 1973
August 21, 1973
Page -3-

"when authorized by the court in which the case is pending, subject to jurisdictional review."

This language coupled with the failure to include original criminal jurisdiction and the authority to supervise district attorneys, would mean that the attorney general could not initiate an investigation into wrongdoing in any parish or municipality, or could not participate in grand jury proceedings.

It should be noted that at the investigative and grand jury investigation stage of a criminal proceeding, there is no case "pending." Hence, the attorney general could never supercede until a case was pending.

I urge you to amend Section 27 of the Judiciary Article to provide as follows:

***Powers and Duties of the Attorney General**

There shall be a department of justice, headed by the attorney general who shall be the state's chief legal officer. As may be necessary for the assertion or protection of the rights and interests of the state, the attorney general shall have authority to:

- (1) institute, and prosecute or intervene in any legal actions or other proceedings, civil or criminal;
- (2) exercise supervision over the several district attorneys throughout the state; and
- (3) for cause, supercede any attorney representing the state in any civil or criminal proceeding.

He shall have such other powers and perform such other duties as may be authorized by this constitution or provided by statute."

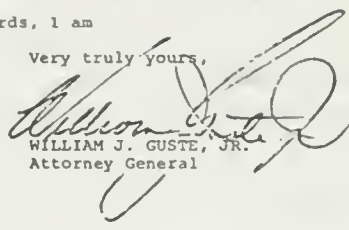
Constitutional Convention 1973
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Items (1) and (2) above constitute a restatement of Article VII, Section 66 of the Constitution of 1921 on the powers and duties of the Attorney General. Item 3 clarifies existing case law on the subject.

Your careful consideration of this matter, I am sure, will be appreciated by the people of Louisiana.

With kindest regards, I am

Very truly yours,


WILLIAM J. GUSTE, JR.
Attorney General

WJG:rmc

NOTES

Public Affairs Research Council document cited in Attorney General's letter is omitted. See, PAR, Convention Commentary, August 21, 1973.

[Staff Memo No. 13]

Draft 'B'

section

The judicial power shall be vested in a supreme court, courts of appeal, district courts and such other courts as may be provided in this constitution.

section

The courts may, in aid of their authority, issue all needful writs, orders and process. A judge of the supreme court or of a court of appeal, subject to review by the other members of his court, and a judge of a district court may issue writs of habeas corpus in cases within their jurisdiction on behalf of any person in custody.

section

No function shall ever be attached to any court of record, or to the judges thereof, except such as are judicial; nor shall such judges practice law.

section

The legislature shall provide a retirement system for judges. However, no judge in office, elected or retired prior to the adoption of this constitution shall have his retirement benefits reduced or his contributions to a retirement system increased.

section

No judge shall have his salary, or retirement benefits diminished during the term for which he was elected.

section

Service of citation shall not be waived, nor judgement confessed, prior to the maturity of the obligation sued on, except for purpose of executory process.

section

The courts shall have the right to select and remove their own clerical and other personnel.

section

The supreme court shall be composed of a chief justice and six associate justices, electors of the state when elected. Each shall have been licensed to practice law in this state for at least ten years preceding his election, and each shall have resided in the district from which elected for two years immediately preceding his election. The term shall be fourteen years. Whenever a vacancy shall occur in the office of the chief justice, the senior justice in point of service shall succeed thereto. The domicile of the supreme court shall be in the city of New Orleans.

section

The supreme court has control of, and general supervisory jurisdiction over all other courts.

section

A judge of a court of appeal shall be an elector of the state licensed to practice law in the state for at least six years preceding his election, and shall have resided in the district from which elected for the two years immediately preceding his election. The term shall be twelve years. Whenever a vacancy occurs in the office of presiding judge, the senior judge in point of service shall succeed thereto.

section

A district judge shall be an elector of the state licensed to practice law in the state for at least five years preceding his election, and shall have resided in the district from which elected for two years preceding his election. The term shall be six years.

section

There shall be a department of justice directed by an attorney general who shall have the power to appoint assistants to serve at his pleasure. He shall be an elector of the state and have resided in the state and have been licensed to practice law in the state for at least five years preceding his election. He shall exercise supervision over the district attorneys and perform the duties imposed by law.

section

There shall be a district attorney for each judicial district who shall be an elector and who shall have been a resident of the district from which elected for three years and licensed to practice law in the state for at least three years. The term shall be six years.

section

All district attorneys serving at the time of the adoption of this constitution, may retire on reaching the age of eighty years, if they have served continuously as district attorney for thirty years, immediately preceding their retirement, and shall thereafter receive full pay for life. Provided however, no district attorney previously retired under this provision shall have his benefits diminished.

section 16

There shall be a sheriff elected by the electors of each parish in the state, who shall be elected at the general state election and hold office for four years. The sheriff shall be ex-officio collector of state, parish and all other taxes, except municipal taxes, which, however, under legislative authority, he may also collect.

section

There shall be a clerk of the district court in each parish, who shall be elected by the electors of each parish at the state general election and who shall hold office for four years, and shall be ex-officio notary public and parish recorder of conveyances, mortgages, and other acts.

The legislature shall have power to vest in clerks of court authority to grant such orders and to do such acts as may be deemed necessary for the furtherance of the ad-

ministration of justice; and in all cases the powers thus vested shall be specified and determined

section

Vacancies in the office of judge, district attorney, sheriff, clerk of district court shall be filled by appointment by the governor, with the advice and consent of the senate to serve until such time as their successors shall be chosen.

section

Unless otherwise provided by law, there shall be a coroner elected by the electors of each parish, who shall be elected at the state general election and who shall hold office for four years.

NOTES

Staff Memo No. 14 is omitted. Text of the Memo is reproduced together with comments below as Staff Memo No. 15.

[Staff Memo No. 15]

301 Loyola Avenue
New Orleans, Louisiana 70112

April 17, 1973

MEMORANDUM TO: Members of Judiciary Committee, CC/73

FROM: Al Tate, Jr.

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Section 5. Supreme court; qualifications; districts; terms

Section 6. Supreme court; supervisory, original, and appellate jurisdiction; rule-making power

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Section 8. Supreme court; the chief justice

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PART C. THE COURTS OF APPEAL

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PART C. (continued)

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PART L. CORONERS

- Section 47. Coroners, appointment; term

DRAFT "A" -- with explanatory comments

TENTATIVE WORKING DRAFT PROPOSED TO SERVE AS A
POINT OF DEPARTURE ONLY

NOTE:

Delegate Tate drafted the following tentative working paper as an aid to discussion of concepts proposed at our meetings. He does not advocate this draft or any of the proposals contained in it, some of which he may not agree with. Cross-references are listed to provisions of the Constitution of 1921 and to the 1954 Project by the Louisiana State Law Institute for a new state constitution. We have also prepared a compilation of the provisions of the present constitution which should possibly be transferred to statutory form, some subject to amendment by majority vote and some subject to amendment only by two-thirds of the legislature. The staff will also send you a shorter draft, prepared at my direction, known as "Draft B".

ARTICLE _____ THE JUDICIARY DEPARTMENT

GENERAL

PART A. JUDICIAL POWER IN GENERAL

Section 1. Judicial power

The judicial power shall be vested in a supreme court, courts of appeal, district courts, and such other courts as this constitution may authorize.

Source: Article VII, Section 1.

Project: Article VI, Section 1.

Comment: No essential change except to simplify language.

* * *

Section 2. Needful writs, orders, and process

The courts established or authorized by this constitution may issue writs of habeas corpus in cases within their jurisdiction and all other needful writs, orders, and process in aid of their respective jurisdictions, original, appellate, or supervisory. This authority may be exercised by a judge of the supreme court or of the court of appeal, subject to review by the court of which he is a member.

Source: Article VII, Section 2.

Project: Article VI, Section 11.

Comment: No essential change except to simplify language.

* * *

PART B. THE SUPREME COURT

Section 3. Supreme court; membership; domicile

The supreme court shall be composed of a chief justice and six associate justices. The supreme court shall be domiciled in New Orleans.

Source: Article VII, Section 4.

Project: Article VI, Section 14.

Comment: No essential change except to simplify language.

* * *

Section 4. Supreme court; number necessary to judgment; calling

In judge of other court; divisions

(a) When the court sits en banc, at least four of the judges of the court must concur to render judgment. When, due to vacancy or absence of more than two weeks caused by illness, less than seven judges participate, the court shall have authority to assign any judge of the court of appeal or district court to sit in such cases as the court may direct.

(b) The court may sit in divisions of three or more judges, under such rule as the court may adopt. In such event, applications for rehearings shall be decided by the court en banc.

Source: Article VII, Sections 4, 5, 6 and 7.

Project: None.

Comment: As to (a), no essential change other than simplification of language. This provisions should be retained to provide authoritative direction in the event of internal disagreement within the court.

As to (b), the authority to sit in divisions should be retained to assure a means of extending the court's manpower to dispose of routine appeals of right in the event of continuing increase. This procedure was only utilized once, during 1921-23, but the reserved power should be retained

-2-

In the event of future need. Minor changes are made in the present provisions, such as eliminating the power to call up other judges to form additional divisions and such as eliminating the provision that rehearings shall be submitted to another division (rather than considered en banc as here proposed).

* * *

Section 5. Supreme court; qualifications; districts; terms

(e) A judge of the supreme court shall be an elector of this

state who has been admitted to practice law in this state at least ten

years preceding his election. He shall have resided within the territory of the district from which elected for at least two years immediately preceding his election.

(b) The state shall be divided into at least six supreme court districts, with at least one judge elected from each district. The presently constituted districts, and the number of judges assigned to each, are retained, subject to change by two-thirds vote of the legislature.

(c) The judges shall be elected to terms of fourteen years. A vacancy in an office shall be filled as provided by section 30 of this article.

Source: Article VII, Sections 6, 7, 9.

Project: Article VI, Sections 14, 15.

Comment: No substantial change is made, except as noted below.

As to (a), the age requirement is eliminated as unnecessary.

As to (b), the present districts are retained, but it is provided that they may be changed by two-thirds vote of the legislature (i.e., two-thirds of the members of each house, as to be defined in the article on the legislative department.) The districts will be defined by supplementary statute or by appendix, as the Co-ordinating Committee decides by way of general approach. It is suggested that this may provide a method of changing the districts to reflect population changes in the future, without the necessity of statewide vote on the amendments. There will be a saving provision that the term of no judge may be shortened by gerrymandering.

As to (c), a method of filling vacancies in all judicial offices will be suggested in section 30 below.

* * *

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Section 6. Supreme court; supervisory, original, and appellate jurisdiction; rule-making power

(a) The supreme court has control of, and general supervisory jurisdiction over all inferior courts. The supreme court shall also exercise general procedural rule-making power not in conflict with procedural statutes and codes enacted by the legislature.

(b) The supreme court has exclusive original jurisdiction of disbarment cases involving misconduct of members of the bar, with the power to suspend or disbar under such rules as the court may adopt.

(c) In civil cases, its appellate jurisdiction extends to both the law and the facts. In criminal matters, its appellate jurisdiction extends to questions of law only.

(d) The following cases shall be appealable to the supreme court:

(1) A case in which a law of this state has been declared unconstitutional;

(2) A criminal case in which the penalty of death or imprisonment at hard labor may be imposed, or in which a fine exceeding five hundred dollars or imprisonment exceeding six months has been actually imposed.

If a case is appealed properly to the supreme court on any issue, the supreme court has appellate jurisdiction over all other issues involved in the case.

(e) (Upon certification by a majority of the supreme court that such relief is necessary?), the legislature may by two-thirds vote transfer the criminal appellate jurisdiction of the supreme court to the courts of appeal (or to such other intermediate court as the legislature may create?). (Upon certification by a majority of the supreme court that such relief is no longer necessary?), this transfer may not (may?) be rescinded.

Source: Article VII, Section 10.

Project: Article VI, Sections 16 and 17.

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Comment: Except to eliminate obsolete provisions (i.e., with the Judiciary Commission there are no longer suits to remove judges) or those unnecessary in view of other provisions (i.e., the needful orders provision, Section 2, above, eliminates any express need to state supreme court has original jurisdiction to determine its own appellate jurisdiction; in addition to which, since monetary limits on amounts appealed has not applied since 1958, no useful purpose is any more served by the 1921 provision), no substantial change has been made except:

As to (a), the second sentence expressly recognizing the present rule-making power is added at the suggestion of Chief Justice Sanders.

As to (c), the direct civil appeals to the supreme court have been restricted to instances where legislative action has been declared unconstitutional, in view of Chief Justice Sanders' recommendation. Also, in accordance with same, the monetary threshold in criminal appeals has been raised from three hundred to five hundred dollars.

As to (e), authority is provided to the legislature to transfer criminal appellate jurisdiction, thus eliminating the need for statewide amendment to accomplish this result. I am not certain that such a major change should not need the full amendment process; nor, if not, that supreme court certification should be necessary. Other alternatives are noted in parentheses with question marks.

* * *

Section 7. Supreme court; certiorari and other writs to the courts of appeal

(a) The supreme court may require by writ of certiorari, or otherwise, any case to be certified from the courts of appeal to it for review, with the same power and authority in the case as if it had been carried directly by appeal to the said court.

(b) Where the application is based solely upon the ground that the decision of the question of law involved is in conflict with a decision of the supreme court or of another court of appeal or panel thereof upon a question not yet decided by the supreme court and it is found that such is the fact, or where the court of appeal has declared unconstitutional a law of this state, then the application shall be granted as a matter of right.

(c) The supreme court shall not exercise the power conferred by this article unless the application shall have been made to the court or to one of the justices thereof within thirty days after a rehearing shall have been denied by the court of appeal.

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(d) The application shall be made as provided by the rules of the court.

Source: Article VII, Section 10.

Project: Article VI, Section 16 (in passing).

Comment: The chief substantial change is to eliminate detailed constitutional regulation of the applications, other than retaining the maximum period of thirty days within which such application shall be "made". See (c). The term "made" is broad enough to permit the supreme court rule (see (d)) to provide that timely mailing is sufficient, in the writer's belief.

The other change is made in (b): the grant of right is extended to conflicts between panels of the courts of appeal (as well as courts themselves), in view of the proliferation of panels, as well as to cases ordinarily appealable as of right (where unconstitutionality is held) where the court of appeal rather than a trial court declares an enactment unconstitutional. This last may not be needed, since the supreme court jurisprudence now so provides.

* * *

Section 8. Supreme court; the chief justice

(a) Whenever a vacancy in the office of chief justice occurs, the justice oldest in point of service on the court shall succeed to the office.

(b) The chief justice shall serve as chief administrative officer of the judicial system of the state. His powers in this regard shall be provided or limited by general rule adopted by the court.

Source: Article VII, Section 7.

Project: Article VI, Section 14.

Comment: No substantive change is made.

As to (b), this authorizes and ratifies the present practice. Chief Justice Sanders suggested this. It may be that a Judicial Council should be created by the constitution, which (rather than the court itself) should provide for the administrative powers of the chief justice.

As to (a), the committee might suggest some alternative. For instance, to avoid the superannuated chief justice who continues to serve only in order to attain the title, perhaps the senior justice below sixty-five (sixty?) years of age should succeed. Again, since the chief justice has administrative functions and perhaps should be chosen for administrative ability rather than age, perhaps whenever a vacancy occurs the court should be authorized to elect a chief justice from its membership for a term long enough to provide leadership and direction (e.g., seven years?),

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eligible to succeed himself. We have been fortunate in that our long-term chief justices have possessed administrative ability (Chief Justice Sanders is an outstanding example), and perhaps should not tamper with fate; on the other hand, by the chance of a few days or months of seniority, the court system could be saddled with a long-term chief justice with no interest in administration.

* * *

Section 9. Supreme court; judicial administrator, clerk and staff

The supreme court shall have authority to appoint a judicial administrator and its own clerks and other staff personnel and to prescribe their duties. They shall serve during the pleasure of the court.

Source: Article VII, Sections 12.1 and 15.

Project: Article VI, Section 9.

Comment: No substantive change.

* * *

Section 10. Supreme Court; assignment of judges

(a) In addition to the authority provided by Section 4 of this article, the supreme court shall have the power to assign a court of appeal judge, with the consent of the court of which a member, to another court of appeal or to a district court.

(b) In addition to the authority provided by Section 4 of this article, the supreme court shall have the power to assign a judge of the district court to another district court or to a court of appeal.

(c) The supreme court shall have the power to assign a judge of any statutory court authorized by this constitution to another statutory court or to a district court.

(d) The supreme court may, with his consent, assign any judge entitled to judicial retirement benefits to any court created or authorized by this constitution.

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(e) The assigned judge shall possess the qualifications of length of admission to practice law in this state required of a judge elected to the office to which assigned.

(f) If otherwise entitled to practice law, any judge so assigned may not do so during the period of his assignment, unless the judges permanently serving on such court may do so.

(g) The legislature shall make necessary appropriations to pay the reasonable expenses and the supplements to salaries or retirement benefits to such assigned judges, so that they receive compensation equal to that of judges permanently serving in the position to which assigned.

Source: Article VII, Sections 4, 5, 8(h), 12, 13, 20 G, 23, 26, 38, 96.

Project: Article VI, Section 10.

Comment: This proposed section is intended to consolidate assignment provisions scattered throughout the present constitution.

The authority to assign court of appeal and district judges to the supreme court is provided by Section 4 above and is limited to calling up judges to fill vacancies or absences.

The proposed section also broadens the assignment power by expressly authorizing (a) assignment of court of appeal judges to other positions (but, since each court of appeal has a collegiate responsibility to develop a uniform jurisprudence for the territory it services, only with the consent of a majority of the court) (see (a) above) and (b) fourth tier judges, i.e., of the statutory courts, to the district courts and to other fourth-tier courts (see (c) above).

In isolated instances (i.e., Article VII, Sections 26 and 96), the present authority of the courts themselves or of the supreme court to appoint qualified non-judge lawyers is omitted as unnecessary and rarely utilized. Perhaps, instead, the committee should consider granting express authority to assign qualified non-judge lawyers to courts, thus increasing the available manpower.

Another alternative possibility is provide a broad provision permitting the supreme court to assign any active or retired judge of any court of record to serve on any court.

If the judge is assigned to fill a temporary vacancy, Section 30 below provides that the assigned judge may not be or become ineligible to fill the vacancy.

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PART C. THE COURTS OF APPEAL

Section 11. Courts of appeal; membership; domiciles; sessions

(a) The state shall be divided into four court of appeal circuits. The court of appeal for each circuit shall be composed of five or more judges.

(b) The courts of appeal shall be domiciled as follows: First, at Baton Rouge; Second, at Shreveport; Third, at Lake Charles; Fourth, at New Orleans.

(c) The sessions of the several courts of appeal shall be held in the parish of their domiciles only.

Source: Article VII, Section 20.

Projet: Article VI, Section 19.

Comment: No substantive change, except to eliminate from constitution specific territorial description of circuits and districts thereof. In Section 13 below present circuits and districts will be continued, subject to change by two-thirds vote of the legislature.

• • •

Section 12. Courts of appeal; panels; number necessary to decision; appointment of district judges to sit in the case

(a) The courts of appeal shall sit in rotating panels composed of at least three judges selected in conformity with the rules adopted by the court. However, when deemed expedient by the judges thereof, a court of appeal may sit en banc.

(b) A majority of the judges sitting in the case must concur to render judgment.

(c) If for any reason a majority of judges do not concur, or if a judge is absent or unable to serve, then a majority of the court may appoint a district judge to sit in the case.

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Source: Article VII, Sections 23 and 26.

Projet: None

Comment: No change. The authority to appoint judges ad hoc is retained (Section c), as for the single case need this is less cumbersome than the supreme court appointment process. In event of such ad hoc appointment, no salary supplement is paid, as at present.

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Section 13. Courts of appeal; qualifications; circuits and districts; terms

(a) A judge of a court of appeal shall be an elector of this state who has been admitted to practice law in this state at least six years preceding his election. He shall have been domiciled within the territory from which elected for at least two years immediately preceding the election.

(b) Each circuit shall be divided into three districts, with at least one judge elected from each. One or more

judges of each court of appeal may be elected at large from within the circuit. The presently constituted circuits and districts thereof, and the number of judges elected either at large or from districts in each circuit, are retained, subject to change by two-thirds vote of the legislature.

(c) The judges shall be elected to terms of twelve years. A vacancy in an office shall be filled as provided by Section 30 of this article.

Source: Article VII, Section 20.

Projet: Article VI, Section 20.

Comment: No substantial change is made, except as noted below.

As to (a), the age requirement is eliminated as unnecessary.

As to (b), the present circuits and districts are retained, but it is provided that they may be changed by two-thirds vote of the legislature. (I.e., two-thirds of the members of each house, as to be defined in the article on the

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legislative department.) The circuits and districts will be defined by supplementary statute or by appendix, as the Co-Ordinating Committee decides by way of general approach. It is suggested that this may provide a method of changing the circuits and districts to reflect population changes in the future, without the necessity of statewide vote on the amendments. There will be a saving provision that the term of no judge may be shortened by gerrymandering.

As to (c), a method of filling vacancies in all judicial offices will be suggested in Section 30 below.

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Section 14: Courts of appeal; appellate and supervisory jurisdiction

(a) The courts of appeal have general appellate jurisdiction of all cases decided by district and other courts within their respective jurisdictions, except as otherwise provided by this constitution.

(b) Where, in a case otherwise appealable to the court of appeal

- (1) The amount in dispute or fund to be distributed, exclusive of interest and attorney's fees, or
- (2) The value of the movable property the possession or ownership of which is sought, or
- (3) The monthly or yearly rent, or rent for the unexpired term of the lease,

is less than one (three?) hundred dollars, then the trial court decision is not appealable, but review thereof may be obtained only by application to the supervisory jurisdiction of the court of appeal with appellate jurisdiction over decisions of such trial court. If the court of appeal grants supervisory review, then the matter shall be decided by it as in the case of an appeal. The appellate jurisdiction under this subsection is determined by the prayer in the main demand.

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(c) The appeal to the court of appeal shall be on both the law and the facts, except where the appeal is limited to questions of law by provisions of this constitution or, in the case of civil service or administrative determinations, by legislative enactment.

(d) Each court of appeal has supervisory jurisdiction, subject only to the general supervisory jurisdiction of the supreme court, over all cases in which an appeal would lie to the court of appeal.

Source: Article VII, Section 29. However, Article VII, Sections 1, 35, 36, and 48 must also be consulted.

Project: Article VI, Section 22.

Comment: A major simplification of present provisions has been sought by the present proposed section.

Generally speaking, as the source provisions note, the courts of appeal presently have appellate jurisdiction over all cases filable in the district court except those which may also be filed in the justice of the peace courts. (These generally fall in the categories of (b) above, being minor matters of less than one hundred dollars in value.) This essential scheme has been retained.

The provision as written provides for direct appeals to the court of appeal in all such matters. However, the proposal envisages review by the court of appeal under its supervisory jurisdiction of matters below the appealable threshold. The chief changes thus proposed are: (1) to eliminate the appeal and trial de novo to the district court in city and municipal courts (this will be retained for the justice of the peace, if the office is retained, see below) and transfer them in civil cases to the court of appeal and (2) to provide for review under supervisory jurisdiction (i.e., discretionary) by the court of appeal rather than (as now) the supreme court where the amount decided is below this jurisdictional threshold.

The committee should seriously consider raising the threshold of appeal from one hundred to three hundred dollars. The one hundred dollar figure was established by the Constitution of 1879, when the purchasing power of the dollar was much greater.

The above proposal does not expressly note that the

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court of appeal is not given jurisdiction of criminal prosecutions in family or juvenile court against persons other than juveniles, as presently expressly stated in Section 29. By Section 6(d) above, the supreme court is given exclusive appellate jurisdiction in criminal cases.

With regard to (d), the supervisory jurisdiction of the court of appeal is made subject only to the supervisory jurisdiction of the supreme court, thus overruling judicial interpretations which provide that, if the court of appeal grants a supervisory writ, its judgment does not become final until the full appellate delays run (i.e., a minimum of forty-four days). As Dean McMahon noted, these interpretations are mistaken and have the effect of making resort to the court of appeal's supervisory power useless in many cases. See Michigan Wisconsin Pipe Line Company v. Fruge, 201 So.2d 672 (La.App.1d Cir.1967) for full discussion.

Section 15. Courts of appeal; certifications to supreme court of questions of law; determination

A court of appeal shall have the power to certify to the supreme court any question of law before it; and thereupon the supreme court may give its binding instruction, or it may consider and decide the case upon the whole record.

Source: Article VII, Section 25.

Project: Article VI, Section 22.

Comment: No substantive change. The simplification of language of the Project is substituted for the present version. Certification is a useful enough procedure, in the writer's opinion, to be retained.

Section 16: Courts of appeal; presiding judge

The senior judge in service on the court of appeal shall be the presiding judge and shall exercise administrative powers as provided by general rule of the court.

Source: Article VII, Section 23.

Project: Article VI, Section 19

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Comment: Since more administrative responsibility may be entrusted to the presiding judge, perhaps the court should be authorized whenever a vacancy occurs to elect a presiding judge from its membership for a term long enough to provide leadership and direction (i.e., five years?), eligible to succeed himself. Also, perhaps the title should be changed to "chief judge".

Section 17. Courts of appeal; clerks and staff

Each court of appeal shall have authority to appoint its respective clerk and staff personnel and to prescribe their duties. They shall serve during the pleasure of the court.

Source: Article VII, Section 28.

Project: Article VI, Section 9.

Comment: No substantive change. Eliminated from the proposal is the present provision of Section 28 that the sheriff of the parish must furnish a deputy to execute the orders of the court.

Section 18. Courts of appeal; court facilities

The governing authority of the parish in which the court of appeal is domiciled shall provide adequate court-rooms, offices, and other facilities for the use of the court, its judges, and staff.

Source: Article VII, Section 28.

Project: None.

Comment: The writer considered eliminating this provision from the draft. Properly speaking, the state should bear the expense of operating this state facility. However, in point of fact, each domiciliary parish has already furnished these facilities; it might cause more disruption than reform to change the present arrangements. Perhaps, however, this provision should be transferred to the statutes rather than retained in the constitution.

PART D. THE DISTRICT COURTS

Section 19. District courts; judicial districts

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The state shall be divided into judicial districts, each composed of one or more parishes and served by one or more district judges.

Source and Projet: See Section 20 below.

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Section 20: District courts; qualifications; districts; divisions; terms

(a) A district judge shall be an elector of this state who has been admitted to practice law in this state at least five years preceding his election. He shall have resided within the district from which elected for at least two years immediately preceding the election.

(b) The judicial districts as presently constituted, and the number of judges elected to each, are retained, with the Civil and Criminal District Courts for the parish of Orleans being combined to form the Orleans District Court having the same total number of judges as are presently elected to each of these courts. The Family Court for the Parish of East Baton Rouge is combined with the district court serving this parish, with said district court having the same total number of judges as are presently elected to each.

(c) By two-thirds vote, the legislature may create a judicial district, transfer a parish from one district to another, or may alter the number of judges elected from a district.

(d) In multi-judge districts, a majority of the judges may by court rule establish specialized divisions and provide for assignment of cases and judges to each, subject to the general supervisory rules of the supreme court.

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(e) Except in the parish of Orleans, the district judges shall be elected to terms of six years. In Orleans Parish, the district judges shall be elected to terms of twelve years. A vacancy in an office shall be filled as provided by Section 30 of this article.

Source: Article VII, Sections 31-34, 53, 80-82.

Projet: Article VI, Section 23.

Comment: The proposed section creates a unified district court within each judicial district, combining the Civil and Criminal District Courts of Orleans and the East Baton Rouge Family Court into a district court. I think a better drafting technique could be used to accomplish this result (i.e., without referring in the new constitution to abolished courts), but I am not taking the time to do it now.

The present power of the legislature to re-arrange districts (Article 34) and to add judges by two-thirds vote is retained. (Query: Do we need a two-thirds vote to add judges?) However, the legislature is additionally empowered to create new judicial districts. The present districts will be defined by supplementary statute or by appendix, as the Co-Ordinating Committee decides by way of general approach.

The twelve-year term for Orleans Parish judges is retained because (a) a uniform term of twelve years (or more than six) for all district judges throughout the state could probably not pass and (b) it will be unfair to decrease the terms of judges elected in Orleans Parish on the basis of twelve-year terms, which are moreover probably justified by

the exorbitant cost of political campaigns in that parish. Perhaps we should study Judge Cole's suggestion of an initial six-year term for all judges, followed by twelve-year terms if re-elected.

The power of a majority of the judges in the district to provide by rule for specialized divisions is recognized, but the supervisory rule-making power of the supreme court is preserved for the extreme cases where a local district's approach results in inefficiency.

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Section 21. District courts; original jurisdiction

The district courts shall have original jurisdiction in all civil and criminal matters, unless otherwise provided in this constitution or by law. They shall have exclusive original

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jurisdiction in all cases involving the title to immovable property; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or a succession, as a party defendant, regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

Source: Article VII, Sections 35, 81, 82.

Projet: Article VI, Section 26.

Comment: With a minor change in wording, the section above was taken from the 1954 Projet. It retains the traditional jurisdiction of the district courts. Query: Should this be retained? Is it really essential, for instance, that district courts be given exclusive jurisdiction of liquidators suits or suits against successions (recognizing, however, the better policy probably is to provide such exclusive jurisdiction to prevent disruption of settlement by splitting up jurisdiction)?

Perhaps the committee should note and may prefer the approach of the Constitutional Revision Commission, Dean Morgan's committee:

§30. Jurisdiction

Except as otherwise provided in this constitution or by statute, district courts have original jurisdiction in all legal matters.

District courts have such appellate jurisdiction as may be conferred upon them by general laws.

The legislature may, by laws affecting the parish of Orleans only, establish the civil jurisdiction and the criminal jurisdiction of the district court or courts in the district composed of the parish of Orleans, which jurisdictions may be vested separately in separate district courts.

Source: Former §35.

Section 22. District courts; appellate jurisdiction

(a) A district court shall have appellate jurisdiction in all matters decided by justices of the peace within its district, and in all criminal cases where a fine or imprisonment has been imposed by a statutory court authorized by this constitution within its district.

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(b) An appeal from a justice of the peace court shall be tried de novo.

(c) An appeal in a criminal case shall be on the law and the facts and shall be on the record made in the statutory court.

Source: Article VII, Sections 36, 81, and 83.

Projet: Article VI, Section 28.

Comment: The proposed article retains the appeal and trial de novo in justice of the peace cases. However, it eliminates the trial de novo in other minor civil cases tried before other statutory courts, since in these instances the review is by supervisory writ by the court of appeal, see Section 14(b) above.

In criminal cases, review on law and facts is retained as presently provided. However, instead of a trial de novo in non-Orleans district courts (with the unworkable provision that no evidence not introduced below may be admitted), it provides for review on the record made in that court. This may be an optimistic assumption that facilities are available to make such a record, as they should be. This is in fact the provision presently in effect for review of fourth-tier criminal or juvenile adjudications in Orleans Parish. See Article VII, Section 83. However, in Orleans Parish review is by two or more district judges.

There may be some question as to the need of investing appellate jurisdiction in the district courts, rather than having these minor convictions reviewed (as they are in district court minor criminal cases) under the supervisory jurisdiction of the supreme court. The writer submits this to the judgment of the committee: on the whole, however, possibly the more adequate district court review of a decision by one judge of a fourth-tier court should be retained.

* * *

Section 23. District courts; presiding judge

(a) Each multi-judge district court shall elect a presiding judge from among its judges. The presiding judge shall serve for a term of three years and is eligible for re-election. When a vacancy occurs in the office, the successor shall be chosen for a term of three years. If a

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majority of the judges cannot agree, or during the period of the vacancy, the judge most senior in continuous service on that court shall serve as acting presiding judge.

(b) The presiding judge shall exercise such administrative functions as may be prescribed by rule of that court or by supervisory rule of the supreme court.

Source and Projet: None.

Comment: In the more complex and contested trial courts of this date more administrative leadership is necessary.

* * *

Section 24: District courts; minute clerks, court reporters and staff

Each district court shall have authority to appoint its minute clerks, court reporters, and other staff personnel. A district court may appoint a judicial administrator to assist the presiding judge in the performance of administrative functions.

Source: Article VII, Section 85 (Criminal District Court of Orleans only)

Projet: None.

Comment: This section may be controversial and is hesitantly advanced only in response to the several suggestions to the effect that the district court should have control of the personnel immediately serving it. The present system of the

personnel being furnished by the clerk of court and the sheriff has worked reasonably well. Also, perhaps this should be omitted and left to statutory regulation. Further, if the courts can find the money (i.e., the local government), I think they can at present appoint judicial administrators without constitutional authority.

This section is primarily included to provoke discussion and because the Orleans Criminal Court presently has such a provision. At this time we should also discuss whether, for instance, the constitution should note the power of the legislature to provide for commissioners or magistrates, to be appointed by the courts (like the Associate Judges in Illinois), to carry out quasi-ministerial duties (committing magistrate, confirm defaults, etc.).

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Section 25. District courts; appointment of judges ad hoc

If for any reason a district judge is unable to serve in a case, he may appoint a lawyer to serve as judge ad hoc who has all the qualifications required for a district judge except that of residence in the district, or he may arrange for another district judge to serve in his place.

Source: Article VII, Section 38.

Projet: None.

Comment: This easily administered provision for an ad hoc judge should probably be retained. Query: Is it necessary to do so in the constitution? (Note: The supreme court may also assign another judge to sit for the recused or absent judge, but this provision does specifically authorize the use of non-judge lawyers.)

* * *

PART E. STATUTORY COURTS

Section 26. Statutory courts; in general

The legislature may, by two-thirds vote, establish, abolish, or otherwise affect other courts of trial jurisdiction. The legislature may also, by two-thirds vote, merge any statutory court authorized by this constitution with the district court of the parish.

Source and Projet: None.

Comment: This general provision affects the present special and fourth-tier courts, which are continued by the following section, and it also enables the legislature to establish parish courts or a procedure by which they may be established. In my view, it authorizes the legislature to provide that parish courts may sit in divisions and have judges elected from separate territorial areas within a parish, and to transfer city judges to it (i.e., by consolidating the existing city court(s) with the parish court). We may or may not wish to spell this out. I think not, as the legislature has more flexibility.

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Section 27. Statutory courts; existing courts continued

Juvenile courts that exist on the effective date of this constitution, and courts existing on the effective date of this constitution that have jurisdiction inferior to that of district courts, including but not limited to city courts,

parish courts and the courts in the parish of Orleans inferior to the district courts, are continued in existence as statutory courts.

Source: Section 46 of draft Judiciary Article prepared by Louisiana Constitutional Revisions Commission. Cf., Article VII, Sections 46-50, 51, 51(a), 52, 79, 90-94, and 96.

Comment: This continues justice of the peace courts, among others. Presently these courts may be abolished by majority vote of the legislature. See Article VII, Section 46. Similarly, mayor's courts are continued as statutory courts (with jurisdiction over violations of municipal ordinances; these may presently be established or abolished by majority vote, Article VII, Section 51 E.). The effect of including both of these as statutory courts is to require a two-thirds vote of the legislature to do so. (Query: Should these courts be excepted from the two-thirds requirement, as now?)

All of the statutory courts so continued will be specified by re-enactment of present constitutional articles regulating them as special statutes or as an appendix to this constitution, as the Co-Ordinating Committee may decide.

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Section 28. Statutory courts; ex officio juvenile judges

In all parishes where separate juvenile courts have not been established, the district judges of the district including that parish shall be ex officio juvenile judges for that parish. In all such instances, the judge of a city court within the parish shall within his jurisdiction, be ex officio judge of the juvenile court, exercising juvenile jurisdiction concurrent with that of the district court.

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Source: Article VII, Section 52.

Projet: Article VI, Section 31 (Domestic Relations Court)

Comment: This provision is continued in view of its importance under present operations of our juvenile law. I am inclined to think it should instead be relegated to the two-thirds statutory provisions, as it is included within the present constitutional section creating and regulating juvenile courts.

(Note: This draft does not incorporate a provision providing for selection of a presiding (administrative) judge for multi-judge statutory courts. Perhaps it should, if this general scheme is adopted for district courts. The reason for the omission is that the legislature, in creating the courts, may provide for the office.)

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PART F. JUDGES IN GENERAL

Section 29. Judges; term of office or compensation may not be decreased

(a) The term of office or compensation of a judge elected to any of the courts established or authorized by this constitution shall not be decreased during the term for which he is elected.

(b) If the legislature exercises its authority to affect a statutory court as provided by section 26 of this article, it may provide that the judge of the statutory court

so affected shall serve as an additional judge of the court to which the jurisdiction of the statutory court is transferred.

(c) If the legislature transfers the parish in which a supreme court or court of appeal judge is domiciled to another district, no vacancy in office is so created and the term of the judge shall not be affected by this transfer.

(d) If the legislature transfers the parish in which a district judge is domiciled to another district, the term of the judge shall not be affected by this transfer.

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Source: Article VII, Section 40.

Projet: Article VI, Section 4.

Comment: The source article also prevented change in the territorial jurisdiction, reacting in 1940 against the gerrymandering of Judge Pavy out of office in 1935. Continuation of this limitation is not recommended, since the isolated instance does not justify the rigidity for the future; it would hamper the consolidation of the statutory courts and, for instance, the creation of parish courts which include the city courts within the parish as divisions.

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Section 30. Judges; non-partisan election; vacancy in office; terms

(a) The general election of judges shall be held at the regular congressional election or, if the legislature so provides, at one of the statewide primaries therefor; unless a special election to fill a vacancy is required to be held at another time by subsection b of this section.

(b) If a vacancy occurs in the office of any judge, a special election to fill such vacancy shall be called by the governor and held within four months of the time the vacancy occurs. Until the vacancy is filled, the supreme court shall assign a judge to the duties of the office as provided by section 10 of this article, but this assigned judge shall be ineligible to be a candidate for election to the vacancy. The judge elected at the special election shall be elected to a term as provided by subsection (e) of this section.

(c) The election of judges shall be by a ballot separate from the party contests for other offices. The candidates for election as judge shall be nominated by nominating papers signed by at least one hundred qualified electors of the election district and filed with the secretary of state at

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least thirty days before the date of the election. The candidates for each judicial office shall be placed in alphabetical order without reference to party affiliation or any individual designation. If no candidate for the office receives a

majority, a second election shall be held at least five weeks from the date of the first election, as the legislature provides.

(d) All judges serving on the date of adoption of this constitution shall continue in office for the term to which elected and shall serve through December 31st of the last year of their term or, if the last year of their term is not in the even-numbered year of a general judicial election, then through December 31st of the year next succeeding. The election for the next term in the office will be held in a general judicial election of the year the term expires, as provided above.

(e) A judge chosen at a special election to fill a vacancy shall be elected to a full term in the office which commences on January 1st of the year following the next general judicial election. He shall also serve an interim term commencing with his qualifying to serve as judge after the special election until the full term commences.

Source and Project: None. Cf., La.R.S.17:121 (1970), (non-partisan elections for Orleans Parish School Board)

Comment: The above proposal is a major change in at least three respects: (a) it provides for a non-partisan election of judges; (b) it provides that all judges elected to vacancies shall serve a full (rather than an unexpired) term, as well as for the interim between the special election and the full term; and (c) it reverts to the pre-1966 method of selected district judges by special election by the people, rather than a gubernatorial appointment. Since in each instance the judge elected at the special election will serve the interim between it and the full term, no provision is made for appointment of judges when a year or less of the term remains.

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The term of court of appeal judges ends in odd-numbered years, but the election for the office is at the congressional election of the year preceding. This leads to an anomalous situation where a sitting judge serves on a year past his defeat and the newly elected judge cannot take office for the year.

Ideally, the detail in providing for non-partisan elections should be omitted from the constitution. Perhaps a simple provision that judges shall be chosen by separate non-partisan ballot at the time of the regular congressional election, as the legislature may provide, should suffice. Perhaps by two-thirds schedule legislation (if the Coordinating Committee recommends this general approach) we should remove this detail from the constitution. On the other hand, perhaps we want to specify a simple nominating petition (only one hundred voters) procedure, to prevent the possibility, for instance, that in the future five thousand voters might be required, unless the candidate is an incumbent.

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Section 11. Judges; retirement

(a) The legislature shall provide a retirement system for judges of courts established or authorized by this constitution.

(b) No judge, either in office or retired, at the time of the adoption of this constitution, shall have diminished any retirement or service rights he had under the previous constitution; nor shall the benefits to which widows thereof were entitled be reduced. For purposes of this subsection, "judge" includes any

his judicial administrator or widow entitled to judicial retirement benefits at the time of adoption of this constitution.

(c) A judge of a court of record who is found by two competent physicians selected by a majority of the supreme court to be physically or mentally incapacitated to perform his duties shall be retired at two-thirds pay.

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(d) A judge shall retire upon reaching the age of seventy years. In such event, he may not receive as retirement benefits less than the proportion of his pay which the number of years served on a court established by this constitution bears to twenty.

(e) The provisions of this section do not apply to justices of the peace.

Source: Article VII, Sections 8, 12.1.

Project: Article VI, Section 13.

Comment: The provisions are self-explanatory, except possibly the reference to the judicial administrator of the supreme court. In 1966, Section 12.1 was added to the constitution and provided that judicial administrators were entitled to the retirement benefits as in the cases of judges. This was to attract to the post, despite the relatively low salary, the high type of man needed for the position. Mr. Robert LeCorgne served under this provision (alone of previous administrators), and upon his death his widow is drawing retirement benefits. The only other judicial administrator to whom this provision applies is the present one, Mr. Eugene Murret.

It is recommended that mandatory retirement of disabled judges be retained, to avoid the spectacle of the disabled judge who hangs on and on from financial necessity. At present, a majority of the judges of a multi-judge court retire him. The above places the authority in the supreme court in these cases as well as (as now) in all other cases. Perhaps this provision should give the Judiciary Commission the duty of recommending retirement of judges who apply for it on a voluntary basis (they have it already on an involuntary basis), rather than the supreme court.

The retirement for age is reduced from 75 to 70. Perhaps it should be 65. The present provision providing minimum retirement benefits for mandatory retirement is retained, for the rare case when the people elect an older man as judge and he does not have the minimum service required for benefits (e.g., the present legislative retirement system for judges contemplates no vested retirement benefits until after 12 years of service. The present constitutional system does not normally confer benefits until either 20 or 23 years, depending on age.)

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Section 32. Judges; practice of law

Supreme court, court of appeal, and district judges shall not practice law.

Source: Article VII, Section 3.

Project: Article VI, Section 8.

Comment: In line with existing practice only judges of the categories mentioned are prohibited from practicing law. Some of the judges of the statutory courts are likewise so prohibited, but some (e.g., city judges) are not. It therefore seemed preferable in the case of the statutory courts to leave this matter to be determined by legislation or court rule.

Omitted from the source articles is the provision that no function other than judicial shall be attached to any court

of record or a judge thereof. This provision was traditionally designed to protect the judges from having imposed on them other governmental duties (inspection of the jails, etc.); in modern times, its usefulness is questionable. Furthermore, what are "judicial" duties is a matter of interpretation (e.g., is administration of the Law Library of Louisiana by the supreme court "judicial"?), and the possibilities for trouble are greater than the possibilities for safeguard.

PART G. THE JUDICIARY COMMISSION

[Changes in style and drafting may be necessary. We are just incorporating present provision of Louisiana Constitution Article 14, Section 4 (1968), with change where shown, as recommended by Chief Justice Sanders.]

Section 33. Judiciary Commission; membership; terms

(a) The Judiciary Commission shall consist

- of (1) one court of appeal judge and three judges of courts of record, other than the supreme court or the courts of appeal, at least two of whom shall be district court judges, all selected by the supreme court; (2) two members of the Louisiana State Bar Association who have practiced law in this state for at least ten years, appointed by the board of governors of the Louisiana State Bar Association; neither of whom shall be a justice or judge of any court, active or retired, nor an elected public official, and (3) one citizen, appointed by the Judicial Council, who shall not be a justice or a judge of any court, active or retired, nor a member of the Louisiana State Bar Association, nor an elected public official.
- (b) Members of the commission shall serve for terms of four years; provided, however, that no member of the commission who has served a four-year term shall be eligible to succeed himself.
- (c) Membership on the commission shall terminate: (1) when a judge ceases to be a member of the court from which he was selected; (2) when a member appointed by the board of governors of the Louisiana State Bar Association becomes a justice or a judge or an elected public official or ceases to be a member of the Louisiana State Bar Association; or (3) when a citizen appointed by the Judicial Council becomes a member of the Louisiana State Bar Association or an elected public official.
- (d) When a vacancy on the commission occurs for any reason, a successor shall be appointed for a four year term by the appointing authority for the position for which the vacancy occurred.

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Section 34. Judiciary Commission; grounds for removal or involuntary retirement

(a) A justice or judge

may be removed from office or retired involuntarily for willful misconduct relating to his official duty or willful and persistent failure to perform his duty, or for habitual intemperance, or for conviction, while in office, of a felony.

(b) A justice or judge may be retired involuntarily for disability that seriously interferes with the performance of his duties and that is, or is likely to become, of a permanent character.

Section 35. Judiciary Commission; investigation; hearings; suspension; recommendation to supreme court; rules

(a) After such investigation as the judiciary commission deems necessary, it may order a hearing on the question on the removal or involuntary retirement of a justice or judge. After a hearing, if the commission concludes that there is cause for removal or involuntary retirement as specified in this section, it shall recommend to the supreme court the removal or involuntary retirement of the justice or judge. The commission may include a recommendation that the justice or judge be disqualified from judicial office in this state thereafter, either permanently or for a specified period.

(b) After such investigation as the judiciary commission deems necessary, it may recommend to the supreme court that a judge against whom proceedings are pending be suspended from his duties pending completion of the commission's action, and the supreme court may so order.

(c) No action of the commission shall be valid unless concurred in by a majority of its members.

(d) The commission on all adopted rules implementing this section not inconsistent with rules adopted by the supreme court.

Section 36. Judiciary Commission; justices and judges; removal or involuntary retirement

(a) When the

Judiciary Commission recommends the removal or involuntary retirement of a justice or judge, the supreme court shall review the record of the proceedings of the commission on the law and facts and may (1) refuse the introduction of additional evidence; (2) in accordance with its finding, the supreme court shall either order the removal or involuntary retirement of the justice or judge, or dismiss the proceedings.

(b) Upon an order for removal, the justice or judge is to be removed from office, and his salary shall cease from the date of the order. An order of removal or involuntary retirement by the supreme court may provide for the disqualification of the justice or judge from holding judicial office in this state thereafter, either permanently or for a specified period.

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(c) Upon an order for involuntary retirement, the justice or judge is retired with the same retirement benefits as if he retired voluntarily pursuant to law. A justice or judge who has been removed is ineligible to receive retirement benefits.

Section 37. Judiciary Commission; proceedings; confidential nature.

All documents filed with, and evi-

dence and proceedings before the Judiciary Commission pursuant to this section are confidential. The record filed by the commission with the supreme court and proceedings before the supreme court are not confidential.

Section 38. Judiciary Commission; recusation; alternative procedures

(a) A judge who is a member of the

commission or a justice of the supreme court shall be recused in any proceeding involving his own removal or involuntary retirement.

(b) Action against a judge under this section shall not preclude disciplinary action against him with respect to his license to practice law.

(c) This section provides an additional and alternative method by which justices and judges may be removed from office or retired involuntarily, and shall not be construed as conflicting with or superseding other methods provided in this constitution.

Section 39. Judiciary Commission; Judicial Administrator is executive officer; duties

The Judicial Administrator is the chief executive officer of the Judiciary Commission, and in that capacity he shall perform such duties as are prescribed by the commission, in addition to his duties prescribed by the supreme court (Amended by Acts 1965, No. 61, adopted Nov. 5, 1965)

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[Concluding note on sections pertaining to judges:]

The writer did not try to formulate the concept of judges at large available to fill any vacancy as needed, as outlined by some speakers. This briefly would consist of four judges, appointed from judges with twelve years' tenure, one for each circuit, to serve wherever assigned as needed by congestion, illness, death, retirement, etc. They would be appointed for 12-year terms, eligible for reappointment, probably by the Governor and confirmed by the senate, possibly from a list of three submitted by the supreme court or judicial council. Since these judges had already been elected at least once, perhaps the appointment might not be subject to as much criticism; an election would be too prohibitive. Since these judges need to be highly skilled and to fit in at all levels of the judiciary, their appointment should be limited to experienced judges; it would not do for this to be a political plum of the governor or legislature. Again, perhaps the creation of these judges should be left to the legislature as statutory judgeships.]

PART H. THE DEPARTMENT OF JUSTICE.

Section 40. Department of justice; establishment,

etc.

[Note: The following sections are taken without study or comment from the report of the Constitutional Revision Commission study, in the interests of completeness. They concern the department of justice, district attorneys, sheriffs, clerks, and coroners, all presently regulated by Article VII. Since we have not discussed them-- or even decided whether, say, the Attorney General should be in the executive department rather than the judiciary-- the writer made no effort to evaluate the provisions.]

at the general state election and hold office for four years. The sheriff, except in the Parish of Orleans, shall be an official collector of state, parish and all other taxes, except inheritance and municipal taxes, which, however, he may also collect if authorized by the legislature.

Within sixty days from the date of his commission, he shall give separate bonds as required by law, for the faithful performance of his duties in each capacity, and in default thereof the office shall be declared vacant. He shall not be discharged as tax collector until he makes satisfactory proof that he has exhausted the legal remedy to collect taxes.

Source: Former §63

PART II. Department of Justice

Section 40. 157. Establishment; composition, attorney general, election and assistants

There shall be a Department of Justice consisting of an attorney general, a first assistant attorney general, a second assistant attorney general, and other necessary assistants and office force. The attorney general shall be elected every four years at the general state election, and the assistants shall be appointed by the attorney general to serve during his pleasure.

Source: Former 155

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Section 41. 158. Attorney general; qualifications; powers and duties; vacancies

The attorney general and the assistants shall have actually resided in this state and shall have been at least five years preceding their election and appointment. They, or one of them, shall attend to, and have charge of all legal matters in which the state has an interest, or to which the state is a party, with power and authority to institute and prosecute or to intervene in any and all suits or other proceedings, civil or criminal, as they may deem necessary for the protection or preservation of the rights and interests of the state. They shall exercise supervision over all attorneys representing any executive or administrative agency of the state and the several district attorneys throughout the state, and shall perform all other duties imposed by law.

In case of a vacancy in the office of attorney general, the first assistant attorney general shall perform the duties of the attorney general until his successor shall have been duly elected and qualified.

Source: Former 156

PART III. District Attorneys

Section 42. 159. Establishment of office; election; term

There shall be a district attorney for each judicial district in the state. Each district attorney shall be elected by the qualified electors of the judicial district at the regular state election for a term of six years.

Source: Former 159

Section 43. 160. Defense of criminal prosecutions; removal from office

It shall be the duty of the district attorney to defend in any criminal case, or in any way defend or assist in defending, any person charged with a crime, from the time of his arrest until the completion of any trial or sentence in the state.

Source: Former 160

[Note: In our consideration of establishing a public defender system, this should possibly be discussed; however, probably it is better to leave this to the legislature.]

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PART IV. Sheriffs

Section 44. 161. Sheriff; powers of office; election; official tax collector; bonds; discharge of collection

There shall be a sheriff elected by the qualified electors of each parish in the state except in the Parish of Orleans, who shall be elected

PART V. Judges

Section 45. 162. Establishment of office; election; powers and duties

There shall be a class of the District court in each parish, the parish of Orleans excepted, who shall be elected by the qualified electors of the parish every four years, and shall be an official entry public and parish recorder of conveyances, mortgages, and other acts.

The superior court may by rule and under stipulated conditions, grant in clerks of court authority to grant such orders and to do such acts as may be deemed necessary for the furtherance of the administration of justice.

Source: Former 162

Section 46. 163. Deputies

With the approval of the district judges, clerks of district courts may appoint deputies with such powers as shall be prescribed by the superior court and inconsistent with law, and the district court shall have the power to continue one of the deputies in office or re-appoint him in the event of a vacancy until his successor shall be appointed, elected, and qualified.

Source: Former 163

PART VI. Coroners

Section 47. 164. Medical license; appointment; term

In each parish there shall be a medical officer who shall be appointed for a term of four years by the parish governing authority, and in the parish of Orleans by the City Council. The medical officer of each parish shall be a doctor of medicine regularly licensed to practice medicine in this state; however, if there is no such licensed doctor of medicine residing in the parish who will accept the office, the medical officer shall be such a licensed doctor of medicine who resides in a parish within the judicial district in which the parish is included.

The medical officer shall be qualified parish physician for the parish that appoints him.

Source: Former 164 to 165

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[Staff Memo No. 16]

REPUBLICAN PARTY OF LOUISIANA IN POINT OF VIEW AS OF JULY 14, 1973 (Not including members in counties of lower level)

Year	Name	Party	Count	Rep	Dem
9-26-54	Harold E. Zeller	Rep.	1	1	
7-9-56	Donald E. Equest, Sr.	Dist. Crim. "D"	2	2	
7-11-56	Dwight P. Garrison	Dist. Crim. "D"	1	1	
4-6-58	Thomas H. Tolson, Jr.	Dist. Crim. "D"	4	4	
10-11-58	Frank H. Hughes, Jr.	2nd "A"	5	5	
10-11-58	J. Adolph Hunter	2nd "B"	5	5	
1-18-59	C. William Bradley	2nd "A"	6	7	
4-22-59	Clarence Doolin	Dist. Crim. "D"	7	8	
1-22-60	Dwight P. Garrison, Jr.	Dist. Crim. "D"	8	9	
8-1-60	G. Ross Kearney, Jr.	10th "A"	9	10	
8-1-60	Dr. William Swift, Jr.	14th "C"	10	11	
9-6-60	Earl C. Lubner	14th "B"	11	12	
9-8-60	Guy E. Humphreys, Jr.	9th "B"	12	13	
9-28-60	Ernest C. McIndoo, Jr.	26th "B"	11	14	
10-27-60	Paul Edwards	12th	14	15	
7-9-61	Harold P. K. Hall	10th "A"	15	16	
12-15-61	William L. Fleming	1st "A"	16	17	
1-10-62	Carl E. Spill	15th "C"	17	18	
9-1-62	Elmer F. Lewis	19th "E"	18	19	
12-7-62	Clinton T. Bennett	15th "A"	19	20	
5-20-63	Paul P. Gaudin	Dist. Crim. "D"	20	21	
6-20-63	Samy Chassagnon	13th "B"	21	22	
9-16-63	Frank Shon	Dist. Crim. "D"	22	23	
10-1-63	Clifford C. Adams	6th	23	24	
9-1-64	Joseph A. Lallaye	23rd "A"	24	25	
12-1-64	Frank H. Hunter	26th "E"	25	26	

4-21-65	Leon J. ...	2nd "A"	26	27
1-3-66	S.	28	29
1-1-66	Leon J.	29	30
3-20-66	Matthew S.	31	32
4-4-66	Edw. A. de la	33	34
5-1-66	Frank	35	36
5-20-66	Robert A.	37	38
6-28-66	39	40
7-20-66	Richard R.	41	42
8-2-66	William C.	43	44
9-1-66	Jack E.	45	46
10-1-66	Richard	47	48
10-18-66	Luther	49	50
10-24-66	Leslie S.	51	52
10-26-66	Richard	53	54
12-8-66	James K.	55	56
1-20-67	57	58
1-20-67	59	60
1-20-67	61	62
1-20-67	63	64
1-20-67	65	66
1-20-67	67	68
1-20-67	69	70
1-20-67	71	72
1-20-67	73	74
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1-20-67	185	186
1-20-67	187	188
1-20-67	189	190
1-20-67	191	192
1-20-67	193	194
1-20-67	195	196
1-20-67	197	198
1-20-67	199	200

1.....	1984
2.....	1985
3.....	1986
4.....	1987
7.....	1988
2.....	1989
3.....	1990
4.....	1991
2.....	1992
1.....	1993
21.....	1994
3.....	1995
4.....	1996
15.....	1997
10.....	1998
8.....	1999
29.....	2000
1.....	vacancy

118 Judges (District)

NOTES
Staff Memo No. 17 is omitted. It reproduces Staff Memo No. 4, supra.

(Staff Memo No. 8)

The following are some examples of taxes collected by sheriffs in Louisiana

Abbeville harbor and terminal district	34,033.12
Acreeage tax on forest and cutover lands	56,152.1
Aveyelles parish port commission	34,180.4
Columbia port commission	34,190.4
Concordia parish port commission	34,185.4
Grant parish port commission - duties	34,238.4
Greater Lafourche port commission taxes	34,168.9
Jonesville port, harbor and terminal district, settlement of taxes	34,215.4
Livingston Tangipahoa parishes port commission	34,196.2
Madison parish port commission	34,240.4
Morgan City harbor and terminal district	34,032
Navigation improvements, special taxes	34,069
Plaquemines parish port authority	34,135.9
Pointe Coupee port, harbor and terminal district	34,045.5
Red River waterway district	34,031.1
St. Bernard port, harbor and terminal district	34,171.5
Tensas parish port commission tax	34,288.4
Terrebonne port commission	34,266.4
Vinton harbor and terminal district	34,034.10
West Calcasieu port, harbor and terminal district	34,211.7

* Below certain lines are additional entries.

NOTES

The remainder of Staff Memo No. 18 is omitted. It reproduces La. R.S. 33:2721 and Interstate Tax Bureau v. Conway 156 So. 463 (1934).

NOTES

Staff Memo No. 19 is omitted. It reproduces La. R.S. 40:1386-1388 in re: State Police.

#20

[Staff Memo No. 20]

STATE PROVISIONS FOR DISCIPLINE OF JUDGES:

Commission Plans by Constitution

- 1. Alaska
2. Arizona
3. California
4. Colorado
5. Florida
6. Idaho
7. Illinois
8. Indiana
9. Louisiana
10. Maryland
11. Michigan
12. Missouri
13. Nebraska
14. New Mexico
15. Ohio
16. Oregon
17. Pennsylvania
18. Tennessee
19. Texas
20. Utah
21. Virginia
22. Puerto Rico

Judiciary Plans by Constitution

- 1. Delaware
2. New Jersey
3. New York
4. Oklahoma

Commission Plans awaiting Constitutional Approval

- 1. Iowa
2. Nevada

Commission Plans used by Local Governments

- 1. Kansas City, Missouri
2. City & County of Denver, Colorado
3. Dade County (Miami), Florida

Commission Plans

- 1. Hawaii - Statute
2. Minnesota - Supreme Court Order & Statute
3. Vermont - Statute
4. District of Columbia - Court Reform & Criminal Procedure Act of 1970

NOTES

The remainder of Staff Memo No. 20 is omitted. It reproduces statutory and constitutional provisions from the states listed.

CC/73 Research Staff
Committee on the Judiciary
June 6, 1973
Staff Memorandum No. 21

To: Members of the Committee on the Judiciary
From: Lee Margrave
Re: Article IV, Section 16

This article covers four areas, and each will be discussed in turn.

1. "The Legislature may authorize the creation of express trusts for any purpose, including but not limited to private trusts, trusts for the benefit of employees, trusts for educational, charitable, or religious purposes, and mixed trusts for any combination of purposes."

a. Since this provision is merely permissive, the legislature could enact trust laws without this authorization, but for the prohibition on trusts and the prohibition on substitutions. If those prohibitions were to be discontinued, the permissive language of this sentence could be omitted.

b. If the prohibition on trusts is worded as in 2.c. or 2.d. below, this sentence would be unnecessary since the exception to the prohibition would recognize the power of the legislature to act.

c. If the prohibition is to be kept, it could be shortened by omitting the kind of trusts allowed, and more general language used. It could be provided:

THE LEGISLATURE MAY AUTHORIZE THE CREATION OF TRUSTS FOR ANY PURPOSE.

Committee on the Judiciary 6/6/73:LH

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2. "Substitutions not in trust are and remain prohibited; but trusts may contain substitutions to the extent authorized by the Legislature."

a. Substitutions are prohibited by Civil Code Article 1520 and would remain so even if this sentence is omitted, subject to the laws which allow creation of trusts, just as the constitutional prohibition is subject to those exceptions for trusts.

b. A question arises as to the necessity for this prohibition on substitutions when the exceptions allowed are so wide that the provision ceases to have much effect.

c. It could be provided, if the sentence is to be kept:

SUBSTITUTIONS ARE PROHIBITED, EXCEPT IN TRUSTS AS PROVIDED BY LAW.

d. To the same effect:

THE LEGISLATURE MAY AUTHORIZE THE CREATION OF TRUSTS FOR ANY PURPOSE AND ALLOW SUBSTITUTIONS IN TRUST ONLY; OTHERWISE, SUBSTITUTIONS ARE PROHIBITED.

3. "No law shall be passed abolishing forced heirship; but the legitime may be placed in trust to the extent authorized by the Legislature."

a. One can take the position that "abolishing" means complete termination, and that the legislature can change the law of forced heirship (the forced portion, the heirs who are forced, the grounds for disinheritance) so long as it is not totally abolished.

Additional support for this construction comes from Succ. of Earhart, 220La. 817, 57 So.2d 695 (1952), a case where heirs objected to their legitime being burdened by its being placed in trust. Art. IV, sec. 16, at that time contained the provision against abolishing forced heirship and authorized trusts without mentioning that those trusts could impinge on the legitime. Still, the court held the trust valid against the attack that this was "abolishing" forced heirship. The court said:

"To construe the provisions of this article of the constitution otherwise would be tantamount to accusing them of folly. The words, 'No law shall be passed abolishing forced heirship', mean exactly what they say; in other words, that forced heirship cannot be done away with wholly, wiped out or destroyed. This provision does not prohibit the legislature from regulating or restricting the rights of forced heirs."

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With this decision as authority, the legislature could change the grounds for disinheriting forced heirs without violating the present constitutional provision.

b. If this position is not accepted and the desire is to allow changes in the grounds for disinheritance, it could be provided:

NO LAW SHALL ABOLISH THE INSTITUTION OF FORCED HEIRSHIP, BUT THE LEGITIME MAY BE PLACED IN TRUST AS AUTHORIZED BY LAW.

c. The provision can be made stronger with respect to changing the grounds for disinheritance, and in so explicitly creating one exception there would be created the implication that no other changes can be made:

NO LAW SHALL ABOLISH FORCED HEIRSHIP, BUT THE GROUNDS FOR DISINHERITANCE OF FORCED HEIRS MAY BE CHANGED BY LAW AND THE LEGITIME MAY BE PLACED IN TRUST AS PROVIDED BY LAW.

d. Even stronger would be the following provision, which would explicitly freeze the existing details of the forced heirship provisions of the civil code:

NO LAW SHALL ABOLISH FORCED HEIRSHIP AS EXISTING AT THE TIME OF ADOPTION OF THIS

CONSTITUTION, BUT THE GROUNDS FOR DIS-INHERITANCE OF FORCED HEIRS MAY BE CHANGED BY LAW AND THE LEGITIME PLACED IN TRUST AS PROVIDED BY LAW.

4. "Children lawfully adopted shall become forced heirs to the same extent as if born to the adopter and shall retain their rights as heirs of their blood relatives, but their blood relatives shall have their rights of inheritance from these children terminated."

a. To make it clear that adopted children are forced heirs, it is probably necessary to so provide in the constitution. It could be provided:

AN ADOPTED CHILD IS A FORCED HEIR TO THE SAME EXTENT AS IF BORN TO THE ADOPTER.

Committee on the Judiciary 6/6/73:LH

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4. (continued)

b. It may be illogical to provide that the adopted child retains rights of inheritance from blood relatives. In all other respects, the adopted child is treated as the true child of the adopting parents, and is considered a part of that family. The laws relating to support, parental authority, right of enjoyment, etc., apply as to natural children. But to allow the child to retain the inheritance rights from blood relatives seems to inject an element that is inconsistent with this treatment as a real member of the new family. It can lead to a search for parentage by an adopted child, an activity which can be inconsistent with the policy of having the adopted child become a true part of his new family.

Even if the constitutional provision retaining inheritance rights from the blood relatives were omitted, the legislature could provide that effect by statute. Omission of the provision from the constitution would give the legislature more flexibility.

A practical problem can arise in that the adopted child's original birth certificate with the listing of his real parents is sealed when he is adopted and a new certificate issued. It is often difficult to have access to those sealed documents. (La. R.S. 40:202 provides for sealing the original birth certificate of the child to "be opened only by order of a court of record.") The tendency of some adopting parents to withhold from the child the identity of his true parents--and in many cases they do not know at all--may create difficulties. An adopted child may have a right he does not know of at the time of the blood relative's death--when succession proceedings are had--but may learn later and assert his right, creating instabilities, specially in title to immovable property.

c. If the provision is to be retained, it could be in this form, added to (a) above:

AND RETAINS HIS RIGHTS AS HEIR OF HIS BLOOD RELATIVES.

d. With respect to specifying that the blood relatives lose their rights of inheritance, this could be done by statute.

e. If that provision is to be kept, it could be added:

BUT HIS BLOOD RELATIVES LOSE THEIR RIGHTS OF INHERITANCE FROM THE ADOPTED CHILD.

LH:bb
6/6/73

1. Grandfather Clause:

Judges, and the judicial administrator, in office at the time of the adoption of the constitution are protected in that they can choose to remain under the present retirement system provided in the 1921 Constitution. The benefits under that system cannot be diminished, but the judges do have the right to elect to join either of the other two systems provided for in the proposal.

2. Legislative System:

The proposal mandates the legislature to enact a new retirement system for judges, and provides that judges taking office after the adoption of that statute by the legislature must enter that legislative system. Judges in office at the time the legislature adopts such a system have the option of joining the new system or of retaining the rights under the system they may be in at the time.

3. Interim System:

The remaining problem is to provide for judges who would take office after the adoption of the constitution but before the legislative system is enacted.

The first alternative (Subsection D, Alternative One) would handle the interim problem by providing the judges taking office at that time would have the same retirement benefits that are presently provided in the 1921 Constitution. This is as was provided in tentative draft proposal Section 21.

The second alternative (Subsection D, Alternative Two) would establish an entirely new retirement system that would be mandatory for judges taking office after adoption of the constitution and before the legislature establishes a new retirement system. In addition, judges in office at the time of the adoption of the constitution would have the option to join this plan if they so chose. The benefits of this interim plan are the same as suggested by the draft submitted by Judge Cole. Judges of all courts except mayors and justices of the peace would be included in this system.

The interim plan requires contribution by the judges of six percent of their salary to be paid to the authorities paying their salaries. Also, it appears that this interim plan is not necessarily an actuarially sound funded retirement system; it would be more correct to say that this six percent contribution is a fee or charge which the judge must pay to be able to collect the benefits provided.

On Monday, June 4, 1973, Lee Hargrave and C. B. Forgotston met with Judge Luther Cole and discussed the condensed draft which met with his approval. He offered to assist the committee in any way concerning judicial retirement.

If this second alternative were adopted, there would be three different retirement systems possible in the immediate future: the one provided by the 1921 Constitution, the interim system established by the new constitution, and the new system to be established by the legislature. Eventually, the 1921 constitutional plan would be phased out since it covers only judges in office at the time of the adoption of the constitution. The new constitutional system would eventually be phased out since it would not apply to judges taking office after the legislature has enacted a new judicial retirement system. Eventually, the new legislatively-created retirement system would survive.

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Article ____, Section ____. Retirement of Judges

A. A judge shall not remain in office beyond his seventh birthday.

B. A judge or judicial administrator in office or retired at the time of the adoption of this constitution, shall not have diminished any retirement benefits or judicial service rights provided under the previous constitution or laws; nor shall the benefits to which a surviving spouse thereof was entitled be reduced.

C. The legislature shall provide a retirement system for judges which shall apply to a judge taking office after the effective date of the statute enacting the system, and which a judge in office at the time of its adoption may elect to join.



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 | BOX 7765 A BATON ROUGE, LOUISIANA 70803
TELEPHONE 381 5032

[Staff Memo No. 22]

June 5, 1973

STAFF MEMORANDUM

TO: Members of the Committee on the Judiciary
RE: Draft of a provision for retirement benefits

As instructed by the committee, the staff has prepared a draft proposal dealing with a retirement system for judges. It is attached.

D. (ALTERNATIVE ONE) Until the legislature enacts the retirement system authorized in subsection C, a judge taking office after the adoption of this constitution or his spouse shall receive the same retirement benefits available to judges under the previous constitution and laws.

D. (ALTERNATIVE TWO) Until the legislature enacts the retirement system authorized in subsection C, a judge taking office after the adoption of this constitution and a judge in office who so elects within ninety days of the adoption of this constitution by notifying the secretary of state, shall be entitled to the following retirement benefits:

1. This subsection applies to a judge of a court authorized by this constitution, except mayors and justices of the peace.

2. A judge with sixteen years of judicial service may retire; a judge with twelve years of judicial service is eligible for retirement benefits at the age of sixty. On retirement, a judge shall receive annually as retirement benefits that portion of his annual average compensation for his three highest years which the number of years served bears to twenty-five; but not more than seventy-five percent.

J. A judge who is physically or mentally incapacitated to perform his duties, as determined by the supreme court upon the advice of two physicians appointed by the court, shall be retired. He shall receive as annual retirement benefits one-third of his annual salary, or that portion of his average annual salary for the three highest years which the number of years served bears to twenty-five, whichever is greater.

4. Upon the death of a judge, in office or retired, the surviving spouse, until remarriage, shall be entitled to one-third of his annual salary as judge prior to death or retirement, or one-half the retirement benefit he was receiving or entitled to receive at the time of death, whichever is greater. If the judge is not survived by a spouse, or if the spouse dies, his unmarried children shall be entitled to the benefits provided in this subsection until the age of twenty-one.

5. Benefits provided herein shall be paid from the same sources as was his compensation as judge. The legislature and the political subdivisions shall provide for payment of these benefits.

6. To receive the benefits provided in this subsection, the judge shall contribute a total of six percent of his salary to the paying authorities.

NOTES

Staff Memo No. 22-A is omitted. It reproduces Public Affairs Research Council, Convention Commentary Number 5: The Judiciary.

NOTES

Staff Memo No. 22A-1 is omitted. It compiles statutory provisions relative to the compensation of judges in Louisiana.



E. L. HENRI
Chairman
NORMA M. DUNCAN
Director of Research

STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 P. O. BOX 17740 A BATON ROUGE LOUISIANA 70803
TELEPHONE 389 5034

June 5, 1973

STAFF MEMORANDUM [No. 23]

TO: Members of the Judiciary Committee
RE: Continuation of Courts and Creation of Parish Courts

Pursuant to the committee's request, the following materials concerning continuation of courts with restraints on change while allowing creation of parish courts with fewer constraints are submitted. At the risk of making a complex situation even more complex, the following are included:

Table of Contents

- I. Orleans Parish
 - A- continues existing courts and officers subject to change by a majority vote of the legislature and of the people of the parish.
- II. Other Parishes
 - B- continues existing courts, subject to change by majority vote of the legislature.
 - C- continues existing courts, subject to change by two-thirds vote of the legislature.
 - D- creation of new courts
 - E- continues existing judicial districts, subject to change by a majority vote of the legislature and of the people of the area involved.
- III. Courts of Limited Jurisdiction
 - F- no proposal. note that refers to D
 - G- creation of parish courts by vote of the legislature
 - H- creation of parish courts by vote of the legislature and approval of the parish governing authority
 - I- Drew-Landry proposal
 - J- additional provisions on jurisdiction of parish courts

Not all these proposals are mutually exclusive. In Part II of this outline, B and C are contradictory, but D and E could be adopted with either. In Part III, F, G, and H are contradictory, but I could be added to either of them.

Other permutations are possible, of course, but they are not mentioned here for fear of confusing the issued.

Once the policy choices are made with respect to these questions, it is likely that some condensation of the proposals can be made.

I. Orleans

(A) Section ____ . Orleans Parish Courts, Continuation, Change

Section ____ . The following courts in Orleans Parish are continued subject to abolition, merger, or realignment by a majority vote of the elected members of each house of the legislature and by approval of the voters of Orleans Parish:

- Civil District Court
- Criminal District Court
- First City Court
- Second City Court
- Juvenile Court
- Municipal Court
- Traffic Court

Also continued in Orleans Parish, subject to change by the same procedure, are the offices of:

- District attorney
- Clerk of the civil district court
- Clerk of the criminal district court
- Civil sheriff
- Criminal sheriff
- Constable of the First City Court
- Clerk of the First City Court
- Register of Conveyances
- Recorder of Mortgages and
- Coroner,

all of which shall be elected for four-year terms.

II. Parishes Other Than Orleans

(B) Section ____ . Courts, Continuation, Change; Orleans Parish Excepted

Section ____ . The following, except in Orleans Parish, are continued, subject to abolition, merger, or realignment by law:

- the judicial districts
- the district courts
- the family court
- the juvenile courts
- the city courts
- the parish courts

(C) Section ____ . Courts, Continuation, Change; Orleans Parish Excepted

Section ____ . The following, except in Orleans Parish, are continued, subject to abolition, merger, or realignment by two-thirds vote of the elected members of each house of the legislature:

- the judicial districts
- the district courts
- the family court
- the juvenile courts
- the city courts
- the parish courts

(D) Section ____ . New Courts

Section ____ . The legislature by the same vote may create courts.

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(E) Section ____ . Judicial Districts, Continuation, Change

Section ____ . The judicial districts are continued, subject to abolition, merger, or realignment by majority vote of the elected members of each house of the legislature and by approval of the voters of the parish or parishes concerned.

III. Courts of Limited Jurisdiction

(F) Make no special provision for parish courts but provide as in alternative (D) for the creation of courts by the legislature.

(G) Section ____ . Parish Courts

Section ____ . The legislature may create parish courts of limited jurisdiction and provide for their organization and jurisdiction. A judge of a parish court shall be elected, shall possess the qualifications of a district judge, and shall not practice law.

(H) Section ____ . Parish Courts

Section ____ . The legislature, with the consent of the governing authority of the parish, may create parish courts of limited jurisdiction and provide for their organization and jurisdiction. A judge of a parish court shall be elected, shall possess the qualifications of a district judge, and shall not practice law.

(I) Section ____ . Parish Courts

Section ____ . The legislature may, with the consent of the governing authority of the parish, create in that

J

parish a court of limited jurisdiction. A judge of a parish court shall be elected, shall possess the qualifications of a district judge, and shall not practice law. The court shall exercise exclusive jurisdiction over neglected and delinquent juveniles, and the legislature shall prescribe the number of judges, their tenure, compensation, and the time and manner of their election.

(J) Provision which may be added to (F), (G), or (H):

The legislature shall provide for the jurisdiction of such courts, but limited in criminal matters to misdemeanors and in civil matters:

1. as provided by law
2. to uniform statewide limits provided by law
3. to uniform limits for particular classes of parishes based on population (or other criteria)
4. to a particular dollar amount
5. to an amount set by the legislature upon the recommendation of the supreme court

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CONTINUATION OF COURTS AND CREATION
OF PARISH COURTS

POSSIBLE ALTERNATIVES

ACTION TO BE DONE

1. Abolish or merge the Orleans district courts
2. Abolish or merge the judicial districts
3. Abolish or merge district courts
4. Abolish or merge the family court of East Baton Rouge
5. Abolish or merge juvenile courts
6. Abolish or merge Orleans City Courts
7. Abolish or merge other city courts
8. Abolish or merge Orleans Municipal Courts
9. Abolish or merge Orleans Traffic Court
10. Abolish or merge Jefferson Parish Courts
11. Abolish or merge mayors' courts
12. Abolish or merge justices of the peace courts
13. Abolish or merge Orleans Parish officers (Article VII, §89)
14. Create parish courts
15. Create other new courts

POSSIBLE MEANS OF ACCOMPLISHING

- A. Simple majority vote of the legislature
- B. Majority of the elected members of each house
- C. Two-thirds vote of the elected members of each house
AND/OR
- X. Approval of the voters of the area concerned
- Y. Approval of the governing authority of the area concerned.

GENERAL

PART A. JUDICIAL POWER IN GENERAL

Section 1. Judicial power

The judicial power shall be vested in a supreme court, courts of appeal, district courts, and such other courts as this constitution may authorize.

Section 2. Needful writs, orders and process

A judge may issue all needful writs, orders and process in aid of the jurisdiction of his court. Exercise of this authority by a justice of the supreme court or a judge of the court of appeal, is subject to review by the whole court.

PART B. THE SUPREME COURT

Section 3. Supreme court; membership; terms

The supreme court shall be composed of seven justices, four of whom must concur to render judgment. The term of a justice shall be fourteen years.

Section 4. Supreme court; districts

The state shall be divided into at least six supreme court districts, with at least one justice elected from each. The present districts, and the number of justices assigned to each, are retained, subject to change by two-thirds vote of the legislature.

Section 5. Supreme court; supervisory, original, and appellate jurisdiction; rule-making power; assignment of judges

(A) The supreme court has control of, and general supervisory jurisdiction over all inferior courts. It may promulgate procedural and administrative rules not in conflict with law. It may assign a sitting or retired judge to another court, provided the consent of the court of a sitting judge be obtained.

(B) It has exclusive original jurisdiction of disciplinary proceedings involving members of the bar.

(C) In civil cases, its jurisdiction extends to both the law and the facts except as otherwise provided in this constitution. In criminal matters, its appellate jurisdiction extends to questions of law only. The legislature, however, may provide for a directed verdict of acquittal in criminal cases.

(D) The following cases shall be appealable to the supreme court:

- (1) A case in which a state law has been declared unconstitutional;
- (2) A criminal case in which the penalty of death or imprisonment at hard labor may be imposed, or in which a fine exceeding five hundred dollars or imprisonment exceeding six months has been actually imposed.

(E) If a case is appealed properly to the supreme court on any issue, the supreme court has appellate jurisdiction over all other issues involved in the case.

Section 6. Supreme court; the chief justice

(A) When a vacancy in the office of chief justice occurs, the justices by a majority vote, shall elect one of their members to the office for a five-year term.

(B) The chief justice shall be chief administrative officer of the judicial system of the state, subject to rules adopted by the court.

Section 7. Supreme court; judicial administrator, clerk and staff

The supreme court shall have authority to select a judicial administrator and its clerks and other personnel and to prescribe their duties.

PART C. THE COURTS OF APPEAL

Section 8. Courts of appeal; panels; number necessary to decision; term

The state shall be divided into at least four circuits, with one court of appeal in each circuit. Each court shall sit in panels of at least three judges selected according to rules adopted by the court. A majority of the judges sitting in a

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case must concur to render judgment. The term of a court of appeal judge shall be twelve years.

Section 9. Courts of appeal; circuits and districts

Each circuit shall be divided into at least three districts, with at least one judge elected from each. One or more judges may be elected at large from within the circuit. The present circuits and districts, and the number of judges as elected in each circuit, are retained, subject to change by two-thirds vote of the legislature.

Section 10. Courts of appeal; appellate and supervisory jurisdiction

(A) A court of appeal has appellate jurisdiction of all civil cases decided within its circuit, except those appealable to the supreme court and except as otherwise provided in this constitution. It also has appellate jurisdiction of all matters appealed from the family and juvenile courts, except criminal prosecutions of persons other than juveniles. It has supervisory jurisdiction over all cases in which an appeal would lie to that court.

(B) Its appellate jurisdiction extends to both the law and the facts, except where limited to questions of law by this constitution or, in the case of review of administrative agency determinations, by law.

Section 11. Courts of appeal; certifications to supreme court of questions of law; determination

A court of appeal may certify to the supreme court any question of law before it, whereupon the supreme court may give its binding instruction, or consider and decide the case upon the whole record.

PRELIMINARY DRAFT ~~10~~

BASED ON NONBINDING VOTES OF THE
COMMITTED OF THE JUDICIARY

ARTICLE ____ THE JUDICIARY DEPARTMENT

Section 12. Courts of appeal; chief judge; duties

When a vacancy in the office of chief judge occurs, a majority of the judges of the circuit shall elect one of their number to the office for a five-year term. He shall be administrator of the court, subject to rules adopted by the court.

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Section 13. Courts of appeal; clerks and staff

Each court of appeal shall have authority to select its clerk and other personnel and prescribe their duties.

PART D. THE DISTRICT COURTS

Section 14. District courts; judicial districts

The state shall be divided into judicial districts, each composed of one or more parishes and served by one or more district judges.

Section 15. Jurisdiction changes; terms

(A) District courts, the judicial districts, and the number of judges elected to each as provided for at the time of the adoption of this constitution are retained. Parish, city, municipal, traffic, family, and juvenile courts existing at the time of the adoption of this constitution are retained. The legislature, with the concurrence of a majority of the electors in each parish or portion thereof affected, may create or abolish courts of original juris, and may by the same procedure consolidate, realign, or separate courts of original jurisdiction.

Mayors' courts and justices of the peace as existing at the time of the adoption of this constitution are retained, subject to the power of the legislature to alter or abolish them.

(B) The term of a district judge shall be six years, provided that a judge elected in a judicial district composed of only one parish having a population of more than 300,000 according to the latest decennial census before his election shall serve a twelve-year term. This provision shall not be construed to lengthen the term for which any judge has been elected.

Section 16. District courts; original jurisdiction

The district courts shall have original jurisdiction in all civil and criminal matters, unless otherwise provided in this constitution or by law. They shall have exclusive original jurisdiction in all cases involving the title to immovable property; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or a succession, as a party defendant,

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regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

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Section 1. Judicial power

Section 1. The judicial power shall be vested in a supreme court, courts of appeal, district courts, and such other courts as this constitution may authorize.

Section 2. Needful writs, orders and process

Section 2. A judge may issue all needful writs, orders and process in aid of the jurisdiction of his court. Exercise of this authority by a justice of the supreme court or a judge of the court of appeal, is subject to review by the whole court.

Section 3. Supreme court; membership; terms

Section 3. The supreme court shall be composed of seven judges, four of whom must concur to render judgment. The term of a judge shall be fourteen years.

Section 4. Supreme court; districts

Section 4. The state shall be divided into at least six supreme court districts, with at least one judge elected from each. The present districts, and the number of judges assigned to each, are retained, subject to change by a two-thirds vote of the elected members of each house of the legislature.

Section 5. Supreme court; supervisory, original, and appellate jurisdiction; rule-making power; assignment of judges

Section 5(A). The supreme court has control of, and general supervisory jurisdiction over all inferior courts. It may promulgate procedural and administrative rules not in conflict with law. It may assign a sitting or retired judge to another court.

(B) It has exclusive original jurisdiction of disciplinary proceedings involving members of the bar.

(C) In civil cases, its jurisdiction extends to both the law and the facts except as otherwise provided in this constitution. In criminal matters, its appellate jurisdiction extends to questions of law only. The legislature, however, may provide for a directed verdict of acquittal in criminal cases.

(D) The following cases shall be appealable to the supreme court:

- (1) A case in which a state law has been declared unconstitutional;
- (2) A criminal case in which the penalty of death or imprisonment at hard labor may be

imposed, or in which a fine exceeding five hundred dollars or imprisonment exceeding six months has been actually imposed.

(E) If a case is appealed properly to the supreme court on any issue, the supreme court has appellate jurisdiction over all other issues involved in the case.

Section 6. Supreme court; the chief justice

Section 6(A). When a vacancy in the office of chief justice occurs, the judges of the supreme court, by a majority vote, shall elect one of their members to the office for a five-year term.

(B) The chief justice shall be chief administrative officer of the judicial system of the state, subject to rules adopted by the court.

Section 7. Supreme court; judicial administrator, clerk and staff

Section 7. The supreme court shall have authority to select a judicial administrator and its clerks and other personnel and to prescribe their duties.

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Section 8. Courts of appeal; panels; number necessary to decision; term

Section 8. The state shall be divided into at least four circuits, with one court of appeal in each circuit. Each court shall sit in panels of at least three judges selected according to rules adopted by the court. A majority of the judges sitting in a case must concur to render judgment. The term of a court of appeal judge shall be twelve years.

Section 9. Courts of appeal; circuits and districts

Section 9. Each circuit shall be divided into at least three districts, with at least one judge elected from each. One or more judges may be elected at large from within the circuit. The present circuits and districts, and the number of judges as elected in each circuit, are retained, subject to change by a two-thirds vote of the elected members in each house of the legislature.

Section 10. Courts of appeal; appellate and supervisory jurisdiction

Section 10(A). A court of appeal has appellate jurisdiction of all civil cases decided within its circuit, except those appealable to the supreme court and except as otherwise provided in this constitution. It also has appellate jurisdiction of all matters appealed from the family and juvenile courts, except criminal prosecutions of persons other than juveniles. It has supervisory jurisdiction over all cases in which an appeal would lie to that court.

(B) Its appellate jurisdiction extends to both the law and the facts, except where limited to questions of

law by this constitution or, in the case of review of administrative agency determinations, by law.

Section 11. Courts of appeal; certification to supreme court of questions of law; determination

Section 11. A court of appeal may certify to the supreme court any question of law before it, whereupon the supreme court may give its binding instruction, or consider and decide the case upon the whole record.

Section 12. Courts of appeal; chief judge; duties

Section 12. When a vacancy in the office of chief judge occurs, a majority of the judges of the circuit shall elect one of their number to the office for a five-year term. He shall be administrator of the court, subject to rules adopted by the court.

Section 13. Courts of appeal; clerks and staff

Section 13. Each court of appeal shall have authority to select its clerk and other personnel and prescribe their duties.

Section 14. District courts; judicial districts

Section 14. The state shall be divided into judicial districts, each composed of one or more parishes and served by one or more district judges.

Section 15. District courts; changes; terms

Section 15(A). District courts, the judicial districts, and the number of judges elected to each as provided for at the time of the adoption of this constitution are retained. Parish, city, municipal, traffic, family, and juvenile courts existing at the time of the adoption of this constitution are retained. The legislature by a majority vote of the elected members of each house, with the concurrence of a majority of the electors voting at an election called for that purpose in each district, parish or portion thereof affected, may create or abolish courts of original jurisdiction, and may by the same procedure consolidate, realign, or separate courts of original jurisdiction, subject to the limitations in Section 19 of this Article.

(B) The term of a district judge shall be six years, provided that a judge elected in a judicial district composed of only one parish having a population of more than 300,000 according to the latest decennial census before his election shall serve a twelve-year term. This provision shall not be construed to lengthen the term for which any judge has been elected.

Section 16. District courts; original jurisdiction

Section 16. The district courts shall have original jurisdiction in all civil and criminal matters, unless

otherwise provided in this constitution or by law. They shall have exclusive original jurisdiction in all cases involving the title to immovable property; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or a succession, as a party defendant, regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

Section 17. District courts; chief judge

Section 17. Each multi-judge district court may elect from its members a chief judge who shall exercise such administrative functions as prescribed by rule of court.

Section 18. Juvenile court; jurisdiction

Section 18. The jurisdiction of juvenile courts shall be as provided by law.

Section 19. Judges; term of office or compensation may not be decreased

Section 19. The term of office or compensation of a judge shall not be decreased during the term for which he is elected.

Section 20. Judges; election; vacancy in office

Section 20(A). The election of judges shall be held at the regular congressional election.

(B) A newly created judgeship or a vacancy in the office of any judge shall be filled by a special election which shall be called by the governor, and held within six months of the day the vacancy occurs or the judgeship is created, except when the vacancy occurs in the last six months of an existing term. Until the vacancy is filled, the supreme court shall appoint a person meeting the qualifications for judge to the office, to serve at its pleasure, who shall be ineligible to be a candidate for election to the vacancy.

Section 20 (A) and (B) Alternative: Judges shall be elected. Vacancies and newly created judgeships shall be filled by the supreme court, to serve until the position is filled by election. The appointee of the supreme court shall be ineligible to be a candidate for the vacancy.

(C) All judges serving on the date of adoption of this constitution shall continue in office for the term to which elected and shall serve through December thirty-first of the last year of their term or, if the last year of their term is not in the even-numbered year of a general judicial election, then through December thirty-first of the year next succeeding. The election for the next term in the office will be held in a general judicial election of the year the term expires, as provided above.

Section 21. Judges; retirement

Section 21(A). The legislature shall provide a retire-

ment system for judges of courts provided for by this constitution. Until such time as the legislature provides a retirement system for judges, any judge taking office after the adoption of this constitution shall be afforded the same retirement benefits as judges holding office prior to the adoption of this constitution.

(B) No judge or judicial administrator, either in office or retired, at the time of the adoption of this constitution, shall have diminished any retirement or judicial service rights he had under the previous constitution; nor shall the benefits to which a surviving spouse thereof was entitled be reduced.

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(C) A judge of a court of record who is found by two competent physicians selected by a majority of the supreme court to be physically or mentally incapacitated to perform his duties shall be retired at two-thirds pay, or any greater sum to which he would be legally entitled to by law.

(D) A judge shall retire upon reaching the age of seventy years.

(E) The provisions of this section do not apply to justices of the peace.

Section 22. Judges; practice of law; prohibited

Section 22. A judge of the supreme court, court of appeal, or district court shall not practice law.

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[Staff Memo No. 26]

THIRD PRELIMINARY DRAFT
BASED ON NONBINDING VOTES OF THE
COMMITTEE ON THE JUDICIARY

ARTICLE ____ . THE JUDICIARY DEPARTMENT

Section 1. Judicial Power

Section 1. The judicial power shall be vested in a supreme court, courts of appeal, district courts, and such other courts as this constitution may authorize.

Section 2. Needful Writs, Orders and Process

Section 2. A judge may issue all needful writs, orders and process in aid of the jurisdiction of his court. Exercise of this authority by a judge of the supreme court or court of appeal is subject to review by the whole court.

Section 3. Supreme Court; Membership; Terms

Section 3. The supreme court shall be composed of seven judges, four of whom must concur to render judgment. The term of a judge of the supreme court shall be fourteen years.

Section 4. Supreme Court; Districts

Section 4. The state shall be divided into at least six supreme court districts, with at least one judge elected from each. The present districts and the number of judges assigned to each are retained, subject to change by a two-thirds vote of the elected members of each house of the legislature.

Section 5. Supreme Court; Supervisory, Original, and Appellate Jurisdiction; Rule-Making Power; Assignment of Judges

Section 5. (A) The supreme court has control of and general supervisory jurisdiction over all inferior courts. It may promulgate procedural and administrative rules not in conflict with law. It may assign a sitting or retired judge to another court.

(B) The supreme court has exclusive original jurisdiction of disciplinary proceedings involving members of the bar.

(C) In civil cases, the supreme court's jurisdiction extends to both the law and the facts except as otherwise provided in this constitution. In criminal matters, its appellate jurisdiction extends to questions of law only. The legislature, however, may provide for a directed verdict of acquittal in criminal cases.

(D) The following cases shall be appealable to the supreme court:

(1) A case in which a state law has been declared unconstitutional;

(2) A criminal case in which the penalty of death or imprisonment at hard labor may be imposed, or in which a fine exceeding five hundred dollars or imprisonment exceeding six months has been actually imposed.

(E) If a case is appealed properly to the supreme court on any issue, the supreme court has appellate jurisdiction over all other issues involved in the case.

Section 6. Supreme Court; the Chief Justice

Section 6. (A) When a vacancy in the office of chief justice occurs, the judges, of the supreme court, by a majority vote shall elect one of their members to the office for a five-year term.

(B) The chief justice shall be chief administrative officer of the judicial system of the state, subject to rules adopted by the court.

Section 7. Supreme Court; Judicial Administrator, Clerk and Staff

Section 7. The supreme court shall have authority to select a judicial administrator, its clerks and other personnel, and prescribe their duties.

Section 8. Courts of Appeal; Panels; Number Necessary to Decision; Term

Section 8. The state shall be divided into at least four circuits, with one court of appeal in each circuit

Each court shall sit in panels of at least three judges selected according to rules adopted by the court. A majority of the judges sitting in a case must concur to render judgment. The term of a court of appeal judge shall be twelve years.

Section 9. Courts of Appeal; Circuits and Districts

Section 9. Each circuit shall be divided into at least three districts, with at least one judge elected from each. One or more judges may be elected at large from within the circuit. The present circuits and districts and the number of judges as elected in each circuit are retained, subject to change by a two-thirds vote of the elected members in each house of the legislature.

Section 10. Courts of Appeal; Appellate and Supervisory Jurisdiction

Section 10. (A) Except in those cases appealable to the supreme court and as otherwise provided in this constitution, a court of appeal has appellate jurisdiction of all civil cases decided within its circuit. It has appellate jurisdiction of all matters appealed from the family and juvenile courts, except criminal prosecutions of persons other than juveniles. It has supervisory jurisdiction over all cases in which an appeal would lie to that court.

(B) Except where limited to questions of law by this constitution or, as provided by law in the case of review of administrative agency determinations, its appellate jurisdiction extends to both the law and the facts.

Section 11. Courts of Appeal; Certifications to Supreme Court of Questions of Law; Determination

Section 11. A court of appeal may certify to the supreme court any question of law before it, whereupon the supreme court may give its binding instruction, or consider and decide the case upon the whole record.

Section 12. Courts of Appeal; Chief Judge; Duties

Section 12. When a vacancy in the office of chief judge

occurs, a majority of the judges of the circuit shall elect one of their number to the office for a five-year term, who shall administer the court, subject to rules adopted by the court.

Section 13. Courts of Appeal; Clerks and Staff

Section 13. Each court of appeal shall have authority to select its clerk and other personnel and prescribe their duties.

Section 14. District Courts; Judicial Districts

Section 14. The state shall be divided into judicial districts, each composed of one or more parishes and served by one or more district judges.

Section 15. District Courts; Changes; Terms

Section 15. (A) The district courts, the judicial districts, and the number of judges elected to each as provided for at the time of the adoption of this constitution are retained. Parish, city, municipal, traffic, family, and juvenile courts existing at the time of the adoption of this constitution are retained. The legislature by a majority vote of the elected members of each house, with the concurrence of a majority of the electors voting at an election called for that purpose in each district, parish or portion thereof affected, may create, abolish, consolidate, realign, or separate courts of original jurisdiction subject to the limitations in Section 19 of this Article.

(B) The term of a district judge shall be six years; however, a judge elected in a judicial district composed of only one parish having a population greater than 300,000 according to the latest decennial census before his election shall serve a twelve-year term. This provision shall not be construed to lengthen the term for which any judge has been elected.

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Section 16. District Courts; Original Jurisdiction

Section 16. Unless otherwise provided in this constitution or by law, a district court shall have original jurisdiction in all civil and criminal matters. It shall have exclusive original jurisdiction in all cases involving the title to immovable property; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or a succession, as a party defendant, regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

Section 17. District Courts; Chief Judge

Section 17. Each multi-judge district court may elect from its members a chief judge who shall exercise such administrative functions as prescribed by rule of court.

Section 18. Juvenile Courts; Jurisdiction

Section 18. The jurisdiction of juvenile courts shall be as provided by law.

Section 19. Judges; Term of Office or Compensation May Not Be Decreased

Section 19. The term of office or compensation of a judge shall not be decreased during the term for which he is elected.

Section 20. Judges; Election; Vacancy in Office

Section 20. (A) The election of judges shall be held at the regular congressional election.

(B) A newly created judgeship or a vacancy in the office of any judge shall be filled by a special election which shall be called by the governor, and held within six months of the day the vacancy occurs or the judgeship is created,

except when the vacancy occurs in the last six months of an existing term. Until the vacancy is filled, the supreme court

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shall appoint a person meeting the qualifications for judge to the office, to serve at its pleasure, who shall be ineligible to be a candidate for election to the judgeship.

Section 20 (A) and (B) Alternative: Judges shall be elected. Vacancies and newly created judgeships shall be filled by the supreme court, to serve until the position is filled by election. The appointee of the supreme court shall be ineligible to be a candidate for the judgeship.

(C) All judges serving on the date of adoption of this constitution shall continue in office for the term to which elected and shall serve through December thirty-first of the last year of their term or, if the last year of their term is not in the even-numbered year of a general judicial election, then through December thirty-first of the year next succeeding. The election for the next term in the office will be held in a general judicial election of the year the term expires, as provided above.

Section 21. Judges; Retirement

Section 21. (A) The legislature shall provide a retirement system for judges of courts provided for by this constitution. Until such time as the legislature provides a retirement system for judges, any judge taking office after the adoption of this constitution shall be afforded the same retirement benefits as judges holding office prior to the adoption of this constitution.

(B) No judge or judicial administrator, either in office or retired, at the time of the adoption of this constitution, shall have diminished any retirement or judicial service rights he had under the previous constitution; nor shall the benefits to which a surviving spouse thereof was entitled be reduced.

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(C) A judge of a court of record who is found by two competent physicians selected by a majority of the supreme court to be physically or mentally incapacitated to perform his duties shall be retired at two-thirds pay, or any greater sum to which he would be legally entitled to by law.

(D) A judge shall retire upon reaching the age of seventy years.

(E) The provisions of this section do not apply to justices of the peace.

Section 22. Judges; Qualifications; Practice of Law, Prohibited

Section 22. A judge of the supreme court, court of appeal, or district court shall have been admitted to the practice of law for at least five years prior to his election, shall have resided in the respective circuit or district for at least two years immediately preceding election, and shall not practice law.

Section 23. Judiciary Commission; Membership; Terms; Vacancy;

Grounds for Removal; Powers

Section 23. (A) The Judiciary Commission shall consist of one court of appeal judge and two district court judges selected by the supreme court; three attorneys admitted to the practice of law for at least ten years who are not judges, active or retired, nor public officials, selected by the Louisiana Conference of Court of Appeal Judges' Association or its successor; and three citizens, not lawyers, judges, active or retired, nor public officials, appointed by the Louisiana District Judges' Association or its successor.

(B) A member of the commission shall serve a four-year term and shall not be eligible to succeed himself.

(C) A member's term shall terminate when he loses the status causing his appointment or when any event occurs which would have made him ineligible for appointment.

(D) When a vacancy occurs, a successor shall be appointed for a four-year term by the appointing authority for the position for which the vacancy occurred.

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(E) On recommendation of the Judiciary Commission, the supreme court may censure, suspend with or without salary, remove from office or retire involuntarily a judge for willful misconduct relating to his official duty, willful and persistent failure to perform his duty, persistent and public conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or conduct while in office which would constitute a felony, or conviction of a felony. On recommendation of the Judiciary Commission, the supreme court may disqualify a judge from exercising any judicial function, without loss of salary, during the pendency of the proceedings in the supreme court. On recommendation of the Judiciary Commission, the supreme court may retire involuntarily a judge for disability that seriously interferes with the performance of his duties and that is, or is likely to become, of a permanent character. The supreme court shall make rules implementing this section and providing for confidentiality and privilege of proceedings.

Section 24. Department of Justice; Composition; Attorney

General; Election and Assistants

Section 24. There shall be a department of justice consisting of an attorney general, a first and second attorney general, and other necessary assistants and office staff. The attorney general shall be elected for a term of four years at the state general election, and the assistants shall be appointed by the attorney general to serve at his pleasure.

Section 25. Attorney General; Qualifications; Powers and

Duties; Vacancy

Section 25. The attorney general and the first and second assistants shall have resided in this state and been admitted to the practice of law for at least five years

preceding their selection. The attorney general shall attend to, and have charge of all legal matters in which the state has an interest, or to which the state is a party, with power

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STAFF MEMORANDUM NO. 27

FOURTH PRELIMINARY DRAFT

BASED ON NONBINDING VOTES OF THE

COMMITTEE ON THE JUDICIARY

ARTICLE ____ . THE JUDICIARY DEPARTMENT

Section 1. Judicial Power

Section 1. The judicial power shall be vested in a supreme court, courts of appeal, district courts, and such other courts as this constitution may authorize.

Section 2. Needful Writs, Orders and Process

Section 2. A judge may issue all needful writs, orders and process in aid of the jurisdiction of his court. Exercise of this authority by a judge of the supreme court or court of appeal is subject to review by the whole court.

Section 3. Supreme Court; Membership; Terms

Section 3. The supreme court shall be composed of seven judges, four of whom must concur to render judgment. The term of a judge of the supreme court shall be fourteen years.

Section 4. Supreme Court; Districts

Section 4. The state shall be divided into at least six supreme court districts, with at least one judge elected from each. The present districts and the number of judges assigned to each are retained, subject to change by a two-thirds vote of the elected members of each house of the legislature.

Section 5. Supreme Court; Supervisory, Original, and Appellate Jurisdiction; Rule-Making Power; Assignment of Judges

Section 5. (A) The supreme court has control of and general supervisory jurisdiction over all inferior courts. It may promulgate procedural and administrative rules not in conflict with law. It may assign a sitting or retired judge to another court.

(B) The supreme court has exclusive original jurisdiction of disciplinary proceedings involving members of the bar.

(C) In civil cases, the supreme court's jurisdiction extends to both the law and the facts except as otherwise provided in this constitution. In criminal matters, its appellate jurisdiction extends to questions of law only. The legislature, however, may provide for a directed verdict of acquittal in criminal cases.

(D) The following cases shall be appealable to the supreme court:

- (1) A case in which a state law has been declared unconstitutional;
- (2) A criminal case in which the penalty of death

or imprisonment at hard labor may be imposed, or in which a fine exceeding five hundred dollars or imprisonment exceeding six months has been actually imposed.

2. If a case is appealed properly to the supreme court on any issue, the supreme court has appellate jurisdiction over all other issues involved in the case.

Section 6. Supreme Court; the Chief Justice

Section 6. (A) When a vacancy in the office of chief justice occurs, the judges, of the supreme court, by a majority vote shall elect one of their members to the office for a five-year term.

2. The chief justice shall be chief administrative officer of the judicial system of the state, subject to rules adopted by the court.

Section 7. Supreme Court; Judicial Administrator, Clerk and Staff

Section 7. The supreme court shall have authority to select a judicial administrator, its clerk and other personnel, and prescribe their duties.

Section 8. Courts of Appeal; Panels, Number Necessary to Hear a Case, Term

Section 8. The state shall be divided into as many judicial circuits, with one court of appeal in each circuit,

each court shall sit in panels of at least three judges, and the number of judges in each panel shall be determined by the supreme court. The supreme court shall have the authority to determine the number of judges in each panel and the number of panels in each circuit.

Section 9. Courts of Appeal; Judicial Districts

Section 9. Each circuit shall be divided into as many judicial districts, with at least one judge in each district, as the supreme court may determine. The supreme court shall have the authority to determine the number of judges in each district and the number of districts in each circuit.

Section 10. Courts of Appeal; Appellate Jurisdiction

Section 10. The appellate jurisdiction of the courts of appeal shall be as follows: (a) All appeals from the trial courts of the state shall lie to the court of appeal in the circuit in which the trial court is located. (b) All appeals from the trial courts of the state shall lie to the court of appeal in the circuit in which the trial court is located.

constitution or, as provided by law in the case of review of administrative agency determinations, its appellate jurisdiction extends to both the law and the facts.

Section 11. Courts of Appeal; Certifications to Supreme Court of Questions of Law; Determination

Section 11. A court of appeal may certify to the supreme court any question of law before it, whereupon the supreme court may give its binding instruction, or consider and decide the case upon the whole record.

Section 12. Courts of Appeal; Chief Judge; Duties

Section 12. When a vacancy in the office of chief judge occurs, a majority of the judges of the circuit shall elect one of their number to the office for a five-year term, who shall administer the court, subject to rules adopted by the court.

Section 13. Each court of appeal shall have authority to select its clerk and other personnel and prescribe their duties.

Section 14. District Courts; Judicial Districts

Section 14. The state shall be divided into as many judicial districts, with one or more judges in each district, as the supreme court may determine.

Section 15. District Courts; Judges; Terms

Section 15. (A) The judges of the district courts shall be elected to their offices for terms of four years, and the number of judges in each district shall be determined by the supreme court. The judges of the district courts shall sit in panels of at least three judges, and the number of judges in each panel shall be determined by the supreme court.

Section 16. District Courts; Jurisdiction

Section 16. (A) The appellate jurisdiction of the district courts shall be as follows: (a) All appeals from the trial courts of the state shall lie to the district court in the circuit in which the trial court is located. (b) All appeals from the trial courts of the state shall lie to the district court in the circuit in which the trial court is located.

(B) The appellate jurisdiction of the district courts shall be as follows: (a) All appeals from the trial courts of the state shall lie to the district court in the circuit in which the trial court is located. (b) All appeals from the trial courts of the state shall lie to the district court in the circuit in which the trial court is located.

Section 17. District Courts; Appellate Jurisdiction

Section 17. The appellate jurisdiction of the district courts shall be as follows: (a) All appeals from the trial courts of the state shall lie to the district court in the circuit in which the trial court is located. (b) All appeals from the trial courts of the state shall lie to the district court in the circuit in which the trial court is located.

original jurisdiction in all cases involving the title to immovable property; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or a succession, as a party defendant, regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

Section 17. District Courts; Chief Judge

Section 17. Each multi-judge district court may elect from its members a chief judge who shall exercise such administrative functions as prescribed by rule of court.

Section 18. Juvenile Courts; Jurisdiction

Section 18. The jurisdiction of juvenile courts shall be as provided by law.

Section 19. Judges; Term of Office or Compensation May Not Be Decreased

Section 19. The term of office or compensation of a judge shall not be decreased during the term for which he is elected.

Section 20. Judges; Election; Vacancy in Office

Section 20. (A) The election of judges shall be held at the regular congressional election.

(B) A newly created judgeship or a vacancy in the office of any judge shall be filled by a special election which shall be called by the governor, and held within six months of the day the vacancy occurs or the judgeship is created, except when the vacancy occurs in the last six months of an existing term. Until the vacancy is filled, the supreme court

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shall appoint a person meeting the qualifications for judge to the office, to serve at its pleasure, who shall be ineligible to be a candidate for election to the judgeship.

Section 20 (A) and (B) Alternative: Judges shall be elected. Vacancies and newly created judgeships shall be filled by the supreme court, to serve until the position is filled by election. The appointee of the supreme court shall be ineligible to be a candidate for the judgeship.

(C) All judges serving on the date of adoption of this constitution shall continue in office for the term to which elected and shall serve through December thirty-first of the last year of their term or, if the last year of their term is not in the even-numbered year of a general judicial election, then through December thirty-first of the year next succeeding. The election for the next term in the office will be held in a general judicial election of the year the term expires, as provided above.

Section 21. Judges; Retirement

Section 21. (A) The legislature shall provide a retirement system for judges of courts provided for by this constitution. Until such time as the legislature provides a retirement

system for judges, any judge taking office after the adoption of this constitution shall be afforded the same retirement benefits as judges holding office prior to the adoption of this constitution.

(B) No judge or judicial administrator, either in office or retired, at the time of the adoption of this constitution, shall have diminished any retirement or judicial service rights he had under the previous constitution; nor shall the benefits to which a surviving spouse thereof was entitled be reduced.

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(C) A judge of a court of record who is found by two competent physicians selected by a majority of the supreme court to be physically or mentally incapacitated to perform his duties shall be retired at two-thirds pay, or any greater sum to which he would be legally entitled to by law.

(D) A judge shall retire upon reaching the age of seventy years.

(E) The provisions of this section do not apply to justices of the peace.

Section 22. Judges; Qualifications; Practice of Law, Prohibited

Section 22. A judge of the supreme court, court of appeal, or district court shall have been admitted to the practice of law for at least five years prior to his election, shall have resided in the respective circuit or district for at least two years immediately preceding election, and shall not practice law.

Section 23. Judiciary Commission; Membership; Terms; Vacancy; Grounds for Removal; Powers

Section 23. (A) The Judiciary Commission shall consist of one court of appeal judge and two district court judges selected by the supreme court; three attorneys admitted to the practice of law for at least ten years who are not judges, active or retired, nor public officials, selected by the Louisiana Conference of Court of Appeal Judges' Association or its successor; and three citizens, not lawyers, judges, active or retired, nor public officials, appointed by the Louisiana District Judges' Association or its successor.

(B) A member of the commission shall serve a four-year term and shall not be eligible to succeed himself.

(C) A member's term shall terminate when he loses the status causing his appointment or when any event occurs which would have made him ineligible for appointment.

(D) When a vacancy occurs, a successor shall be appointed for a four-year term by the appointing authority for the position for which the vacancy occurred.

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(E) On recommendation of the Judiciary Commission, the supreme court may censure, suspend with or without salary, remove from office or retire involuntarily a judge for willful misconduct relating to his official duty, willful and

persistent failure to perform his duty, persistent and public conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or conduct while in office which would constitute a felony, or conviction of a felony. On recommendation of the Judiciary Commission, the supreme court may disqualify a judge from exercising any judicial function, without loss of salary, during the pendency of the proceedings in the supreme court. On recommendation of the Judiciary Commission, the supreme court may retire involuntarily a judge for disability that seriously interferes with the performance of his duties and that is, or is likely to become, of a permanent character. The supreme court shall make rules implementing this section and providing for confidentiality and privilege of proceedings.

Section 24. Department of Justice; Composition; Attorney General; Election and Assistants

Section 24. There shall be a department of justice consisting of an attorney general, a first and second attorney general, and other necessary assistants and staff. The attorney general shall be elected for a term of four years at the state general election, and the assistants shall be appointed by the attorney general to serve at his pleasure.

Section 25. Attorney General; Qualifications; Powers and Duties; Vacancy

Section 25. The attorney general and the first and second assistants shall have resided in this state and been admitted to the practice of law for at least five years preceding their selection. The attorney general shall attend to, and have charge of all legal matters in which the state has an interest, or to which the state is a party, with power

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and authority to institute and prosecute or to intervene in any and all suits or other proceedings, civil or criminal, as shall be necessary for the assertion or protection of the rights and interest of the state.

In case of a vacancy in the office of attorney general, the first assistant attorney general shall perform the duties of the attorney general until his successor is elected and qualified.

Section 26. Sheriff; Duties; Tax Collector; Exception

Section 26. (A) In each parish, a sheriff shall be elected for a term of four years. He shall be the chief law enforcement officer in the parish and shall execute court orders and process. He shall be the collector of state and parish ad valorem taxes and such other taxes and licenses as provided by law.

(B) Notwithstanding subsection A, in a parish with a civil sheriff and a criminal sheriff, the two offices shall exist until changed by a majority of the elected members of each house of the legislature and a majority of the electors in the parish, and they shall exercise such duties as may be prescribed by the legislature.

Section 27. District Attorney; Election; Qualifications; Assistants

Section 27. In each judicial district a district attorney shall be elected by the qualified electors of the district for a term of six years. He shall have been admitted to the practice of law in the state for at least five years prior to his election and shall have resided in the district for the two years immediately preceding election. A district attorney may select his assistants and other personnel and prescribe their duties.

Section 28. Defense of Criminal Prosecution; Removal

Section 28. No district attorney or assistant district attorney shall appear, plead or in any way defend, or assist in defending any criminal prosecution or charge. A violation shall be a cause for removal.

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Section 29. Clerks; Election; Powers and Duties; Deputies; Exception; Office Hours

Section 29. (A) In each parish, a clerk of the district court shall be elected by the qualified electors of the parish for a term of four years. He shall be ex officio notary public and parish recorder of conveyances, mortgages, and other acts and shall have such other duties and powers as may be prescribed by law. The clerk may appoint deputies with such duties and powers as may be prescribed by law and he may appoint, with the approval of the district judges, minute clerks with such duties and powers as may be prescribed by law.

(B) Notwithstanding subsection (A), in each parish with a criminal and a civil district court, the office of clerk of court shall remain until changed by a majority of the elected members of each house of the legislature and approval in a referendum in the parish, and they shall exercise such duties as may be prescribed by the legislature.

(C) The legislature shall establish statewide uniform office hours for all clerks of district courts.

Section 30. Coroner; Election; Term; Qualifications; Duties

Section 30. In each parish, a coroner shall be elected for a term of four years with such qualifications and duties as may be prescribed by law.

Section 31. Vacancies

Section 31. Until filled by election as provided by law, when a vacancy occurs in the following offices, the duties of the office shall be assumed by: in the case of sheriff, the chief criminal deputy; district attorney, the first assistant; clerk of a district court, the chief deputy; coroner, the chief deputy. If there is no such person to assume the duties at the time of the vacancy, the governing authority or authorities of the parish or parishes concerned shall appoint a qualified person to assume the duties of the office until filled by election.

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Section 32. Reduction of Salaries, Benefits Prohibited

Section 32. The attorney general, a district attorney, a sheriff, or a clerk of the district court shall have neither his salary nor retirement benefits diminished during his term of office.

Section 33. Jurors; Qualifications; Selection

Section 33. A citizen of the state who has reached majority is eligible to serve as a juror. The supreme court by rule shall provide for the selection of jurors.

Section 34. Grand Jury

Section 34. There shall be a grand jury or grand juries in each parish whose duties, qualifications, and responsibilities shall be provided by law. The secrecy of the proceedings, including the identity of the witnesses appearing, shall be provided for by law.

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May 25, 1973

E. HENRY
Norman
NORMA M. DUNCAN
New Orleans, Louisiana

TO: Members of the Judiciary Committee of CC/73
FROM: C. B. Forgotston, Jr., Senior Research Assistant

Attached is a copy of an article by Mr. R. Stanley Lowe, Associate Director of the American Judicature Society on a Unified Court System, which Mr. Moise Denney suggested be distributed to the committee.

Also attached is a letter from Ms. Wilma Gibbons, concerning our criminal justice system. This matter is currently being considered by the Education and Welfare Committee.

NOTES

Staff Memo No. 28 is omitted. It reproduces in its entirety an American Bar Association Study entitled Louisiana's Courts of Limited Jurisdiction.

NOTES

R.S. Lowe article cited in cover letter is found at 56 Judicature 316-323 [March, 1973].



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[Staff Memo No. 29]

March 8, 1973

W. S. Gibbons
P.O. Box 18970
New Orleans, La. 70175

TO: Members of the Committee on the Judiciary

FROM: Research Staff

Illinois, in 1964 and again in 1970, moved to a unified court system featuring one court of general jurisdiction. Separate specialized courts and courts of limited jurisdiction were abolished, with original jurisdiction over all cases vested in the "circuit court."

An interesting feature of the 1964 revision was to create different classes of judges in the circuit court---circuit judges, associate judges, and magistrates. Circuit judges had full powers, associate judges were similar but did not have rule-making power and could not be selected chief judge, and magistrates were limited to trying the more minor cases. (See Appendix A) The 1970 revision retained circuit judges and associate judges, but abolished the magistrates. (Appendix B)

Under the unified system, circuit courts can be organized in various ways to meet the needs of various communities. The organization of the complex circuit court of Cook County is shown in Appendix C.

Also attached (Appendix D) are the constitutional provisions relating to the judiciary adopted in 1970 which allowed creation of this unified system.

NOTES

Appendices to Staff Memo No. 29 are omitted. They reproduce provisions of Illinois law cited in the body of the memo.

Constitutional Convention
State Capitol
Baton Rouge, La. 70804

Dear Sir:

I am the chairman of the Legislative Committee for the Community Action For Corrections. I am also working for a Juvenile Delinquency Prevention Program and am a professional social worker. I therefore feel qualified to present my views to the Constitutional Convention regarding our Criminal Justice System:

1. A professional Psychologist or Criminologist should be put in charge of Parish Prison. An elected Sheriff does not have the educational background or skills necessary to deal with the complex problems inherent in Parish Prison.
2. Capital punishment should be made unappealable. I have made an extensive study of capital punishment and have found no statistical evidence to indicate that it decreases capital offenses. The fear is that as a number of acts of passion and are unpremeditated. These people who plan their crimes in advance also plan a way to avoid getting caught. Aside from the fact that it does not deter crime, Capital Punishment is extremely cruel both physically and mentally.
3. A person who has served time in prison should automatically have his Civil Rights restored upon the completion of his sentence.

I urge you give my opinions careful consideration when you are revising the Constitution.

Sincerely,
W. S. Gibbons
WILLIAM S. GIBBONS



[Staff Memo No.298]

June 13, 1973

F. L. HENRY
Chairman
NORMA M. DUNCAN
Director of Research

TO: Chairman James Dennis, Committee on the Judiciary
FROM: Lee Hargrave
RE: George Pugh's comments on the preliminary draft

George Pugh and I spent two hours Tuesday discussing the first 10 articles of the preliminary provisions for a Judiciary article. The substance of his comments is outlined below. He and I will meet again shortly to discuss the remaining articles in the preliminary draft.

Section 2. It might be better to word this section to recognize that the power to issue all needful writs and orders is primarily a power of the court and not so much a power of the judge. He would have the article state that courts have this power, and then explain that one judge of a multi-member court can exercise this power subject to review by the whole court. This is a primarily a change in emphasis, and not one of major substance.

Section 3. It could well be left to the legislature to determine the length of the term of Supreme Court judges, as well as that of all judges. It should be provided, of course, that a judge's term cannot be shortened during the time the judge is serving that term.

Section 4. This section ought to be worded to make it quite clear that the approval of the Governor is also needed on the act that would change the districts and the number of judges assigned to them. It might also provide more flexibility to provide that approval of two-thirds of the members voting is all that is required, rather than two-thirds of the total membership of each house.

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Section 5. It might be more diplomatic to refer to "lower courts", rather than "inferior courts." Less connotations of courts making law might result if it were provided that the Supreme Court can "establish" rather than "promulgate" rules. As a stylistic change, it could be provided that the rules be "not inconsistent with law", rather than "not in conflict with law."

In subsection (C), it might be well to provide that in civil cases, appellate review extends to both law and facts. However, as to criminal matters, it might be best to make no statement at all and let the court and the legislature formulate the rules of review. George would leave open some room to have appellate review of sentencing. Also, there may be some constitutional difficulties if no review is permitted over the factual findings of a single judge who is trying a criminal case. No serious problem would arise as to jury trials, since under federal standards, appellate courts cannot review the findings of a criminal jury.

It is recommended that the appellate jurisdiction of the Supreme Court in criminal cases be expanded. The fine limit might be reduced to \$300, and it also might be advisable to grant an appeal in any case in which imprisonment is ordered, thus drawing the line at the same level that the Supreme Court drew it for the right to counsel in Argersinger.

In subparagraph (E) it might be well to say that the Supreme Court has appellate jurisdiction "over all aspects of the case", which would be a broader phrase than "over all other issues involved in the case."

Section 7. It is good to recognize the judicial administrator as a constitutional office, but perhaps it is not necessary to indicate that the Supreme Court may select clerks and other personnel and prescribe their duties. The reference to clerks and other personnel doesn't present a special problem here with the Supreme Court, but there may be a problem with inserting a similar clause with respects to other courts in the system. Allowing each court to select its personnel might inhibit the formulation of some kind of statewide court reporter system or some other statewide system of paralegal personnel to work with the courts.

Section 8. The article should be drafted to more clearly indicate that courts of appeal can sit en banc.

Section 9. It might be better to leave to the legislature the dividing of court of appeal circuits into subdistricts. This is not a vital matter that need be in the constitution.

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Section 10. Perhaps the problem of the juvenile courts as hybrid institutions and appeals from those courts could be solved by indicating that the courts of appeal have jurisdiction in "non-criminal" cases, instead of using the term "civil cases". If this term "non-criminal" were used, the implication would be that all civil cases and juvenile court matters would be within the courts' jurisdiction. Then, the separate sentence about appeals from juvenile or family courts could be removed.

As to subsection (B) the limits on appellate review for the Supreme Court and the courts of appeal could be combined in one article.

IV. Miscellaneous Committee Documents and Correspondence

NOTES

The following documents are found in the files of the Judiciary Committee designated "Judicial Retirement."

STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 P. BOX 1742-A BATON ROUGE LOUISIANA 70803
TELEPHONE 389-5074

May 25, 1973

E. L. HENRY
Chairman
NORMA M. DUNCAN
Deputy Chairman

TO: MEMBERS OF THE JUDICIARY COMMITTEE

FROM: C. B. FORGOTSTON, JR.

Attached is a retirement proposal drafted by Judge Luther Cole of the Nineteenth Judicial District Court as requested by the Subcommittee on Judicial Retirement which met on May 17, 1973.

Also attached is a list of District Judges by seniority which reflects that 91 of 118 judges have gone on the bench since 1965.

Section ____ Judges; retirement

(a) The provisions of this section shall apply to judges of courts of record provided for by this constitution.

(b) Every judge shall retire upon reaching the age of 70 years. He shall receive that portion of his average compensation which the number of years served on a court of record bears to 25.

Any judge who has accumulated a total of sixteen years service on the bench of a court of record may, without regard to his attained age, retire. In addition, anyone who is serving or has served as a judge and who has accumulated twelve years of service on the bench of a court of record shall be eligible to receive retirement benefits upon attaining the age of 60 years. In either event, he shall receive that portion of his average compensation which the number of years served on a court of record bears to 25.

Any judge who is or becomes physically or mentally incapacitated to perform his duties shall be retired at one-third pay or that portion of his average compensation which the number of years served bears to 25, whichever is greater. His incapacity shall be made to appear by a certificate filed with the Secretary of State signed by two competent physicians selected by a majority of the Supreme Court.

(c) In no event shall any judge retired under the provisions of this constitution receive benefits exceeding seventy-five percent of his average compensation. For purposes of computing retirement benefits hereunder, "average compensation" shall be the average annual earned compensation for any three years of service during which said earned compensation was the highest.

(d) The retirement pay of a judge shall be received from the same sources as was his compensation while on the bench and cannot be less than the amount for which he was eligible at the time of retirement. To that extent, the Legislature and all political subdivisions and public authorities which contribute to the salary of any judge, shall make adequate provisions for the pay of judges retired, and for the pensions for widows or children as hereinafter provided, in the same manner they do for judges in active service.

(e) Upon the death of any judge, or of any retired judge, his surviving spouse shall be entitled to receive as a pension an amount equivalent to one-third of the salary such judge was receiving prior to death or retirement, or an amount equivalent to one-half of the retirement pay which such judge was entitled to receive or was receiving prior to his death, whichever is greater. The pension shall continue only so long as said spouse shall remain unmarried. Should an active or retired judge die without leaving a surviving spouse or should his surviving spouse die or remarry, any child or children under the age of 21 of such judge shall be entitled to benefits equivalent to those provided hereunder.

(f) The Legislature is authorized to provide retirement benefits for judges of courts of record established by this constitution, subject only to compliance with the requirements that judges shall retire upon reaching the age of 70 years and shall be retired if physically or mentally incapacitated. However, member-

ship in the system provided shall not be compulsory for those judges in office at the time of the adoption of this constitution who shall have the option to join such a statutory system, or to retain the benefits provided under the previous constitution, or to avail themselves of the provisions and benefits provided by this section. Should a judge elect to avail himself of the retirement provisions and benefits provided by this section in lieu of those provided under the previous constitution, he shall do so within ninety days of the adoption hereof by notifying the Secretary of State and the governing authorities which pay or contribute to the salary of his talent; and, he shall thereafter contribute to said retirement system an amount of his compensation equal to his contribution under the previous constitution, plus the amount of the contribution which he would have made had he elected to join the system provided for by this section.

and such judges shall be subject to all the provisions hereof including the requirement for contribution of six percent of total salaries received.

(g) No judge or judicial administrator either in office or retired, at the time of the adoption of this constitution, shall have diminished any retirement or judicial service rights he had under the previous constitution, unless he exercises the option herein provided to avail himself of the provisions and benefits of this section; nor shall the benefits to which a surviving spouse thereof was entitled be terminated or reduced.

SENIORITY OF DISTRICT JUDGES OF LOUISIANA IN POINT OF SERVICE AS OF MARCH 14, 1973 (Not including service in courts of lower level)

1st Oath	Judge	Dist.	Rank	No.
9-26-54	Harwell L. Allen	8th	1	1
7-9-56	Bernard J. Bagert, Sr.	Orl.Crim."H"	2	2
7-11-56	Oliver P. Carriere	Orl.Civ."H"	3	3
4-30-58	Thomas H. Brahaey, Jr.	Orl.Crim."D"	4	4
10-31-58	Frank M. Dougherty	2nd "A"	5	5
10-31-58	J. Adolph Menuet	23rd "B"	5	6
3-18-59	C. William Bradley	29th "A"	6	7
4-22-59	Clarence Dowling	Orl.Civ."B"	7	8
1-22-60	Oliver P. Schulingkamp	Orl.Crim."F"	8	9
8-1-60	G. Ross Kearney, Jr.	18th "B"	9	10
8-3-60	G. William Swift, Jr.	14th "C"	10	11
9-6-60	Cecil C. Cutrer	14th "B"	11	12
9-8-60	Guy E. Humphries, Jr.	9th "B"	12	13
9-28-60	Enos C. McClendon, Jr.	26th "B"	13	14
10-27-60	Earl Edwards	12th	14	15
7-5-61	Daniel P. Kimball	18th "A"	15	16
12-15-61	William J. Fleniken	1st "A"	16	17
1-30-62	Carrol L. Spell	15th "C"	17	18
9-1-62	Elmo E. Lear	19th "E"	18	19
12-7-62	Charles T. Everett	15th "A"	19	20
5-20-63	Paul P. Garofalo *	Orl.Civ."G"	20	21
6-26-63	Remy Chiasson	17th "C"	21	22
9-16-63	Frank Shea	Orl.Crim."G"	22	23
10-1-63	Clifford C. Adams	6th	23	24
5-1-64	Joseph A. LaHaye	27th "A"	24	25
12-1-64	Fred S. Bowes	24th "E"	25	26
4-21-65	Leon J. LeSueur	23rd "A"	26	27
1-5-66	S. Sanford Levy *	Orl.Civ."D"	27	28
1-31-66	Leonard Greenburg	32nd "A"	28	29
3-29-66	Matthew S. Braniff	Orl.Crim."B"	29	30
4-4-66	Edw. A. de la Houssaye, III	16th "C"	30	31
5-27-66	Frank Zaccaria	24th "B"	31	32
7-28-66	August A. Noble, Jr.	25th "A"	32	33
7-28-66	Eugene E. Leon, Jr.	25th "B"	32	34
7-28-66	Richard H. Gauthier	25th "C"	32	35
8-28-66	William T. Bennett	20th	33	36
9-12-66	Jack E. Burgess	11th "A"	34	37
10-1-66	Richard Williams	10th "A"	35	38
10-14-66	Luther Cole	19th "C"	36	39
10-14-66	Lewis S. Doherty, III *	19th "F"	36	40
12-2-66	Richard Garvey	Orl.Civ."C"	37	41
12-8-66	James R. Alexander	1st "E"	38	42
12-9-66	Donovan W. Parker	19th "C"	39	43
12-9-66	William M. Dawkins	21st "C"	39	44
12-12-66	Wallace A. Edwards	22nd "B"	40	45
12-12-66	Floyd W. Newlin	24th "F"	40	46
12-12-66	H. Charles Gaudin	24th "G"	40	47
12-29-66	James C. Terrell, Jr. *	30th	41	48
1-1-67	Lucien Bertrand, Jr.	15th "D"	42	49
7-10-67	Baron B. Bourg	32nd "B"	43	50
11-16-67	Earl E. Veron	14th "E"	44	51
1-3-68	Hillary J. Crain	22nd "A"	45	52
4-10-68	Robert T. Farr	4th "C"	46	53
9-6-68	C. J. Bolin, Jr.	1st "C"	47	54
10-15-68	Edmond Guidry, Jr.	16th "A"	48	55
1-14-69	Melvin Shortess *	19th "D"	49	56
1-31-69	Richard P. Boyd, Jr.	7th	50	57
2-4-69	Monty M. Wyche	26th "A"	51	58
3-10-69	Field Gremillion	9th "A"	52	59
6-2-69	Walter C. Peters	31st	53	60
6-12-69	Thomas J. Early, Jr.	Orl.Civ."A"	54	61

6-17-69	Israel M. Augustine	Orl.Crim."I"	55	62
6-18-69	Alvin V. Oser	Orl.Crim."J"	56	63
6-30-69	Penrose St. Amant	23rd "C"	57	64
6-30-69	John Sidney Covington	19th "A"	57	65
7-10-69	Edward N. Engolio	18th "C"	58	66
8-1-69	Robert M. Fleming	16th "D"	59	67
9-2-69	Elven E. Ponder	19th "B"	60	68
9-15-69	Gordon Leigh Bynum	24th "D"	61	69
9-18-69	Edward M. Mouser	33rd	62	70
1-31-70	David T. Caldwell	2nd "B"	63	71
7-4-70	John F. Fant	1st "D"	64	72
7-9-70	George C. Connolly, Jr.	Orl.Civ."J"	65	73
7-16-70	Cleveland J. Marcel, Sr.	32nd "C"	66	74
9-11-70	Grover L. Covington	21st "A"	67	75
10-8-70	Thomas W. "Tom" Tanner	22nd "C"	68	76
10-9-70	Gordon E. Causey	21st "B"	69	77
10-9-70	Gerald P. Fedoroff	Orl.Civ."E"	69	78
10-16-70	Douglas J. Nehrbaas	15th "B"	70	79
12-29-70	Louis H. Padgett, Jr.	26th "C"	71	80
1-4-71	Henry J. Roberts, Jr.	Orl.Civ."F"	72	81
1-4-71	Nestor L. Currault, Jr.	24th "C"	72	82
1-4-71	Louis G. DeSonier, Jr.	24th "A"	72	83
2-15-71	John C. Morris, Jr.	5th "B"	73	84
2-19-71	Fred Fudickar, Jr.	4th "A"	74	85
6-11-71	Henry Yelverton	14th "A"	75	86
9-22-71	Benjamin I. Berry	5th "A"	76	87
11-29-71	Ruche J. Marino	29th "C"	77	88
1-1-72	Jerome M. Winsborg	Orl.Crim."C"	78	89
1-3-72	Eugene W. McGehee	19th "I"	79	90
1-10-72	James L. Dennis	4th "D"	80	91

1-17-72	Daniel W. LeBlanc	19th "H"	81	92
1-24-72	Lemar Polk	9th "C"	82	93
2-2-72	H. Garland Puvy	27th "A"	83	94
2-14-72	Steve Alford	19th "J"	84	95
3-4-72	John S. Pickett, Jr.	11th "B"	85	96
5-20-72	Charles R. Ward	Orl.Crim."A"	86	97
8-1-72	Jules L. Davidson, Jr.	9th "C"	87	98
9-1-72	Robert E. Johnson	16th "B"	88	99
9-29-72	Daniel J. McGee	13th	89	100
10-6-72	James E. Clark	1st "B"	90	101
10-16-72	Thomas C. Wicker	24th "H"	91	102
10-20-72	Isom J. Guillory	27th "C"	92	103
10-24-72	W. Peyton Cunningham	10th "B"	93	104
11-3-72	Allen M. Babineaux	15th "F"	94	105
12-8-72	Stuart S. Kay	30th "B"	95	106
12-8-72	Wallace C. LeBrun	24th "I"	95	107
12-8-72	Edwin R. Hughes	28th	95	108
12-8-72	Martin L. Laird, III	9th "D"	95	109
12-11-72	Edward Donald Mosely	19th "K"	96	110
12-15-72	Preston H. Huffit	25th "O"	97	111
12-15-72	Thomas J. Malik	29th "B"	97	112
12-18-72	Bernard L. Knoblock	17th "B"	98	113
12-21-72	Lemmie O. Hightower	4th "B"	99	114
12-22-72	Warren Hood	14th "D"	100	115
12-22-72	Rudolph F. Becker, III	Orl.Crim."E"	100	116
12-29-72	Fred W. Jones, Jr.	3rd	101	117
	Vacancy vice Marcus	Orl.Civ."I"	102	118

* Prior service City or Municipal Courts.

(Continued -- See next page)

RECAPITULATION

1.....	1954
2.....	1956
3.....	1958
2.....	1959
7.....	1960
2.....	1961
3.....	1962
4.....	1963
2.....	1964
1.....	1965
21.....	1966
3.....	1967
4.....	1968
15.....	1969
10.....	1970

8.....	1971
29.....	1972
1.....	vacancy

118 Judges (District)

91 out of 118 have gone on bench since 1965

ERNEST HUVAL
CONSULTING ACTUARY
January 23, 1973

1135 GULF DRIVE
LAFAYETTE, LOUISIANA 70501

TELEPHONE
AREA CODE 504-775-1537

Judge Luther Cole
Civil Courts Bldg.
Suite 202
1101 Florida Street
Baton Rouge, Louisiana 70801

Dear Judge Cole:

Enclosed is the report of a special actuarial study of the retirement, disability and survivor benefits for the Louisiana District Judges Association requested and authorized by you. As you will note particular attention was paid to the various aspects of the retirement system structure of the State Constitution and the Louisiana State Employees' Retirement System.

Also enclosed is an Appendix showing in detail the development of this special study, together with the basic data in both raw and summary forms. Undoubtedly you will not wish to burden your colleagues with so large a volume of data and actuarial formulae. Your copy, however, does include all of this material not only for the sake of completeness but also to permit peer review should this become necessary or appropriate.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

Ernest Huval
Ernest Huval,
Consulting Actuary,
Member, American
Actuarial Association

SPECIAL ACTUARIAL STUDY
OF
RETIREMENT, DISABILITY AND SURVIVOR BENEFITS
FOR
LOUISIANA DISTRICT JUDGES ASSOCIATION

FOR THE BOARD OF JUDICIAL ADMINISTRATION

SPECIAL ACTUARIAL STUDY
OF
RETIREMENT, DISABILITY AND SURVIVOR BENEFITS
FOR
LOUISIANA DISTRICT JUDGES ASSOCIATION

A special actuarial study was requested by the Louisiana District Judges Association primarily to compare the current benefits provided by the Louisiana Constitution with the benefits provided for legislators by the Louisiana State Employees' Retirement System. This report presents the results of an actuarial valuation of both systems prepared as of January 1, 1973 using as a base the returns of various questionnaires obtained from active and retired members of the Louisiana District Judges Association, and in some cases from the survivors of decedents.

This report gives a brief summary of the benefit and contribution provisions of both systems as they were interpreted for the purpose of the valuation. This is followed by a cost

analysis of earned service for new entrants and prior service for current members. The report then provides some subjective observations and recommendations and finally concludes with a description of various bases for transfer from the Constitutional system to the Louisiana State Employees' Retirement System.

-1-

LOUISIANA DISTRICT JUDGES ASSOCIATION

Summary of Benefit and Contribution Provisions

A summary of the main benefit and contribution provisions provided for Judges in the Louisiana Constitution is outlined in Exhibit A attached hereto. A similar summary for the main benefit and contribution provisions provided for legislators by the Louisiana State Employees' Retirement System is outlined in Exhibit B attached hereto.

Summary of Funding Cost for Prior and Future Service

The actuarial cost and liability calculations, and related figures, follow from proper mathematical formulae built around actuarial assumptions. These assumptions are only as good as they reflect the true levels of future contingent events. The better set of actuarial assumptions is formed from the concepts of reasonableness and conservatism. The set of actuarial assumptions deemed appropriate for the calculation of actuarial costs and liabilities in this actuarial study are detailed in Exhibit 7 of the Appendix to this report.

Figures presented herein are further based upon an average increase in annual salary of two and one-half percent. Data and costs were also developed based upon zero and five percent annual increases in salary and are summarized in the Appendix; these show striking differences according to rate of salary progression.

-2-

LOUISIANA DISTRICT JUDGES ASSOCIATION

Based upon the aforementioned assumptions and specifically the choice of a 2½% salary progression scale the following funding data was calculated:

- (1) Ignoring all current judges and taking into consideration only new persons becoming judges in the future it was determined that:
 - (a) 29% of compensation is needed to actuarially fund the benefits provided for judges by the Louisiana Constitution,
 - (b) 18% of compensation is needed to actuarially fund the benefits, provided for legislators by the Louisiana State Employees' Retirement System.

- (2) Taking into consideration a closed group of persons consisting of only the current judges and allowing for both prior and future earned service it was determined that:
- (a) 50% of future compensation is needed to actuarially fund the benefits provided for judges by the Louisiana Constitution.
 - (b) 45% of future compensation is needed to actuarially fund the benefits provided by the Louisiana State Employees' Retirement System.
- (3) The cost to fund the accrued prior service liability for

-3-

LEWIS & CLARK CONSULTING ACTUARY

all the current judges if they were to transfer to the Louisiana State Employees' Retirement System was calculated to be as follows:

- (a) On a single sum payment basis:
 - \$12,700,000.00 to fund the state government portion thereof
 - \$3,000,000.00 to fund the local government portion thereof
- (b) On a thirty year pay out basis:
 - \$790,000.00 per year to fund the state government portion thereof
 - \$180,000.00 per year to fund the local government portion thereof

Note: It should be pointed out that the funding figures shown in the item (3) are appropriate only if all the judges should transfer from the Constitutional system to the Louisiana State Employees' Retirement System. If only 50% of the current judges were to transfer from the Constitutional system to the Louisiana State Employees' Retirement System the funding cost would be cut by at least half. Prior service for the purposes of this report was construed to consist of prior service in the present position, other court (only courts referred to in the Constitutional retirement provisions), state legislature, state service (allowed by Louisiana State Employees' Retirement System), active military, district attorney and assistant district attorney.

on a basis of actuarial comparison of present values (See

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LEWIS & CLARK CONSULTING ACTUARY

Exhibit 19, Appendix), for judges the Constitutional plan has a value in excess of the value of the Louisiana State Employees' Retirement System plan (legislator version) even after taking into account the difference in entry ages. Also this would be true even if one were to take into account, say a 10% increase

post-retirement because of the cost-of-living provisions under Louisiana State Employees' Retirement System which would be made available to judges retiring from that system. Moreover, if one recognizes that the Constitutional plan is noncontributory its value from the personal economic viewpoint of a judge is further enhanced.

This is not to say, however, that one plan will be uniformly better than the other, especially considering the varying individual circumstance to be found in the judiciary. One matter to be considered is the trend, clearly drawn from history, that the Louisiana State Employees' Retirement System is a dynamic system which frequently is amended to keep it current, whereas the Constitutional plan tends to remain in static condition. Provided no "Anti-selection" develops (or is permitted to develop) resulting in economic peril to either of the systems created solely out of the exercise of an option there could be reasonable rules under which an individual might select for himself the most suitable benefit system.

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LEWIS & CLARK CONSULTING ACTUARY

Basis of Transfer From the Constitutional Retirement System to the Louisiana State Employees' Retirement System

The following methods of transfer are suggested for consideration:

- (A) The local and state government would pay the cost to fund the prior service accrued liability for those judges that transfer via a single lump sum payment. The state government portion being \$12,700,000.00 and the local government portion being \$3,000,000.00 if all current active judges transfer.
- (B) The same as (A) except that the local and state government would finance the cost to fund the prior service liabilities via equal annual amortization payments over a thirty year period in lieu of a single lump sum payment. The state government annual payment being \$790,000.00 and the local government annual payment being \$180,000.00 if all current active judges transfer.
- (C) A current judge would be allowed to transfer without any concurrent funding of prior service. An equitable formula would be developed whereby at time of retirement the local government, state government and the Louisiana State Employees' Retirement System would each pay an appropriate share of each monthly retirement benefit.

-6-

LEWIS & CLARK CONSULTING ACTUARY

(D) If the local and state government do not make provisions for the funding of prior service the judge would still be allowed to transfer and he could personally purchase any prior service allowed by the Louisiana State Employees' Retirement System.

It should be noted that if a judge transfer from the Constitutional system to the Louisiana State Employees' Retirement System under any of the aforementioned methods it is assumed that he will be required to contribute 10% of his salary to the Louisiana State Employees' Retirement System and the state and local governments will contribute 8% of said salaries to the Louisiana State Employees' Retirement System.

-7-

ERNEST HUNTER, CONSULTING ACTUARY

ERNEST HUNTER, CONSULTING ACTUARY

EXHIBIT B

SUMMARY OF BENEFITS PROVIDED BY LOUISIANA CONSTITUTION FOR CERTAIN JUDGES

Type of Benefit	Years of Service	Requirements Retirement		Annual Benefit
		Age	Mandatory	
Service Retirement Benefit	20 or more	75	Yes	Full Pay
	Less than 20	75	(a) No	Years of Service Divided by 20 times Full Pay
	20 or more	70	No	Full Pay
	Less than 20	70	No	Years of Service Divided by 20 times Full Pay
Disability Retirement Benefit	23 or more	Any	No	Two-Thirds of Full Pay
	20 or more	65	No	Two-Thirds of Full Pay
	(b) 25 or more	65	No	Full Pay
	20 or more	Any	Yes	Full Pay
Survivor Benefit for Active or Retired Member	Less than 20	Any	Yes	Years of Service Divided by 20 times Full Pay but not less than Two-Third Full Pay
	Any	Any	--	(c) One-third of Salary or one-half of Retirement Pay Entitled to at Time of Death, whichever is greater

- (a) May extend service until 20 years of service is obtained or until his attained age 80 whichever shall occur first.
- (b) Applies to appellate judges only.
- (c) Benefit ceases if spouse is remarried.

Contributions: By Judges - None
By Government - No prior funding. Appropriations are made annually for the current retirees.

ERNEST HUNTER, CONSULTING ACTUARY

EXHIBIT A

SUMMARY OF BENEFITS PROVIDED BY LOUISIANA STATE EMPLOYEES' RETIREMENT SYSTEM

Type of Benefit	Years of Creditable Service	Requirements Current S. Employment		Annual Benefits
		Age	Required	
Service Retirement	30 or more	Any	--	(a) 22 times Average Annual Compensation times Years of Creditable Service plus \$300.00
	25 or more	55	No	
	10 or more	60	Yes	
	15 or more	60	No	
Disability Retirement	10 or more	Any	Yes	Same as for service retirement
Surviving Spouse With Children	(b) 5 or more	Any	Yes	75% of Average Annual Compensation but not less than \$300.00
	20 or more	Any	No	

- (c) Surviving Spouse Without Children
- (b) 10 or more 20 or more
- Any Any
- Yes No
- 50% of Average Annual Compensation but not less than \$200.00
- (a) Various options are available which provide reduced benefit payments in exchange for modified cash refund annuities or joint and survivor type annuities
- (b) At least two years must be earned immediately prior to the members death
- (c) Surviving spouse must have been married to the deceased member for at least two years.

Note: (1) Total benefit payments under any of the aforementioned benefit type are guaranteed to be not less than the members accumulated contributions.
(2) The Louisiana State Employees' Retirement System is authorized to grant cost of living increases to annuitants. Such increases have been granted in the past. The increased benefits are payable solely from revenues representing "interest income", which is interpreted to mean yield in excess of investment return necessary to support actuarially determined reserves for regular benefits.

Legislators are eligible for the same service, disability and survivor retirement benefits as other members except that they receive an additional retirement benefit equal to 12 times Average Annual Compensation times Years of Legislative Creditable Service and they are eligible for service retirement as follows:

- (1) At any age provided they have 16 years of service,
- (2) At age 50 provided they have 20 years of service including 12 years of Legislative service or
- (3) At age 60 provided they have 12 years of Legislative service.

Contributions: By All Members Except Legislators - 6% of Compensation
By Legislators - 10% of Compensation
By Government - 8% of Compensation

ERNEST HUNTER, CONSULTING ACTUARY

EXHIBIT B

NOTES

The following correspondence is found in the files of the Judiciary Committee designated "Invitations to Speakers."

Supreme Court
STATE OF LOUISIANA
New Orleans

March 12, 1973

Walter B. Hamlin
WALTER B. HAMLIN
JOE W. SANDERS
FRANK W. SUMMERS
MACE C. BARNUM
ALBERT TATE, JR.
JOHN A. DUTTON, JR.
JUDICIAL ADMINISTRATOR
EUGENE J. MURRET

MEMORANDUM

TO: Members of the Judiciary Committee of the Louisiana Constitutional Convention
FROM: Eugene J. Murret, Judicial Administrator

Attached is a copy of a letter from Justice Winslow Christian, Director of the National Center for State Courts, whom Judge Dennis had asked me to invite as an expert to appear before your Committee. Some members of your Committee had previously asked me to get information about whether the court reporter should be under the control of the

clerk of court or the judge, whether the pre-arraignment and post-arraignment functions of the sheriff should be separated, and whether criminal courts should be special courts. His letter addresses itself to these three areas.

EJM/mm
Attachment

National Center for State Courts

725 Madison Place, N.W.
Washington, D.C. 20005
(202) 638-2588

March 9, 1973

Justice Winslow Christian
Director

Mr. Eugene J. Murret
Judicial Administrator
Supreme Court of Louisiana
New Orleans, Louisiana 70112

Dear Mr. Murret:

Thank you for your letter of February 27. I am pleased to accept your invitation to testify before the Judiciary Committee of the Constitutional Convention. March 16 would be preferred; I should plan to arrive Baton Rouge at 10:38 a.m. on Delta flight 705.

I shall respond here to your question about the administration of the court reporting function. The control of the court reporter is crucial to the efficient operation of a court. Coordination and direction of the record production process is the most vital factor. The type of cases and number of appeals from the court will also be important. However, court reporters should not be under the sole authority of either the elected clerk of court or the judge. When controlled by an elected clerk of court, the court itself surrenders its authority to someone whose primary interests may not be speedy and efficient administration of justice. Placing the reporter "under the authority and sole control" of the judge in a multi-judge court does not promote efficient record production either. Our new publication, "Administration of Court Reporting in the State Courts", points out that distribution of reporters to judges on a one-to-one basis can result in imbalance and inefficiency in record production. As the enclosed copy of the report indicates, the best solution is to place the reporters under the authority and control of an administrator who is answerable to the courts, but who can distribute the assignments to assure maximum efficiency and production.

I am not aware of any experience concerning the separation of the pre-arraignment and post-arraignment functions of the sheriff. I should like to talk with you about the background of the question before attempting to respond.

Finally, as to specialized courts, the consensus among people who have studied the problem seems to be that it is inadvisable to maintain permanent specialized criminal divisions of courts. Every such division inhibits efficient employment of resources; separate criminal courts also tend to suffer from relative lack of attention from the bar and from community leadership. Whereas, a unified court, giving high priority of attention to its criminal responsibilities, can more readily obtain the resources it needs. I should like to discuss this situation with you before assigning your inquiry for staff work.

Sincerely yours,

Winslow Christian
Winslow Christian

Enclosure

NOTES

The following letters are found in the files of the Judiciary Committee marked "Correspondence to Members."



J BURTON WILLIS

216 1/2 D 1146
Louisiana Constitutional Convention # 1973
422 South Main Street
St. Martinville, Louisiana 70582

July 30, 1973

File # 102
Date 102
Page 3

Mr. C. B. Forgotston, Jr.
Senior Research Assistant
Louisiana Constitutional Convention of 1973
Post Office Box 17740-A
Baton Rouge, Louisiana 70803

Dear C. B.:

I have received numerous letters from "red, white and blue" judges all over the state, all of whom agree with the thesis of my remarks regarding the tenure of our District Judges. Additionally, I have conversed, either tête-à-tête, ensemble or over the telephone, with a number of them, including some Appellate Judges, and all have voiced to me their personal and emphatic concurrence with my argument that equal judges should have equal terms. Furthermore, many Delegates have not only voiced their concurrence to me, but also have indicated that "all judges should be equal". I took and take this to mean that the imbalance we left in our judiciary article, prompted by unfounded logic, inter alia, will find our judiciary very surprised at the finished product to be proposed to our people.

The letter of one of these District Judges which portrays most lucidly the feelings on the matter is that of Judge Edwards of Marksville of July 18, 1973, of which a replica (even though it gave me a superlative accolade) is enclosed. Because I have his authority to disseminate its replica to the members of the Committee on the Judiciary, I ask that you supply a copy hereof and thereof to all members of the Committee at your earliest convenience, so that they can contemplate my grave admonition and premonition I hereby transmit, even though it is at the great risk of being dubbed unable to construe communications and conversations.

You have my best wishes and the assurance that I am

Sincerely yours,

J. B. Willis
J. B. WILLIS

JBW:stt
Enclosure

TWELFTH JUDICIAL DISTRICT

PARISH OF AVOYELLES
MARKSVILLE, LOUISIANA

PARI. EDWARDS

July 18, 1973

Mr. J. Burton Willis
Attorney At Law
422 South Main Street
St. Martinville, Louisiana

Dear Sir:

I have been wanting to write to you for some time, since your talk to the Committee on the Judiciary (Constitutional Convention) on June 16, 1973, concerning the tenure of judges.

Your thoughts, your language and choice of words were beautiful. I agree with your thoughts and sentiments wholeheartedly. I can see no reason in law, logic or fact, to have a separate system or different tenure for New Orleans judges.

I must congratulate you on your position. I do not know how far the opponents to a different dual system will go. But such absurd provisions, for a New Constitution and in a New Constitution, to govern our state for years to come, will make its approval by the electorate a difficult job.

Thanks for your thoughts and sentiments; and again, my congratulations!

Cordially yours,

Earl Edwards

EARL EDWARDS

EE/sbm

Perhaps arguments can be made that the electorate should have the right to re-elect sheriffs who have been removed, however, it seems to me the courts occupy a different position in our community. Who could have any confidence in a judge who had been removed from office for bribery.

Should you think the Louisiana Supreme Court should have discretionary authority, as it now has, to bar a judge when removed from serving further, please do what you can.

With best regards,

Cleveland C. Burton

Cleveland C. Burton



J. BURTON WILLIS
Delegate—Dist. 46
Louisiana Constitutional Convention of 1973
422 South Main Street
St. Martinville, Louisiana 70582

September 25, 1973

Telephone Area 225
Office 386-1144
304-1115
Home 386-6271



J. BURTON WILLIS
Delegate—Dist. 46
Louisiana Constitutional Convention of 1973
422 South Main Street
St. Martinville, Louisiana 70582

June 26, 1973

Member

Mr. C. B. Forgotston, Jr.
Senior Research Assistant
Louisiana Constitutional Convention of 1973
Post Office Box 17740-A
Baton Rouge, Louisiana 70803

Dear C. B.:

I enclose the replica of a letter received from Mr. Summers, which is self-explanatory and dated June 25, 1973, asking me to keep him currently posted on any proposal which would affect his Judicial District.

May I impose on you to be on the lookout for this and to make a mental note of Mr. Summers request so that we can comply?

Thanking you and with good wishes, I am

Sincerely yours,

J. B. WILLIS

Mr. C. B. Forgotston, Jr.
Senior Research Assistant
Louisiana Constitutional Convention of 1973
Post Office Box 17740-A
Baton Rouge, Louisiana 70803

Dear C. B.:

At the next meeting of the committee on the Judiciary, I wish you would bring to my attention the enclosed letter from Mr. Cleveland C. Burton, of Shreveport, which explains itself, so that I can bring its intentions to the attention of the Committee.

Thanking you and with good wishes, I am

Sincerely yours,

J. B. Willis
J. B. WILLIS

JBW:stt
Enclosure

Sue Ellen Therist Trail

JBW/mpp

cc: Honorable Frank W. Summers, II
Assistant District Attorney
Parish Courthouse
Abbeville, Louisiana 70510

LAW OFFICES
LUNN, IRON, SWITZER, JOHNSON & SALLEY

BATTERY BUILDING
P. O. BOX 1934

SHREVEPORT, LOUISIANA 71165

September 18, 1973

AREA CODE 504
386 3400
OF COUNSEL
CLEVELAND C. BURTON



PARISH OF ACADIA
LAFAYETTE & VERMILION
NATHAN STANBURY
DISTRICT ATTORNEY
LAFAYETTE
PHONE 386-6170

OFFICE OF THE
DISTRICT ATTORNEY

15th JUDICIAL DISTRICT
COURTHOUSE BUILDING
ABBEVILLE, LOUISIANA 70510

June 25, 1973

BYRON LEGENDRE
ASSISTANT DISTRICT ATTORNEY
LAFAYETTE — 386-6170
ROBERT CLINE
ASSISTANT DISTRICT ATTORNEY
CROCKETT — 794-1789
FRANCIS W. DILFORD
ASSISTANT DISTRICT ATTORNEY
LAFAYETTE — 386-6170
RONALD DAUTERIVE
ASSISTANT DISTRICT ATTORNEY
LAFAYETTE — 386-6170
FRANK SUMMERS
ASSISTANT DISTRICT ATTORNEY
ABBEVILLE — 386-6170

Honorable J. Burton Willis
Independence Hall
Whitehouse Inn
Baton Rouge, Louisiana

Dear Burt:

Long time since I've seen you and I need your help. I hear you have influence in the convention for propositions that are meritorious. I am a member of the Judiciary Commission of Louisiana and have a special interest in that area of the draft constitution.

A very serious defect in the new draft is: The discretionary authority of the Louisiana Supreme Court to bar a judge who has been removed from running again for judge has been deleted.

Mr. Burton Willis
Attorney at Law
St. Martinville, Louisiana

Re: Possible constitutional amendment dividing Fifteenth Judicial District

Dear Mr. Willis:

As a followup of our telephone conversation of June 25, 1973, I wish at this time to make

request of you that I be kept informed of any proposed constitutional amendment that would have the effect of dividing the Fifteenth Judicial District, presently composed of Lafayette, Acadia and Vermilion Parishes, into two or more judicial districts.

With kind personal regards, I am,

Very truly yours,

FRANK W. SUMMERS, II
ASSISTANT DISTRICT ATTORNEY

FWS,II/mhb

NOTES

The following correspondence is found in the Judiciary Committee files marked "Correspondence Vol. I."

Justice Tate has suggested that I recall to your mind the fact that, immediately after the vote on the issue, he approached you and Chairman Henry to call the oversight to your attention and that you both responded that this oversight could be corrected in the proposed schedule which will supplement and implement the main Constitution.

I therefore wish by this letter to request that you and Speaker Henry take the necessary steps at the appropriate time to restore and protect the retirement benefits which the office of judicial administrator has under the present Constitution. By copy of this letter I am also requesting the support and assistance of Mr. Kean, Mrs. Ruth Miller, and the entire Judiciary Committee.

Although this matter may seem unimportant when viewed against the background of a hoped-for new Constitution for all the people of Louisiana, nevertheless it is a matter of great moment to me and my family and to the widow and children of my predecessor.

I wish to thank you and Speaker-Chairman Henry and all the above named persons for your support and understanding.

Very truly yours,

Eugene J. Murrett

EJM/mm

cc: Mr. E. L. "Bubba" Henry
Mr. R. Gordon Kean, Jr.
Justice Albert Tate, Jr.



Supreme Court
STATE OF LOUISIANA
New Orleans
70112

October 17, 1973

CHIEF JUSTICE
JOE W. SANDERS
ASSOCIATE JUSTICES
FRANK W. SUMMERS
MACK E. BARNHAM
ALBERT TATE, JR.
JOHN A. DIXON, JR.
FASCAL F. CALOGLIRO, JR.
WALTER F. MARCUS, JR.
JUDICIAL ADMINISTRATOR
EUGENE J. MURRETT

MILLING BENSON WOODWARD HILLIER & PIERSON

ATTORNEYS AT LAW
WHITNEY BUILDING
NEW ORLEANS 70130

CALL ROOM 008
TELEPHONE 504-581-3333

July 16, 1973

Mr. Camille F. Gravel, Jr.
611 Murray Street
Alexandria, Louisiana 71301

Dear Camille:

I wish to call to your attention a matter of utmost importance to me and my family and to the widow and children of my predecessor Mr. Robert E. Lecorene all of whom enjoy retirement rights and benefits under the present Constitution which apparently have been unintentionally stripped by the Constitutional Convention.

Article 7, Section 12.1 of the present Constitution provides:

"The office of Judicial Administrator is hereby created as a constitutional office, and the Supreme Court shall have the power, under such general rules and regulations as it may adopt, to provide for his appointment, salary; to prescribe his duties; and to promulgate all necessary rules and regulations in connection therewith. The Judicial Administrator shall be entitled to all emoluments and benefits applicable by law to district judges and shall be subject to the same retirement provisions."

The Judiciary Committee proposal introduced into the Convention provided:

Mr. Camille F. Gravel, Jr.
Page 2

"A judge or judicial administrator (emphasis added) in office or retired at the time of the adoption of this constitution, shall not have diminished any retirement benefits or judicial service rights, including the right to remain in office, as judge, during his present term, provided under the previous constitution or laws, nor shall the benefits to which his surviving spouse thereof was entitled be reduced." (See Section 25(B) of the Judiciary Committee's proposal.)

Your amendment and the Kean amendment subsequently adopted as Section 23(A) of Article V (Judicial Branch) omitted the words "or judicial administrator", thus removing the protection to retirement rights and benefits presently held by me and my family and the widow and children of my predecessor. I am certain that the omission was an oversight, as the focus of attention in debate was on the large issue of whether a new contributory retirement system for judges should be in the Constitution at all.

Judge James Dennis
Chairman, Judiciary Committee
Constitutional Convention
Committee Room 1 - State Capitol
Baton Rouge, Louisiana

Dear Judge Dennis:

I would like to present to the above committee, through you as Chairman, my view, which is obviously shared by the vast majority of the New Orleans Bar, that:

1. The Civil District and Criminal District Courts should not be combined into one court at this time, because of the great number of problems that this would entail, most of which have been adequately explained and thoroughly discussed before your Committee; and
2. The term of such judges should be for a period of 12 years rather than 6 years, for the reason that, as Judge Schott so forcefully explained to the Louisiana State Bar Association, the costs of conducting a campaign in a large community such as New Orleans, where the voters can only be reached through T.V. and other media, is so excessive that it becomes prohibitive for one other than a wealthy man or one who does not wish to become beholden to special interest groups, to run for office. Frequently in recent years and even more frequently in the future, opposition has and will occur and the costs will be even greater than they have been. This not only affects the quality of justice but affects the image of the judiciary with the public, which is not constructive.

Very truly yours,

MTW, JR:nmh

cc: Judge Henry J. Roberts, Jr.



JEFFERSON PARISH
LOUISIANA

Judge Cyril J. Gracianette, Div. "A"
Judge Douglas A. Allen, Div. "B"

Phone NR-4352
10 July 1973

First Parish Court for the
Parish of Jefferson
3100 Clearview Plaza
Metairie, La. 70007

FROM: Judge Cyril J. Gracianette, Judge Douglas A. Allen and
Judge John J. Molisior.

TO: The Judiciary Committee of the Louisiana Constitutional Convention

Gentlemen:

While it was our sincere desire to address individual letters, time required that we make our thoughts known to you by this manner.

As you will recall, when we appeared before the Judiciary Committee on Friday, March 23, 1973, in Baton Rouge, Members of the Committee suggested, among other things, two matters: (1) that the Trial De Novo be abolished, and (2) that we be authorized to appoint our own personnel.

We just recently received a proposal from Eugene Murrat, our Judicial Administrator, and with the above thoughts in mind, we would like to propose, for your consideration, Amendments attending to the two subjects discussed above.

Enclosed herewith, you will find an Amendment to Section 19 and Section 20.

Thanking you for your kind consideration, we remain,

Very truly yours,

CYRIL J. GRACIANETTE, JUDGE, DIVISION "A"

DOUGLAS A. ALLEN, JUDGE, DIVISION "B"

JOHN J. COLLISON, JUDGE,
SECOND PARISH COURT

JCG:mp
Encl.

Section 19. (A) Parish, city, municipal, traffic, family, and juvenile courts existing at the time of the adoption of this constitution are retained. The legislature, by a majority vote of the elected members of each house, and with approval in a referendum in each district, parish, or portion affected may establish, abolish, or merge trial courts of limited or specialized jurisdiction subject to the limitations in Sections 16 and 23 of this Article.

Section 19. (B) The judges shall have the authority to select their Clerks and other personnel, including Minute Clerks and Bailiffs, and to establish a traffic violations bureau, and to prescribe the duties for all their personnel.

Section 19. (C) On any appeal, trials De Novo are abolished and prohibited.

Section 20. Parish Courts

Section 20. (A) Notwithstanding the provisions of Section 15 and 19 to the contrary, the legislature may, by a majority vote of the elected members of each house, and with approval in a referendum in the parish affected, establish in that parish, a parish court. Other courts of limited or specialized jurisdiction in the parish may be simultaneously abolished.

Section 20. (B) The jurisdiction of parish courts shall be uniform throughout the state and such courts shall be limited to the trial of misdemeanors, and of civil matters not exceeding the value or sum of three thousand five hundred dollars, exclusive of interest and costs. A judge of said court shall be elected for a term of six years.

Section 20. (C) The judges shall have the authority to select their Clerks and other personnel, including Minute Clerks and Bailiffs, and to establish a traffic violations bureau, and to prescribe the duties for all their personnel.

Section 20. (D) On any appeal, trials De Novo are abolished and prohibited.

As you can see, under the proposed amendment, this authority would be granted to the judges of the parish courts, city courts, municipal courts, traffic courts, family courts and juvenile courts.

Incidentally, the same consideration may be given to the district court judges in the sense that they would have authority to select their own clerks and other personnel.

June 28, 1973

COPY

Mr. Ashton L. Stewart
Attorney at Law
Union Federal Building
Baton Rouge, Louisiana 70801

Dear Mr. Stewart:

Thank you for your letter of May 28th, as well as your comments thereon. I appreciate this letter from you and will take the liberty of transmitting it to the Chairman of the Judiciary Committee of the Constitutional Convention, Judge Dennis.

Sincerely,

J. Cleveland Frugé
Judge

JCF:gbv
cc: Judge James L. Dennis
Monroe, Louisiana 71201

LAW OFFICES

LAYCOCK AND STEWART
UNION FEDERAL BUILDING
BATON ROUGE, LOUISIANA 70801

JOHN T. LAYCOCK
ASHTON L. STEWART

May 28, 1973

Judge J. Cleveland Frugé
Court of Appeal, Third Circuit
P. O. Box 3000
Lake Charles, Louisiana 70601

Dear Judge:

I read with much interest the newspaper report of your views given to the Judiciary Committee of the Constitutional Convention. I heartily agree that the key to a successful constitution is the legislature. The time that it takes to serve as a legislator is almost prohibitive except to the very rich. A legislator should be paid extremely well as a fundamental first step. Times have changed from a citizen doing his share of civic work by serving for sixty days every two years.

Additionally, if I had been successful as a candidate for the convention, I would have sought membership on the committee to draft the legislative articles, and would have worked for not only good pay, but for short terms from small districts, even if such meant creating more districts. The restrictions on the legislature in the constitution should be removed. The legislature also should not be limited as to the length and times of its meetings.

The most important improvement of the judiciary would be to provide that no person could be excluded from jury service except for cause. The voir dire by the judge would also help.

Best regards.

Yours very truly,

J. Cleveland Frugé

ALS/bbb



State of Louisiana
DEPARTMENT OF JUSTICE
Baton Rouge
70804

104 SUPREME COURT BUILDING
301 COLOLA AVENUE
NEW ORLEANS, LOUISIANA 70112

June 19, 1973

Hon. James L. Dennis, Chairman
Committee on the Judiciary
Constitutional Convention of 1973
Post Office Box 177410-A
Baton Rouge, Louisiana 70804

Dear Judge Dennis:

As I promised when I appeared before your committee, I am enclosing a proposal for a separate article governing the Department of Justice.

The substance of the proposal results from research comparing the constitution of other states. The proposal also follows the Louisiana Constitution of 1921 insofar as it was possible and desirable to do so.

Very truly yours,

William J. Guste, Jr.
WILLIAM J. GUSTE, JR.
Attorney General

WJG, jr/KLV/ag

Enclosures

CC/RS-38

1 Constitutional Convention of Louisiana of 1973
2 DELEGATE PROPOSAL NUMBER
3 Introduced by
4 A PROPOSAL
5 For Attorney General and Department of Justice
6 PROPOSED SECTIONS:
7 Article ____, Section ____, Attorney General
8 Section 1: An attorney general shall be elected in
9 the general election every four years. He shall be the
10 legal officer of the state and director of the Department
11 of Justice. No person shall be eligible for election to
12 the office unless he is a qualified elector of this state
13 and has practiced law or served as a judge of a court of
14 record in this state for a combined total of at least five
15 years.
16 Article ____, Section ____, Assistant Attorneys General
17 Section 2: The attorney general shall appoint a first
18 and a second assistant attorney general and other assistants
19 necessary to perform the work of the department of justice.
20 The first and the second assistant attorney general shall
21 possess the qualifications required by this article for
22 eligibility to the office of attorney general. In the event
23 of a vacancy in the office of attorney general, the first
24 assistant attorney general shall assume the office for the
25 remainder of the term.
26 Article ____, Section ____, Department of Justice

27 Section 3: The Department of Justice shall direct
28 all legal matters in which the state has an interest. It
29 may institute and prosecute or intervene in any suit or
30 other proceeding it may deem necessary for the protection
31 of the state, its agencies, or its citizens. The department
32 of justice shall supervise the district attorneys and shall
33 perform the other duties imposed by law.
34
35 Source: The provisions in this proposal are largely taken

1 from Project Article VI, Sections 34 - 36.
2 Comment: Provides for an elected attorney general,
3 two appointed assistant attorneys general, and a
4 department of justice.



FOURTH CIRCUIT JUDGES ASSOCIATION

BERNARD J. BAGERT, SR.
President
H. CHARLES GAUDIN
Vice President
RICHARD J. GARVEY
Treasurer
CYRIL J. GRACIANETTE
Secretary

June 15, 1973

Section H
2700 Tulane Avenue
New Orleans, La. 70119

TO: ALL MEMBERS OF THE COMMITTEE ON THE JUDICIARY, CC 73

The Fourth Circuit Judges Association is an organization whose members are judges of a court of record within the territorial bounds of the Fourth Circuit Court of Appeals. We have met on numerous occasions and our recommendations on the retirement provisions for the judiciary are enclosed.

Also find a partial copy of your "Fourth Preliminary Draft" of Article VII of the Constitution which we have reviewed and amended through Section 19. Article 20, Election of Judges; Vacancy in Office, and Article 23, Judiciary Commission, we find controversial, and we shall submit our views thereon in the near future. The balance of this "draft" is acceptable, except for the retirement section which is referred to above.

Very truly yours,

Bernard J. Bagert, Sr.
BERNARD J. BAGERT, SR.
Richard J. Garvey
RICHARD J. GARVEY

H. Charles Gaudin
H. CHARLES GAUDIN
Cyril J. Gracianette
CYRIL J. GRACIANETTE

Article _____, Section _____, Retirement of Judges

A. A judge shall not remain in office beyond his seventieth birthday.

B. A judge or judicial administrator in office or retired at the time of the adoption of this constitution, shall not have diminished any retirement benefits or judicial service rights provided under the previous constitution or laws; nor shall the benefits to which a surviving spouse thereof was entitled be reduced.

C. The legislature shall provide a retirement system for judges which shall apply to a judge taking office after the effective date of the statute enacting the system, and which a judge in office at the time of its adoption may elect to join.

D. Until the legislature enacts the retirement system authorized in subsection C, a judge taking office after the adoption of this constitution and a judge in office who so elects within ninety days of the adoption of this constitution by notifying the secretary of state, shall be entitled to the following retirement benefits:

1. This subsection applies to a judge of a court authorized by this constitution, except mayors and justices of the peace.
2. A judge with sixteen years of judicial service may retire at any age; a judge with twelve years of judicial service may retire with benefits commencing at the age of sixty. On retirement, a judge shall receive annually as retirement benefits that portion of his annual average compensation for his three highest years which the number of years served bears to twenty-five.
3. Any judge who is or becomes physically or mentally incapacitated to perform his duties shall be retired, and he shall be paid as in the case of voluntary retirement at the age of 60 years, irrespective of his age at retirement, but in no event less than two-thirds of his pay. His incapacity shall be made to appear by a certificate which shall be filed with the Governor and Secretary of State. In the case of a judge of the Supreme Court, the Courts of Appeal, District Courts of 3 or more judges, City Courts of 3 or more judges, Juvenile Courts and Family Courts of 3 or more judges, this certificate shall be executed by a majority of the other members of the court of which he is a member. In all other cases, this certificate of incapacity shall be signed by 2 competent physicians and approved by a majority of the Supreme Court.
4. Upon the death of a judge, in office or retired, the surviving spouse, until remarriage, shall be entitled to two-thirds of his annual salary as judge prior to death or retirement, or one-half the retirement benefit he was receiving or entitled to receive at the time of death, whichever is greater. If the judge is

not survived by a spouse, or if the spouse dies, his unmarried children shall be entitled to the benefits provided in this subsection until the age of twenty-one.

5. Benefits provided herein shall be paid from the same sources as was his compensation as judge. The legislature and the political subdivisions shall provide for payment of these benefits.

6. To receive the benefits provided in this subsection, the judge shall contribute a total of six percent of his salary to the paying authorities.

NOTES

The following correspondence is found in the Judiciary Committee files marked "Correspondence Vol. II"

Louisiana State Bar Association

OFFICE OF THE PRESIDENT 1100 W. THAYER BUILDING NEW ORLEANS 70130

July 26, 1973

Judge James L. Dennis
 Chairman Judiciary Committee
 Constitutional Convention 1973
 300 St. John Street
 Monroe, Louisiana 71201

Dear Judge Dennis:

The House of Delegates of the Louisiana Bar Association ordered a ballot sent to the members of our Association to determine whether they were in favor of the election of judges or of a merit plan of selection.

Pursuant to such resolution, the vote was tabulated, both as to the judicial district from which it was cast and as to the preference of the voter with respect to the appellate courts and the trial courts.

I am, accordingly, enclosing herewith a photocopy of this tabulation. You will notice that the total vote was in favor of merit selection in both the appellate and trial courts, but that the margin of victory for the merit selection was substantially larger in the case of the appellate courts.

Very significant, however, is that in the case of the trial courts there was a material variation in the result. You will note that the merit plan carried by a very substantial majority in Orleans Parish and by a relatively small majority in the First District (Caddo), the 14th District (Cameron and Calcasieu), and the 29th District (St. John and St. Charles). On the other hand, in the other parishes, the vote ranged from even in the 12th (Avoyelles), close in some parishes and very substantial majorities in favor of election in others.

Judge James L. Dennis -2- July 26, 1973

With respect to the vote as to appellate courts, you will note that in ten districts (including an overwhelmingly favorable vote in Orleans), the merit plan won, there were two districts in which the vote was tied, and the margin of victory for the election was not nearly as great as it had been with respect to the trial court ballots.

While it may not be my province to comment, it seems to me that this is an outstanding indication that with such tremendous divergence of opinion the question should be left to the electorate on a local option basis, for it would hardly seem fair to impose upon some communities with a strong feeling that their judiciary should be selected by one method, the requirement that it be done by another and different method. Just because the total vote was in favor of merit selection does not mean that this procedure should be imposed upon the people in those districts who voted overwhelmingly against it. By the same token, the people in the districts who voted overwhelmingly for merit selection should not be subject to the will of a minority simply because a majority number of districts with a smaller population were in favor of the elective process. This latter, of course is my personal view and not that of the Association.

Very truly yours,

M. Truman Woodward, Jr.

MTW, Jr/dd

cc: Mr. Kent Breard
Mr. Ben R. Miller
Mr. Dudley D. Flanders
Mr. Thomas D. Collins, Jr.
Judge James L. Dennis, Baton Rouge, La.
Mr. Curtis R. Boisfontaine

LOUISIANA STATE BAR ASSOCIATION
POLL ON MERIT PLAN OR ELECTION OF JUDGES
JULY, 1973

JUDICIAL DISTRICT	TRIAL COURTS			Total Vote	APPELLATE COURTS			Total Vote
	Election	Merit	Both*		Election	Merit	Both*	
1st	94	104	3	201	80	114	3	197
2nd	9	4	1	14	7	6	1	14
3rd	9	3		12	7	5		12
4th	47	34	2	83	39	42	2	83
5th	13	7		20	8	10		18
6th	11	5		16	11	5		16
7th	12	3		15	9	5		14
8th	5	2		7	4	2		6
9th	35	32	2	69	31	37	2	70
10th	19	3		22	14	8		22
11th	8	3	1	12	8	11	1	20
12th	7	2		14	7	7		14
13th	12	3		15	11	4		15
14th	60	66	1	127	53	72	1	126
15th	75	62	2	139	67	69	2	138
16th	38	25		63	33	29		62
17th	27	4		31	25	4		29
18th	12	6		18	11	7		18
19th	181	132	3	315	165	148	3	315
20th	5	0		5	5	0		5
21st	31	11		42	31	11		42
22nd	28	17	2	47	24	20	2	46
23rd	16	4		20	12	8		20
24th	87	64	4	155	73	73	4	151
25th	19	4		23	18	5		23
26th	22	11		32	20	12		32
27th	26	5	1	32	24	6	1	31
28th	8	1	1	10	7	1	1	9
29th	6	9		15	6	9		15
30th	8	5		13	6	7		13
31st	11	4		15	10	5		15
32nd	22	10		32	20	13		33
33rd	5	0		5	5	0		5
Orleans	382	759	21	1162	316	814	21	1151
Misc.	30	33		63	26	36		62
TOTALS	1380	1442	44	2864	1193	1605	44	2842

*Ballots on which member checked both Election and Merit

**Out of State and ballots on which no district was indicated.

NOTE: 6,539 Ballots were mailed. 2,864 valid returns were received or approximately 43.76%. Additionally 41 void ballots were received bringing total return to 44,427.

The Judiciary Commission of Louisiana

109 SUPREME COURT BUILDING

New Orleans

70112

July 20, 1973

MEMBERS
LEON J. SIBOUR
L. JAMES F. COLE
OLIVER L. CARRIERE
JOHN PAT LITTLE
EUGENE M. BARTH JR.
FRANK W. STALD
EXECUTIVE OFFICER
EUGENE J. MURPHY

TO THE CHAIRMAN AND MEMBERS OF THE JUDICIARY COMMITTEE OF THE LOUISIANA CONSTITUTIONAL CONVENTION:

The Judiciary Commission of Louisiana has carefully considered Section 27 of the Committee's proposal relative to the structure and authority of the Judiciary Commission. The Commission suggests the following changes in the proposed Section 27:

Paragraph (A) on membership: The Committee proposal calls for nine (9) members on the Commission, consisting of three (3) judges, three (3) attorneys, and three (3) citizens. The Judiciary Commission feels that increasing the membership from seven (7) members to nine (9) members would not be of any positive benefit to the work of the Commission and would possibly result in a lessening of the responsibility of the individual members and would increase the number of situations in which the members would find difficulty in reaching agreement, all of which would delay and hinder the work of the Commission. The Commission feels that the aims and desires of this Judiciary Committee could be satisfied by realigning the present seven-member Commission as follows: three (3) judges (instead of 4 judges as at present), two (2) attorneys (same as at present), and two (2) citizens (instead of 1 as at present). The Commission feels that the appointment of the members should remain as it presently is; that is, the judge members should be selected by the Supreme Court; the attorney members should be selected by the Bar Association; and the citizen members should be selected by the Judicial Council.

- 2 -

Paragraph (E): The Commission recommends that the words "or conduct while in office which would constitute a felony," as contained in the Committee proposal, should be deleted. The Commission was asked by the District Judges' Association to make this representation. The Commission agrees that the language should be deleted for the reason that it is unnecessary; any judge who engages in conduct while in office which would constitute a felony could certainly be proceeded against by the Commission under other language in the same paragraph wherein the words "willful misconduct relating to his official duty" (including off-bench misconduct in violation of law; see the Haggerty decision) is used.

Present Paragraph (D) contains the following provision: "An order of removal or involuntary retirement by the supreme court may provide for the disqualification of the justice or judge from holding judicial office in this state thereafter, either permanently or for a specified period." The Commission recommends that this provision be retained by this Committee. The Supreme Court should be given the discretion to invoke this disqualification in serious cases where the public good requires it. The public, particularly the public from parts of the state other than the area from which the particular judge comes, is not likely to understand how a judge who is removed from office for receiving bribes to fix cases, for example, could be allowed to run again for the office.

Present Paragraph (F) provides: "Action against a judge under this section shall not preclude disciplinary action against him with respect to his license to practice law." This Committee's proposal has deleted that provision. The Judiciary Commission recommends that the provision be restored. Without that paragraph in the new Constitution, we would probably revert to the law as it was under the jurisprudence as set forth in In Re Jones, 202 La. 729, 12 So. 2d 795, and In Re Meraux, 202 La. 736, 12 So. 2d 798 and before the Commission was created. Those opinions

- 3 -

held that even though a judge misbehaves, to the point of being removed from the bench by the Supreme Court, no action could be maintained to revoke his license to practice law because of the then constitutional limitation on punishment for improper acts of judges. At that time the Constitution only provided for removal from the bench.

To revert to the old position would in our opinion be a very definite step backward. Perhaps the following example will illustrate the point

Suppose charges are brought and the Supreme Court convicts a judge for accepting a bribe and removes him from the bench. Under the old rule he could immediately go back to the practice of law, without fear of an attack on his license by the Committee on Professional Responsibility.

With the above-quoted provision in the new Constitution, the Committee on Professional Responsibility could bring disciplinary proceedings in the Supreme Court on the bribery charges. The public will little understand the removal of a judge from the bench because of his professional misconduct, while at the same time his license is protected from any attack based on the same professional misconduct.

Present Paragraph (C) provides for notice and a hearing by the Commission prior to any recommendation by the Commission to the Supreme Court for disciplinary action against a judge. This Committee's proposal has deleted the constitutional requirement of notice and hearing and, in an effort to shorten the section, has left it to the Supreme Court to provide for such procedures by rule. The Commission itself has not discussed this omission from your proposal, but it was brought to my attention by several judges who are concerned that this important requirement of notice and hearing should remain in the new Constitution as a guarantee to all judges of this state. I, personally, recommend that this Committee put into its proposal such a requirement.

- 4 -

In conclusion, the Judiciary Commission of Louisiana has functioned well during its more than four (4) years of experience under the constitutional amendments creating it in 1968. Your Committee in its proposal has added certain features, such as censure and interim suspension, which will aid the work of the Commission and the Supreme Court. We would ask that you carefully consider all of the recommendations made here today so that the Commission will be able to continue to function effectively. Thank you for your attention and consideration.

Sincerely yours,

W. A. Culpepper
W. A. Culpepper, Chairman

WAC/jtm



LOUISIANA CLERKS OF COURT ASSOCIATION
P.O. BOX 10000 MONROE, LOUISIANA 70001
ARCADE, LOUISIANA 71001

June 25, 1973

- P. O. DYER JR
PRESIDENT
ALEXANDRIA LA 71301
- ROBERT LOWE
VICE PRESIDENT
WISCONSINO LA 71288
- CLYDE R. WEBBER JR
SECOND VICE PRESIDENT
VIDALIA LA 71373
- IRBY L. KNOTT JR
THIRD VICE PRESIDENT
BAYCOURT LA 71327
- H. RUFERT SLEMM
SECRETARY-TREASURER
ARCADE LA 71001
- JOOBIE C. GREEN
ASTORIA
ASTORIA LA 71220
- BOARD OF DIRECTORS
- 1ST DISTRICT
SHERE D. TOWNS
CHALMERS LA 70843
- 2ND DISTRICT
RAY GROS
NEW ORLEANS LA 70112
- 3RD DISTRICT
W. A. BARBAD
ST. BASTIENVILLE LA 70582
- 4TH DISTRICT
WILMA BLAIR
BATON LA 70806
- 5TH DISTRICT
D. B. MCKAY
BATVILLE LA 71229
- 6TH DISTRICT
ALEX. ADDISON
LITTLEWATER LA 70754
- 7TH DISTRICT
J. W. PIERRE
JENNINGS LA 70548
- 8TH DISTRICT
GARRETT M. CONVILLE
BOZEMANVILLE LA 71551
- MEMBER AT LARGE
HOWARD A. DEFERRER JR
BAYVILLE LA 70027

Hon. James L. Dennis, Chairman
Judge, 4th Judicial District
300 St. John St.
Monroe, La. 71201

Dear Judge Dennis:

Enclosed is a copy of a Resolution
unanimously passed by our Association.

We shall greatly appreciate your
consideration thereof.

With kindest regards, I am,

Very truly yours,

W. A. Culpepper
Secretary-Treasurer

Enc.

RESOLUTION

WHEREAS, the Judiciary Committee of the Constitutional Convention of 1973 adopted a resolution that:

- A. The Supreme Court shall elect a Chief Justice by a majority vote and;
- B. The Chief Justice shall be chief administrative officer of the judicial system of the State, subject to rules adopted by the Court.

WHEREAS, after discussion on the subject matter,

BE IT RESOLVED that the Louisiana Clerks of Court Association is unanimously in favor of retaining the present provisions of Article VII, Section 7 of the Constitution of the State of Louisiana in reference to the vacancy of the Chief Justice and to the powers thereof and that the above proposed resolution be rejected by the Judiciary Committee.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to each member of the Judiciary Committee of the Constitutional Convention.

Adopted: May 28, 1973 at a meeting of the Louisiana Clerks of Court Association duly called.



House of Representatives
Baton Rouge

E. L. Henry
SPEAKER

June 25, 1973

Judge James L. Dennis
Ouachita Parish Court House
Monroe, Louisiana 71201

Dear Jim:

I am enclosing herewith some information I received which I think should be forwarded to you as Chairman of the Committee on Judiciary.

With best personal regards, I am

Very truly yours,

E. L. Henry
E. L. Henry

ELH/bh

National Center for State Courts

725 Madison Place NW
Washington, D.C. 20005
(202) 638-2588

June 11, 1973

Honorable E. L. Henry
Speaker of the House
State Capital
Baton Rouge, Louisiana 70804

Dear Mr. Speaker:

During my recent appearance before the Judiciary

Committee of the Constitution Convention some members expressed interest in getting rid of money bail in criminal cases. This can be done if a new procedure can be substituted, providing for conditioned release, or for detention without bail in cases where the public safety so requires.

Attached is a memorandum which proposes such a procedure. The proposal differs from the "preventive detention" provisions now in force in the District of Columbia in several particulars, most notably in that the text includes a speedy trial provision designed to guard against abuse of the detention procedure.

I hope that this proposal will be useful to the Convention. If I can be of further assistance please let me know.

Sincerely yours,

Winslow Christian
Winslow Christian

Attachment

cc: Honorable John A. Dixon, Jr.
C. B. Forgotston, Counsel
Eugene J. Murret
Honorable Albert Tate, Jr.

National Center for State Courts

725 Madison Place, N.W.
Washington, D.C. 20005
(202) 638 2588

June 11, 1973

Justice Winslow Christian
Director

MEMORANDUM

To: Chairman, Constitutional Convention of Louisiana
From: Winslow Christian
Re: Louisiana Constitutional Amendment
Abolishing Money Bail

Below is presented a copy of the present provision of the Louisiana Constitution concerning release pending trial and pending appeal, a proposed amended text of that section, and a sentence by sentence explanation of the proposed text. Wherever possible, the language and the form of the current section have been retained. All deletions and revisions of old language are noted in the analysis of the proposed section.

- 2 -

LOUISIANA CONSTITUTION
Article I, Section 12

Current Section:

"Section 12. Excessive bail or fines; cruel and unusual punishment; offenses not bailable.

1 "Section 12. Excessive bail shall not be required, nor excessive fines
2 impose, nor cruel and unusual punishment inflicted. All persons shall be
3 bailable by sufficient sureties, except the following: 1. Persons
4 charged with a capital offense, where the proof is evident or the presump-
5 tion great. Persons convicted of felonies, provided that where a minimum
6 sentence of less than five years at hard labor is actually imposed, bail
7 shall be allowed pending appeal until final judgment."

- 3 -

Proposed Section:

"Section 12. Excessive fines; cruel and unusual punishment; release pending trial and pending appeal, offenses for which release prohibited.

1 "Section 12. Excessive fines shall not be imposed, nor cruel and
2 unusual punishment inflicted. All persons shall be eligible for release
3 prior to judgment, except persons charged with a capital offense where
4 the proof is evident or the presumption great. The Legislature may pro-
5 vide procedures for the detention of a person accused of a felony upon
6 a judicial determination that the person will, if not detained, probably
7 fail to appear for further proceedings or probably commit a felony while
8 at large. If detention is ordered, the accused shall be entitled to be
9 brought to trial within thirty days after commencement of detention or
10 to secure dismissal, with prejudice, of the charges under which pre-

11 judgment detention was ordered. Release may be allowed pending
12 appeal, after conviction of a criminal offense where a minimum sentence
13 of less than five years imprisonment is actually imposed. Release,
14 as provided in this Section, shall be conditioned on a promise to
15 appear when and where ordered, and on any other reasonable condition
16 provided for by the Legislature."

- 4 -

Analysis of the Proposed Section:

"Excessive fines shall not be imposed, nor cruel and unusual punishment inflicted." (proposed, lines 1-2.) This sentence is identical to the first sentence of the current section (current, lines 1-2) except that the reference to bail has been deleted, to be elaborated upon in the subsequent sentences.

The current section addresses two clearly separate topics: (1) Excessive fines or cruel and unusual punishment and (2) release pending trial and pending appeal. Under the proposed section these two subjects are dealt with separately: the first sentence deals with punishment, and the remaining sentences all concern release.

"All persons shall be eligible for release prior to judgment, except persons charged with a capital offense where the proof is evident or the presumption great." (proposed, lines 2-4.) This sentence contains the language which effectively provides for release before and during trial. It is patterned after the second sentence of the current draft (current, lines 2-5) with one important change: it changes "shall be bailable by sufficient sureties" to "shall be eligible for release prior to judgment" in order to allow other forms of release. The exception for persons charged with capital offenses is retained with substantially identical wording.

"The Legislature may provide procedures for the detention of a person accused of a felony upon a judicial determination that the person will, if not detained, probably fail to appear for further proceedings or probably commit a felony while at large." (proposed, lines 4-8) The previous proposed sentence did not provide that all persons were to be "released," but rather that all persons, except for those charged with a capital offense, were to be "eligible for release." The proposed sentence immediately above gives the Legislature the authority to set procedures to decide who shall actually be released or detained, but limits that authority to the adoption of procedures for the detention of two specific groups: (1) those persons accused of a felony for whom it is judicially determined that they will probably fail to appear for further proceedings and (2) those persons accused of a felony for whom it is judicially determined that they will probably commit a felony while at large.

While the term "felony" in line 5 may not, by present definition, adequately define those persons requiring detention, the Legislature, by reclassification of offenses, may better approximate the specific group of offenses for which detention is appropriate. Inclusion of the term "felony" is useful in providing some minimal restriction on the class of persons for which a judicial determination concerning detention will be made.

"If detention is ordered, the accused shall be entitled to be brought to trial within thirty days after commencement of detention or to secure dismissal, with prejudice, of the charges under which pre-judgment detention was ordered." (proposed, lines 8-11.) This provision for a speedy trial of all persons detained is required as a matter of fundamental fairness and is, perhaps, the most effective safeguard against abuse of the detention provision. A sanction of dismissal "with prejudice" is provided for failure to

- 5 -

bring the defendant to trial within the thirty day limit; a provision allowing the prosecution to refile after such a dismissal would seriously undermine the effectiveness of the entire provision.

The use of the phrase "shall be entitled" (proposed, line 8) allows the defendant to waive the speedy trial requirement, but assures that it will be available if required.

"Release may be allowed pending appeal, after conviction of a criminal offense where a minimum sentence of less than five years imprisonment is actually imposed." (proposed, lines 11-13.) This provision for release after trial is taken from the last sentence of the current provision (current lines 5-7), but with the following changes: "persons convicted of felonies" has been changed to "persons convicted of a criminal offense" so as to make clear that persons convicted of misdemeanors are also eligible for release; the phrase "at hard labor" (current, line 6) has been deleted as an unnecessary modifier; and the sentence structure has been changed to make it grammatically correct.

"Release, as provided in this Section, shall be conditioned on a promise to appear when and where ordered, and on any other reasonable condition provided for by the Legislature." (proposed, lines 13-16. While the previous sentences of the proposed section have provided that persons "shall be eligible for release" pending trial and pending appeal, this sentence provides the conditions for that authorized release. A sentence of this nature was unnecessary in the current section since the only authorized condition of release was bail; hence, each of the operative sentences for release pending trial and release pending appeal could read simply "persons shall be bailable."

The most important clause of this sentence provides that "release shall be conditioned . . . on any . . . reasonable condition provided for by the Legislature." This allows the legislature the freedom to set a release system as they choose, not limited to release on bail as the current section may require. The term "reasonable" condition has been included as the mildest of limitations on the Legislature.

Winslow Christian
Winslow Christian

EDWIN O WARE
DISTRICT ATTORNEY
457 1/2 N. 4th St.
PARISH OF ORLEANS

Just. file

EXCERPT FROM THE MINUTES
OF THE ANNUAL MEETING OF
THE FOURTH JUDICIAL DISTRICT BAR ASSOCIATION
HELD MARCH 8, 1973

ASSISTANTS
GUY V. JACOBSON
ROBERT P. ...
J. EDUARDO ...

P. O. BOX 1472
ALEXANDRIA, LOUISIANA 71301
PHONE 445-7185

April 11, 1973

Upon motion duly made by Allen Coon and seconded by J. Buchanan Lee,

the following resolution was unanimously adopted:

WHEREAS, the Fourth Judicial District Bar Association, composed of attorneys practicing law in the Parishes of Morehouse and Ouachita, held its annual meeting on March 8, 1973, at the Highland Park Country Club in West Monroe, Louisiana; and

WHEREAS, discussion ensued with respect to maintaining the integrity of the district as it presently exists,

NOW, THEREFORE, BE IT RESOLVED, that the Fourth Judicial District Bar Association go on record as opposing the alteration or splitting of the Fourth Judicial District presently composed of the Parishes of Morehouse and Ouachita.

Honorable James Dennis
Judge
Ouachita Parish Courthouse
Monroe, Louisiana 71201

Dear Judge Dennis:

Please pardon the irexcusable delay in getting this to you. I was of the opinion that it had gone out, but it has not. At the annual convention of the Louisiana District Attorneys' Association held in New Orleans in March, the district attorneys and assistants voted unanimously in favor of your committee, the Judiciary, write the articles dealing with district attorneys.

It was the thinking of the group that the district attorney is a judicial officer. He performs judicial functions in that wide discretion is vested in the district attorney to decide who should be prosecuted and who should not, when, where, etc.. The district attorney is charged under the Constitution and under the statutes with being not wholly on the side of the State, but always on the side of the people, protecting the innocent as well as prosecuting the guilty. This is indeed an entirely different function from an advocate whose obligations and responsibilities are completely different.

While the district attorneys do perform in the executive field by representing police juries, school boards, etc., these are collateral duties and should not govern where in the Constitution the district attorney should go.

I trust that you will convey these thoughts to your entire committee.

With kindest regards, I am

Very truly yours,

[Signature]
EDWIN O. WARE
District Attorney

CERTIFICATE

I, John C. Blackman, Secretary-Treasurer of the Fourth Judicial District Bar Association, do hereby certify the above and foregoing to be a true and correct copy of a resolution of this Association adopted at its annual meeting held on March 8, 1973, at the Highland Park Country Club in West Monroe, Louisiana; that the same is in full force and effect and has not been revoked, modified or rescinded.

WITNESS MY HAND, this 13th day of March, 1973.

[Signature]
John C. Blackman
Secretary-Treasurer

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