

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

**VOLUME XIII**

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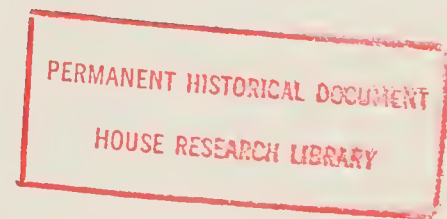
# **Records of the Louisiana Constitutional Convention of 1973: Committee Documents**

**VOLUME THIRTEEN**

by

**LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION**

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



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LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

## LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

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**COMMITTEE ON  
EDUCATION AND WELFARE**



# I. Minutes

## A. Full Committee Minutes

### MINUTES

Minutes of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on February 28, 1973

6th Floor, Education Building, Baton Rouge, Louisiana  
Friday, March 9, 1973, 10:00 a.m.

Presiding: Mr. Robert Aertker, Chairman

#### Present:

Anthony M. Rachal, Jr.  
Norman Edward Carmouche  
Matthew R. Sutherland  
Mrs. Heloise Corne  
Ralph L. Cowen  
Kenneth Gordon Flory  
Bill Parker Grier  
J. K. Haynes  
F. E. "Pete" Hernandez  
Eual J. Landry, Sr.  
Edward N. Lennox  
Louis G. Riecke, Sr.  
Horace C. Robinson  
Perry Segura  
Joe W. Silverberg  
John R. Thistlewaite  
Representative Harold J. Toca  
Miss Mary E. Wisham

#### Absent:

J. Kenneth Leithman  
Minos H. Armentor

Others Present: Mrs. Norma Duncan, Director of Research; Mrs. Audrey LeBlanc, Coordinator of Research; Joe Smith, Senior Research Assistant; Miss Betty Field, Junior Research Assistant; Members of the Press and other interested parties.

The chairman called the meeting to order at 10:00 a.m.

The secretary, Mr. Sutherland, called the roll. A quorum was present.

Following opening remarks, the chairman introduced Mrs. Norma Duncan, Director of Research, who explained the research staff services available to the committee. She introduced Mrs. Audrey LeBlanc, Coordinator of Research, Mr. Joe Smith, Senior Research Assistant, and Miss Betty Field, Junior Research

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Assistant, all of whom have been assigned to work directly with the Education and Welfare Committee. Mrs. Duncan pointed out that the packets provided the members contained various materials for their use, including a compilation of the provisions of the present State Constitution pertaining to the committee's assigned subject areas. Mrs. Duncan pointed out that any time assistance was needed the members could either visit the staff in Room 203 of the State Capitol Building or call 389-5034. She informed the members that the staff would be quartered on the fourth floor of the LSU Law Center in about one month.

The chairman next asked for discussion of the general procedures to be followed and the times and meeting places to be considered for the future. Mr. Silverberg suggested the members leave the location for the full committee meetings up to the chairman. The chairman noted that the press finds it difficult to attend all committee meetings when more than two or three are scheduled for the same day and pointed out

that a number have chosen to meet on Friday or Saturday. The members agreed to schedule future meetings through the middle of the week, namely, Tuesday, Wednesday, or Thursday.

The chairman suggested the division of the committee into three subcommittees as follows:

1. Elementary and Secondary Education, including finance thereof.
2. Higher Education, including finance thereof.
3. Public Welfare, covering Consumer Affairs, Welfare, Labor & Industry, Retirement, Civil Service, and Health.

3

Mr. Flory moved that the committee adopt the proposed division into subcommittees as proposed by the chairman. Mr. Lennox seconded the motion, which was adopted unanimously.

The chairman asked each member to write his first and second subcommittee preference on a piece of paper and hand it in. He asked to be excused from any one committee, preferring to be the coordinator of all three, keeping each informed of the progress of the others. Following a short recess the chairman announced the following subcommittee assignments:

1. Elementary and Secondary Education  
Mr. Carmouche, Chairman  
Mrs. Corne and Messrs. Riecke, Haynes, Robinson, and Leithman, members.
2. Higher Education  
Mr. Sutherland, Chairman  
Messrs. Toca, Thistlewaite, Cowen, Silverberg, and Segura, members.
3. Public Welfare  
Mr. Rachal, Chairman  
Miss Wisham and Messrs. Armentor, Grier, Hernandez, Landry, Lennox, and Flory, members.

Following recess for lunch the chairman announced that the next full committee meeting would be held April 4, 1973, and that he will inform members at a later date of the location. Mr. Aertker suggested three steps each subcommittee should follow, but not necessarily in the stated order:

1. Become familiar with the present Constitution.
2. Make comparisons with other states' constitutions and areas pertaining to the subject.
3. Call in the public and get their opinions.

4

He then called a short recess to allow each subcommittee time to caucus and set future meeting dates and agenda.

The meeting resumed at 3:00 p.m. and each subcommittee chairman reported on their meeting. The Elementary and Secondary Education Chairman, Mr. Carmouche, announced the next meeting date as March 20, 1973, at 10:00 a.m. in the L.T.A. Building. Also, a sub-subcommittee consisting of Mr.

Carmouche, Mr. Haynes, and Mr. Robinson was appointed to compile a list of people to invite to the public hearings, such as PTA, LEA, LTA, etc. This sub-subcommittee is to meet Tuesday, March 13, 1973, at 10:00 a.m. in the L.T.A. Building, waiving per diem. Mr. Carmouche asked Mrs. LeBlanc to read their agenda as follows:

1. Read and study material of the present Constitution relating to education.
2. Study Louisiana Constitutional Revision Commission's draft of Article XII.
3. Determine individuals who could give valuable input and invite them to appear in person and/or submit their ideas in writing.

Mr. Sutherland, chairman of the Higher Education Subcommittee, reported the following meeting dates: March 20, 1973 and March 21, 1973 at 10:00 a.m. and 9:00 a.m., respectively, on the 6th floor of the State Department of Education Building; also, March 30, 1973 and April 3, 1973 at 10:00 a.m. in the State Department of Education Building. Mr. Joe Smith read the list of proposed speakers for the first two meetings: President of the State Board of Education; President Leon Netterville of Southern University; Senator Don Williamson; Dr. Homer Hitt of LSUNO; Mr. Ed Steimel and Miss Emogene

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Pliner, representatives from PAR; Representative of LSU Alumni; President of the LSU Board of Supervisors; Dr. William Arceneaux of the Coordinating Council for Higher Education; Dr. Martin Woodin, President of the LSU system; and Dr. Cecil Taylor, Chancellor of the Baton Rouge Campus.

Mr. Rachal, chairman of Public Welfare Subcommittee, announced a meeting to be held March 21, 1973, at 10:00 a.m. Miss Field is to clear a location with Mrs. Duncan and notify the members of this subcommittee. The agenda set up by Public Welfare Subcommittee is:

1. Identify Constitutional materials relevant to their area of study.
2. Identify Constitutional provisions that could be statutory.
3. Identify purely local problems and whether they belong in the Constitution.

Mr. Rachal said the committee plans to break into sub-subcommittees at the March meeting.

All committees asked the research staff for a comparison of provisions relating to their area of study with other states' constitutions.

Mr. Flory requested a review of the other states' constitutional provisions regarding Civil Service, specifically the composition of the Civil Service Commission and the legislative review of the Civil Service Commission.

There being no further business, the meeting adjourned at 3:15 p.m.

## MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on March 29, 1973

East Baton Rouge Parish School Board Room, Baton Rouge, Louisiana  
April 4, 1973, 10:00 A.M.

Presiding: Robert Aertker, Chairman

Present:

Miss Wisham	Mr. Segura
Mrs. Heloise Corne	Mr. Toca
Mr. Leithman	Mr. Armentor
Mr. Lennox	Mr. Sutherland
Mr. Rachal	Mr. Riecke
Mr. Hernandez	Mr. Thistlewaite
Mr. Cowen	Mr. Flory
Mr. Carmouche	Mr. Haynes
Mr. Grier	Mr. Robinson
Mr. Landry	Mr. Silverberg

The chairman called the meeting to order at 10:00 a.m.

The secretary, Mr. Sutherland, called the roll and a quorum was present. He then read the minutes of March 9, 1973.

Mr. Toca moved the minutes be adopted, Mr. Haynes seconded, and the motion passed.

The chairman gave a short explanation as to why Mr. Armentor had missed several meetings.

Mr. Aertker explained where they were located and the eating areas nearby and how to get there. He noted that Mr. Carmouche, Mr. Robinson, and Mrs. Corne would be delayed in arriving as they had to appear before the Legislative Committee on Education.

The chairman stated that the Coordinating Committee met and wants to set up a master calendar for future meetings. The committee agreed that if desired, subcommittees could hold meetings during its travels in April.

The chairman pointed out that according to the Executive Committee's guideline of sixteen meetings per committee, this committee has twelve meeting dates left. He wishes to reserve six for the Committee of the Whole. The dates set are: April 12, May 3, May 8, June 1, June 13, and June 20, 1973. All will begin at 10:00 a.m. except the meeting of April 12, 1973, and it will start at 1:00 p.m. to allow the subcommittees to meet in the morning hours. The subcommittee on Higher Education and the subcommittee on Elementary and Secondary Education will have a joint meeting the morning of April twelfth. The two will also meet this afternoon to discuss the conflicts that need airing at the April twelfth meeting.

Mr. Rachal, chairman of the subcommittee on Public Welfare, suggested their meeting place for April twelfth be changed from the Senate Lounge to the East Baton Rouge School Board, and the members agreed. The April 11, 1973 meeting will remain in the Senate Lounge.

Several members requested that the minutes of the different

subcommittees be mailed to all the other members of the Committee of the Whole so that all can be cognizant of the proceedings of each.

The members agreed that the final rough drafts of proposals of the Committee of the Whole be ready by June 13, 1973. This will allow the committee to make any revisions and have the proposals in final form by June 20, 1973, for mailing to the delegates of the convention.

Mr. Flory suggested that each subcommittee mail any proposals to all members of the Committee of the Whole before the Committee of the Whole meetings so they can be ready for discussion.

The chairman informed the members that the Composite Committee, composed of the chairmen of all the convention committees, will make a tour of the state beginning April 18, and ending April 27, 1973. He will not be able to attend the April nineteenth, April twenty-third, and April twenty-sixth meetings. He asked for someone from the areas to be visited, New Orleans, Lake Charles, and Monroe, respectively, to appear for him. Mr. Rachal will represent Mr. Aertker on the nineteenth of April in New Orleans at the City Library from 9:00 a.m. to 12:00 noon. Mr. Thistlewaite will represent Mr. Aertker at the meeting in Lake Charles on April twenty-third in the Baker Auditorium at McNeese University, and Mr. Flory will substitute for Mr. Aertker on April twenty-sixth in Monroe at the Civic Center. The secretary from the

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research staff was asked to inform the Composite Committee of these changes in representation. All of the meetings, except the one scheduled April 19, 1973, will be held from 2-5 p.m. and 7-9 p.m. The other meetings are scheduled as follows: April seventeenth, Baton Rouge; April eighteenth and nineteenth, New Orleans; April twenty-third, Lake Charles; April twenty-fourth, Lafayette; April twenty-fifth, Alexandria; April twenty-sixth, Monroe; and April twenty-seventh, Shreveport.

The chairman asked Mrs. LeBlanc if she had a report for the Committee of the Whole as to possible conflicts with other committees, etc. Mrs. LeBlanc pointed out that the chairman will be receiving memos from the director of research. The first will ask for the specific subjects or provisions which the committee plans to consider; those which they do not plan to consider; and any provisions that the committee believes have not been specifically assigned to any substantive committee. The second will ask the committees to list those provisions which are obsolete; the constitutional provisions that are repeated verbatim in the statutes; and provisions that are repeated in the statutes in substance.

The chairman asked for the reports from the three subcommittees. Mr. Riecke, substituting for Mr. Carmouche, chairman of the subcommittee on Elementary-Secondary Education, presented a summary prepared by the research staff of the

meetings held March 20, 1973 and April 3, 1973. Each speaker appearing expressed certain views, and the summary pointed

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out the main points of each speech. Mrs. LeBlanc informed the Committee of the Whole that the subcommittee on Elementary-Secondary Education has planned meetings and hearings for April 10, 1973, and May 1, 1973. Mr. Aertker advised this subcommittee that they are entitled to schedule four more meetings.

Mr. Sutherland, chairman of the subcommittee on Higher Education, reported on meetings held March 20, March 21, and March 29, 1973. Minutes of these meetings were distributed to all those present. He stated that the members of his subcommittee want a joint meeting with the members of the subcommittee on Elementary-Secondary Education to go over overlapping points. Future meeting dates will be scheduled later today. Mr. Toca expressed the desire to hear from vocational and technical school people in reference to the structure of the boards, etc. He was asked to suggest people from these schools who could appear and he agreed to do so.

At this point, Mr. Leithman asked to go on record that he is waiving his per diem for the day. This has been duly noted in the minutes.

Mr. Landry raised the question of dedicated funds and wondered if perhaps the Committee of the Whole had reached a point where it could come to a consensus. Mr. Thistlewaite stated that there are three major dedicated funds: one, the severance tax for education; two, the gas tax for highways; and three, the sales tax for welfare. Since these funds are

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never enough, generally misunderstood, and the legislature always has to go to the general fund and appropriate additional funds, he feels they should be removed from the constitution. Mr. Silverberg, Mr. Toca, and Mr. Aertker agreed. The chairman indicated that Mr. Landry has a valid point in trying to settle some of the conflicting points their committee must deal with before June 1, 1973. Mr. Silverberg asked the research staff to ascertain if any other committee is involved with dedicated funds. He also requested that the research staff provide the committee with the percentage and dollar amount of dedicated funds for education found in the constitution and the statutes. Mrs. LeBlanc informed the committee that the Revenue, Taxation, and Finance Committee is looking very closely at the subject of dedicated funds and noted the research request.

Mr. Silverberg pointed out that the limitations which Act 1972, No. 2 places upon the convention as it relates to the terms of office or elimination of offices by new constitutional provisions is unenforceable if the constitution is approved by the people.

As to Act 1972, No. 712, it can be delayed by a concurrent resolution.

After a luncheon recess, the Committee of the Whole reconvened and Mr. Rachal, chairman of the Public Welfare subcommittee, gave his report. The March 21, 1973 meeting was devoted to organization and planning of future meetings. The

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March 28, and March 29, 1973 meetings were devoted to hearings from business, labor, industry, and consumer affairs. The summary of the presentations made is attached hereto and made a part of the minutes. The consumer affairs representatives want something more definite in the constitution to protect the consumer. Hearings on civil service are scheduled for April 5, 1973, and further hearings for those missed will be held on the morning of April 11, 1973, with the afternoon devoted to deliberations of the subcommittee members. Mr. Lennox stated he had done some research on the Montana Consumer Counsel provision and had found that all utilities are under one state agency. Therefore, the provision does not seem feasible for Louisiana. The ten-year tax exemption for industry was discussed and it was indicated that this is another area where there is conflict among members of the Committee of the Whole.

A general discussion followed and the members all agreed that even though each subcommittee is having hearings, once the Committee of the Whole publishes the proposals reached on controversial issues, the public will clamor to be heard again, particularly those opposed to the suggested proposals.

The chairman once more pointed out that each subcommittee is to come up with a timetable and agenda for future meetings to present to all members of the Committee of the Whole. He asked if any subcommittee knew of any expenditures they might have, other than meetings, such as materials and supplies, speakers with expertise on a particular subject, etc.

At the end of the meeting Mr. Haynes asked for the floor. He reminded all the members that this was the anniversary of the death of Martin Luther King. He requested that this convention in the

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name of Martin Luther King, refrain from excluding or denying anyone of rights and that all strive for the advancement of all people regardless of race, color, creed, ethnic origin, or sex.

The future Committee of the Whole meetings will be at the East Baton Rouge School Board Office.

At 2:15 p.m., there being no further business, Mr. Robinson moved that the meeting be adjourned and Mr. Sutherland seconded the motion, which passed unanimously.

Robert Aertker, Chairman

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## NOTES

Addendum omitted is reproduced below in Chapter II as Staff Memo No. 3.

## MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973  
Held pursuant to notice mailed by the Secretary of the Convention on April 4, 1973

East Baton Rouge Parish School Board  
1050 South Foster, Baton Rouge, Louisiana  
April 12, 1973, 1:00 p.m.

Presiding: Robert Aertker, Chairman of the Committee on Education and Welfare

Present:	Absent:
Mr. Flory	Mr. Armentor
Mr. Grier	Mr. Leithman
Mr. Hernandez	Mr. Segura
Mr. Landry	
Mr. Lennox	
Mr. Silverberg	
Mr. Thistlewaite	
Miss Wisham	
Mrs. Corne	
Mr. Cowen	
Mr. Riecke	
Mr. Carmouche	
Mr. Haynes	
Mr. Rachal	
Mr. Sutherland	
Mr. Toca	
Mr. Robinson	

The chairman called the meeting to order at 1:30 p.m. Mr. Sutherland called the roll and a quorum was present. After a reading of the minutes, corrections were noted and the minutes were ordered adopted as corrected.

The chairman informed the members that the State Board of Education is going to request that the legislature postpone the effective date of Act 712 until the new constitution is either accepted or rejected.

The chairman then called for reports from the subcommittees. Mr. Carmouche of the Subcommittee on Elementary-Secondary Education reported that three public hearings have been held and various groups have been present. A fourth public hearing will be held April 24, 1973. After that date, the subcommittee hopes to start writing proposals with the research staff's assistance.

Mr. Sutherland, chairman of the Subcommittee of Higher Education reported it had met April 11, 1973, and discussed all proposals submitted to date. In the afternoon, the subcommittee heard Emmitt Douglas of the NAACP; representatives of the Coordinating Council for Higher Education; a member of the LSU Board of Supervisors, and Jesse Bankston of the State Board of Education. Mr. Bankston presented a new plan which combined previous proposals presented. The subcommittee met with the Subcommittee on Elementary-Secondary Education on April 12, 1973, in the morning, and planned a second joint



meeting for April 17, 1973 since no conclusions were reached.

Mr. Joe Smith, at the request of the Subcommittee on Higher Education attended the meeting of the State Board of Education and reported that the board did not act on the proposal to be presented to the subcommittee, and that the board deferred action on Act 712.

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Mr. Aertker stated that the minutes of the joint meeting held April 4, 1973 of the Subcommittees of Higher Education and Elementary-Secondary Education were sent to all members and are now a matter of record.

Mr. Rachal, chairman of the Subcommittee on Public Welfare reported it had met April 5, 11, and 12, 1973. The minutes have been delayed due to corrections and they will be mailed later. The chairman feels the subcommittee has identified the salient issues of civil service which are: 1. burden of proof; 2. nomination of commission members; autonomy of commission; 3. rule of three, testing, and examinations. The subcommittee reached general consensus that the civil service system should be retained in the constitution and that funding should be assured. April 25, 1973 has been set for further discussion of the hearings and review of the draft proposals prepared by the research staff.

The chairman asked Mrs. LeBlanc to explain the memorandum given to the members of the Committee of the Whole. Mrs. LeBlanc stated the memorandum contained three parts. Part one is articles which were assigned to the committee. Part two is articles on the subject of retirement which has not been assigned. Part three is articles which overlap areas with other committees. The subject of penal and correctional institutions was referred to the Subcommittee on Public Welfare. The memorandum will be presented to the director of research with the committee's

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approval. She, in turn, will submit it to the Coordinating Committee, who will make the decisions as to additional assignments, and directions will be given for handling the overlapping responsibilities.

Mr. Riecke requested that Article XII, Section 16 be solely assigned to the Committee on Education and Welfare. It was pointed out that the article is included in the committee's assignment but because of the nature of the subject matter there is an overlap of responsibility. After a discussion it was decided that a request would be made to the Coordinating Committee that the Committee on Education and Welfare be allowed to submit a proposal on Article XII, Section 16.

Mr. Silverberg moved that the chairman inform the Coordinating Committee that the Committee on Education

and Welfare would like for it to designate and assign particular subject areas to one committee so that one recommendation would be forthcoming from the convention. Mr. Riecke seconded the motion and it passed unanimously.

Mrs. LeBlanc asked for a firm statement on the subject of penal and correctional institutions. This had been presented to the Coordinating Committee for a decision but no answer had been received to date. The Subcommittee on Public Welfare agreed to take the area, as well as the area of retirement, and would welcome assistance from the other subcommittees.

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The chairman mentioned that one of the items of discussion at the last meeting was dedicated funds and Mr. Smith was asked to research the subject. Mr. Smith stated the matter is being reviewed by tax experts and it would be in the mail over the weekend. Mr. Aertker asked that it be put on the agenda for the May 3, 1973 meeting of the Committee of the Whole. Mr. Smith stated that Mr. Perlman, budget officer, and Mr. Maciasz, treasurer's office, said that anywhere from seventy-one percent to eighty-two percent of all state revenues are dedicated in some way.

There being no further business, Mr. Robinson moved the meeting be adjourned. Mr. Sutherland seconded it, and the chairman so ordered.

  
Robert Aertker, Chairman

#### MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973.

Held pursuant to notice mailed by the Secretary of the Convention on April 25, 1973.

East Baton Rouge Parish School Board Building

Thursday, May 3, 1973, 10:00 a.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Gordon Flory  
Bill P. Grier  
F. E. "Pete" Hernandez  
Eual J. Landry, Sr.  
Kenneth Leithman  
Edward N. Lennox  
Joe Silverberg  
John Thistlethwaite  
Mary Wisham  
Heloise Corne  
Ralph Cowen  
Louis G. Riecke, Sr.  
Norman Carmouche  
J. K. Haynes  
Anthony Rachal  
Rep. Harold Toca  
Horace Robinson  
Perry Segura

Absent: Minos H. Armentor  
Matthew Sutherland

The Committee on Education and Welfare met in a one-day session at the East Baton Rouge Parish School Board office on Thursday, May 3, 1973.

The chairman called the meeting to order at 10:00 a.m. The secretary called the roll and a quorum was present. After reading of the minutes of the previous meeting, corrections were noted and the minutes were ordered adopted as corrected.

The chairman noted the presence of representatives of the Student Government Association. Stephen Spring, president of the Student Government Association of the University of Southwestern Louisiana was the first representative to speak. A copy of his presentation is attached hereto and made a part of these minutes.

Charles Yeager, president of the student body at LSU, was next to appear before the committee. Mr. Yeager also submitted a written statement, a copy of which is attached hereto and made a part of these minutes.

Steve LaRussa, president of the Student Government Association at Nicholls State University, and Mike Klein, president of the Student Government Association at Southeastern Louisiana University, also appeared before the committee. Both representatives said that they agree with the two previous statements, and submitted a written statement to this effect, a copy of which is attached hereto and made a part of these minutes.

Following these presentations, the chairman reviewed the articles and sections of the present constitution which were assigned to the Committee on Education and Welfare by the Coordinating Committee at a meeting on Wednesday, May 2, 1973, after which he turned his attention to the agenda for the day.

The first item was a review of the reports by each of the subcommittees. In the absence of Mr. Sutherland, chairman of the Subcommittee on Higher Education,

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Mr. Joe L. Smith, senior research assistant, was directed to summarize the proposal submitted by the subcommittee. In his summary, Mr. Smith said the subcommittee recommends a board of regents consisting of 16 members, appointed, two from each congressional district, for six-year terms. This board would have broad planning and coordinating functions to include budgetary responsibility, as well as the responsibility to create a master plan to include a formula for the equitable distribution of funds to the institutions of higher education.

There should be a board of supervisors for LSU, consisting of 16 members, appointed, two from each congressional district, for six-year terms. This board would have management responsibility for the LSU system.

There should be a board of trustees for the state

colleges and universities, consisting of 16 members, appointed, two from each congressional district, for six-year terms. This board shall have management responsibility for the state colleges and universities.

A copy of the proposal submitted by the Subcommittee on Higher Education is attached hereto and made a part of these minutes.

With the completion of Mr. Smith's statement, the chairman reviewed the recommendation of the joint meeting of the Subcommittees on Elementary and Secondary Education and Higher Education. He said that there would be a separate board called the state board of education,

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which would have the responsibility of dealing with all of elementary and secondary education. There would be a separate board for higher education, called the board of regents, which would have the responsibility for the coordination, programs, and budgets of all institutions of higher learning in the state. Under the board of regents, there would be a board of supervisors responsible for the management problems of the LSU system and agencies presently assigned to it. There would be a board of trustees responsible for the operation of all other institutions of higher learning in the state. The control and operation of vocational-technical education at the post-secondary level would either be under the board of regents or a separate board established for that purpose. Mr. Aertker was reading from the flow chart of the Hood plan, a copy of which is attached to the minutes of the joint meeting of the Subcommittees on Elementary-Secondary Education and Higher Education, dated April 17, 1973.

Mr. Kenneth Leithman submitted a proposal for a system of public education. He explained the diagram on the last page of the proposal. Mr. Leithman's proposal recommends one board of education for all education in the State of Louisiana. This board would be comprised of 22 members, two elected from each congressional district and six appointed by the governor. This board shall be comprised of two components, the board of regents for higher education, consisting of eleven members, and the

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elementary and secondary board, including special education and vocational-technical training, consisting of eleven members. Each of the two boards would elect its own chairman. Under the board of regents is a commissioner for higher education, appointed by the board of regents. Under the elementary and secondary board is a superintendent, appointed by the elementary and secondary board. Under the board of regents would be a board of trustees

for each university in the state. The board of regents and the elementary and secondary board would combine and present a unified budget. A copy of Mr. Leithman's proposal is attached hereto and made a part of these minutes.

After a lengthy discussion of Mr. Leithman's proposal, the chairman suggested that the committee recess for lunch.

The afternoon session of the meeting was held at the IRC Veranda Room. The chairman called the meeting to order at 1:15 p.m. The secretary called the roll and a quorum was present.

The chairman recognized Mr. Gordon Flory. Mr. Flory offered a motion to the effect that the committee, in the future, consider the subcommittee reports on the various subject matters assigned to the committee, prior to discussions of individual delegate reports. Miss Wisham seconded the motion. The chairman called for the previous question and the motion was unanimously adopted.

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The committee then continued to hear reports from the subcommittees. Mr. Rachal gave the report of the Subcommittee on Public Welfare. He noted that on the previous day, the subcommittee met and discussed several proposals. Each member of the Committee of the Whole was given a copy of Staff Memo No. 10 of the Subcommittee on Public Welfare, which reflects the proposals, the subject matter, and the action taken on each proposal. A copy of Staff Memo No. 10 is attached hereto and made a part of these minutes.

With the completion of Mr. Rachal's report. Mr. Lennox moved that proposals No. 6, 7, 16, 17, 18, 19, 22, and 26 of the Subcommittee on Public Welfare be considered by the Committee on Education and Welfare, that the actions and recommendations of the subcommittee be ratified, and that appropriate action be taken on said proposals by the Committee of the Whole at this time. Mr. Hernandez seconded the motion.

For the benefit of the Committee of the Whole, the chairman asked Mr. Lennox to briefly summarize the content of the proposals referred to in his motion.

After further discussion of Mr. Lennox's motion, Mr. Hernandez called for the previous question and a roll call vote was taken. The results were as follows:

Mr. Flory	yes
Mr. Grier	yes
Mr. Hernandez	yes
Mr. Landry	no
Mr. Lennox	yes
Mr. Silverberg	yes
Mr. Thistlethwaite	yes

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Miss Wisham	yes
Mrs. Corne	no
Mr. Cowen	yes

Mr. Riecke	yes
Mr. Carmouche	no
Mr. Haynes	yes
Mr. Rachal	yes
Mr. Toca	no
Mr. Robinson	yes
Mr. Leithman	(absent at the time of the vote)
Mr. Segura	yes

The motion carried by a vote of 13 to 4.

Mr. Toca asked that the minutes reflect the reason for his having voted "no". Mr. Toca said that he would like to be given an opportunity to further study the proposals mentioned in the motion.

Mr. Aertker advised the committee that the Executive Committee had scheduled a meeting at 10:00 a.m., Tuesday, May 8, 1973, which was also the date for the next meeting of the Committee on Education and Welfare. For this reason he suggested that the Committee on Education and Welfare meet at 1:00 p.m. instead of 10:00 a.m. as originally scheduled. Mr. Flory offered a motion to that effect. With no objection from the other members of the committee, the chairman so ordered.

The next subcommittee report heard was that of the Subcommittee on Elementary and Secondary Education, Mr. Carmouche asked Mrs. Audrey LeBlanc, research coordinator, to present the report to the committee. The proposal provided for the creation and establishment of a system of elementary and secondary education. It also provided for the establishment of a state board of elementary and

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and secondary education and a state superintendent of public elementary and secondary education. After the presentation, the chairman asked each member of the committee to review the report in order that some action may be taken on it at the next meeting.

Mr. Haynes asked to be recognized in order that he may offer some changes to the proposal. On page 1, paragraph 1, Mr. Haynes suggested that the word "education" on line 12 thereof be deleted and the words "equal educational opportunity" be inserted in its place. Mr. Haynes also felt that there should be guarantees of minority representation in the composition of the state board of elementary and secondary education. On dedication of severance taxes to public education, Mr. Haynes asked that the committee delay action on this matter until the Committee on Revenue, Finance and Taxation has had a chance to make a report.

Mr. Haynes submitted a minority report, after which Mr. Segura moved that the report of the Subcommittee on Elementary-Secondary Education be received, along with Mr. Haynes' minority report, and further that the Committee on Education and Welfare receive any other report from any other delegate. The chairman called for the previous question and the motion was unanimously adopted.

Due to the fact that Mr. Aertker was to attend a

meeting of the East Baton Rouge Parish School Board, he asked Mr. Rachal to take the chair.

Mr. Rachal asked if there were any other reports

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to be heard. Mr. Silverberg of the Subcommittee on Higher Education pointed out that all members of the committee now had a copy of the higher education proposal. After a brief discussion, Mr. Flory asked the research staff to prepare a flow chart to correspond with what was in the proposal. Mr. Flory moved that the proposal of the Subcommittee on Higher Education be received for subsequent discussion. With no objection from the members of the committee, the chairman so ordered.

There being no further business to come before the committee, Mr. Lennox moved that the meeting adjourn and Mr. Robinson seconded the motion. The meeting adjourned at 3:30 p.m., Thursday, May 3, 1973.

*Robert Aertker*  
Robert Aertker, Chairman

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Dear *Deliquis Seithman*

With the advent of the Constitutional Convention 1973, Louisiana has a climate of possible change which can improve, maintain, or impair the present status quo.

Regarding Louisiana's system of higher education governance, the convention has the power to change the system, if this is needed.

After corresponding with various State Departments of Education within the nation, the Student Government Association of the University of Southwestern Louisiana received facts and figures on how other states govern higher education. These facts and figures were indeed enlightening and it is hoped that upon your appraisal, you, also, shall find them as interesting as we have found them.

The Education Committee of the Constitutional Convention has done a magnificent job in formulating a plan of governance which is now named the Aertker proposal after Chairman Aertker of the Education Committee. There are two stipulations contained within the proposal which have brought much controversy, however. The proposal establishes the Board of Regents, the Board of Trustees for State Colleges and Universities, and the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College. The major contention supporting this divided system of governance which we have known from its proponents is that one board cannot coordinate and merge all these universities effectively. With all due respect to the Committee delegates, after investigation, this foundation seems fallacious. To support the contention that higher education should be governed by one Board of Regents which would include all institutions of higher education under its auspices, we offer our findings.

TEXAS

The Texas System of governance is the Coordinating Board.

Each institute has its own Board of Trustees which are directly responsible to the Coordinating Board. The single board, the Coordinating Board, is responsible for 480,000 students, 44 public community junior college districts operating on 59 campuses, 22 public senior colleges and universities, and 6 medical and dental units. The Coordinating Board is composed of 18 members and has been operating since 1967 as a result of legislative act.

\* Information from HIGHER EDUCATION COORDINATING ACT OF 1965 (Amendments through the 61st Legislature, 1969, included)

2. WISCONSIN

Wisconsin's system of governance includes two boards: one for the University of Wisconsin system and one for vocational-technical

*Bd of Regents  
Ref to  
Coord Comm  
14 members  
Stat. 1965*

*1 Bd for U of Wisconsin  
1 Bd for Voc Tech  
Stat 1971*

institutes, and is the fourth largest in the nation. The University of Wisconsin system consists of 133,792 students, 13,535 faculty members and 13 degree institutions with 14 freshman-sophomore extension institutes. The entire University of Wisconsin system is governed by one board of education originally composed of eight members from the University of Wisconsin board and eight members of the Wisconsin State Universities' board is being decreased gradually to 14 members. This merger occurred as a result of legislative act in 1971.

\* Information from University of Wisconsin System publications entitled, Introducing the New University of Wisconsin System.

3. GEORGIA

Georgia's system of governance has been in operation since 1931 under legislative act; however, in 1943 the Board of Regents became a constitutional body of 15 members, one member from each of ten congressional districts and five members from the state at large. The Board of Regents is responsible for: four universities, 12 senior colleges, 12 junior colleges, one division of an institution with authorized future colleges totalling 7. The student enrollment of these institutions total 105,892 as of fall quarter 1972 and a projected enrollment of 125,000 by 1975.

*Bd of Regents  
15 members, const.*

4. As of October 1, 1972 the State Board system of Louisiana had an enrollment of 74,863 under both four year and two year institutions while the L.S.U. system had as of October 1, 1972 an enrollment of 39,542. After viewing the state systems enumerated in 1, 2, and 3 it would seem to negate the contention that one board cannot merge these schools efficiently for it is being done at this very moment at other schools.

The second stipulation of the Aertker proposal is having the three boards of higher education all appointed by the governor. We feel that education boards would be more accountable and responsive to the needs of the people, if members were elected for short periods of time--four to six year terms. We contend 14 years of tenure tends to impair responsiveness.

In all fairness, most Boards of Regents on similar bodies have been created by legislative act and most members are appointed. Attached to this letter are various newspaper articles which have appeared in the state and also the plans of other states, submitted for your perusal.

I truly hope that this information will be of service to you in rendering a decision upon the state's higher educational system.

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Thank you for this opportunity to express the feelings of the Student Government at U.S.L.

As always, I remain

Respectfully yours,  
*Stephen Spring*  
Stephen Spring  
President  
U.S.L. Student Government Association

NOTES

The following attachments to Stephen Spring's letter have been omitted: an outline of the higher education structure of the states of Alaska, Florida, Georgia, Kentucky, Montana, Nebraska, New Mexico, North Carolina, South Carolina, South Dakota, Texas, and Wisconsin; and a collection of press clippings relative to student opposition to the "Aertker Plan".

*Higher Education Comm.*

*A Plea for Student Representation on University Governing Boards*

*The most fundamental precepts of democracy support Student Representation on University Governing Boards. Government by just consent of the governed is such a precept. No taxation without representation is another.*

The operations of the existing system are marked by a grave lack of communication. Students are denied participation in administrative review of rules which govern them. The pressures thus created are potentially explosive, as demonstrated by recent events at Southern University in Baton Rouge. Even when they do not result in violence, the pressures thus generated must find an outlet. Sometimes the result is expensive and embarrassing litigation, but, since an essential feature of the judicial process is the deliberate ~~deliberate~~ speed with which it responds, the pressure often continues to build until it results in potentially disruptive student demonstrations. Further, since the courts often refuse to hear a case until all administrative remedies have been exhausted, it will be seen that nothing but student representation on governing boards will enable students to effectively surmount administrative remedies.

It must be added also that nothing has greater potential to relieve the root causes of student unrest than student representation on University governing boards.

It must further be noted that what we are asking is not student control of University boards merely student representation on them. The student's vote would be but a mere formality, but his presence would open a direct line of communication between the accusers and

the governed, and insure that an effective procedure for airing student grievances before they become demonstrators demands.

The real question which this proposal could be implemented are matters which have been the consideration of this committee, for the arguments presented herein do not concern themselves with what system since one be adopted for University governance, but with fundamental principles of government which should underlie any system of University governance in a democratic society.

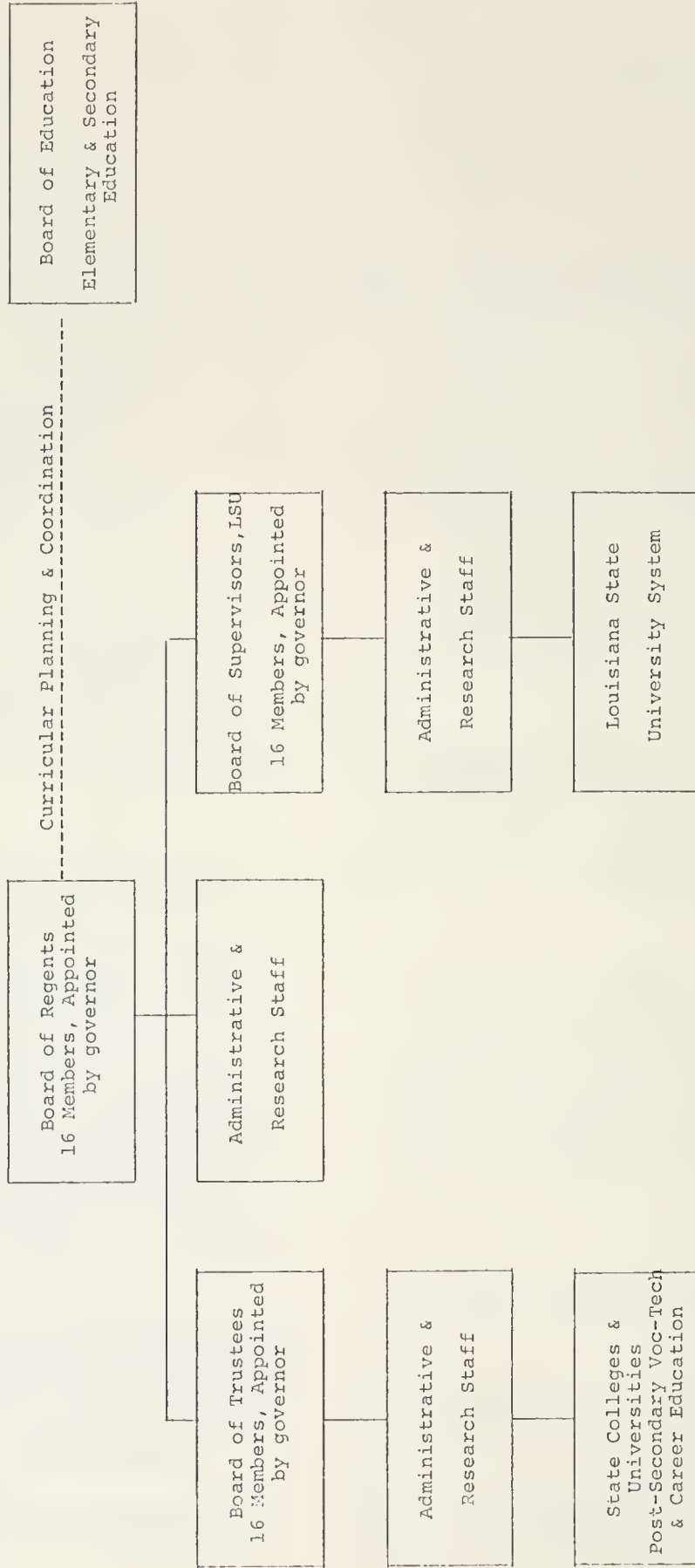
Chad Yeager  
Student Body /  
President

we hereby attest that  
we are in agreement  
with the submitted  
statement.

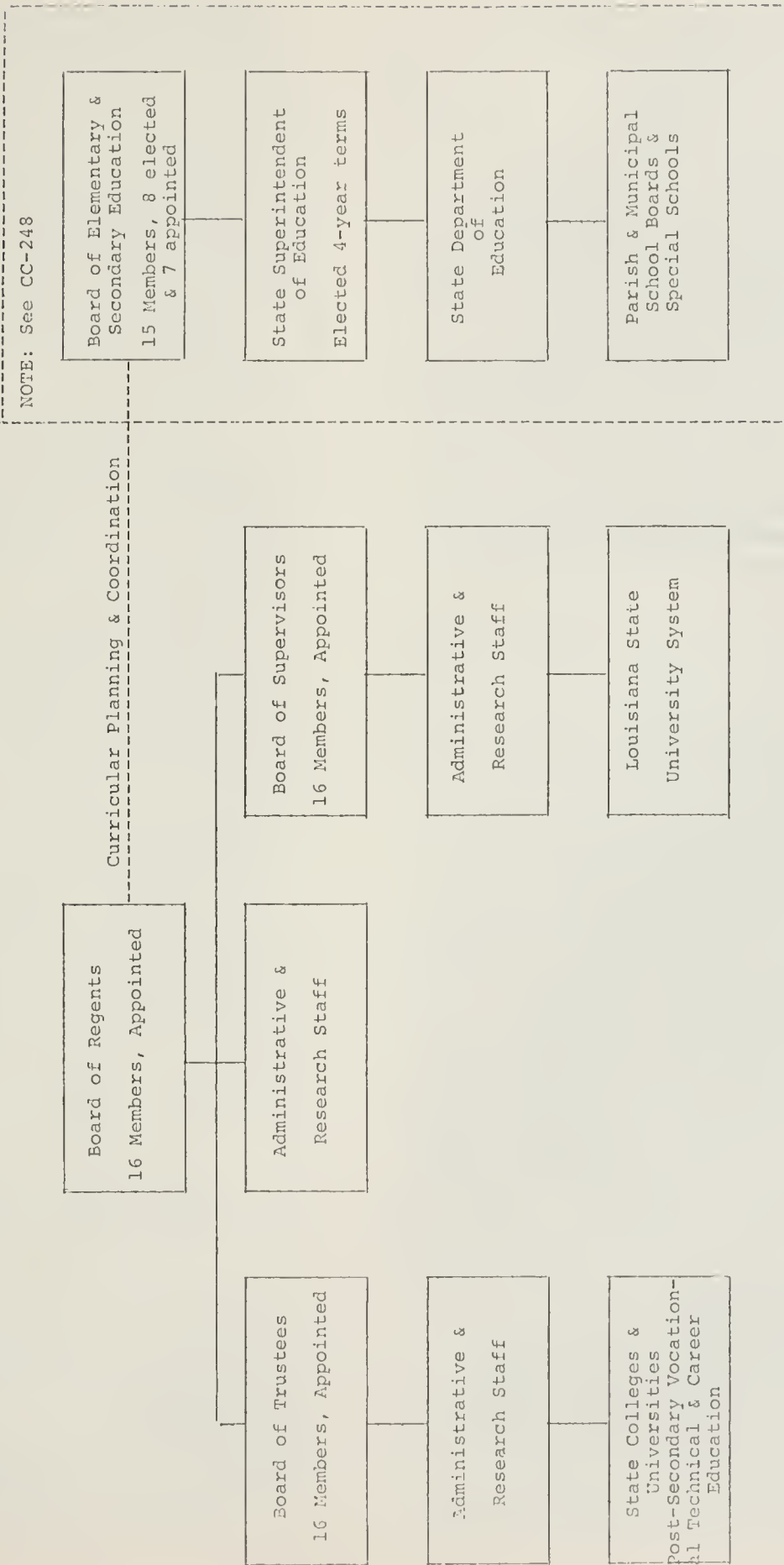
Steve LaRocca  
President - Nichelle State Univ.

Frank Klein  
SGA Pres. Southeastern Univ.

Higher Education Sub-Committee Proposal  
(Sutherland)



Higher Education Proposal (Sutherland)



3 Introduced by Chairman Sutherland

4 A PROPOSAL

5 For a system of higher education

6 PROPOSED SECTIONS:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. Board of Regents

8 A. There shall be a body corporate known as the  
9 "Board of Regents" which shall plan, coordinate, and have  
10 budgetary responsibility for all public higher education.  
11 It shall have such other specific powers, duties, and re-  
12 sponsibilities as are provided in this section.

13 B. The board shall consist of sixteen members to be  
14 appointed by the governor for six-year terms, by and with  
15 the advice and consent of the Senate. All appointments,  
16 including those made to fill vacancies, shall be made in  
17 such a manner that there shall be two members of the board  
18 who are residents of each congressional district, as each  
19 district is constituted at the time of each appointment.

20 C. The legislature shall provide for a system of  
21 overlapping terms.

22 D. The board shall have the following powers, duties,  
23 and responsibilities with respect to all public institutions  
24 of higher education and post-secondary vocational-technical  
25 training and career education:

26 1. To revise or eliminate any existing degree program,  
27 department of instruction, institute, school, division, or  
28 similar subdivision.

29 2. To approve, disapprove, or modify any new degree  
30 program, department of instruction, institute, school, divi-  
31 sion, or similar subdivision sought to be inaugurated.

32 3. To study the need for and feasibility of any new  
33 institution of post-secondary education. If the creation of  
34 a new institution is proposed, or an additional management  
35 board for an institution or group of institutions is proposed,  
1 or a proposal is made to transfer an existing institution  
2 from one board to another, the board shall report its find-  
3 ings and recommendations within one year to the legislature,  
4 governor, and public, and only after such written report has  
5 been filed, or if no report is filed within one year, the  
6 legislature may take affirmative action on such a proposal  
7 by vote of two-thirds of the membership of each house. This  
8 subparagraph shall apply to branches of institutions and  
9 conversion of two-year institutions to institutions offering  
10 longer courses of study.

11 4. To formulate and make timely revision of a master  
12 plan for higher education and post-secondary vocational-  
13 technical training and career education in the state. As  
14 a minimum the master plan shall include a formula for the  
15 equitable distribution of funds to the institutions of higher  
16 education of the state.

17 5. To require the Board of Supervisors of Louisiana  
18 State University and Agricultural and Mechanical College,

19 the Board of Trustees for State Colleges and Universities,  
20 and any board created by or pursuant to this section to  
21 submit to it, at times specified by it, their annual budget  
22 proposals for the operational and capital needs of each  
23 institution under their respective control. The Board of  
24 Regents shall submit to the legislature, not later than the  
25 opening day of each regular session, its recommendations on  
26 budgets for all institutions of public higher education and  
27 post-secondary vocational-technical training and career  
28 education in the state. It shall recommend priorities for  
29 capital construction and improvements.

30 E. The board shall have planning and coordinating  
31 responsibilities as it relates to the elementary and secondary  
32 educational curricula.

33 F. Appropriations by the legislature for operational  
34 and capital projects of institutions of higher education  
35 and post-secondary vocational-technical training and career  
1 education shall be made to the institutions. The appropri-  
2 ations shall be administered by the respective governing  
3 boards and applied to the internal operations of the insti-  
4 tutions under their control.

5 G. All powers over public institutions of higher edu-  
6 cation and post-secondary vocational-technical training and  
7 career education not specifically vested in the Board of  
8 Regents by this section are reserved to the Board of Super-  
9 visors of Louisiana State University and Agricultural and  
10 Mechanical College and to the Board of Trustees for State  
11 Colleges and Universities as to the institutions under their  
12 respective control or to any board which may be created by  
13 or pursuant to this section.

14 H. Any vacancy occurring prior to the expiration of  
15 the term of a member for whatever reason, when there is  
16 less than two years of such member's term then remaining,  
17 shall be filled by appointment by the governor for the re-  
18 mainder of the unexpired term. Any such vacancy so occurring  
19 when there are two or more years of such member's term then  
20 remaining shall be filled for the remainder of the unexpired  
21 term by appointment by the governor, by and with the advice  
22 and consent of the senate.

23 I. The legislature shall appropriate the necessary  
24 funds for the operation and maintenance of the Board of  
25 Regents, Board of Supervisors, Board of Trustees, and any  
26 other board(s) created by or pursuant to this article together  
27 with their respective administrative and research staffs.

28 J. The members of the Board of Regents, Board of  
29 Supervisors, Board of Trustees, and any other board(s)  
30 created by or pursuant to this article shall serve without  
31 pay, except for such per diem and expenses as shall be fixed  
32 by the legislature.

33 K. No officer, employee, or faculty member of any  
34 component of the public education system, or their spouses  
35 shall be eligible for membership on a board.

1 L. An appropriate number of citizens from the predom-



2 inant minority rate of the state shall be included on the  
3 Board of Regents, Board of Supervisors, Board of Trustees  
4 and any other board(s) created by or pursuant to this  
5 section.

7 Article \_\_\_\_\_, Section \_\_\_\_\_. Board of Trustees for State  
8 Colleges and Universities

9 A. There shall be a body corporate known as the "Board  
10 of Trustees for State Colleges and Universities" which, sub-  
11 ject to the powers granted the Board of Regents in this  
12 article, shall have the following authority: (1) Supervision  
13 and control of all state colleges and universities except  
14 those included under the control of the Board of Supervisors  
15 of Louisiana State University and Agricultural and Mechanical  
16 College, and any other board(s) created by or pursuant to  
17 this article, and (2) supervision and control of all public  
18 institutions of vocational-technical training and career  
19 education at post-secondary levels, unless and until the  
20 legislature shall provide otherwise.

21 B. The board shall consist of sixteen members to be  
22 appointed by the governor for six-year terms, by and with  
23 the advice and consent of the Senate. All appointments,  
24 including those made to fill vacancies, shall be made in  
25 such a manner that there shall be two members of the board  
26 who are residents of each congressional district, as each  
27 district is constituted at the time of each appointment.

28 C. The legislature shall provide for a system of  
29 overlapping terms.

30 D. Any vacancy occurring prior to the expiration of  
31 the term of a member for whatever reason, when there is  
32 less than two years of such member's term then remaining,  
33 shall be filled by appointment by the governor for the  
34 remainder of the unexpired term. Any such vacancy so  
35 occurring when there are two or more years of such member's  
1 term then remaining shall be filled for the remainder of  
2 the unexpired term by appointment by the governor, by and  
3 with the advice and consent of the Senate.

4 E. Except as provided for in this section, at least  
5 nine members of the board shall be graduates of the insti-  
6 tutions under the control of the board.

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Board of Supervisors of  
9 Louisiana State University and Agricultural and  
10 Mechanical College

11 A. There shall be a body corporate known as the  
12 "Board of Supervisors of Louisiana State University and  
13 Agricultural and Mechanical College" which, subject to the  
14 powers granted to the Board of Regents in this article,  
15 shall govern, direct, control, supervise, and manage the  
16 institutions and statewide agricultural and medical programs  
17 included in the Louisiana State University and Agricultural  
18 and Mechanical College system.

19 B. The board shall consist of sixteen members to be

70 appointed by the governor for six-year terms, by and with the  
21 advice and consent of the Senate. All appointments, including  
22 those made to fill vacancies, shall be made in such a manner  
23 that there shall be two members of the board who are resi-  
24 dents of each congressional district, as each district is  
25 constituted at the time of each appointment.

26 C. The legislature shall provide for a system of  
27 overlapping terms.

28 D. Any vacancy occurring prior to the expiration of  
29 the term of a member for whatever reason, when there is  
30 less than two years of such member's term then remaining,  
31 shall be filled by appointment by the governor for the  
32 remainder of the unexpired term. Any such vacancy so  
33 occurring when there are two or more years of such member's  
34 term then remaining shall be filled for the remainder of  
35 the unexpired term by appointment by the governor, by and  
1 with the advice and consent of the Senate.

2 E. Except as provided for this section, at least nine  
3 members of the board shall be graduates of the Louisiana  
4 State University and Agricultural and Mechanical College  
5 system.

6  
7 Source: New.

8  
9 Comment: Provides for a system of higher education to in-  
10 clude all public institutions of higher education and  
11 post-secondary vocational-technical training and career  
12 education. A Board of Regents with board planning,  
13 coordinating, and budgetary responsibilities for all  
14 public higher education is established. Subordinate to  
15 the Board of Regents but responsible for the management  
16 of institutions under their control are the Board of  
17 Supervisors, Board of Trustees, and any other board(s)  
18 created by or pursuant to the section on the Board of  
19 Regents. Appropriate provisions are included for the  
20 selection of the members of the boards, terms of office,  
21 minority representation, methods of filling vacancies,  
22 and board composition. See La. Const. Art. XII (1921).

1 Constitutional Convention of Louisiana 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Delegate Leithman

4 A PROPOSAL

5 For a system of public education

6 PROPOSED SECTIONS:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. State Board of Education

8 Section \_\_\_\_\_. A. There shall be a body corporate  
9 known as the "State Board of Education" which shall be  
10 composed of the Board of Regents for higher education  
11 and the Board of Public Education for kindergarten, ele-  
12 mentary, and secondary education. The state board shall  
13 be responsible for long-range planning, coordination  
14 and the evaluation of policies and programs, and submission  
15 of unified budget requests for the state education system.

16 It shall have such other specific powers, duties, and  
17 responsibilities as are provided in this article.

18 B. The state board shall consist of twenty-two  
19 members, eleven members each from the board of regents  
20 and the board of public education. The state board shall  
21 elect a chairman to serve for such term as it may deem  
22 appropriate.

23 Article \_\_\_\_\_, Section \_\_\_\_\_. Board of Regents

24 Section \_\_\_\_\_. A. There shall be a body corporate  
25 known as the "Board of Regents" which shall have full  
26 power and authority to supervise, coordinate, manage,  
27 and have budgetary responsibility for all public higher  
28 education including post-secondary vocational-technical  
29 training and career education except that the board may  
30 (shall) provide for boards of trustees, composed of five  
31 to seven members each, to manage each college, university,  
32 and university system.

33 D. The board shall consist of eleven members to  
34 serve six-year terms. One member shall be elected from  
35 each of the congressional districts as each district  
1 is constituted at the time of the election and the re-  
2 maining members shall be persons of the predominant  
3 minority race appointed by the governor, by and with  
4 the advice and consent of the senate. The legislature  
5 shall provide for a system of overlapping terms. The  
6 board shall elect a chairman to serve for such terms  
7 as it may deem appropriate.

8 C. The board shall formulate and make timely revi-  
9 sions of a master plan for higher education and post-  
10 secondary vocational-technical training and career education.  
11 As a minimum, the master plan shall include a formula  
12 for the equitable distribution of funds to the institu-  
13 tions of higher education of the state.

14 D. The board shall require the boards of trustees  
15 of the colleges, universities, university systems, and  
16 any other institutions or schools under its supervision to  
17 submit to it, at times specified, their budgeted proposals for  
18 operational and capital needs. The board shall submit  
19 its recommendations regarding such proposals, to include  
20 recommended priorities for capital construction and improve-  
21 ments, to the state board of education for review. The  
22 state board shall submit to the legislature, not later  
23 than the opening day of each regular session, its recom-  
24 mendations on budgets for all institutions of public  
25 higher education and post-secondary vocational-technical  
26 training and career education.

27 E. The board shall appoint a commissioner of higher  
28 education who shall be the ex officio secretary of the  
29 board and serve as its chief administrative officer for  
30 four-year terms. The board shall prescribe his powers,  
31 duties, and responsibilities.

32 F. The legislature shall establish and appropriate  
33 the necessary funds for the operations and maintenance  
34 of the administrative and research staff of the board.

1 Article \_\_\_\_\_, Section \_\_\_\_\_. Board of Public Education

2 Section \_\_\_\_\_. A. There shall be a body corporate  
3 known as the "Board of Public Education" which shall super-

4 vise, control, and have budgetary responsibility for all  
5 public higher education, elementary, and secondary education  
6 including vocational technical training, career education,  
7 and special schools not included under the supervision  
8 and control of boards responsible for higher education.  
9 The board shall have such other specific powers, duties,  
10 and responsibilities as shall be provided for by the  
11 legislature except that the board shall not control the  
12 business affairs of parish and municipal school boards,  
13 nor the selection or removal of their officers or other  
14 employees.

15 B. The board shall consist of eleven members to  
16 serve six-year terms. One member shall be elected from  
17 each of the congressional districts as each district is  
18 constituted at the time of the election and the remaining  
19 members shall be persons of the predominant minority race  
20 appointed by the governor, by and with the advice and  
21 consent of the senate. The legislature shall provide for  
22 a system of overlapping terms. The board shall elect a  
23 chairman to serve for such terms as it may deem appropriate.

24 C. The board shall require parish and municipal  
25 school boards and any other schools or institutions under  
26 its supervision to submit to it, at times specified, their  
27 budget proposals. The board shall submit its recommenda-  
28 tions regarding such proposals to the state board of education for  
29 review. The state board shall submit to the legislature,  
30 not later than the opening day of each regular session,  
31 its recommendations on budgets for all schools or institu-  
32 tions under the supervision of the board of public education.

33 D. The board shall prescribe the qualifications and  
34 provide for the certification of the teachers of schools  
1 and institutions under its supervision; it shall have  
2 authority to approve private schools who sustained curri-  
3 culum is of a grade equal to that prescribed for similar  
4 public schools of the state; and the certificates or dip-  
5 lomas issued by such private schools so approved shall  
6 carry the same privileges as those issued by the state's  
7 schools.

8 E. The board shall appoint a superintendent of educa-  
9 tion who shall be the ex officio secretary of the board  
10 and serve as its chief administrative officer. The board  
11 shall prescribe his term of office and his powers, duties,  
12 and responsibilities.

13 F. The legislature shall appropriate the necessary  
14 funds for the operations and maintenance of the state  
15 department of education which shall be the administrative  
16 and research staff of the board.

17 G. The legislature shall provide for the creation  
18 and election of parish school boards which shall elect  
19 parish superintendents for their respective parishes, and  
20 such other officers or agents as may be authorized by the  
21 legislature. The board of public education shall fix the  
22 qualifications and prescribe the duties of parish superin-  
23 tendents who need not be residents of the parishes.

24 H. Parish and municipal school boards and systems  
25 in existence as of the date of this constitution are

26 recognized.

27 I. The local funds for the support of schools or  
28 institutions under the supervision of the board of public  
29 education shall be derived in such a manner and from such  
30 sources as provided for by the legislature.

31 Article \_\_\_\_, Section \_\_\_\_. Boards of Education, Miscellaneous

32 Section \_\_\_\_\_. A. A vacancy occurring prior to the  
33 expiration of the term of a member for whatever reason,  
34 when there is less than two years of such member's term then  
35 remaining, shall be filled by appointment by the governor

1 for the remainder of the unexpired term. Any such vacancy  
2 so occurring when there shall be two or more years of an  
3 elected member's term then remaining shall be filled for  
4 the remainder of the unexpired term at a special election  
5 to be called by the governor which shall be held within  
6 four months after the vacancy shall have occurred; any such  
7 vacancy occurring when there shall be two or more years of

8 an appointed member's term then remaining shall be filled  
9 for the remainder of the unexpired term by appointment by  
10 the governor, by and with the advice and consent of the  
11 senate.

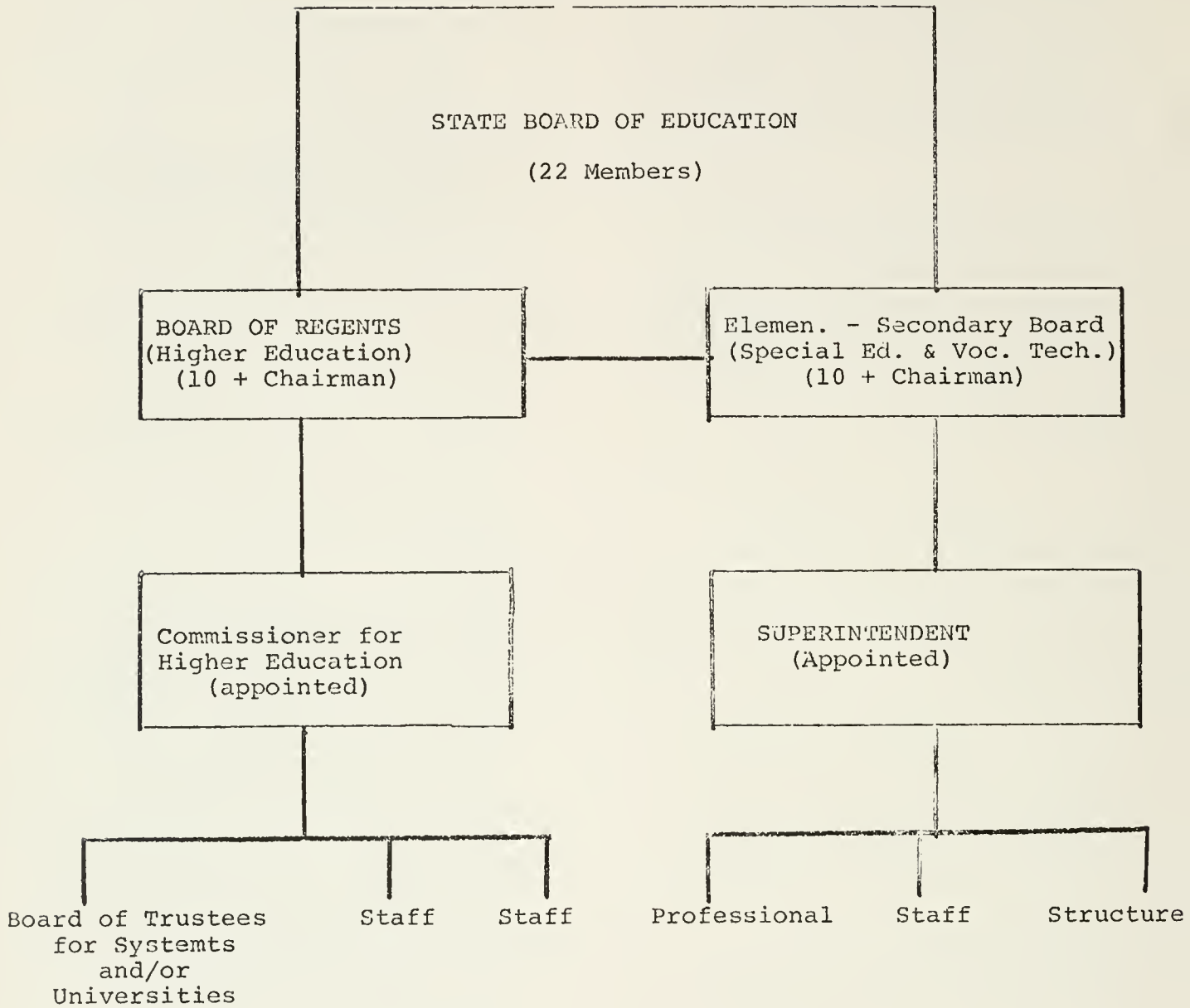
12 B. The members of the state board of education, board  
13 of regents, board of public education, and any board(s)  
14 created by or pursuant to this article shall serve without  
15 pay except for such per diem and expenses as shall be fixed  
16 by the legislature.

17 C. No officer, employee, or faculty member of any  
18 component of the public education system or their spouses  
19 shall be eligible for membership on a state board.

20  
21 Source: New

22  
23 Comment:

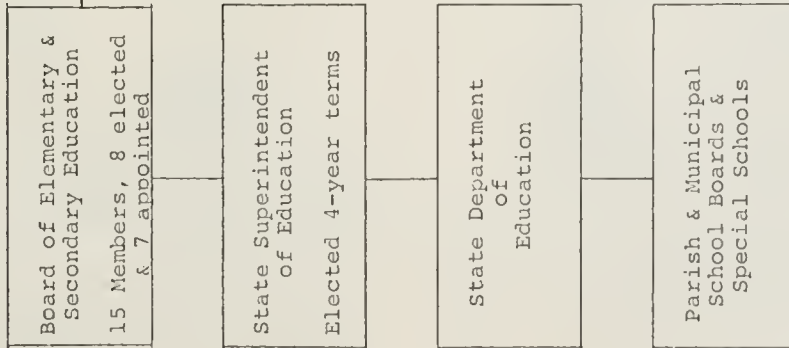
DEPARTMENT OF EDUCATION



NOTES  
Staff Memo No. 10 of the Subcommittee on Public Welfare is reproduced below in Chapter II.

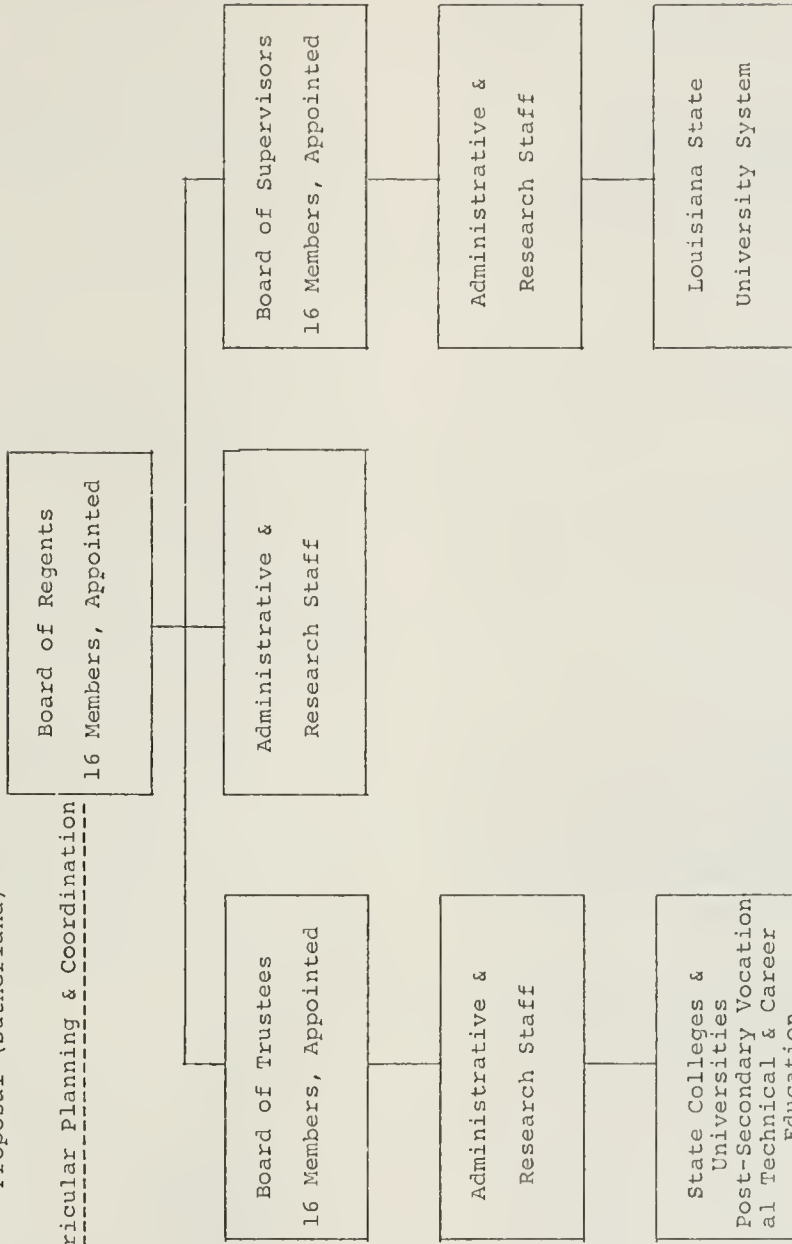
NOTES  
CC-248: Higher Education Proposal is found in the Subcommittee on Higher Education Minutes of May 1, 1973.

Elementary & Secondary  
Education Proposal



NOTE: See Higher Education Proposal (Sutherland)

Curricular Planning & Coordination



MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973.

Held pursuant to notice mailed by the Secretary of the Convention on May 3, 1973.

Instructional Resource Center, Veranda Room

Tuesday, May 8, 1973, 1:00 p.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Minos H. Armentor  
Norman Carmouche  
Heloise Corne  
Ralph Cowen  
Gordon Flory  
Bill P. Grier  
J. K. Haynes  
F. E. "Pete" Hernandez  
Eual J. Landry, Sr.  
Rep. Kenneth Leithman  
Edward N. Lennox  
Anthony Rachal  
Louis G. Riecke, Sr.  
Horace Robinson  
Perry Segura  
Joe Silverberg  
John Thistlethwaite  
Rep. Harold Toca  
Mary Wisham

Absent: Matthew Sutherland

The Committee on Education and Welfare met in a one-day session in the Instructional Resource Center, Veranda Room on Tuesday, May 8, 1973.

The chairman called the meeting to order at 1:00 p.m. The secretary called the roll and a quorum was present. After reading of the minutes of the previous meeting, Mr. Riecke moved that the minutes be approved as written. Mr. Toca seconded the motion and the chairman so ordered.

The chairman asked if there was anyone in the audience who would like to present a statement at this time. Rev. James C. Carter gave a brief statement, a copy of which is attached hereto and made a part of these minutes.

Stephen Spring, president of the Student Government Association of the University of Southwestern Louisiana, was next to appear before the committee. Mr. Spring was present at the previous meeting of the Committee of the Whole. He said that his association had reviewed all of the proposals submitted by each of the subcommittees, and that it favors the Leithman proposal.

Mr. Ray Allain, a student of the LSU Law School, appeared before the committee. He indicated that he was preparing a written statement to submit to the committee. He said that the convention should use imagination in writing the new constitution and not be bound by the traditions in Louisiana.

With the completion of Mr. Allain's statement, the committee reviewed the subjects assigned to it. The chairman asked the chairman of each subcommittee to take note of those areas of responsibility which had been assigned to the subcommittee.

Mr. Aertker asked for a status report from the chairmen of the subcommittees as to the meetings scheduled

-2-

in the next weeks. The matter of subcommittees scheduling meetings during the legislative session was discussed. The chairman authorized each subcommittee to meet if they so desired.

After a discussion, Mr. Aertker asked the staff to prepare a memo reflecting the areas remaining to be studied by the Subcommittee on Higher Education.

The next item on the agenda was a discussion of dedicated funds. Mr. Smith reviewed Staff Memorandum No. 3 pertaining to dedicated funds, after which the committee recessed for fifteen minutes.

Following the recess, the secretary called the roll and a quorum was present.

Mr. Rachal gave a report of the action taken by the Subcommittee on Public Welfare. He read from Staff Memorandum No. 4 for the Committee on Education and Welfare. After a discussion, Mr. Rachal moved that the Committee on Education and Welfare receive the report of the Subcommittee on Public Welfare in total and adopt its recommendations to refer Items No. 1 and 2 of the report to the respective committee. Mr. Grier seconded the motion and the motion was unanimously adopted.

After more discussion of Staff Memorandum No. 4 Mr. Rachal moved that the Committee on Education and Welfare ratify the subcommittee's action and adopt study proposal No. 20 listed under Item No. 3 of the memo. The chairman called for a roll call vote. The results were:

Mr. Armentor	no
Mr. Flory	yes
Mr. Grier	no

-3-

Mr. Hernandez	no
Mr. Landry	yes
Mr. Lennox	no
Mr. Silverberg	no
Mr. Thistlethwaite	no
Miss Wisham	yes
Mrs. Corne	no
Mr. Cowen	no
Mr. Riecke	absent at the time of the vote
Mr. Carmouche	no
Mr. Haynes	abstain for lack of sufficient information to vote wisely
Mr. Rachal	no
Rep. Toca	no
Mr. Robinson	yes
Rep. Leithman	no
Mr. Segura	no

The motion failed by a vote of 4 - 13. Mr. Flory then moved that the entire subject matter be deleted from the new constitution. Mr. Lennox seconded the motion and the motion carried.

The committee then heard from Governor Edwards. He said that the board for governing education in the state has no business in the constitution. The constitution should be short and concise. However, assuming that it

is in the constitution, education at the college level could be best served by a single board. If one board would have the responsibility, the competition would be eliminated and there would be a better chance for fair play. If the one board concept is not agreeable, then there should be one Board of Regents that would have the exclusive power for all universities and colleges in the state, to form policies, to be responsible for the budgets and take care of long range planning at college level. Under this board, there would be a separate administrative

-4-

board for the LSU system and a separate board for other colleges and universities. A separate state board, with its membership elected, would continue to exist to operate and plan for and obtain the funding for education in the elementary and high school level.

In the question and answer portion of the presentation, Governor Edwards said that the Board of Regents would be composed of members who are appointed by the governor with senate consent and members who are elected. This would give the balance which a totally elected board would not provide for. On the subject of the superintendent, the governor feels that, in spite of public disapproval, one of the new boards which he has proposed could better appoint the superintendent.

With regard to vocational-technical training, the governor feels that this type of education at the college level would come under the Board of Regents and this training at high school level would come under the state board.

As to student representation on the boards, Governor Edwards has no objection to appointing a student for the time that he is in college. The problem, however, is that there cannot be a representative from each college in the state.

With regard to the terms of the members on the board, the governor feels that fourteen years is too long. The terms should be not less than four years and no more than eight years.

-5-

With the completion of Governor Edwards' presentation, the committee returned to the review of the report of the Subcommittee on Public Welfare. After a discussion, Mr. Rachal moved that the Committee of the Whole adopt the action taken on Article X, Section 4, Paragraphs 18, 19(a), 19(b), and 19(c), and that it be referred to the Committee on Revenue, Finance and Taxation without a recommendation. The motion was unanimously adopted.

Mr. Rachal moved that Article X, Section 24, be referred to the Committee on Revenue, Finance and Taxation with the recommendation that the provision apply only to municipally-owned utilities. Mr. Silverberg seconded the motion and it was unanimously adopted.

Mr. Rachal moved that Article X, Section 21 be referred to the Committee on Revenue, Finance and Taxation without a recommendation. Mr. Haynes seconded the motion and it was unanimously adopted.

Mr. Rachal pointed out that the Subcommittee on Public Welfare will meet on May 18 at 9:30 a.m. and on May 25 at 10:00 a.m. at a place to be designated.

The chairman indicated that the Subcommittee on Elementary and Secondary Education would have a report to present to the Committee of the Whole at the next meeting.

Due to the absence of Mr. Sutherland, Mr. Silverberg presented the report for the Subcommittee on Higher Education. After a discussion of the report, Mr. Silverberg moved for the adoption of the structure

-6-

for a higher education system. Mr. Flory offered an amendment to the motion to the effect that the membership of the boards be increased to seventeen. After more discussion, it was the concensus of the committee that the words "institute" and "schools" be deleted from page one, lines 27 and 39 of proposal No. CC-262.

Mr. Haynes offered a second amendment creating a separate board for Southern University. Mr. Rachal seconded the motion and the amendment failed for lack of majority of the votes.

The chairman called for a roll call vote on the original motion as amended by Mr. Flory. The results were as follows:

Mr. Armentor	yes
Mr. Flory	yes
Mr. Grier	yes
Mr. Hernandez	yes
Mr. Landry	no
Mr. Lennox	yes
Mr. Silverberg	yes
Mr. Thistlethwaite	yes
Miss Wisham	yes
Mrs. Corne	no
Mr. Cowen	yes
Mr. Riecke	absent at the time of the vote
Mr. Carmouche	yes
Mr. Haynes	no
Mr. Rachal	no
Rep. Toca	yes
Mr. Robinson	yes
Rep. Leithman	no
Mr. Segura	yes

The motion carried by a vote of 13 - 5.

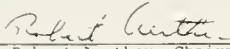
Mr. Landry asked that the minutes reflect his reason for voting "no" in the previous question. He said:

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"Had I voted 'yes', I would have been mandated to accept a part of the package for the total educational program for the children or the citizens of the State of Louisiana. Since the other one-half of the package, or the part having to do with elementary and secondary education, is a consideration that must be made in developing a total program of education for this state, certainly they should be considered together. It makes it very difficult, from now on, for this total committee to consider any part of the other plan which is the plan for the board of elementary and secondary education, as not being a part of the other part having to do with higher education. I thought from the very beginning that we were in a committee elected to develop a total program of education for the State of Louisiana having to do with all of its combined facets, and I don't think we did that."

After Mr. Landry's statement, Mr. Haynes asked permission to present a minority report at the July 5, 1973 session of the convention in view of the fact that he supports the single board for higher education which he believes to be fundamentally sound.

There being no further business to come before the committee, Mr. Hernandez moved that the meeting adjourn. With no objections, the meeting adjourned at 6:45 p.m., Tuesday, May 8, 1973.

  
 Mr. Robert Aertker, Chairman

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FACT SHEET  
 Private Higher Education in Louisiana

ASSOCIATION MEMBERSHIP

The regionally accredited independent colleges and universities in Louisiana are: Centenary College, St. Mary's Dominican College, Dillard University, Our Lady of the Holy Cross College, Louisiana College, Loyola University, New Orleans, Tulane University of Louisiana, and Xavier University.

ENROLLMENT, FALL 1972

10,744	Full Time Undergraduate
3,443	Part Time Undergraduate
3,519	Full Time Graduate and Professional
1,144	Part Time Graduate and Professional
18,850	Total Enrollment

FINANCIAL AID

35% of the undergraduates in 1972-73 received financial aid to make their attendance at college possible.

4,027,935 dollars were given as direct aid to students from funds of the institutions they attended.

2,906 students borrowed \$2,006,513 to help pay their educational expenses.

DEGREES AWARDED

In 1971-72 members of the Association conferred the following degrees:

	32 Associates
	2202 Baccalaureates
	822 Masters
	373 First Professional
	135 Doctorates
TOTAL	3564 Degrees

ALUMNI

37,506 Alumni of member institutions currently reside in the state of Louisiana.  
 Fact Sheet  
 Private Higher Education in Louisiana  
 Page Two

OPERATING EXPENSES

In 1971-72 member institutions spent 76,482,031 in Louisiana for goods and services. These institutions employed 4,870 people.

PHYSICAL PLANTS

Member institutions have physical plants which would cost 140,281,761 to replace. Their current capital indebtedness is 38,219,368.



Enrollment Data for 1972-73 as reported to the United States Government shows:

UNDERGRADUATE ENROLLMENT

	Fulltime		Part-time		Subtotal	Out of State	Subtotal	Grand Total
	In-State	Out of State	In-State	Out of State				
Centenary	400	270	99	5	670	5	104	774
Dillard	605	379	14	9	984	9	23	1,007
Dominican	193	142	497	32	335	32	529	864
Holy Cross	95	0	228	0	95	0	228	323
Louisiana College	590	91	191	17	681	17	208	889
Loyola	1,457	711	1,164	86	2,168	86	1,250	3,418
Tulane	1,395	3,060	865	69	4,455	69	934	5,389
Xavier	968	388	158	9	1,356	9	167	1,523
TOTALS	5,703	5,041	3,216	227	10,744	227	3,443	14,187

GRADUATE AND PROFESSIONAL ENROLLMENT

	Fulltime		Part-time		Subtotal	Out of State	Subtotal	Grand Total
	In-State	Out of State	In-State	Out of State				
Loyola	532	107	498	19	639	19	517	1,156
Tulane	1,222	1,658	602	0	2,880	0	602	3,482
Xavier	0	0	23	2	0	2	25	25
TOTALS	1,754	1,765	1,123	21	3,519	21	1,144	4,663
GRAND TOTALS	7,457	6,806	4,339	248	14,263	248	4,587	18,850

THE ROLE OF PRIVATE HIGHER EDUCATION  
IN LOUISIANA

The Louisiana State Constitution presently provides that: "No appropriation of public funds shall be made to any private or sectarian school." This provision is not clear on several points. First, does the provision extend to institutions of higher learning? Second, does this provision exclude aid provided directly to students? Third, what precisely is a "school"?

A provision which excludes appropriation of state funds to private institutions of higher learning would run counter to the recent United States Supreme Court decision in a case involving five private colleges in Connecticut. It would exclude Louisiana citizens from benefits provided to the citizens of California, New York, Pennsylvania, Connecticut, and the majority of other heavily populated states. It would take away from Louisiana residents of college age the opportunity to choose freely among the various options available to college students. It would either destroy or seriously cripple major institutions from Shreveport to New Orleans which have served Louisiana long and well. It would remove private higher education entirely from the reach of the disadvantaged; and it would be extremely costly to the taxpayer.

The presidents of the private institutions of the state meet monthly. They are currently hard at work gathering the data necessary to show the major contribution their institutions have made to the state and the economic need which could well force them to turn to the government of the state for financial assistance.

A provision which would prevent allocation of public funds to private institutions of higher learning would eliminate a number of traditional options from the college students of our state. American society has thrived on its pluralistic foundations. Diversity of viewpoint and tradition is the solid foundation upon which our culture rests. The presence of institutions of diverse character and philosophy is an essential ingredient of our educational history. Our first colleges and universities emerged from the private sector. Their continuance is a necessity, not a luxury. Monolithic views of America and America's destiny can only result in tragedies such as the Watergate incident--a sad instance of loss of faith in the value of free expression of diverse points of view.

Private higher education in Louisiana is big business. In 1971-72 alone, Louisiana's private colleges and universities spent \$76.5 million dollars in Louisiana for goods and services. These institutions employed 4,870 people. They have physical plants which would cost \$140,000,000 to replace and their current capital indebtedness is \$38,000,000. In 1971-72 alone, they conferred 3,564 academic degrees, thereby enhancing the economic potential of Louisiana's work force considerably. These institutions enrolled 48,850 students, approximately 16% of the total college enrollment of the state. In 1967, private institutions enrolled 19% of Louisiana's college students. The Southern Regional Education Board projects that this number will decline to 15% by 1975. Since the principal cost of operating a college or university

Private Higher Education  
Page Two

is salaries, and since salaries continue to rise with the cost of living, the cost of higher education is rising considerably. Because other traditional sources of income have stabilized, the burden of supporting private colleges is moving more and more toward tuition and fees. This has the consequent result that the cost gap between attendance at public institutions and private institutions is widened. The widening of this gap could well drive students from private colleges into public colleges, creating a demand which will increase considerably the cost of public higher education.

Father Paul Reinert, the President of St. Louis University, writes in his book, To Turn the Tide: "If the private sector collapses, the severest stress would be put upon already hard pressed state budgets to either absorb or supplant those institutions previously funded largely by private sources... Public colleges and universities already bulging would be strained further by the added enrollments. Accommodating these new students would consume funds badly needed for maintaining the quality of existing educational programs." If the state were to assume 10% of the burden of the operating cost of the average private university, its budgets would be easily balanced. On the other hand, if New York University were to go public, it would cost New York State some \$60,000,000 each year. Several years back Loyola hoped to continue its commitment to dental education with the assistance of the State. The cost would have been \$800,000 annually in operating budgets. By mutual agreement, Loyola abandoned its dental education and the State began the project. Operating costs alone now run in the millions and capital costs have been enormous. Funds used for the erection and support of the new dental school could well have been diverted to other higher educational needs such as the need for veterinary medicine. Duplication in public institutions of facilities such as those at Tulane University in the health professions and at my own institution in criminal justice and communications, to give just a few examples, would be quite costly. The national average expenditure for full time equivalent students is \$3,900. At Loyola alone it is \$2,500. It would be very costly to the Louisiana taxpayer if our private colleges were not to survive. A constitutional provision enabling the state to provide needed assistance under constitutional guarantees would be a farsighted step on the part of the Constitutional Convention.

It is often said that private education is inaccessible to minority students and to the disadvantaged. This is certainly not a result of the ideals and ambitions of those educators I know in the state's private systems. Let me once more cite my own institution as an example. Loyola's governing board, administration, and faculty are expressly dedicated through the University's goals statement to the recruitment and education of minority students. The single greatest inhibiting factor is the magnitude of our tuition. Eight percent of Loyola's enrollment is currently black. Eight percent of financial aid available to our students is awarded to black students. This would indicate that Loyola's black students come from the same socio-economic background as its white students. A state-funded financial aid program, based on a financial need formula such as that used in California, would make it possible for our institution to extend its services to a much greater number of minority and disadvantaged students--students such as

Private Higher Education  
Page Three

Alfred Harrell, the New Orleans patrolman murdered on New Year's eve, who was able to avail himself of our educational offerings through a federal assistance program giving direct aid to police officers.

It is clear that the language of the "no aid" provision demands clarification. Perhaps the wisest course of action for the Constitutional Convention would be simply to reiterate the guarantees of the federal Constitution and to provide for the possibility that the state might want to provide for the legitimate needs of those of its students who seek to avail themselves of the advantages of private higher education. I do not feel that private higher education should ask the State to give it any competitive advantages over publicly supported institutions; only that it is in the common interest of the Louisiana taxpayer and the private colleges that the state be able to respond to legitimate needs where the interest of both taxpayer and private college are served.

Rev. James C. Carter, S.J.  
Provost  
Loyola University, New Orleans  
May 8, 1973

MINUTES

Minutes of the meeting of the Committee on  
Education and Welfare of the Constitutional  
Convention of 1973.

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

East Baton Rouge Parish Instructional  
Resource Center, Veranda Room  
Friday, June 1, 1973

Presiding: Mr. Robert J. Aertker, Chairman

Present: Mr. Norman Carmouche  
Mrs. Heloise Corne  
Mr. Ralph Cowen  
Mr. Gordon Flory  
Mr. Bill Grier  
Mr. J. K. Haynes  
Mr. F. E. Hernandez  
Mr. Eual J. Landry, Sr.  
Mr. Edward N. Lennox  
Mr. Louis G. Riecke, Sr.  
Mr. Horace Robinson  
Mr. Perry Segura  
Mr. Joe Silverberg  
Mr. Matthew Sutherland  
Mr. John Thistlethwaite  
Miss Mary Wisham

Absent: Mr. Minos H. Armentor  
Rep. Kenneth Leithman  
Mr. Anthony Rachal  
Rep. Harold Toca

The Committee on Education and Welfare met in a one-day session at the East Baton Rouge Parish Instructional Resource Center on Friday, June 1, 1973. The chairman called the meeting to order at 10:00 a.m., the secretary called the roll and a quorum was present. The secretary read the minutes of the previous meeting, after which Mr. Silverberg moved that the minutes be adopted as read. Mr. Hernandez seconded the motion and the chairman so ordered.

The chairman asked if there was anyone in the audience who would like to make a presentation. Mr. Kirby Ducote, executive director of Citizens for Educational Freedom, spoke at this time. He said that he would like to see Section 13 of proposal No. CC-210 completely deleted and allow the legislature to make the determination as to aid for any private education. With this section, the hands of the legislature are tied and we do not know the direction in which education will go in the next five or ten years.

The chairman pointed out that he had received a letter from Whitney G. A. Harris, president of the

Student Government Association at McNeese State University. A copy of this letter is attached hereto and made a part of these minutes.

At the joint meeting of the Subcommittees on Elementary and Secondary Education and Higher Education, Mr. Ed Stagg of the Council for A Better Louisiana invited the members of the subcommittees and the research staff to attend a luncheon to hear Dr. Richard Millard speak on higher education. Mr. Thistlethwaite, Mr. Haynes, Mrs. LeBlanc, and Mr. Smith attended the luncheon and each gave a summary of what transpired at the luncheon.

Mr. Silverberg asked permission to write to the various newspaper publishers and other delegates of the

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convention and explain exactly what the plan for the structure of higher education proposes. With no objection, permission was granted.

The committee discussed proposal No. CC-210, a copy of which is attached hereto and made a part of these minutes.

Mr. Riecke moved the adoption of Section 1 as written. With no objections, the motion carried.

Mr. Silverberg moved for the adoption of Section 2 as written. With one objection from Mr. Haynes, the motion carried. The research staff was directed to check the use of the word "Education" instead of "Educational" in the title of Section 2.

After a discussion of Section 3, the staff was directed to draft a provision allowing for the transition of the members from the State Board of Education to the State Board of Elementary and Secondary Education. The provision is to cover the persons elected from the eight congressional districts and those elected from the Public Service Commission districts.

After the discussion, Mr. Hernandez moved that Section 3, Paragraph A be amended as follows: that lines 20 and 21 be amended to read "responsibility for funds appropriated or allocated by the state for public elementary and secondary schools". The motion was unanimously adopted. Mr. Hernandez then moved that Section 3, Paragraph A be adopted as amended. The motion was unanimously adopted.

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Mr. Hernandez moved that Section 3, Paragraph B be adopted as written. The motion was unanimously adopted.

In the discussion of Section 3, Paragraph C, Mr. Haynes moved to amend this section to add a new Paragraph C that would provide for minority representation on the State Board of Elementary and Secondary

Education. The paragraph should indicate that representation from the predominant minority race would reflect as nearly as practical, a proportionate number of members of that race as is in the total population of the state. The committee discussed the motion but requested language that would indicate the mechanics by which such proportionate representation could be realized. It was decided to defer action on the motion until after lunch.

In the afternoon session, the secretary called the roll and a quorum was present. The committee continued the discussion of Mr. Haynes' motion. Mr. Haynes requested that the committee defer action until the June 13, 1973 meeting so that language could be properly drafted. The chairman requested that the staff consult Mr. Haynes, draft the proposed paragraphs, and mail a copy to each member of the committee by Thursday, June 7, 1973.

Mr. Silverberg moved to adopt Section 3, Paragraph C of the proposal as written. The motion was unanimously adopted.

Mr. Robinson moved that Section 4, Paragraph A

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providing for an appointed superintendent be deleted and that the language of Section 4, Paragraph A of the first draft of proposal No. CC-210 be inserted in its place, thus making the office of superintendent elective. After a lengthy discussion, the chairman called for a roll call vote. The results were:

Mr. Carmouche	no
Mrs. Corne	yes
Mr. Cowen	no
Mr. Flory	yes
Mr. Grier	yes
Mr. Haynes	yes
Mr. Hernandez	yes
Mr. Landry	yes
Mr. Lennox	no
Mr. Riecke	yes
Mr. Robinson	yes
Mr. Segura	no
Mr. Silverberg	no
Mr. Sutherland	no
Mr. Thistlethwaite	no
Miss Wisham	no

Mr. Aertker voted "no" to break the tie vote of 8-8 and the motion failed for lack of majority.

Mr. Cowen moved to adopt Section 4 in its entirety. The chairman called for a roll call vote and the results were as follows:

Mr. Carmouche	yes
Mrs. Corne	no
Mr. Cowen	yes
Mr. Flory	no
Mr. Grier	no
Mr. Haynes	no
Mr. Hernandez	no
Mr. Landry	no
Mr. Lennox	yes
Mr. Riecke	no
Mr. Robinson	no
Mr. Segura	yes
Mr. Silverberg	yes
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Miss Wisham	no

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The motion failed by a vote of 7-9.

Mr. Flory moved for reconsideration of Section 4 and that the committee include in its proposal a provision for an elected superintendent with a four-year term, that the governor appoint the superintendent in the event of a vacancy, that he have the same qualifications as the parish superintendent, and that his powers and duties be prescribed by statute.

The chairman called for a roll call vote and the results were as follows:

Mr. Carmouche	no
Mrs. Corne	yes
Mr. Cowen	no
Mr. Flory	yes
Mr. Grier	yes
Mr. Haynes	yes
Mr. Hernandez	yes
Mr. Landry	yes
Mr. Lennox	no
Mr. Riecke	yes
Mr. Robinson	yes
Mr. Segura	no
Mr. Silverberg	no
Mr. Sutherland	no
Mr. Thistlethwaite	no
Miss Wisham	yes

The motion carried by a vote of 9-7.

Mr. Robinson offered a substitute motion to the effect that the superintendent be elected and that he be the ex officio secretary of the board and serve as its chief executive officer. The chairman called for a roll call vote and the results were as follows:

Mr. Carmouche	no
Mrs. Corne	yes
Mr. Cowen	no
Mr. Flory	yes
Mr. Grier	yes
Mr. Haynes	yes
Mr. Hernandez	yes
Mr. Landry	yes
Mr. Lennox	no
Mr. Riecke	yes

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Mr. Robinson	yes
Mr. Segura	no
Mr. Silverberg	no
Mr. Sutherland	no
Mr. Thistlethwaite	no
Miss Wisham	yes

The motion carried by a vote of 9-7.

Mr. Cowen then moved for reconsideration of Section 3. The chairman called for a roll call vote and the results were as follows:

Mr. Carmouche	yes
Mrs. Corne	no
Mr. Cowen	yes
Mr. Flory	no
Mr. Grier	no
Mr. Haynes	no
Mr. Hernandez	no
Mr. Landry	no
Mr. Lennox	yes
Mr. Riecke	no
Mr. Robinson	no
Mr. Segura	yes
Mr. Silverberg	yes
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Miss Wisham	no

The motion failed by a vote of 7-9.

Mr. Flory moved for the adoption of Section 4, Paragraphs B, C, and D as amended. The amendments are: delete that portion of Paragraph B reading "However, any person serving or having served as state superintendent of public education on the effective date of

this constitution shall continue to be eligible to hold or to be appointed to that office", and delete from lines 23 and 24 the words "State Board of Elementary and Secondary Education" and insert the words "appointment by the governor" in its place. With no objection, the motion carried.

-7-

Mr. Cowen offered a substitute motion that the superintendent be elected and shall be eligible to be elected for two consecutive terms. The chairman called for a roll call vote and the results were:

Mr. Carmouche	no
Mrs. Corne	no
Mr. Cowen	yes
Mr. Flory	no
Mr. Grier	no
Mr. Haynes	no
Mr. Hernandez	no
Mr. Landry	no
Mr. Lennox	no
Mr. Riecke	no
Mr. Robinson	no
Mr. Segura	no
Mr. Silverberg	no
Mr. Sutherland	no
Mr. Thistlethwaite	no
Miss Wisham	no

The motion failed by a vote of 1-15.

Mr. Flory moved for the approval of Section 5. With one objection from Mr. Robinson, the motion carried.

Mr. Riecke moved for the approval of Section 6. The motion was unanimously adopted.

Mr. Riecke moved for the approval of Section 7, Paragraphs A, B, D, and E, and the addition of the words "with the consent of the Senate" after the word "governor" in line 29 of Section 3, Paragraph B. With one objection from Mrs. Corne, the motion carried. Action on Paragraph C of this section was deferred until Mr. Haynes submits the language for minority representation on the boards for education.

Mr. Silverberg moved for the adoption of Paragraphs F and G of Section 7 as written. With one objection, the motion carried.

Mr. Silverberg moved for the adoption of Section 8 as written. With one objection from Mrs. Corne, the motion carried.

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Mr. Flory moved for the adoption of Section 9. With one objection, the motion carried.

Mr. Riecke moved for the adoption of Section 10. With none opposed, the motion carried.

Mr. Riecke moved for the adoption of Section 11. With no objection, the motion carried.

Mr. Riecke moved for the adoption of Section 12. With no objection, the motion carried.

Mr. Cowen moved for the adoption of Section 13. Mr. Segura offered an amendment to the effect that Section 13 be deleted and proposal No. CC-266-A,

submitted by him, be inserted in its place. Mr. Silverberg offered a substitute motion that Section 13 be completely deleted. The chairman called for a roll call vote on the substitute motion and the results were as follows:

Mr. Carmouche	yes
Mrs. Corne	no
Mr. Cowen	no
Mr. Flory	yes
Mr. Grier	no
Mr. Haynes	no
Mr. Hernandez	abstain
Mr. Landry	yes
Mr. Lennox	no
Mr. Riecke	yes
Mr. Robinson	no
Mr. Segura	yes
Mr. Silverberg	yes
Mr. Sutherland	no
Mr. Thistlethwaite	yes
Miss Wisham	yes

The substitute motion carried by a vote of 8-7 with one abstention.

-9-

Mr. Flory moved for the adoption of Section 14 as written. The motion was unanimously adopted.

Mr. Riecke moved for the adoption of Section 15 as written. With no opposition, the motion carried.

Mr. Riecke moved for the approval of Section 16, Paragraph A. The motion was unanimously adopted.

Mr. Riecke moved for the adoption of Section 16, Paragraph B. The motion was unanimously adopted.

Mr. Riecke moved for the adoption of Section 16, Paragraph C. Mr. Thistlethwaite offered an amendment to the motion to the effect that the word "five" in line 34 of page 17 be deleted and the word "seven" be inserted in its place. This would allow parishes to levy a seven mill tax for the maintenance of school systems. After a lengthy discussion, Mr. Thistlethwaite withdrew his motion and the original motion was unanimously adopted.

Mr. Riecke moved for the approval of Section 16, Paragraphs D and E. The motion was unanimously adopted.

Mr. Cowen moved for the approval of Section 17 as written. With no opposition, the motion carried.

After a discussion of the agenda for the next meeting, Mr. Riecke moved that the meeting adjourn. With no objection, the meeting adjourned at 4:35 p.m., Friday, June 1, 1973.

*Robert J. Aertker*  
Mr. Robert J. Aertker, Chairman

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Student  
Government  
Association



McNeese  
State  
University  
P. O. Box 93  
Lake Charles, LA 70601

318 477-1307

President - ROBERT ROBBY GUILLOPY

First Vice President - MICHAEL MITCHELL

Second Vice President - N. MURPHY GEE

May 28, 1973

Mr. Robert J. Aertker  
Constitutional Convention Delegate  
Box 2950  
Baton Rouge, Louisiana

Dear Mr. Aertker:

The Student Body Presidents and delegates from the Louisiana State Board

Schools and from Louisiana State University in New Orleans met in Lafayette on May 21--22, 1973 to discuss the Education Committee's proposed Sutherland Plan and other plans concerning the structure of the governing bodies for higher education in Louisiana.

We rejected the Sutherland Proposal, which is the one that was passed by the Education Committee, because it, in effect, perpetuates the present system of inequity, duplication, and waste.

We call for the creation of one board over all institutions of higher education, the equitable distribution of tax dollars and the elimination of special privileges to particular interest groups.

We urge you to support a plan that entails the above criteria.

Yours truly,

*Whitney G. A. Harris*  
Whitney G. A. Harris  
President

P.S. Enclosed are two resolutions passed by the Student Body Presidents and delegates.

WHEREAS, the coordination of higher education in the state of Louisiana is essential to the development of quality education, and

WHEREAS, a single board governing higher education is imperative to effective coordination, and

WHEREAS, funding of state institutions should be based on a systematic formula founded on the needs of various state institutions, and

WHEREAS, the proposal recommended by the Constitutional Convention's Committee on Education does not in any respect create a board governing all institutions of higher education, and

WHEREAS, the recommended plan does not coordinate higher education functions nor put into effect a formula allocation based on needs of particular institutions,

BE IT THEREFORE RESOLVED, that the Student Government Association presidents of University of Southwestern Louisiana, Louisiana State University in New Orleans, McNeese State University, Northwestern State University, Louisiana Tech University, Southeastern Louisiana University, and Northeastern Louisiana University representing some 60,000 student voters urge the Constitutional Convention of 1973 to adopt a plan of a single board of regents that effectively establishes an equitable distribution of revenues based on needs of various institutions and coordinates and governs higher education in the state of Louisiana.

#### NOTES

Second Draft of CC-210, for consideration June 1, 1973, is reproduced below in Chapter III.

CC-266A

- 1 Constitutional Convention of Louisiana of 1973
- 2 DELEGATE PROPOSAL NUMBER
- 3 Introduced by Delegate Segura
- 4 A PROPOSAL
- 5 To allow the legislature to provide funds for children
- 6 attending nonpublic, nonprofit educational institutions
- 7 PROPOSED SECTION:
- 8 Article \_\_\_\_\_, Section 13. Financial Assistance;
- 9 Children Attending Nonpublic, Nonprofit Educational
- 10 Institutions
- 11 Section 13. The legislature may enact appropriate
- 12 legislation to promote the education of and to provide
- 13 financial assistance for the school children of the state
- 14 enrolled in nonpublic, nonprofit elementary and secondary
- 15 schools as well as private universities and colleges
- 16 situated in the state. No person shall be deprived of the
- 17 benefits of any such legislation on the basis of race,

18 color, creed, national origin or sex, nor because of the  
19 sectarian nature of the nonpublic, nonprofit school which  
20 he, his child or ward, attends.  
21

22 Source: La. Const. Art. XII, §13 (1921).

23  
24 Comment: Deletes the first sentence of Section 13 of Article  
25 XII of the present constitution.

26 Provides that the legislature may enact appropriate  
27 legislation to promote the education of and to provide  
28 financial assistance for the school children of the state  
29 enrolled in nonpublic, nonprofit educational institutions.

30 Requires that no person be deprived of the benefit  
31 of such legislation on the basis of race, color, creed,  
32 national origin or sex, nor because of the sectarian na-  
33 ture of the nonpublic, nonprofit educational institution  
34 attended.  
35

#### MINUTES

Minutes of the meeting of the Committee on  
Education and Welfare of the Constitutional  
Convention of 1973.

Held pursuant to notice mailed by the  
Secretary of the Convention on June 7, 1973.

East Baton Rouge Parish Instructional  
Resource Center, Veranda Room  
Wednesday, June 13, 1973, 10:00 a.m.

Presiding: Mr. Robert J. Aertker, Chairman

Present: Mr. Norman Carmouche  
Mrs. Heloise Corne  
Mr. Gordon Flory  
Mr. Bill Grier  
Mr. J. K. Haynes  
Mr. F. E. Hernandez  
Mr. Eual Landry  
Rep. Kenneth Leithman  
Mr. Edward Lennox  
Mr. Anthony Rachal  
Mr. Louis Riecke  
Mr. Horace Robinson  
Mr. Joe Silverberg  
Mr. Matthew Sutherland  
Mr. John Thistlethwaite  
Rep. Harold Toca  
Miss Mary Wisham

Absent: Mr. Minos H. Armentor  
Mr. Ralph Cowen  
Mr. Perry Segura

The Committee on Education and Welfare met in a one-day  
session at the East Baton Rouge Parish Instructional Resource  
Center on Wednesday, June 13, 1973. The chairman called the  
meeting to order at 10:00 a.m., the secretary called the roll  
and a quorum was present. The secretary read the minutes of

the previous meeting. Corrections were noted, after which  
Miss Wisham moved that the minutes be adopted as amended.

Mr. Toca seconded the motion and the chairman so ordered.

The next item on the agenda was discussion of Mr.  
Haynes' proposal for minority representation. After Mr.  
Haynes spoke in support of his proposal, he moved for its

adoption. Mr. Haynes introduced Mr. Nat LeCuir, president  
of the United Teachers Association of New Orleans. Mr.  
LeCuir spoke in favor of Mr. Haynes' proposal and said that  
the new constitution should provide for minority represen-  
tation on all boards of education. After a discussion  
of the proposal, Mr. Flory moved for the adoption of the  
amendments to the proposal. The amendments are to insert  
the words "at least" between the words "number" and "equal"  
in line 13 of page 1 of the proposal, and to delete Para-  
graph (2) of the proposal. The chairman called for a roll  
call vote and the results were as follows:

Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Flory	yes
Mr. Grier	yes
Mr. Haynes	yes
Mr. Hernandez	yes
Mr. Landry	yes
Mr. Leithman	yes
Mr. Lennox	no
Mr. Rachal	yes
Mr. Riecke	no
Mr. Robinson	yes
Mr. Silverberg	yes
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	yes
Miss Wisham	yes

The motion carried by a vote of 15-2.

Mr. Haynes moved for the adoption of his proposal

-2-

as amended. The chairman called for a roll call vote and  
the results were as follows:

Mr. Carmouche	no
Mrs. Corne	no
Mr. Flory	yes
Mr. Grier	no
Mr. Haynes	yes
Mr. Hernandez	no
Mr. Landry	yes
Mr. Leithman	yes
Mr. Lennox	no
Mr. Rachal	yes
Mr. Riecke	no
Mr. Robinson	no
Mr. Silverberg	yes
Mr. Sutherland	no
Mr. Thistlethwaite	no
Mr. Toca	yes
Miss Wisham	yes

The motion failed by a vote of 8-9. Mr. Rachal made a state-  
ment to the committee relative to the action taken on Mr.  
Haynes' proposal. A verbatim transcript of his statement  
is attached hereto and made a part of these minutes.

The next item on the agenda was discussion of proposal  
No. CC-316, transition of membership on the boards of education.  
Mr. Hernandez moved for the adoption of the proposal, deleting  
Paragraph B on pages 2 and 3. The motion carried by a vote  
of 14-1 with Mr. Leithman and Mrs. Corne abstaining.

At 12:10, the chairman suggested that the committee  
recess for lunch to return at 1:30 p.m.

In the afternoon session, the secretary called the  
roll. Present were:

Mr. Aertker	Mr. Lennox
Mr. Carmouche	Mr. Rachal
Mrs. Corne	Mr. Riecke
Mr. Flory	Mr. Robinson
Mr. Grier	Mr. Segura
Mr. Haynes	Mr. Silverberg
Mr. Hernandez	Mr. Sutherland
Mr. Landry	Mr. Thistlethwaite
Rep. Leithman	Rep. Toca
	Miss Wisham

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Absent were:

Mr. Armentor Mr. Cowen

The committee discussed proposal No. CC-210. Mr.

Lennox moved to strike the words "the predominant" in Section 7, Paragraph C on line 12 of page 6, and to make the word "race" plural. Mr. Rachal offered an amendment to change the word "Section" on line 17 to the word "Article". The amendment was accepted without objection. The chairman called for a roll call vote on the motion as amended and the results were:

Mr. Carmouche	no
Mrs. Corne	yes
Mr. Flory	no
Mr. Grier	no
Mr. Haynes	no
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	absent at the time of the vote
Mr. Lennox	yes
Mr. Rachal	yes
Mr. Riecke	yes
Mr. Robinson	abstain
Mr. Segura	yes
Mr. Silverberg	no
Mr. Sutherland	no
Mr. Thistlethwaite	no
Mr. Toca	absent at the time of the vote
Miss Wisham	abstain

The motion failed by a vote of 6-8 with two abstentions.

Mr. Silverberg moved to adopt Section 7, Paragraph C incorporating Mr. Rachal's amendment, changing the word "Section" on line 17 to the word "Article". Mr. Leithman offered an amendment to the motion to the effect that the word "appropriate" in line 11 be deleted and the word "proportionate" be inserted in its place. The chairman ruled that the amendment to the motion was out of order. Mr. Leithman challenged the

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ruling of the chair. After a brief discussion, the chairman called for a roll call vote to sustain the ruling of the chair. The results were:

Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Flory	no
Mr. Grier	yes
Mr. Haynes	no
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	no
Mr. Lennox	yes
Mr. Rachal	no
Mr. Riecke	yes
Mr. Robinson	yes
Mr. Segura	yes
Mr. Silverberg	yes
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	no
Miss Wisham	no

The chair was sustained by a vote of 11-7. The chairman called for a roll call vote on the original motion by Mr. Silverberg

The results were as follows:

Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Flory	yes
Mr. Grier	no
Mr. Haynes	no
Mr. Hernandez	no
Mr. Landry	yes
Mr. Leithman	yes
Mr. Lennox	no
Mr. Rachal	yes
Mr. Riecke	no
Mr. Robinson	yes
Mr. Segura	no
Mr. Silverberg	yes

Mr. Sutherland	yes
Mr. Thistlethwaite	no
Mr. Toca	yes
Miss Wisham	yes

The motion carried by a vote of 11-7.

In the discussion of the report of the Subcommittee on Public Welfare (Staff Memorandum No. 9), Mr. Rachal moved

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that the committee of the whole receive the report of the subcommittee and take action on each individual proposal as it is presented to the committee. With no objections, the motion carried.

Mr. Flory moved the adoption of proposal No. CC-214. The motion was unanimously adopted.

Mr. Lennox moved the adoption of proposal No. CC-201-A, subject to final drafting by the research staff in accordance with the consensus reached by the subcommittee at an earlier meeting. The motion was unanimously adopted.

Mr. Flory moved the adoption of proposal No. CC-213, and the motion was unanimously adopted.

Mr. Lennox moved the adoption of proposal No. CC-215 and the motion was unanimously adopted.

Miss Wisham moved the adoption of proposal No. CC-216, the motion was unanimously adopted.

In the discussion of proposal No. CC-315, Mr. Rachal moved that the committee receive the report of the Subcommittee on Public Welfare, with the recommendation that the words "two hundred fifty thousand" in line 14 of page 1 be deleted and the words "four hundred thousand" be inserted in its place. Mr. Flory offered a substitute motion to the effect that the words "four hundred thousand" be completely deleted and that we make a uniform fire and police civil service statewide in application, bringing the city of New Orleans into the state fire and police civil service and not change any other provision.

The chairman called for a roll call vote and the results

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were:

Mr. Carmouche	yes
Mrs. Corne	abstain
Mr. Flory	yes
Mr. Grier	no
Mr. Haynes	yes
Mr. Hernandez	abstain
Mr. Landry	yes
Mr. Leithman	yes
Mr. Lennox	no
Mr. Rachal	abstain
Mr. Riecke	abstain
Mr. Robinson	yes
Mr. Segura	yes
Mr. Silverberg	no
Mr. Sutherland	abstain
Mr. Thistlethwaite	abstain
Mr. Toca	abstain
Miss Wisham	yes

The motion carried by a vote of 8-3 with seven abstentions.

Mr. Flory moved to adopt proposal No. CC-315 as amended.

Mr. Riecke offered a substitute motion to defer action on the proposal until the next meeting on June 20, 1973. The chairman called for a roll call vote on the substitute motion and

the results were as follows:

Mr. Carmouche	no
Mrs. Corne	yes
Mr. Flory	no
Mr. Grier	yes
Mr. Haynes	no
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	no
Mr. Lennox	yes
Mr. Rachal	yes
Mr. Riecke	yes
Mr. Robinson	no
Mr. Segura	no
Mr. Silverberg	no
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	yes
Miss Wisham	absent at the time of the vote

The motion carried by a vote of 9-8.


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Mr. Silverberg asked the staff to obtain information on placing constitutional law in the statutes.

The next item on the agenda was discussion of retirement.

After a lengthy discussion, the committee decided to defer action on this subject until the meeting on June 20, 1973.

There being no further business to come before the committee, Mr. Flory moved that the meeting adjourn until July 5, 1973. Mr. Lennox offered a substitute motion to the effect that the meeting adjourn until June 20, 1973. The chairman called for a vote on Mr. Flory's original motion and the motion failed for lack of majority. The chairman then called for a vote on Mr. Lennox's substitute motion and the motion carried, after which the meeting adjourned at 4:10 p.m., Wednesday, June 13, 1973.

  
Robert J. Aertker, Chairman

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VLRBATIM TRANSCRIPT  
OF  
MR. ANTHONY RACHAL  
June 13, 1973

It seems that things have changed just a little bit but, while I admire Mr. Haynes for his commendation of the group, I think I'd be derelict to my integrity if I let it pass without expressing my disappointment to this group, and also, I suppose, the disappointment in the recognition of my naivete regarding the membership around this table. It has been said that this group has a great deal of vested interests in that so many of the people on it concerning itself with educational matters are somehow in the educational field through elected office, through appointment, through having served on boards elected by the people. And I can see little hope if this body so

represented could not see fit to explore some means to assure what is vital in this day regarding representation of minorities in matters which affect them. And certainly nothing affects people more than the system of education, and no group has been more disenfranchised as this by what has happened in education in this state over the years. So I am afraid that I cannot be as gracious as Mr. Haynes. While I would not resort to emotional oratory, I must express my extreme disappointment that even as you saw fit, to the proposal at hand, to defeat it, that I see no effort being made to support the principal for which I certainly made a plea, and I think that some of the others did. I just want to make sure that the group knows how shocked I am, really. Because I can see the men around this table are not willing to give the leadership, I don't know how I can expect the electorate of this state, Mr. Sutherland, to elect eight blacks through that process, because here we have a more learned group, and one I think who should be more sensitive to the necessities for the future development of this state.

#### MINUTES

Minutes of the meeting of the Committee  
on Education and Welfare of the Con-  
stitutional Convention of 1973

Held pursuant to notice mailed by the

Secretary of the Convention on June 14, 1973

East Baton Rouge School Board Parish Instructional Re-  
source Center

June 20, 1973

10:00 a.m.

Presiding: Robert J. Aertker, Chairman

Present: Minos Armentor  
Norman Carmouche  
Heloise Corne  
Ralph Cowen  
Gordon Flory  
Bill Grier  
F.E. Hernandez  
Eual Landry  
Kenneth Leithman  
Edward Lennox  
Anthony Rachal  
Louis Riecke  
Horace Robinson  
Perry Segura  
Joe Silverberg  
Matthew Sutherland  
John Thistlethwaite  
Herald Toca  
Mary Wisham

Absent: J.K. Haynes

The Committee on Education and Welfare met in at the East Baton Rouge School Board Parish Instructional Resource Center on Wednesday, June 20, 1973. The chairman called the meeting to order at 10:00 a.m., the secretary called the roll and a quorum was present.

The first item on the agenda was the reading of the minutes of the previous meeting. Mr. Lennox asked that the committee delay reading of the minutes because he had another meeting later in the day and he would like to be



present at the discussion of the proposals. With no objections, the reading of the minutes was delayed.

The next item on the agenda was discussion of proposal No. CC-315, Municipal Fire and Police Civil Service. Mr. Rachal gave a brief summary of the action taken on the proposal at the last meeting. After a discussion, Mr. Lennox moved that the vote taken at the previous meeting be reconsidered and that proposal No. CC-319 be considered instead. Mr. Armentor seconded the motion. As a substitute, Mr. Flory moved to adopt CC-315 as amended at the previous meeting. Mr. Toca asked to hear from persons in the audience on the subject. In response, Mr. Clarence Perez, Mr. Irvin Magri, Mr. Mike Doyle, and Mrs. Mary Zervigon gave their views on the subject. Mr. Lennox moved the question on Mr. Flory's substitute motion. The chairman called for a roll call vote and the results were as follows:

Mr. Armentor	no
Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Cowen	yes
Mr. Flory	yes
Mr. Grier	no
Mr. Hernandez	no
Mr. Landry	yes
Mr. Leithman	absent at the time of the vote
Mr. Lennox	no
Mr. Rachal	no

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Mr. Riecke	no
Mr. Robinson	yes
Mr. Segura	yes
Mr. Silverberg	no
Mr. Sutherland	no
Mr. Thistlethwaite	no
Mr. Toca	yes
Miss Wisham	yes

Mr. Aertker voted "yes" to break the tie vote of 9-9, and the motion carried.

The chairman suggested that the committee review the minutes of the previous meeting at this time. The secretary read the minutes, and they were adopted as written.

Before Mr. Lennox's departure, he requested that the committee review his proposal, CC-318, State and City Civil Service, in conjunction with the subcommittee's proposal CC-317 which covers the same subject matter. In the discussion of the two proposals the following action was taken:

Mr. Flory moved to adopt Section 1, Paragraph (A), and (B) of CC-317 as written. The motion was unanimously adopted.

Mr. Toca moved to adopt Section 2, Paragraphs (A), and (B) of CC-317. Mr. Riecke offered a substitute motion to adopt Section 2, Paragraph (A) and (B) of CC-318. The chairman called for a roll call vote on the substitute motion and the results were as follows:

Mr. Armentor	yes
Mr. Carmouche	yes
Mrs. Corne	no
Mr. Cowen	yes
Mr. Flory	no
Mr. Grier	yes
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	no
Mr. Rachal	no

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Mr. Riecke	yes
Mr. Robinson	abstain
Mr. Segura	no
Mr. Silverberg	yes
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	no
Miss Wisham	no

The motion carried by a vote of 9-8.

Mr. Rachal moved to adopt Section 2, Paragraph (C) of proposal No. CC-317, with the exclusion of the last paragraph. Mr. Hernandez offered a substitute motion to adopt Paragraphs (C), (D), and (E) of CC-318. The substitute motion was un-animously adopted.

Mr. Rachal moved to adopt Paragraph (F) of proposal No. CC-317. Mr. Cowen offered a substitute motion to have this paragraph read "that the amount of compensation shall be fixed by the legislature." The motion was unanimously adopted.

At this time, Mr. Leithman arrived and explained that he had just left a press conference at the Capitol at which the governor signed and vetoed bills. He asked that the minutes reflect that he did not realize that such an important vote (Municipal Fire and Police Civil Service) would come up as early as it did and that he did not abstain on that vote but that he was committed to attend the press conference. Mr. Leithman reviewed the bills that were signed or vetoed by the governor.

The chairman suggested that the committee recess for lunch at 12:30 p.m. and return at 1:30 p.m.

In the afternoon session, the secretary called the roll and a quorum was present. After more discussion of CC-317 and CC-318, Mr. Rachal moved to adopt Section 3, Paragraphs (A)

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and (B) of CC-318 beginning with line 35 of page 4 and ending on line 17 of page 5. Mr. Flory offered an amendment to the substitute motion to the effect that the words "one hundred thousand" in line 2 of page 5 be deleted and the words "twenty-five thousand" be inserted instead. Mrs. Corne offered an amendment that the word "is" in line 1 of page 5 be deleted and the words "may be" be inserted instead. The chairman called for a roll call vote on Mrs. Corne's amendment and the results were:

Mr. Armentor	no
Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Cowen	absent at the time of the vote
Mr. Flory	no
Mr. Grier	no
Mr. Hernandez	no
Mr. Landry	no
Mr. Leithman	no
Mr. Lennox	absent at the time of the vote
Mr. Rachal	yes
Mr. Riecke	yes
Mr. Robinson	yes
Mr. Segura	yes
Mr. Silverberg	absent at the time of the vote
Mr. Sutherland	yes
Mr. Thistlethwaite	no
Mr. Toca	no
Miss Wisham	no

The motion failed for lack of majority. The chairman called for a roll call vote on Mr. Riecke's substitute motion as amended by Mr. Flory. The results were:

Mr. Armentor	no
Mr. Carmouche	no

Mrs. Corne	no
Mr. Cowen	absent at the time of the vote
Mr. Flory	no
Mr. Grier	yes
Mr. Hernandez	no

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Mr. Landry	no
Mr. Leithman	no
Mr. Rachal	no
Mr. Riecke	yes
Mr. Robinson	no
Mr. Segura	no
Mr. Sutherland	yes
Mr. Thistlethwaite	no
Mr. Toca	no
Miss Wisham	no

The motion failed for lack of majority. The chairman called for a roll call vote on Mr. Rachal's original motion and the results were as follows:

Mr. Armentor	yes
Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Flory	yes
Mr. Grier	yes
Mr. Hernandez	yes
Mr. Landry	yes
Mr. Leithman	yes
Mr. Rachal	yes
Mr. Riecke	yes
Mr. Robinson	yes
Mr. Segura	yes
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	yes
Miss Wisham	yes

The motion was unanimously adopted.

Mr. Rachal moved the adoption of Section 3, Paragraphs (C), (D), and (E). The motion was unanimously adopted.

Mr. Rachal moved the adoption of Section 3, Paragraph (F), as amended to read the same as Section 2, Paragraph (F). The motion was unanimously adopted.

Mr. Hernandez moved the adoption of Section 5. Mr. Flory offered an amendment to delete "insofar as practicable" in line 27 of page 10. The chairman called for a roll call vote on the amendment and the results were:

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Mr. Armentor	yes
Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Flory	yes
Mr. Grier	no
Mr. Hernandez	no
Mr. Landry	yes
Mr. Leithman	no
Mr. Rachal	yes
Mr. Riecke	no
Mr. Robinson	yes
Mr. Sutherland	no
Mr. Thistlethwaite	no
Mr. Toca	no
Miss Wisham	yes

The motion carried by a vote of 8-7, after which Mr. Hernandez moved that Section 5 be adopted as amended by Mr. Flory. The motion carried.

Miss Wisham moved the adoption of Section 6. Mr. Riecke offered an amendment Section 6, line 25, (5) be amended by adding the words "one person holding a confidential position or," at the beginning of the statement. With no objection, the motion carried as amended.

In the discussion of Section 7, Mr. Riecke moved to delete lines 15 through 17 on page 14. The chairman called for a roll call vote and the results were as follows:

Mr. Armentor	no
Mr. Carmouche	yes
Mrs. Corne	absent at the time of the vote
Mr. Flory	no
Mr. Grier	yes
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	yes
Mr. Rachal	no
Mr. Riecke	yes
Mr. Robinson	no
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	yes
Miss Wisham	no

The motion carried by a vote of 8-6.

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Mr. Riecke moved to delete lines 18 through 20 on page 14. The chairman called for a roll call vote and the results were as follows:

Mr. Armentor	yes
Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Flory	no
Mr. Grier	yes
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	yes
Mr. Rachal	no
Mr. Riecke	yes
Mr. Robinson	no
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	yes
Miss Wisham	no

The motion carried by a vote of 10-5.

It was the consensus of the committee to delete the word "only" in line 33 of page 13.

Mr. Riecke moved that the words "work-test periods" be inserted between the words "promotion" and "and" in line 12 of page 14. The chairman called for a roll call vote and the results were as follows:

Mr. Armentor	yes
Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Flory	no
Mr. Grier	yes
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	yes
Mr. Rachal	no
Mr. Riecke	yes
Mr. Robinson	no
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	no
Miss Wisham	no

The motion carried by a vote of 9-6. After some discussion, the chairman authorized the staff to place this phrase in the appropriate paragraph.

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Mr. Flory moved that the word "three" in line 6 of page 14 be deleted and the word "five" be inserted in its place. The chairman called for a roll call vote and the results were as follows:

Mr. Armentor	no
Mr. Carmouche	yes
Mrs. Corne	yes
Mr. Flory	yes
Mr. Grier	no
Mr. Hernandez	no
Mr. Landry	yes
Mr. Leithman	yes
Mr. Rachal	yes
Mr. Riecke	no
Mr. Robinson	no
Mr. Sutherland	no
Mr. Thistlethwaite	no
Mr. Toca	yes
Miss Wisham	yes

The motion carried by a vote of 8-7.

Mr. Rachal moved to adopt Section 7, Paragraph () as amended. With no objection, the motion carried.

In the discussion of Section 7, Paragraph (B), Mr. Leithman moved that the words "have been" in line 1 of page 15 be deleted and the word "are" be inserted in its place. With no objections, the motion carried.

It was the consensus of the committee to take the following action of Section 7, Paragraph (B): delete the word "wife" in line 6 of page 15 and insert the word "spouse" instead; delete the words "widowed mother" in line 11 of page 15 and insert the word "parents" in its place; delete the word "mother" in line 15 of page 15 and insert the word "parents" in its place; delete the words "in the original appointment" in its place; delete the word "wife" in line 24 of page 15 and insert the word "spouse" in its place; delete the word "mother" in line

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25 of page 15 and insert the word "parents" in its place.

Mr. Hernandez moved to add a paragraph relating to layoffs, preference employees, and reinstatement or preferred employment lists. With no objection, the motion carried.

Mr. Toca moved to adopt Section 7, Paragraph (B) as amended. The motion was unanimously adopted.

In the discussion of Section 8, Mr. Armentor moved to delete the word "suspensive" in line 8 of page 17 and insert the word "devolutive" in its place. The chairman called for a roll call vote and the results were as follows:

Mr. Armentor	yes
Mr. Carmouche	no
Mrs. Corne	yes
Mr. Flory	no
Mr. Grier	yes
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	no
Mr. Rachal	abstain
Mr. Riecke	yes
Mr. Robinson	no
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	no
Miss Wisham	no

The chairman voted "yes to break the tie vote of 7-7 and the motion carried. Mr. Flory moved to adopt Section 8 as amended. With no objection, the motion carried.

Mr. Flory asked that Section 9 be deleted until such time as Mr. Lennox could be present for the discussion. With no objection, the chairman so ordered.

Miss Wisham moved to adopt Section 10 as written. The motion was unanimously adopted.

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Mr. Flory moved that Section 11 be adopted, including lines 20-24 of page 18, from the Lennox proposal (CC-318), and adding language to except the elected classified employee who serves on the city civil service commission. With no objection, the motion carried.

Miss Wisham moved to adopt Section 12 as written. The motion was unanimously adopted.

Mr. Riecke moved to adopt Section 13 as written. The motion was unanimously adopted.

Mr. Riecke moved to adopt Section 14 as written. The motion was unanimously adopted.

Mr. Flory moved the adoption of Section 15 as written. With no objections, the motion carried.

Miss Wisham moved the adoption of Section 16 as written. An amendment to the motion was offered to delete lines 32 and 33 and the words "state classified service" of line 34 and to insert the words "shall make adequate appropriation" in their place. The chairman called for a roll call vote on the amendment and the results were as follows:

Mr. Armentor	no
Mrs. Corne	abstain
Mr. Cowen	yes
Mr. Flory	yes
Mr. Grier	no
Mr. Hernandez	no
Mr. Landry	yes
Mr. Rachal	no
Mr. Riecke	no
Mr. Robinson	yes
Mr. Sutherland	no
Mr. Thistlethwaite	no
Mr. Toca	yes
Miss Wisham	yes

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The motion failed for lack of majority. With no objections, Miss Wisham's original motion carried.

Miss Wisham moved the adoption of Section 17. The motion was unanimously adopted.

Miss Wisham moved the adoption of Section 18, and the motion was unanimously adopted.

With the completion of the discussion of proposal No. CC-317, Mr. Flory moved the adoption of the proposal as amended. With no objections, the motion carried.

The next item on the agenda was the discussion of proposal No. CC-323, Office of Consumer Counsel. Mr. Flory moved the adoption of the proposal as written. Mr. Hernandez offered a substitute motion that this matter be excluded from the constitution. The chairman called for a roll call vote on the substitute motion and the results were as follows:

Mr. Armentor	yes
Mrs. Corne	yes
Mr. Cowen	yes
Mr. Flory	no
Mr. Grier	no
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	yes
Mr. Rachal	no
Mr. Riecke	yes
Mr. Robinson	no
Mr. Sutherland	no
Mr. Thistlethwaite	yes
Mr. Toca	yes
Miss Wisham	no

The motion carried by a vote of 8-7.

Mr. Hernandez moved the adoption of Proposal No. CC-211, Retirement System; Public School Employees. Mr. Robinson offered a substitute motion that line 15, beginning with the word "The" and lines 16-20 be deleted and the following language be inserted in its place:

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"Membership in such retirement system or systems shall be a contractual relationship, the accrued benefits of which shall not be diminished nor impaired, and the state shall guarantee any benefit payable to a member of the system or to his lawful beneficiary at his death or retirement period."

MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention

East Baton Rouge Parish, Instructional Resource Center

July 12, 1973

10:00 a.m.

Mr. Hernandez accepted the amendment without objection and the motion as amended was unanimously adopted.

In the discussion of CC-321, Retirement System; State Officers and Employees, the committee amended the proposal by inserting the words "and political subdivisions" between the words "corporation" and "included". Mr. Flory then moved to adopt proposal No. CC-321 as amended. The motion was unanimously adopted.

Mr. Sutherland moved to adopt proposal No. CC-324, Retirement Systems; Notice of Intention to Proposed Amendment or Change; Publication". With no objection, the motion carried.

After a discussion of proposals No. CC-201 and CC-201A, Financial Security for Surviving Spouses and Children of Law Enforcement Officers in Certain Cases, Mr. Grier moved to adopt proposal No. CC-201A as written. With no objection, the motion carried.

With the completion of the discussion of proposals, the chairman expressed his appreciation to the committee for their outstanding participation and cooperation in the meetings during the past several months. Mr. Cowen, speaking for the entire committee, thanked Mr. Aertker for his patience and understanding in the meetings, after which the meeting adjourned at 5:20 p.m., Wednesday, June 20, 1973.

Presiding: Robert Aertker, Chairman

Present: Minos Armentor  
Norman Carmouche  
Heloise Corne  
Ralph Cowen  
Bill Grier  
J.K. Haynes  
Pete Hernandez  
Eual Landry  
Kenneth Leithman  
Edward Lennox  
Anthony Rachal  
Louis Riecke  
Joe Silverberg  
Matthew Sutherland  
John Thistlethwaite  
Harold Toca  
Mary Wisham

Absent: Gordon Flory  
Horace Robinson  
Perry Segura

The meeting was called to order at 10:00 a.m. by the chairman. The roll was called by the secretary and a quorum was noted.

Mr. Hernandez moved that the reading of the minutes of June 20, 1973, be delayed until the next meeting. The motion was seconded by Mr. Lennox.

At this time, the chairman stated that a standard meeting time should be decided upon. Mr. Hernandez offered a motion that the committee establish each Thursday morning at 9:00 a.m. as a regular meeting day. The motion was seconded by Mr. Toca and so carried. Mr. Aertker also suggested that these meetings should be held nearer to the convention hall for the benefit of the general public. After a brief discussion on location, it was decided to try to obtain the Senate Chamber at the Capitol or a place near the convention for the meetings while the convention is in session.

Mr. Rachal asked that if there is no need to meet on a regular meeting day, that a twenty-four hour notice be given.

At this point in the meeting, the chairman stated that Mrs. Duncan, director of research of the Constitutional Convention of 1973, was present and would make observations on the proposals prepared by the Committee on Education and Welfare.

After answering questions posed by some of the members of the committee, Mrs. Duncan made brief comments on the following committee proposals. They are as follows:

1. CP No. 14: No comment, although a researcher had brought up a comment as to add "and related services."

  
Mr. Robert Aertker, Chairman

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Committee on Education and Welfare  
East Baton Rouge Parish Instructional Resource Center  
Wednesday, June 20, 1973  
10:00 a.m.

Roll call

Reading of minutes of previous meeting

Discussion:

CC-315 - Municipal Fire and Police Civil Service

Delegate proposal

CC-317 - State and City Civil Service

Delegate proposals

CC-323 - Consumer Affairs

Retirement:

CC-211 - School Employees

CC-321 - State Employees

CC-322 - State Employees

CC-324 - Notice for Amendments

CC-201-A - Law Enforcement Officers' Survivors' Benefits

Report of action taken by the Committee on 1921 Constitution

Announcements

Adjournment

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constitution.

July 19, 1973

3. CP No. 12: Section 1(A) should go in the statutes and Section 1(B)- no reason to put in constitution.

10:00 a.m.

4. CP No. 11: Section 1(A) lines 18 through 23 should clearly state who the contract is between and Section 1(B)- the word "or" on line 26 should be changed to "and". For clarity, CP No. 11 should be coordinated with the Committee on Local and Parochial Government in reference to the use of the terms "political subdivisions" and "political corporations".

5. CP No. 7: Put together well.

In Mrs. Duncan's closing statements, she posed questions that each delegate should ask himself:

1. Is this a functional service or provision that the state should provide for the people?
2. Is this matter of such importance that it should be placed in the constitution or statutes?
3. To what extent does it have to be in the constitution to establish the purpose?
4. How can I make this provision flexible to serve generations ten years from the present time?

Following the review from Mrs. Duncan, Mr. Aertker introduced Mrs. Betty Toepfer, one of the directors of the Student Constitutional Convention and a teacher of the East Baton Rouge Parish School Board system. A chart from the Student Constitutional Convention in reference to the Superintendent of Elementary and Secondary School Education and Superintendent of Higher Education was presented to the members and a copy of this chart is attached hereto and

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made part of these minutes.

The meeting was adjourned at 12:15 p.m.

*Robert J. Aertker*  
Mr. Robert Aertker, Chairman

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NOTES

The organizational chart cited in the Minutes as an addendum is not found in the committee files.

MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice read in open session and publicly posted as provided by the Rules of Procedure of the Convention

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Armentor  
Mr. Carmouche  
Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Haynes  
Mr. Hernandez  
Mr. Landry  
Mr. Leithman  
Mr. Lennox  
Mr. Rachal  
Mr. Riecke  
Mr. Robinson  
Mr. Silverberg  
Mr. Sutherland  
Mr. Thistlethwaite  
Mr. Toca  
Miss Wisham

Absent: Mr. Segura

The meeting was called to order at 10:00 a.m. by the chairman. The roll was called by the secretary and a quorum was noted.

It was the consensus of the committee to dispense with the reading of the minutes of July 12, 1973.

The committee focused its attention on the agenda and began its discussion of CP No. 14. Mr. Silverberg offered a motion to accept CP No. 14 as written. Motion carried. CP No. 14 was reported favorably.

Next was CP No. 13. Mr. Sutherland moved that CP No. 13 read:

"The legislature shall pass no laws requiring compulsory arbitration without the consent of the parties."

After discussion of the motion, it was the consensus of the committee to submit a substitute proposal using Mr. Sutherland's language. CP No. 13 was reported by substitute.

On CP No. 12, Mr. Silverberg offered a motion that this proposal be reported favorably. A roll call vote was taken on this motion. The results are as follows:

Mr. Armentor	yes
Mr. Carmouche	no
Mrs. Corne	no
Mr. Cowen	yes
Mr. Flory	yes
Mr. Grier	no
Mr. Hernandez	no
Mr. Landry	yes
Mr. Leithman	no
Mr. Lennox	yes
Mr. Rachal	yes
Mr. Riecke	yes
Mr. Robinson	yes
Mr. Silverberg	yes
Mr. Sutherland	yes
Mr. Thistlethwaite	yes
Mr. Toca	no
Miss Wisham	yes

CP No. 12 was reported favorably by a vote of 12-6.

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The discussion on CP. No 11 was not completed, but there were three amendments to this proposal. Mrs. Corne amended Section 1(A) by deleting the words "shall guarantee any" on line 21 and inserting in lieu thereof the words "guarantees all." With no objections the amendment was carried. Mr. Hernandez submitted the following: Section 1(A), line 19, delete the word "relationship" and insert the word "relation-

ship between the employee and employer", and delete the word "accrued" on line 20. The committee accepted the first part of the amendment in reference to the relationship between the employee and employer. The part of the amendment to delete the word "accrued" was questioned by members of the committee. After a discussion, a roll call vote was taken. The votes went as follows:

Mr. Armentor	no
Mr. Carmouche	yes
Mrs. Corne	no
Mr. Cowen	no
Mr. Flory	yes
Mr. Grier	no
Mr. Haynes	yes
Mr. Hernandez	yes
Mr. Landry	yes
Mr. Leithman	yes
Mr. Lennox	no
Mr. Rachal	yes
Mr. Riecke	no
Mr. Robinson	no
Mr. Silverberg	no
Mr. Sutherland	no
Mr. Thistlethwaite	yes
Mr. Toca	no
Miss Wisham	no

The amendment failed by a vote of 11-8. The word "accrued" shall remain in the proposal.

Mr. Lennox requested that the staff draft language for

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CP No. 11, Paragraph C(2) to indicate where the language "law enforcement officers" appears, that they be defined as "law enforcement officers and individuals in training for that profession."

As special order for the next meeting, Mr. Leithman asked that his proposal be discussed after completion of CP No. 11.

The committee adjourned at 11:50 a.m. until Thursday, July 26, 1973, 9:00 a.m.

  
Mr. Robert Aertker, Chairman

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MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice read in open session and publicly posted as provided by the Rules of Procedure of the Convention

State Capitol, Committee Room 5

July 26, 1973

9:00 a.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Armentor  
Mr. Carmouche  
Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Haynes  
Mr. Hernandez  
Mr. Landry

Mr. Leithman  
Mr. Lennox  
Mr. Riecke  
Mr. Robinson  
Mr. Silverberg  
Mr. Segura  
Mr. Sutherland  
Mr. Thistlethwaite  
Mr. Toca  
Miss Wisham

Absent: Mr. Rachal

The meeting was called to order at 9:00 a.m. by the chairman. The roll was called by the secretary and a quorum was noted.

The committee focused its attention on the agenda, continuing its discussion of CP No. 11. After due deliberation, amendments one through seven were adopted.

Amendment No. 8 was changed to read:

"On page 2, at the end of line 1, delete the word 'impaired,' and insert in lieu thereof the words 'impaired,' and the state or political subdivision guarantees all benefits payable to a member of the system or to his lawful beneficiary at his death or retirement."

Mr. Landry offered a motion to adopt Paragraph B of Section 1. Without any objection, the motion carried.

Mr. Robinson moved to delay action on Paragraph C until the results of the Legislative Liaison and Coordinating Committees meeting are received. The chair instructed the committee that those wishing to discuss Section (C) should vote affirmatively and those wishing to delay the discussion should vote negatively. A roll call vote was taken on this motion. The results are as follows:

Mr. Armentor	no
Mr. Carmouche	yes
Mrs. Corne	no
Mr. Cowen	no
Mr. Flory	yes
Mr. Grier	yes
Mr. Haynes	yes
Mr. Hernandez	yes
Mr. Landry	no
Mr. Leithman	no
Mr. Lennox	yes
Mr. Riecke	no
Mr. Robinson	no
Mr. Silverberg	no
Mr. Sutherland	no
Mr. Toca	no
Mr. Thistlethwaite	no
Miss Wisham	no

CP No. 11, Paragraph C was delayed along with amendments nine and ten.

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Mr. Flory moved to delay action on CP No. 11, Paragraph D until final action was taken on the Legislative provision on notice. Motion carried.

At this point, Mr. Leithman introduced his proposal, Delegate Proposal No. 8. After introduction, Mr. Leithman offered a motion to report Delegate Proposal No. 8 favorably. After a lengthy discussion, as a substitute motion, Mr. Silverberg moved to delay any further discussion of Delegate Proposal No. 8 until the next meeting. By a vote of 12-6, the committee agreed to do so.

Mr. Haynes, then read a letter from Mr. Rachal in reference to his feeling of Delegate Proposal No. 8. A copy of the letter is attached hereto and made part of these minutes.

The committee began its public hearings on CP no. 7. Dr. Joe Kite, assistant superintendent, Management, Research, and Finance, representing Superintendent Louis Michot was first to appear. A copy of this presentation is attached hereto and made part of these minutes.

Mr. Newton E. Renfro of New Orleans Times-Picayune appeared before the committee in reference to the series on education appearing in that paper. Mr. Renfro gave circumstances under which statements were made, and at the request of the committee, indicated that he would make a copy of his material from which the series was written available to the committee.

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The meeting adjourned at 12:15 p.m.

  
Mr. Robert Aertker, Chairman

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STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 BOX 1740-A BATON ROUGE, LOUISIANA 70801  
TELEPHONE 489-5114



LEAHY  
The Honorable  
MAMMILLIAN  
1973

July 25, 1973

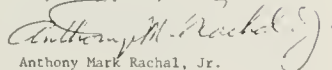
Mr. Robert J. Aertker, Chairman  
Education and Welfare Committee  
Box 2950  
Baton Rouge, Louisiana

Dear Mr. Aertker:

Realizing fully well that our rules provide that a member must be present in committee in order to register his opinion and vote, I do wish to make my opinion known to the Education and Welfare Committee regarding a pending issue.

If present, I would vote yea in favor of Delegate Proposal No. 8.

Very truly yours,

  
Anthony Mark Rachal, Jr.

AMR/gk

POSITION RELATIVE TO EDUCATION  
FOR THE CONSTITUTIONAL CONVENTION

Louis J. Michot, Superintendent

The entry in the convention should be brief:

"Equal educational opportunity shall be made available to all citizens of the State of Louisiana, without regard to race, creed, color, sex or ethnic background. All facets of public education shall be under the jurisdiction of a single governing Board, to be referred to as the Board of Education, State of Louisiana.

The Board shall be composed of eleven elected members, from 11 single-member districts, and six appointed members, appointed by the Governor and confirmed by majority vote of the Senate. All members, whether elected or appointed, shall serve four-year terms and shall be eligible for re-election and/or re-appointment.

The Board of education shall, upon confirmation by the Senate, appoint as its chief administrative officer a State Superintendent of Education. He shall be authorized to employ such staff as is necessary to conduct the affairs of the State Department of Education.

The Board of Education shall be responsible for establishing policy and for coordinating educational efforts. To govern the operations of the various segments which comprise education within the state the Board shall have the authority to appoint such bodies as it deems necessary."

There would probably be some sentiment for a special mention of the LSU system. However, that tends to lengthen the Constitution, also, other groups would likely be encouraged to request special mention. Statutes could be amended to allow the Board to refer to LSU, which has been suggested.

Finally, some consideration should be given to a single State University for all of higher education. However, I think that too should be added to the statutes rather than to the Constitution.

Another point at issue might be whether the other bodies mentioned in the proposed entry should be defined in more detail. I think not. As a need becomes manifest, the Board would establish a governing body according to criteria most appropriate at that time and appoint those persons to it who would be best able to serve. In addition to avoiding unnecessary bulk in the Constitution, such a procedure would allow for adapting to prevailing conditions. It is my contention that we will witness more need for making changes in education during the next 10 years than have occurred in the past 50 years or so!

As for the rationale for a single board as is proposed herein, several points should be made:

1. All education should have a common objective. Policy should be set by a single entity, and implemented by one staff.
2. Coordination among all aspects of the educational process is a must. It is becoming even more important than it has ever been. Presently each segment is acting virtually independent of all other segments.
3. Career education is the direction which education must take in the future. The interactions among the various components which together compose career education will mandate the need for a single policy for all of them.
4. Assigning responsibility for all of education to a single body will insure that it acts as a planning and policy body. Such a board would not have time to consider day-to-day governance of the institution(s).
5. Election of the members would insure accountability to the people. Also, each candidate for office would be required to expose his qualifications to the public.
6. There should be minority representation on the Board. The Governor would be expected to make appointments so that minority members on the Board would become a possibility.

The idea of the single board for all of education is neither new or novel. Nor is it necessarily the panacea to cure all of the ills of education. However, it will provide a better vehicle by which competent men, with the proper intention and dedication, have a chance of "putting it all together".

#### MINUTES

Minutes of the meeting of the Committee on  
Education and Welfare of the Constitutional  
Convention of 1973

Held pursuant to notice read in open session  
and publicly posted as provided by the Rules  
of Procedure of the Convention

State Capitol, Committee Room 3

August 2, 1973

9:00 a.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Armentor  
Mr. Carmouche  
Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Haynes  
Mr. Hernandez  
Mr. Landry  
Mr. Leithman  
Mr. Lennox  
Mr. Rachal  
Mr. Riecke  
Mr. Robinson  
Mr. Silverberg  
Mr. Segura  
Mr. Sutherland  
Mr. Thistlethwaite  
Mr. Toca  
Miss Wisham

Absent: NONE

The meeting was called to order at 9:00 a.m. by the  
chairman. The roll was called by the secretary and a  
quorum was noted.

Mr. Silverberg offered a motion to dispense with the  
reading of the minutes of July 26, 1973. It was the consensus  
of the committee to do so.

The committee focused its attention on the agenda, continu-  
ing with hearings from the public. Mr. Rachal asked that a limit  
be set for each speaker. It was the consensus of the committee  
to allow each speaker to have ten minutes to speak and five  
minutes for questions and answers.

Mrs. Robert Holtman, a representative of the League of  
Women Voters, was the first person to appear before the committee.  
Mrs. Holtman stated that her organization was opposed to the use  
of public funds for private schools. While indicating that the  
League had not taken an official position with reference to the  
committee's proposal, Mrs. Holtman stated that she felt that the  
committee's proposal allowed too many appointments to the various  
boards of education.

Mr. J. Huntington Odom, president of the Louisiana State  
University Alumni Federation, made the next presentation to the  
committee. In a brief statement, he indicated that the committee's  
proposal represented the best answer for education for the State  
of Louisiana.

Following Mr. Odom's presentation, Senator Mouton addressed  
the committee. Although Senator Mouton's remarks were primarily  
directed to higher education, he indicated that there should be  
a board for elementary and secondary education. Regarding  
higher education, he stated that the single board concept was  
the best approach. He felt that the educational system had  
become too politicized and that any distinction made as it re-

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gards boards for the LSU system and the other state institutions  
of higher education would create the same old problems, es-

pecially as it relates to the fight for the tax dollar.

Mr. Edward Steimel, executive director, and Ms. Emogene  
Pliner, of PAR, made the next presentation to the committee.  
Mr. Steimel called the committee's attention to the prepared  
statement presented to the Subcommittee on Higher Education,  
March 30, 1973. Although indicating that the "bare bones"  
approach of the Model State Constitution might not be the best  
answer to the problem of education in the state, Mr. Steimel  
stated that if the committee accepts that approach the provision  
probably should include an elected state board of education  
without the detail as to number of members, qualifications,  
terms of office, or manner of election; a board for LSU, without  
the details, and a coordinating council (Board of Regents or  
whatever) with extended authority to all of education and the  
required staff. Mr. Steimel suggested that although this plan  
resembled the present system, he found nothing wrong with that,  
"the present system is not all bad." He further suggested that  
in such a plan the state superintendent should be appointed. He  
felt that there was no need for an additional board for elementary  
and secondary education.

Mr. Lennox offered a motion to suspend the rules to allow  
Ms. Pliner to present an analysis of each of the education  
proposals being reviewed by the committee. The motion carried.

Ms. Pliner suggested that, with the emphasis on career  
education, there needed to be some agency to coordinate all  
phases of education so as to eliminate as much as possible

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the fragmentation. After giving a general analysis of the  
proposals before the committee, Ms. Pliner suggested that the  
status quo was favored because "we know what we have" and by  
solving the problem of staff the system could work well. In  
response to a question, Ms. Pliner stated that one of the reasons  
they favored the present system is that a number of states  
have the same or similar structure for governance of education.

Mrs. Mildred Blomberg, president, and Dr. Harold Porter,  
business manager, of the Orleans Parish School Board, appeared  
before the committee to express support for the committee  
proposal's provision on funding of elementary and secondary  
schools. Mrs. Blomberg stated that the financial stability of  
the Orleans Parish School Board depended upon having language  
similar to that in Section 16 (C) Third of the committee's  
proposal. Dr. Porter suggested that the Leithman and Juneau  
proposals were sufficiently broad to allow the legislature the  
discretion to establish a local tax for a local function,  
including establishing the rate of tax, the tax base, method  
of collection, and disbursement of funds.

Miss Dana Roberts, chairman of the Committee on Education  
and Welfare of the Student Constitutional Convention, and Mr. Chris  
Toefer, member of the Committee on Education and Welfare, presented  
their views on the education proposals. Miss Roberts stated  
that there should be two boards; one for higher education and one  
for elementary and secondary education. She further stated that



the proposal paralleled the Leithman's proposal with the main difference in the method of selecting members to the board.

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Next to speak before the committee was Mr. Edward W. Stagg, executive director of the Council for A Better Louisiana. Mr. Stagg suggested that in the field of organizational structure local school boards should be smaller in number and local school board members be elected for staggered terms in off-year elections. Mr. Stagg further suggested that there should be a provision in the constitution that would encourage the establishment of a system of accountability for education. Regarding higher education, he stated that CABL supported substantially what the committee had recommended with the exception that the superintendent of education should be appointed. In the area of educational finance, he suggested that the constitution should authorize adequate taxing authority for the local school boards, but does not think it is necessary to continue the dedication of the severance tax to education--it does not provide sufficient funds and you have to go to the legislature anyway. Finally, Mr. Stagg suggested that the constitution continue to permit the kind of things that have been done in the past as it relates to the Southern Regional Education Board and is now done in the specially handicapped fields through contracts.

Delegate Juneau told the committee if its proposal was sent to the floor as presently written, it would be extremely explosive. He felt that the committee had one policy decision to make--"do you want specified boards for education in this constitution?" He suggested that if you did, you would find 50% of the convention and the state taking a diametrically opposed view to whatever position the committee takes. Delegate

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Juneau suggested that the provision on education should provide flexibility for the legislature to act and not lock in a board system that might be wrong for the state.

Mr. Silverberg asked that a letter from the University of Tennessee be copied for each member of the committee.

The meeting was adjourned at 12:10 p.m.

  
Mr. Robert Aertker, Chairman

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#### MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice read in open session and publicly posted as provided by the Rules of Procedure of the Convention

State Capitol, Committee Room 3

August 9, 1973

7:00 p.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Armentor  
Mr. Carmouche  
Mrs. Corne  
Mr. Flory  
Mr. Grier  
Mr. Haynes  
Mr. Hernandez  
Mr. Landry  
Mr. Leithman  
Mr. Lennox  
Mr. Rachal  
Mr. Riecke  
Mr. Robinson  
Mr. Silverberg  
Mr. Segura  
Mr. Sutherland  
Mr. Thistlethwaite  
Mr. Toca  
Miss Wisham

Absent: NONE

The meeting was called to order at 7:00 p.m. by the chairman. The roll was called by the secretary and a quorum was noted.

The chairman explained about the minutes of July 26, 1973. Mr. Toca moved the adoption of the minutes of July 26, 1973. The motion carried.

The committee focused its attention on the agenda, and heard the recommendations from the Committee on Legislative Liaison and Transitional Measures and the Coordinating Committee meeting by Mrs. Duncan, director of the research staff of the Constitutional Convention.

Mrs. Duncan stated that the Committee on Legislative Liaison and Transitional Measures recommended several categories into which the substantive committees might divide the material under their jurisdiction. The categories are as follows:

1. Substantive basic constitutional provisions.
2. Those matters which will be treated as statutory material which could only be changed and subsequently changed by a super majority in each of the following categories:
  - a. Super majority requirements contained in schedule to the constitution;
  - b. Super majority requirement provisions which would revert to simple majority provision at the end of a finite period of time.
3. Statutory material which can be modified by simple majority:
  - a. Material which will be transposed to a simple statute.
  - b. Material which will lapse at the end of a finite period of time.
  - c. Statutory material which would lapse after being absorbed into the laws of local units of government.
4. Recommended new legislation.
5. Material which is obsolete.
6. Possible alternative proposals to be placed on the ballot

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in conjunction with the new constitution.

It has been suggested, Mrs. Duncan continued, that the committees take action to determine what categories they would use and submit a report to the convention no later than November 2, 1973.

After Mrs. Duncan's recommendations, Mr. Aertker asked that copies of the letters from Mr. John M. Crothers, director of public service activities of the University of Tennessee; Dr. William D. Reeves, of the Orleans Parish School Board; and Mr. John K. Folger, Tennessee Higher Education Commission;

be given to each member of the committee. These letters are attached hereto and made part of these minutes.

Next on the agenda was a representative from the Congress of Racial Equality. At this time, the representative was not present. The committee moved on the consideration of CP No. 7.

Mr. Sutherland moved to go through the proposal section by section. It was the consensus of the committee to do so.

Mr. Grier moved that Section 1 be deleted in its entirety. As a substitute motion, Mr. Leithman moved that Section 1 be adopted as written. The substitute motion was carried.

Mrs. Corne moved to adopt Section 2 as written. It was the consensus of the committee to do so.

Mrs. Corne read amendments, after which Mr. Leithman moved the adoption of the Corne amendments 1 and 2 to delete Section 3. The roll was called with the following results:

Armentor	no
Carmouche	yes
Corne	yes
Cowen	no
Flory	no
Grier	no
Haynes	abstain
Hernandez	no

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Riecke	no
Landry	yes
Leithman	yes
Lennox	no
Rachal	yes
Robinson	no
Segura	no
Silverberg	no
Sutherland	no
Thistlethwaite	no
Toca	no
Wisham	yes

The motion failed by a vote of 13 Nays-6 Yeas-1 Abstention.

Mr. Sutherland offered a substitute motion that Section 3 read:

"Section 3. State Department of Education  
 (A.) The legislature shall provide for a state department of education and shall prescribe the duties of said department and prescribe their powers provided that said department shall not control the business affair of parish school boards nor the selection or removal of their officers and directors.  
 (B.) The state department of education shall have supervisory powers and control of all public elementary and secondary schools."

After discussion of the motion, Mr. Sutherland amended to delete the word "free". The roll was called with the following results:

Armentor	no
Carmouche	no
Corne	abstain
Cowen	yes
Flory	no
Grier	no
Haynes	no
Hernandez	no
Landry	yes
Leithman	yes
Lennox	no
Rachal	yes
Riecke	yes
Robinson	no
Segura	no
Silverberg	no
Sutherland	yes
Thistlethwaite	yes
Toca	yes
Wisham	no

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The motion was defeated by a vote of 11 Nays-8 Yeas-1 Abstention.

Mr. Riecke moved that page 2, line 9, be amended to have

the board consist of eight members be elected in accordance with Paragraph B and that three members be appointed by the governor. As a substitute motion, Mr. Haynes moved that 3 (B) be adopted as written. The chairman called for a roll call vote on the substitute motion. The votes were as follows:

Armentor	no
Carmouche	no
Corne	no
Cowen	no
Flory	yes
Grier	no
Haynes	yes
Hernandez	no
Landry	yes
Leithman	no
Lennox	no
Rachal	yes
Riecke	no
Robinson	yes
Segura	no
Silverberg	no
Sutherland	no
Thistlethwaite	no
Toca	yes
Wisham	yes

The motion failed by a vote of 13 Nays-7 Yeas.

The committee voted on the original motion posed by Mr. Riecke.

Armentor	yes
Carmouche	no
Corne	abstain
Cowen	yes
Flory	no
Grier	yes
Haynes	no
Hernandez	yes
Landry	no
Leithman	no
Lennox	yes
Rachal	no
Riecke	yes
Robinson	no
Segura	yes

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Silverberg	no
Sutherland	yes
Thistlethwaite	yes
Toca	no
Wisham	no

The motion failed by a vote of 10 Nays-9 Yeas-1 Abstention.

Mr. Flory moved that there be an 11-member board, eight elected from single-member district and three appointed by the governor. Mr. Rachal asked that Mr. Flory accept his suggestion to change appointed members from three to five. Mr. Flory accepted. Mr. Lennox moved that there be eight members elected, one from each single-member district and three appointed by the governor. The roll was called with the following results:

Armentor	yes
Carmouche	no
Corne	abstain
Cowen	no
Flory	yes
Grier	no
Haynes	yes
Hernandez	no
Landry	abstain
Leithman	no
Lennox	no
Rachal	yes
Riecke	yes
Robinson	yes
Segura	no
Silverberg	no
Sutherland	no
Thistlethwaite	no
Toca	no
Wisham	yes

The motion failed by a vote of 11 Nays-7 Yeas-2 Abstentions.

Mr. Lennox moved that the board consist of eight members elected from single-member districts and three members appointed

by the governor. The roll was called with the following results:

Armentor	yes
Carmouche	no
Corne	no
Cowen	yes
Flory	yes

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Grier	yes
Haynes	no
Hernandez	yes
Landry	no
Leithman	no
Lennox	yes
Rachal	no
Riecke	yes
Robinson	yes
Segura	yes
Silverberg	no
Sutherland	yes
Thistlethwaite	yes
Toca	no
Wisham	no

The motion carried by a vote of 11-Nays, 9-Nays.

Mr. Lennox moved the adoption of Section 3 as amended.

Miss Wisham offered a substitute motion to delay Section 3 until the next meeting. At this time, Mrs. Corne notified the committee that she would withdraw her committee amendments to CP No. 7 and would present them as floor amendments.

There was a roll call vote on Miss Wisham's substitute motion with the following results:

Armentor	no
Carmouche	yes
Corne	yes
Cowen	yes
Flory	no
Grier	no
Haynes	yes
Hernandez	no
Landry	yes
Leithman	yes
Lennox	no
Rachal	yes
Riecke	no
Robinson	no
Segura	no
Silverberg	no
Sutherland	yes
Thistlethwaite	no
Toca	yes
Wisham	yes

There was a tie vote. The chairman voted to break the tie and defeat the motion 11-Nays, 10 Yeas.

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The votes went as follows on the original motion of Mr. Lennox.

Armentor	yes
Carmouche	no
Corne	no
Cowen	yes
Flory	yes
Grier	yes
Haynes	no
Hernandez	yes
Landry	no
Leithman	no
Lennox	yes
Rachal	no
Riecke	yes
Robinson	yes
Segura	yes
Silverberg	no
Sutherland	no
Thistlethwaite	yes
Toca	no
Wisham	no

The vote was a tie. The chairman voted to break the tie and the motion carried.

At this point in the meeting, Mr. Rachal asked that the committee hear the representative from CORE. The representative from CORE was Mr. Roy Innis, national director of CORE. Mr. Innis stated that no issue is more essential than the issue of

education. Mr. Innis stated that the State of Louisiana exercise its sovereignty, its concern for the educational plight of all its people, and show the way to new and innovative ways of extending equal opportunity to all its citizens by:

- A. amending the law pertaining to public education to allow the option to form communities school districts and that each district be guaranteed adequate monies and resources to conduct quality education programs.
- B. amending the law pertaining to higher education as the board of supervisors has over the Louisiana State system.
- C. amending the laws pertaining to student assignment to all public schools or

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institutions of higher education to allow all students throughout the state the full freedom to choose to attend any public school or state college or university throughout the state without regard to race or color.

A copy of this presentation is attached hereto and made part of these minutes.

Delegate Alphonse Jackson spoke to the committee in reference to the education proposals. Delegate Jackson stated that the purpose of the committee was to write a set of organic laws that will provide for the hopes and aspirations of the people of this state as it relates to central and state and national goals. Delegate Jackson discussed the central issue that will require the best thinking on the part of all. He stated that the central issue in the proposals posed was proper representation. In reference to the Southern University system and the Grambling College system, Delegate Jackson asked the committee three things:

- 1. to reconsider the central issues as they relate to proper representation
- 2. there should be broader representation on whatever structure that will permit the hopes and aspirations of all people to be realized and individuals to have some way to set their own destiny and will shape the whole future and direction of education in the State of Louisiana
- 3. resolve the dichotomy that exists by way of the constitutional and vested afforded that we have by way of an elected state superintendent of education and elected state board of education and that this would ensure the benefit of the entire state and nation because it would allow for efficient management and that we would see the Southern University system and Grambling College as a permanent part of the unitary system of higher

-9-

education that would meet the needs of all the people of this state with clarified and enlarged enrollment and admissions.

A copy of this presentation will be given at a later date.

Following Delegate Jackson's presentation, the committee discussed the time for the next meeting. After a brief discussion and suggestions on a meeting day and time, the committee agreed to meet immediately after adjournment each Wednesday.

The meeting adjourned at 10:00 p.m.

  
Mr. Robert J. Aertker, Chairman

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The University of Tennessee

PRIMARY CAMPUSES  
Knoxville  
Medical Units / Memphis  
Martin  
Chattanooga  
Nashville

Office of the President  
Administration Building  
Knoxville 37916  
Telephone 615 / 974 2241

LOUISIANA STATE UNIVERSITY

AUG 1 1973

PRESIDENT'S OFFICE July 30, 1973

Dr. Martin D. Woodin  
Louisiana State University  
Baton Rouge, Louisiana 70803

Dear Martin:

It was good to talk with you again today about the story written by Newton E. Renfro concerning Tennessee's plan for the governance of education.

As I indicated to you in our telephone conversation, I will have in the next day or two a letter from John M. Crothers (one of our staff members) and Cavit Cheshier (who is with the Tennessee Education Association). Both men have told me that they were horribly misquoted; and, in the case of Dr. Crothers, he feels that he was misrepresented as well. The reporter started off by giving the wrong title for Dr. Crothers, and I believe the wrong title for Cavit Cheshier also.

I have not been able to talk personally with Dr. Folger as yet. However, from my knowledge of his apparent satisfaction with his current position, I cannot believe he made the statements that are attributed to him.

I shall be sending you a copy of Dr. Crothers' memorandum which will take up the points he was supposed to have discussed. It will say that not only did he not make the statements, but that much of what he said praising our plan for the governance of higher education in Tennessee was omitted.

Those of us who have been in both state government and higher education in Tennessee during the past twenty-five years believe that our present plan is, by far, the best approach toward the governance of higher education which could be developed for our state.

Dr. C. C. Humphreys, who is my counterpart in the Tennessee Regents' system, and I work together very closely. We are good friends and have frequent occasions to compare problems and opportunities in the higher education area. In addition, Dr. Humphreys and I meet with

The University and Federal Land Grant Institution established 1791

Dr. Martin D. Woodin - 2 - July 30, 1973

Dr. Folger (Director of the Tennessee Higher Education Commission) and Dr. Benjamin Carmichael (Commissioner of Education for Tennessee and Chairman of the State Board of Education, which is responsible primarily for grades 1 through 12).

Obviously, I cannot say to you that there are no problems in our organization; but it was the consensus of higher educators as well as legislators and the state administration that the Legislature which recently adjourned was the best in many, many years for higher education. For the first time the Governor recommended, and the Legislature accepted, total formula funding for all institutions of higher education. We had fewer problems and less criticism with reference to students, faculty, and the current accountability concerns than we have had in the past six to ten years.

We strongly endorse our present plan for governance of higher education for Tennessee. I am a member of the Education Commission of the States' Task Force on Coordination, Governance, and Structure of Post-secondary Education; and we are currently studying various trends and alternative forms of governance in higher education. The central recommendation which appears to be coming from the Task Force seems to be that there is no one plan which should be used by all the states for governance; but, because of traditions, personnel and many conditions that need to be studied in detail, every state must seek out the plan which is best for it.


Personally, I think it is as ridiculous to say that the one-board plan is proper for all states as it is to assume that the California plan, which was touted as the best plan in the country, should be used by all states.

I am enclosing a copy of the Andrews Committee Report concerning higher education in Tennessee. This was the beginning of our present plan and indicates the feeling of this distinguished committee concerning the best approach to the governance of higher education in Tennessee.

I will be writing Mr. Renfro and his editor as soon as I receive the material from the other three persons quoted because I think it is unpardonable for the news media to misrepresent anything as grossly as they have this particular subject.

Thanks for calling the report to my attention and for giving me an opportunity to help correct it.

Sincerely yours,



Edward J. Boling  
President

EJB:ju  
Enclosure

AT NASHVILLE  
323 MULLENBONE STREET  
NASHVILLE, TENNESSEE 37203  
TELEPHONE 615/254-2811

July 30, 1973

MEMORANDUM

TO: Dr. Roy S. Nicks, Chancellor  
FROM: John M. Crothers, Director of Public Service Activities  
SUBJECT: Reaction to "Education at Crossroads" - The Times-Picayune (New Orleans), July 23, 1973

Mr. Newton Renfro was introduced to me by Dr. Charles Tollett as a visiting education writer who was on an objective research assignment to three or four southern states. It was confirmed that he was in objective search of facts regarding the organization and structure for the governance and administration of higher education in Tennessee and that he wanted to discuss the matter with me. I quickly identified myself as not being authoritative on the subject from both a theoretical and positional standpoint. I recommended that he call instead upon the Tennessee Higher Education Commission officials, Board of Regents administrators, et al. He confirmed that this was the exact purpose of his visit and that he had a following appointment at THEC at which point he hoped to discuss the matter with Dr. John Folger. Even so, based upon what Dr. Tollett had told him about the breadth of my own background in both K-12 and higher education, he elected to talk with me on the general subject. We subsequently discussed the matter for approximately thirty to forty-five minutes, treating primarily the historical developments and organizational arrangements as presently structured. I have a vivid enough recall of the conversation to report the following concerning the referenced article as well as other important personal views which could have been but were not reflected in the article:

1. As opposed to the referenced subject of the article which quotes me as saying that "Tennessee has an abominable plan for the governance of higher education," it is observed that the design, composition and work of THEC in their relationship with the UT system and the other state system and on behalf of all higher education in relationship with state government was praised during our discussion. A similar positive citation was given the newly formed Board of Regents and it was observed that higher education other than that within the UT system deserved the governing situation now afforded. Special notation was made of the full provision on all boards for staggered term service as a sound safeguard against potential political barriers. The "abominable plan" notion could have been gleaned from a reference to the past, however, as a summation of my position in interview it is not correct and must be treated as an

Page 2  
July 30, 1973

editorial position of The Times Picayune.

2. I have no first-hand (personal or professional) working knowledge of "what is festering in Louisiana higher education," having not been in the state since 1949 nor having read a single related article as regards the State of Louisiana, CC-73 or any subject akin to educational governance in that state. There may be a "festering in Louisiana higher education." If there is, I accept this as a conclusion of The Times Picayune and not my own.
3. Special commendation was given the service interface provided between THEC and the two governing boards for higher education in Tennessee. This was emphasized as evidence that, notwithstanding how our plan has developed and the fact it appeared to the reporter that we have four boards for education approaching the Legislature, we desirably have two boards which must go through (in many matters) a third (THEC) which is not a "governing" board at all. Additionally, positive citations were presented as to how it is presently working as well as the educational output of the recent Legislative Assembly.

4. The only reference which was made to the TSU-UTN relationship was a quick positive one. Cooperation at the "working level," that is president and staff to chancellor and staff, was especially commended, and the litigation was identified as resting in the same socio-political realm as most other Civil Rights conflicts of our present times.
5. In other quarters of the article such wordage as: "...utter chaos." "...the two systems no longer want to get together," "...fights a merger, are choices of the writer of the article or his editor. As they are used, they reflect a present tense connotation, thus giving a reader an understanding which is not true of that which is or was emphasized in interview
6. Important to me and not reported in the article is the fact that I said that irrespective of number of boards (one or more) a more meaningful thing is people (elected or appointed) working harmoniously together in a common cause for the general welfare of the state. Furthermore, organizational arrangements per se, while important, offered no answers within themselves. Regretfully, this was not the reported theme of my comments. Perhaps such is not to be considered noteworthy in Louisiana today.

MEMORANDUM  
Page 3  
July 30, 1973

The following is observed in regard to the reporter's listed conclusions at the end of the article:

1. I do not view and did not report the separation of the two systems as a "continuing cause of problems."
2. I am not unhappy nor did I report myself as unhappy with the present status of higher education governance in Tennessee, nor in consideration of the historical events leading to our present status and present needs do I feel its organizational design should be significantly changed in the foreseeable future.
3. I did not advocate a single board for higher or a single board for all education nor do I perceive that either within themselves would necessarily represent an improvement in educational performance.
4. I have no detailed understanding of "CC-73" as mentioned earlier in this memorandum. I assume it refers to a proposal for the creation of four separate governing boards for education in Louisiana. If so, it clearly goes beyond what Tennessee has, and I trust that to be a decision for people in that state to make for themselves.

In summary, I reject the personal position I have been depicted as holding on this subject but more importantly regret any embarrassment that my posture in this article may have caused The University of Tennessee and its numerous associates, supporters, and friends, both in Tennessee and Louisiana.

TENNESSEE HIGHER EDUCATION COMMISSION  
509 ANDREW JACKSON STATE OFFICE BUILDING  
NASHVILLE, TENNESSEE 37219

WINFIELD DUNN  
GOVERNOR  
JOHN R. LONG, JR.  
CHAIRMAN  
JOHN K. FOLGER  
EXECUTIVE DIRECTOR



August 3, 1973

Mr. George Healy Jr.  
Executive Director  
The Times-Picayune Publishing Corporation  
3800 Howard Ave.  
New Orleans, Louisiana

Dear Mr. Healy:

I am concerned by the biased view of the Tennessee System of Educational Governance presented in your story of July 23, headlined "Abominable Tennessee Plan Now Festering in Louisiana." Your reporter seemed to be looking for quotes to back up a conclusion that had already been reached before he arrived in our state.

While our Governance system in Tennessee is not perfect, it is working quite effectively, and I believe that a big majority of educators and legislators in Tennessee would report that we have a substantially better arrangement for governance than we had two years ago. To characterize it as "Abominable" is totally inaccurate.

Your story quotes me as saying "why wouldn't you put all institutions under one board?", but it failed to go on to indicate my answer to that rhetorical question. In my interview I indicated to Mr. Renfro some of the problems associated with a single board system; for example: difficulty of Board members knowing much about the problems and issues at each of many campuses, pressures toward uniform

treatment of different types of institutions, and the danger of over-centralization of power and authority in one small group of citizens. My own view is that decentralized authority is more effective in dealing with most educational problems and that a single governing board is not necessary to achieve effective coordination. A majority

Mr. George Healy Jr.  
Page 2  
August 3, 1973

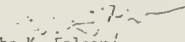
of states have multiboard coordinated systems (27), while another 20, mostly smaller states, have a single board setup. A number of multiboard coordinated systems, in addition to Tennessee's, are working very well.

Your article is critical of competition between institutions, but some competition is quite helpful in keeping institutions on their toes. It seems ironic to me that we favor competition in business, and oppose monopoly; but in higher education, competition is considered to be a bad thing.

I believe the Subcommittee proposal for Governance in Louisiana (which was not accurately explained to me by Mr. Renfro) would provide quite adequately for coordination and could prevent unnecessary duplication and overlapping of the systems in Louisiana. It is inaccurate to say that "nobody thought the CC-73 plan would work"; Mr. Renfro did not describe the subcommittee proposal number 1 of CC-73 to me, (which I have since had an opportunity to read). I think that it might very well be a good arrangement for Louisiana, and it certainly would have advantages over the present structure for governance in Louisiana.

The problems of Governance are complex, and the kind of article you wrote about Tennessee does a disservice to your readers who really need a balanced evaluation of the strengths and weaknesses of various alternatives that Louisiana might consider.

Sincerely,

  
John K. Folger

JKF/bs

cc: Governor Winfield Dunn  
President Edward Boling

ORLEANS PARISH SCHOOL BOARD

MR. CHARLES R. BLOMBERG, PRESIDENT  
EDWARD H. KNIGHT, M.D.  
DR. GENE GILBERT, SUPERINTENDENT OF SCHOOLS  
LLOYD J. RITNER, VICE PRESIDENT  
DR. WILLIAM D. REEVES  
DR. MARK J. SPEARS  
FREDA GYFFELSTE, SECRETARY

August 9, 1973

The Orleans Parish School Board voted unanimously Monday night in support of Committee Proposal Number 7, Section 16 (Funding Elementary and Secondary Schools, Apportionment). We strongly feel that the Constitution should contain references to a state public school fund, the apportionment of that fund by a formula to be established by the State Board of Education, and to the authority of local school boards to levy certain taxes for public school support.

Submitted by Dr. William D. Reeves

THE UNIVERSITY OF TENNESSEE  
AT NASHVILLE  
333 MULLENBRO STREET  
NASHVILLE, TENNESSEE 37203  
TELEPHONE 615/334-5841  
July 30, 1973

MEMORANDUM

TO: Dr. Roy S. Nicks, Chancellor  
FROM: John M. Crothers, Director of Public Service Activities  
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TENNESSEE HIGHER EDUCATION COMMISSION  
803 ANDREW JACKSON STATE OFFICE BUILDING  
NASHVILLE, TENNESSEE 37210

WINFIELD DUNN  
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Mr. George Healy Jr.  
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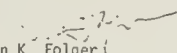
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Sincerely,

  
John K. Folger

JKF/bs

cc: Governor Winfield Dunn  
President Edward Boling

June, 1973

MEMORANDUM TO THE

LOUISIANA STATE CONSTITUTIONAL CONVENTION

ARGUMENT

WHEREAS throughout the United States, wherever there existed legally enforced segregation, there has been activity--voluntarily or involuntarily--aimed at complying with the equality requirement of the Fourteenth Amendment, and

WHEREAS virtually every effort aimed at dismantling legally enforced segregation has been in one direction only, i.e., in the direction of establishing a visible racial mix between Blacks and whites, and

WHEREAS this one-directional approach to "desegregation" was tolerable to Black people only because it attacked forced racial separation of the races, one symbol of the obnoxious system of segregation, and

WHEREAS Black experience has proven that desegregation by mandating racial mixing is not in many instances a very effective way to guarantee equal educational opportunity, and

WHEREAS thousands of Black people who gathered at the 1972 National Black Political Convention in Gary, Indiana expressed the sentiment of the majority of the Black community in stating that

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"forced racial integration of schools is a bankrupt, suicidal method of desegregating," and endorsed as a better means to desegregate: local control of schools in the Black community, giving these communities the opportunity to make policies for their children's education, and guaranteeing them a fair share of the education dollar, and .

WHEREAS Black people can no longer tolerate the imposition of racial mixing as a substitute for more meaningful aspects of equal educational opportunity, i.e., to be a majority, to make policy, and to have first rate institutions of learning at the public school or college level, and

WHEREAS it is the very people who were injured during the years of inferior education who must have a major say in determining which form of relief is to be applied,

AMENDMENTS

Therefore, be it resolved that the State of Louisiana exercise its sovereignty, its concern for the educational plight of all its people, and show the way to new and innovative ways of extending equal opportunity to all its citizens by:

A. Amending the laws pertaining to public school education in order to

1. Allow the option to natural Black communities throughout the State of Louisiana to form community

-3-

school districts; and that each such district be guaranteed adequate monies and resources to conduct a quality education program; and that each such school district shall be governed by a duly constituted community school board; and that each such school board shall enjoy the same powers, duties, and responsibilities as are enjoyed by other school boards in existing public school districts throughout the State.

B. Amending the laws pertaining to higher education to

1. Bring about the establishment of a new, independent State board of supervisors with full jurisdiction over Southern University and Grambling University with the same powers, privileges, and responsibilities as enjoyed by the present State board of supervisors with jurisdiction over the Louisiana State University system, and to

-4-

2. Allow for the appointment, by the Governor, of the members of this board from a list of candidates prepared by a special panel made up of the representatives of the student bodies, alumni

bodies, faculties, and  
administrators of the colleges  
and universities under the  
jurisdiction of the proposed  
new board of supervisors.

C. Amending the laws pertaining to student assignments  
to all public schools or institutions of higher  
education to allow all students throughout the  
State the full freedom to choose to attend  
any public school or State college or university  
throughout the State without regard to race or  
color.

#### MINUTES

Minutes of the meeting of the Committee on  
Education and Welfare of the Constitutional  
Convention of 1973

Held pursuant to notice read in open session  
and publicly posted as provided by the Rules  
of Procedure of the Convention

State Capitol, Committee Room 5

August 16, 1973

6:30 p.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Carmouche  
Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Haynes  
Mr. Hernandez  
Mr. Landry  
Mr. Leithman  
Mr. Lennox  
Mr. Rachal  
Mr. Riecke  
Mr. Robinson  
Mr. Silverberg  
Mr. Segura  
Mr. Sutherland  
Mr. Thistlethwaite  
Mr. Toca  
Miss Wisham

Absent: Mr. Armentor

The meeting was called to order at 6:30 p.m. by the  
chairman. The roll was called by the secretary and a  
quorum was noted.

Mr. Aertker presented a letter of resignation for Mr.  
Armentor. A copy of this letter is attached hereto and made  
part of these minutes.

Mrs. Corne moved the adoption of the minutes of August 9,  
1973. With no objections, the motion carried.

Mrs. Corne on personal privilege explained what her  
amendments would do to the proposal. After giving a brief  
explanation, the committee continued hearing from the public.

First to appear before the committee was Dr. Smalser, St.  
Advisory Council for the Vocational Technical Education. The  
Council recommended that the committee take whatever steps  
are necessary to insure that the organizational structure  
and administration of state post-secondary, vocational-technical

schools in Louisiana are void of the problems presented. A  
copy of this presentation is attached hereto and made part of  
these minutes.

Mr. Stanley Babin, Louisiana School Board Association,  
acknowledged the adoption of Section Three at the last meet-  
ing. He further stated that they have no quarrel with the  
Section, however, he asked the committee to compliment the  
Section by providing for a state superintendent appointed  
by the elected board of education. Mr. Babin stated that  
the Association agrees with Section Five and Six that the  
committee had proposed. He mentioned that there were other  
areas of the proposal that the association wished to react  
to at a later time.

Mr. Jesse Bankston, president of the Louisiana State  
Board of Education reviewed his presentation made at previous  
hearings. Mr. Bankston proposed on his first visit that

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the constitution of the State of Louisiana have as little  
as possible in the way of governance of education; that some  
type of statement indicating the policy of this State  
on public education should be included, leaving to the  
legislature the matter of organization and governance.  
He also pointed out that one board of education is needed;  
that this board have all the functions of education including  
the functions that are now exercised by LSU, the coordinating  
Council of higher education, and the state board of education,  
and that these three agencies be abolished and an agency be  
established. He further stated that the 15-member board  
be elected.

Last to appear were student representatives from LSUNO  
and Louisiana Tech. Mr. Bob Caluda, president of the student  
government association of LSUNO was the spokesman for the  
students. He thought it unnecessary to have three boards with  
governing functions and governing activities. He felt that it  
would be more logical, reasonable, and efficient to have one board  
establish policy for all institutions; that members on the  
Board of Regents should be elected to reduce the powers being  
placed in the hands of the governor.

Following the hearings, the committee focused its  
attention to CP No. 7, beginning with Section 4.

Mr. Segura moved the adoption of Section 4. Mr. Carmouche  
offered a substitute motion to delete the word "elected" and  
insert in lieu thereof the word "appointed" and add after the  
word years "by the state board of elementary and secondary  
education."

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The committee voted on the substitute motion. The votes  
were as follows:

Carmouche	yes
Corne	no
Cowen	yes
Flory	no
Grier	no
Haynes	yes
Hernandez	no



Landry	no
Leithman	yes
Lennox	yes
Rachal	yes
Robinson	no
Segura	no
Silverberg	yes
Sutherland	yes
Thistlethwaite	yes
Toca	yes
Wisham	no
Riecke	no

The motion passed by a vote of 10-9.

Mr. Robinson moved that final action in reference to the superintendent and board be deferred until action is taken on the remainder of the Section. As a substitute motion, Mr. Lennox moved that action on the balance of Section 4 be deferred until the staff redraft Section 4 consistent with the actions already taken. After a brief discussion of the motion, it was learned that the two motions were the same. Mr. Robinson withdrew his motion. The chairman called for a roll call vote.

The votes were as follows:

Carmouche	yes
Corne	no
Cowen	no
Flory	yes
Grier	yes
Haynes	yes
Hernandez	yes
Landry	yes
Leithman	no
Lennox	yes
Rachal	no
Riecke	no
Robinson	yes

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Segura	no
Silverberg	no
Sutherland	no
Thistlethwaite	no
Toca	no
Wisham	yes

The motion was defeated by a vote of 10-9.

Mr. Flory moved to amend the proposal by deleting line 28, after the word "years." and lines 29 and 30. There was a roll call vote. The results are as follows:

Carmouche	yes
Corne	yes
Cowen	yes
Flory	yes
Grier	yes
Haynes	yes
Hernandez	yes
Landry	yes
Leithman	yes
Lennox	yes
Rachal	yes
Riecke	yes
Robinson	yes
Segura	yes
Silverberg	yes
Sutherland	yes
Thistlethwaite	yes
Toca	yes
Wisham	yes

The motion was unanimously adopted.

Mr. Sutherland offered a motion to insert on page 2, line 28, after the word "years." the following:

"the superintendent and the staff which he directs shall be responsible to the board and serve under its direction in administering policies and programs approved by the Board."

After a brief discussion, Mr. Sutherland withdrew his motion.

Mr. Flory moved to amend page 2, line 28 to read:

"the superintendent of education shall have such qualifications as may be prescribed by law."

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After a brief discussion about what the motion would do, Mr. Flory withdrew his motion.

Mr. Rachal offered a motion to adopt Section 4(B) as written. As a substitute motion, Mr. Segura offered a motion to approve Sections 4(B) and 4(C) as written and to delete 4(D). The motion carried.

Mr. Flory moved that Section 4(A) be amended to read:

"who shall be appointed for a term not to exceed four years."

There was a roll call vote taken on this motion. The results are as follows:

Carmouche	yes
Corne	no
Cowen	yes
Flory	yes
Grier	yes
Haynes	yes
Hernandez	yes
Landry	no
Lennox	yes
Rachal	yes
Riecke	no
Robinson	yes
Segura	yes
Silverberg	no
Sutherland	no
Thistlethwaite	yes
Toca	yes
Wisham	yes

The motion carried by a vote of 13-5.

Mr. Segura offered a motion to adopt 4(A) as amended. The chairman called for a roll call vote. The results are as follows:

Carmouche	yes
Corne	no
Cowen	yes
Flory	no
Grier	no
Haynes	yes
Hernandez	no
Landry	no
Lennox	yes
Rachal	yes

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Riecke	no
Robinson	no
Segura	yes
Silverberg	yes
Sutherland	yes
Thistlethwaite	yes
Toca	no
Wisham	no

There was a tie. The chairman voted to break the tie. The motion carried by a vote of 10-9.

Mr. Lennox moved the adoption of Section 4. Mr. Robinson offered a substitute motion to table Section 4. The roll call vote on the substitute motion was as follows:

Carmouche	no
Corne	yes
Cowen	no
Flory	yes
Grier	yes
Haynes	no
Hernandez	yes
Landry	yes
Lennox	no
Rachal	no
Riecke	no
Robinson	yes
Segura	no
Silverberg	no
Sutherland	no
Thistlethwaite	no
Toca	yes
Wisham	yes

The motion failed by a vote of 10-8.

The committee then voted on the original motion. The results are as follows:

Carmouche	yes
Corne	no

Cowen	yes
Flory	no
Grier	no
Haynes	yes
Hernandez	no
Landry	no
Lennox	yes
Rachal	yes
Riecke	yes
Robinson	no

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Segura	yes
Silverberg	yes
Sutherland	yes
Thistlethwaite	yes
Toca	no
Wisham	no

The motion carried by a vote of 10-8.

Mr. Grier moved the adoption of Section 5 as written.

The motion carried.

Mr. Riecke moved to adopt Section 6 as written. As a substitute motion, Mr. Flory moved to amend page 3, line 15 to read:

"The board shall approve private elementary, secondary, and proprietary schools."

The committee voted on Mr. Flory's motion. The results are as follows:

Carmouche	yes
Corne	yes
Cowen	yes
Flory	yes
Grier	yes
Haynes	yes
Hernandez	yes
Landry	yes
Lennox	yes
Rachal	yes
Riecke	yes
Robinson	yes
Segura	yes
Silverberg	yes
Sutherland	no
Thistlethwaite	yes
Toca	yes
Wisham	yes

The motion carried by a vote of 17-1.

The meeting adjourned at 9:00 p.m.

  
Robert J. Aertker, Chairman

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LAW OFFICES OF  
**ARMENTOR & WATTIGNY**  
A PROFESSIONAL CORPORATION  
516 PRESHING STREET  
NEW IBERIA, LOUISIANA 70560

1-835-3871  
1-384-46

August 14, 1973

MINOR H. ARMENTOR  
GERARD B. WATTIGNY

Dear Bob,

As a former constitutional delegate, member of education and welfare committee, member of LSU Board of Supervisors, Louisiana Coordinating Council for Higher Education and a registered voter, I submit the enclosed recommendations for the structure and organization of Post Secondary Education.

I concur with you that the plan which the Committee recommends to the Convention shall be subject to not more than about 11 amendments.

When Gordon Flory, representing Labor, and Ed Lennox, representing Industry, agree on any issue, it must be good and deserves the unanimous support of the Committee.

I enjoyed working with you and members of the Committee, and regret very much that I was unable to continue.

Please forward a copy to each member of the Committee.

With personal regards, and best wishes to all.

Sincerely,

  
Minos H. Armentor

Mr. Robert Aertker  
P. O. Box 2950  
Baton Rouge, Louisiana 70821

STRUCTURE AND ORGANIZATION FOR GOVERNANCE AND  
COORDINATION OF POST SECONDARY EDUCATION IN LOUISIANA

The three basic questions are:

- I. One or more constitutional or legislative boards
- II. The number of boards, powers and duties of each
- III. Composition of each board, number of members, appointed or elected, term of office

B. CONSTITUTIONAL OR LEGISLATIVE BOARDS.

1. There is a vast amount of political patronage available in 18 Universities, 3 four-year Colleges, 4 Junior Colleges, 2 Medical Schools, 1 School of Dentistry, 1 School of Veterinary Medicine, 32 Vocational-Technical Schools, 14 Experiment Stations, Agricultural Extension in each Parish and Special Schools.
2. One or more legislative boards to govern and coordinate the above campuses and educational units is an invitation to a disaster in post secondary education.
3. There can be no stability in legislative boards.
4. Political influence in hiring, promoting, demoting and firing administrators, faculty, athletic directors, coaches, janitors, etc., is inevitable with legislative boards.
5. Constitutional boards serve as a buffer between the administration on each campus and the Legislature.
6. With legislative boards, there would be at every legislative session attempts to increase or decrease the powers, duties, terms, and number of board members or otherwise merge or consolidate boards in order to gain political control.
7. The merger of three (3) Constitutional Boards into one (1) Superboard of thirty-seven (37) members by Act 712 of 1972 is convincing evidence of the strong desire by the Legislature for political control of our educational systems.
8. Legislative boards would be a serious threat to academic and political freedom in higher education and endanger the accreditation of our universities and colleges and professional schools.
9. The LSU Board of Supervisors, before it acquired constitutional status, was subjected to political influence from the Executive and Legislative Departments, resulting in the scandals which prompted the creation of a Constitutional Board in 1940.
10. One or more constitutional boards would serve the best interest of post secondary education.
11. THE NUMBER OF BOARDS, POWERS AND DUTIES OF EACH.
  1. One superboard with a Super Chief Executive Officer to govern, manage and coordinate our large system of post secondary education is not feasible and would require board members to serve on a full time basis.
  2. We should avoid excessive centralization of a widespread and diversified system of higher education.
  3. The two management boards in existence devote practically all of their time to the many controversial administrative problems on each campus.
  4. The formulation of broad educational policies, short term and long range planning, has been neglected by the governing boards.
  5. It was necessary to create the Coordinating Council for Higher Education to perform a very important duty which the management boards could not accomplish.
  6. We should seek to improve on our present structure instead of experimenting with one legislative superboard and super chief executive officer.
  7. The State Board of Education, relieved of its duties over elementary and secondary education, with an adequate staff, can do a better job of managing the thirty-six (36) special, technical-vocational schools, 8 Universities, 2 four-year colleges and 2 Junior Colleges.
  8. The LSU Board of Supervisors does not have the time or authority to coordinate higher education, which must be performed by the Coordinating Council.
  9. The Coordinating Council with adequate funds and staff and constitutional authority, would do an effective job of coordination.
  10. The members of an elected superboard would represent the campuses in their congressional districts from which they seek re-election. This would bring about sectionalism, equalization of funds and reducing every university to the lowest common denominator, with each campus becoming a carbon copy of other campuses.
12. COMPOSITION OF EACH BOARD, NUMBER OF MEMBERS, APPOINTED OR ELECTED, TERM OF OFFICE.

1. An appointed member is more likely to represent all areas because he is not looking forward to the next election and does not need to build a power base on the campuses under his jurisdiction.
2. A candidate for election in a congressional district for Superboard, must spend many thousands of dollars conducting a serious campaign. This requires the solicitation or acceptance of substantial campaign contributions from contractors, engineers, architects and other suppliers of fixtures, machinery, equipment, books, etc., who expect to do business with the Superboard.
3. An elected member of a Superboard is therefore accountable to the electorate, but heavily indebted to his campaign donors. That is not in the best interest of higher education.
4. Members of the Louisiana Coordinating Council for Higher Education appointed in 1969 included outstanding and exceptionally well qualified citizens, such as General Troy Middleton, Dr. Albert Dent, formerly President of Dillard University, Joe D. Smith, Jr. of Alexandria, William H. Brown of Shreveport, now deceased, John Thistlethwaite of Opelousas, and L. H. Haynes of Baton Rouge. I am confident that they would not have campaigned for the job if elective.
5. Elected members of a Superboard from each congressional district would naturally devote their time and efforts in governing and managing the campuses in their districts, from which they seek re-election and permit their fellow members to do the same in their respective districts. This is similar to the operation of Police Juries and School Boards. Appointed members are more likely to serve the entire state. This is especially true if they are not eligible for reappointment.

Therefore, I recommend the following:

1. Retain the three constitutional boards.
2. Two (2) management boards and one coordinating board.
3. Each Board composed of one (1) member from each congressional district and three (3) at large, all appointed by the Governor with the consent of the Senate, for a term of six or seven years. Ineligible for reappointment.
4. Improve on the existing structure and organization of three (3) Constitutional Boards instead of experimenting with a legislative Superboard which can be revised, amended, supplemented, abolished and re-established at each legislative session.

RESPECTFULLY SUBMITTED, August 12, 1973.

  
MINOS H. ARMENTOR

#### NOTES

The Vocational Education attachment cited in the Minutes is not found in committee files.

#### MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice read in open session and publicly posted as provided by the Rules of Procedure of the Convention

State Capitol, Room 205

August 22, 1973

5:30 p.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Carmouche  
Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Haynes  
Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Mr. Rachal  
Mr. Robinson  
Mr. Segura  
Mr. Silverberg  
Mr. Sutherland  
Mr. Thistlethwaite  
Mr. Toca  
Miss Wisham

Absent: Mr. Armentor  
Mr. Leithman  
Mr. Riecke

The meeting was called to order at 5:30 p.m. by the chairman. The secretary called the roll and a quorum was noted.

The minutes of August 16, 1973, were adopted with corrections on pages two and four.

The chairman asked if there were any persons who wished to speak before the committee. Mr. Robinson stated that Mr. Prescott was to appear, but was not present at the time. No speakers were present, the committee focused its attention on the agenda, continuing with its review of CP No. 7 for education.

Mr. Toca offered a motion to adopt Committee Proposal No. 7 as amended.

The chairman noted that several members had prepared amendments. It was decided that the committee would hear the amendments.

Mr. Segura offered amendments to Section 16. In explaining the language used, he indicated that the intent was to continue free books and transportation to all children at the elementary and secondary levels. After a discussion of the Segura motion, the roll was called with the following result:

Carmouche	no
Corne	no
Cowen	no
Flory	yes
Grier	no
Haynes	yes
Hernandez	abstain
Landry	yes
Lennox	yes
Rachal	yes
Robinson	no
Segura	yes
Silverberg	yes
Sutherland	no
Thistlethwaite	yes
Toca	yes
Wisham	yes

The motion carried by a vote of 10-yays, 6-nays, 1-abstention.

After the roll call vote was taken, Mr. Toca offered a motion to adopt the entire article as amended.

At this time, Mr. Haynes noted that there were several

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persons present who wished to speak, thus, he moved that the committee hear those present. Motion carried.

First to appear before the committee was Mr. James Stafford, president, Louisiana Alumni Association. Mr. Stafford stated that his presentation was directed toward higher education because no action had been taken on elementary and secondary education. He stated that he had talked with the governor in regard to one board of control and that he reacted favorably. Mr. Stafford suggested a 13-member board.

Mr. James Prescott, of Louisiana School Board Association, noted that a problem had arisen in reference to a provision offered by the Committee on Bill of Rights and Elections. The proposal states "no term for any public office elected by the people shall exceed four years except as otherwise provided by this constitution." Mr. Prescott asked that Section 12 of CP No. 7 for education include the phrase "shall have terms of four or six years as provided by law." He also stated that he was

opposed to aid to non-public schools as suggested by the Segura amendments.

Following the hearings, Mr. Robinson presented amendments to Section 16 of CP No. 7 for education, the effect of which would reduce the language and remove the dedication of severance tax funds for it. The amendments were offered with the understanding that the Segura amendments would be incorporated. Mr. Robinson moved the adoption of his amendments. After a discussion of the fusion of the two amendments, Mr. Rachal offered a substitute motion to delay action until the staff could incorporate language of the Robinson and Segura amendments. After a brief dis-

-3-

ussion, Mr. Lennox moved the previous question. A roll call vote was taken on Mr. Lennox's motion. The votes were as follows:

Carmouche	no
Corne	yes
Cowen	no
Flory	no
Grier	no
Haynes	no
Hernandez	no
Landry	no
Lennox	yes
Rachal	no
Robinson	abstain
Segura	no
Silverberg	no
Sutherland	yes
Thistlethwaite	no
Toca	no
Wisham	no

The motion failed by a vote of 13-nays, 3-yays, 1-abstention.

Mr. Rachal and Mr. Robinson withdrew the substitute motion and motion respectively.

Mr. Sutherland moved to delete Sections Eight and Nine from CP No. 7 for education. Mr. Flory offered a substitute motion to accept the proposal as amended. The committee voted on the substitute motion. The results are as follows:

Carmouche	yes
Corne	no
Cowen	yes
Flory	yes
Grier	no
Haynes	absent at time of vote
Hernandez	yes
Landry	yes
Lennox	no
Rachal	no
Robinson	no
Segura	yes
Silverberg	yes
Sutherland	no
Thistlethwaite	yes
Toca	yes
Wisham	yes

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The motion carried by a vote of 10-6. CP No. 7 on education is to be reported with amendments.

Mr. Hernandez moved to report Delegate Proposal No. 8, introduced by Delegate Leithman, making provisions for education and necessary provisions with respect thereto, unfavorably. As a substitute motion, Mr. Flory moved to report Delegate Proposal No. 8, by Delegate Leithman, favorably. Mr. Silverberg offered a motion to adjourn. The roll was called on Mr. Silverberg's motion. The results are as follows:

Carmouche	yes
Corne	no

Cowen	no
Flory	no
Grier	no
Haynes	no
Hernandez	no
Landry	no
Lennox	yes
Rachal	yes
Robinson	yes
Segura	no
Silverberg	yes
Sutherland	no
Thistlethwaite	yes
Toca	no
Wisham	yes

The motion to adjourn failed by a vote of 10-nays, 7-yays.

Mr. Carmouche moved the previous question on the substitute motion. The roll was called with the following results:

Carmouche	no
Corne	yes
Cowen	no
Flory	yes
Grier	no
Haynes	yes
Hernandez	no
Landry	yes
Lennox	no
Rachal	yes
Robinson	no
Segura	no
Silverberg	no
Sutherland	no
Thistlethwaite	no
Toca	yes
Wisham	-5- yes

The motion failed by a vote of 10-7. The committee voted on the original motion to report Leithman's Proposal No. 8 unfavorably. The results are as follows:

Carmouche	yes
Corne	no
Cowen	yes
Flory	no
Grier	yes
Haynes	no
Hernandez	yes
Landry	no
Lennox	yes
Rachal	no
Robinson	yes
Segura	yes
Silverberg	yes
Sutherland	no
Thistlethwaite	yes
Toca	no
Wisham	no

The motion carried by a vote of 9-8.

Mr. Flory moved the report Delegate Proposal No. 9, introduced by Delegate Leithman, making provisions for education and necessary provisions with respect thereto, unfavorably. The results are as follows:

Carmouche	yes
Corne	no
Cowen	yes
Flory	yes
Grier	yes
Haynes	no
Hernandez	yes
Landry	yes
Lennox	yes
Rachal	no
Robinson	yes
Segura	yes
Silverberg	yes
Sutherland	yes
Thistlethwaite	yes
Toca	yes
Wisham	yes

The motion carried by a vote of 14-3.

Mr. Cowen moved to report Delegate Proposal No. 10, introduced by Delegate Juneau, unfavorably. The roll was called with the following results: -6-

Carmouche	yes
Corne	no
Cowen	yes

Flory	yes
Grier	yes
Haynes	no
Hernandez	yes
Landry	yes
Lennox	yes
Rachal	no
Robinson	yes
Segura	yes
Silverberg	yes
Sutherland	yes
Thistlethwaite	yes
Toca	yes
Wisham	yes

The motion carried by a vote of 14-3.

Mr. Flory moved to withhold the committee report until the next meeting at which time an engrossed proposal would be available.

The chairman indicated that civil service would be the order of business at our next meeting. Mr. Flory asked that as special order for the next meeting, state civil service be placed as item one on the agenda.

The next meeting is scheduled for Wednesday, August 29, 1973, 6:30 p.m., Committee Room 5.

There was a motion to adjourn. The committee adjourned at 8:00 p.m.

Mr. Robert J. Aertker, Chairman

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MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice read in open session or publicly posted as provided by the Rules of Procedure of the Convention

State Capitol, Committee Room 5

August 29, 1973

6:30 p.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Haynes  
Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Mr. Rachal  
Mr. Riecke  
Mr. Robinson  
Mr. Silverberg  
Mr. Sutherland  
Mr. Thistlethwaite  
Miss Wisham

Absent: Mr. Carmouche  
Mr. Leithman  
Mr. Segura  
Mr. Toca

The meeting was called to order at 6:30 p.m. by the chairman.

The secretary called the roll and a quorum was noted.

The minutes of August 22, 1973, were adopted with directions to include a more explicit description of each delegate proposal.

Delegate Aertker proposed a technical amendment to Committee Proposal No. 7, the effect of which would reverse the order of Section 3, State Superintendent of Public Elementary and Secondary Education, and Section 4, State Board of Elementary and Secondary Education. With no objections, the amendment passed. A copy of the amendment is attached hereto and made a part of the minutes.

Delegates Dennery and Asseff were recognized to present their proposals to the committee. Dennery presented Delegate Proposal No. 27, providing for state and city civil service, by explaining the differences from Committee Proposal No. 7, providing for state and city civil service.

Delegate Hernandez moved to suspend the rules to give Delegate Dennery sufficient time over the allotted five minutes to explain his proposal. With no objections, the motion passed.

It was announced that the staff will have a comparison of Delegate Proposal No. 27 and Committee Proposal No. 7.

Delegate Asseff presented his proposal, Delegate Proposal No. 1, providing for supplemental pay increases for state policemen. In his discussion, Delegate Asseff asked the committee to review his proposal and suggested that it may want to allow the legislature to provide supplemental pay for others.

Lennox suggested that the committee give Delegate Proposal No. 1 the same consideration as Delegate Proposal No. 27.

Lennox announced that the following persons were present at the meeting:

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Moon Landrieu, Mayor of New Orleans

William Konrad, Director of Department of City Civil Service

Clarence Giarrusso, Superintendent of Police, New Orleans

Remarks were made from Mayor Landrieu. He indicated that he basically agreed with Dennery's proposal. Some of his points were that the state should be more flexible when hiring individuals to work for the state and it also should practice less discrimination. He stated that civil service employees should be able to argue political issues. He said the New Orleans Civil Service, for the most part, worked well. The basic role of Civil Service is to protect the Civil Service employee. The mayor indicated that he would like to see New Orleans policemen and firemen stay under city civil service because he does not believe that one group of civil service employees should have an unfair advantage to negotiate salary over any other group of Civil Service employees. It was also suggested that civil service employees should not be able to strike against the city authorities and that the state legislature should be prevented from interfering in matters affecting pay of city civil service employees.

Landrieu pointed out disadvantages of the civil service rules. It does not recognize work quality and experience. It discriminates against those without credentials. Civil service rules prevent the city from hiring specialists.

Delegate Lennox asked Landrieu to prepare the language he felt was best for the committee's proposal. Landrieu agreed to do so.

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Mr. Giarrusso spoke to the committee regarding civil service. He said he was not at the committee meeting to change a successful merit system to a system that emphasizes seniority. He spoke against moving firemen and policemen from city civil service to municipal fire and police civil service.

Mr. Riecke moved to discontinue hearings but to work on the committee's proposals. After some discussion, he withdrew his motion. Mr. Flory indicated that he would submit names of several persons who wish to speak at the next meeting.

Mrs. Corne made a substitute motion to hear one speaker on each side of the issue. The motion was withdrawn.

Mr. Lennox moved that testimony on the subject of civil service be confined to the next two meetings of the committee; and thereafter, the committee's time would be devoted to the review of committee and delegate proposals on civil service. With no objections, the motion passed.

Mr. Robinson asked for a leave of the committee and to have his name withdrawn from Committee Proposal No. 7. At that point, the chairman ruled that only the names of those persons voting affirmatively would appear on Committee Proposal No. 7, providing for education.

Mr. Lennox introduced his amendments to Committee Proposal No. 9, state and city civil service, and Committee Proposal No. 10, municipal fire and police civil service.

Mr. Porter, business manager of Orleans Parish School Board, submitted a resolution and a statement from the Orleans Parish School Board. Copies are attached hereto and made a part of the minutes.

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The committee extended thanks to Mr. Landrieu and Mr. Giarrusso for speaking before the committee.

The committee adjourned at 9:00 p.m.

*Robert J. Aertker*  
Mr. Robert J. Aertker, Chairman

**ORLEANS PARISH SCHOOL BOARD**

MRS. CHARLES R. BLOMBERG, PRESIDENT      DR. WILLIAM D. REEVES  
EDWARD H. KNIGHT, M. D.      DR. MACK J. SPEARS  
DR. GENE GISSERT, SUPERINTENDENT OF SCHOOLS      FRED A. POPELITE, SECRETARY

**RESOLUTION OF  
ORLEANS PARISH SCHOOL BOARD  
AUGUST 23, 1973**

WHEREAS, Article 1, Section 4, Article IV, Section 8 and Article XII, Section 13 of the Louisiana Constitution of 1921 clearly and unequivocally provide for freedom of religion, protect against the passage of laws respecting an establishment of religion; protect against laws prohibiting the free exercise thereof, protect against preference for or discrimination against any religion or form of worship, protect against the expenditure of public funds in aid of any religion; prohibit the appropriation of public

funds for private, charitable or benevolent purposes; and prohibit the appropriation of public funds for any private or sectarian school and,

WHEREAS, the Louisiana Supreme Court in the case of Seepers vs. Parker 256 La. 1039, 241 So. 2d 213(1970) has definitively construed the aforesaid constitutional provisions as prohibiting public funding to any non-public school, sectarian or non-sectarian, if such funding contributes directly or indirectly any aid to those schools; and

WHEREAS, the Louisiana Legislature, in RS 17:91 has directed each parish school board to exercise proper vigilance in securing for the schools of the parish all funds destined for the support of the schools; and

WHEREAS, the public school system of the State of Louisiana requires more public funds than the Louisiana Legislature has been able to provide and the diminution of said available funds by appropriating a part thereof to the support of non-public schools, sectarian or non-sectarian, would be disastrous to public education in the state of Louisiana.

NOW THEREFORE BE IT RESOLVED BY THE ORLEANS PARISH SCHOOL BOARD THAT:

1. It is opposed to any change in the existing provisions of Article I, Section 4, Article IV, Section 8 and Article XII, Section 13 of the Louisiana Constitution of 1921; and is opposed to any provisions which might be proposed for inclusion into a new constitution which would in any way weaken or detract from the existing provisions in the aforesaid section of the existing constitution.
2. It implores the Constitutional Convention of 1973 not to incorporate into the proposed new constitution any provisions which will authorize the availability of public funds to any non-public schools, sectarian or non-sectarian, if such funding contributes, directly or indirectly, any aid to those schools.
3. A copy of this resolution, or the gist thereof, be disseminated to the news media, the general public and, in particular, to members of the Constitutional Convention of 1973 and the Orleans Parish delegation to the Louisiana Legislature.

**NICHOLAS BAUER BUILDING      Telephone: 334-8599  
703 CARondelet STREET - NEW ORLEANS, LOUISIANA 70130**

**ORLEANS PARISH SCHOOL BOARD**

MRS. CHARLES R. BLOMBERG, PRESIDENT      DR. WILLIAM D. REEVES      DR. MACK J. SPEARS  
EDWARD H. KNIGHT, M. D.      DR. GENE GISSERT, SUPERINTENDENT OF SCHOOLS      FRED A. POPELITE, SECRETARY

**STATEMENT OF  
ORLEANS PARISH SCHOOL BOARD  
AUGUST 27, 1973**

The Orleans Parish School Board has noted with alarm the most recent amendments to Committee Proposal No. 7 affecting Section 16, Funding; Elementary and Secondary Education; Apportionment.

The changes in paragraph (A) State Funds which eliminate the words "support of the public schools" and substitute the words "education of the school children of this state", in paragraph (A) First which change the "State Public School Fund" to the "State Elementary and Secondary Education Fund", in paragraph (A) Third which eliminate "support of public schools" and substitute "education of the school children of Louisiana", and in paragraph (B) (3) which eliminate "public education" and substitute "the education of the school children of Louisiana" all clearly imply that the legislature may constitutionally appropriate funds for the general support of non-public schools. The Orleans Parish School Board sees this change as a threatened reduction in funds for public education.

The Orleans Parish School Board reaffirms its firm conviction that public funds should be used only for public schools and that such funds should not be used for the general support of non-public schools, either directly or indirectly, and that the constitution should contain unambiguous provisions to this effect.

**NICHOLAS BAUER BUILDING      Telephone: 334-8599  
703 CARondelet STREET - NEW ORLEANS, LOUISIANA 70130**

NOTES

Committee amendments are found at  
I Journal 427-428.

MINUTES

Minutes of the meeting of the Committee on  
Education and Welfare of the Constitutional  
Convention of 1973

Held pursuant to notice read in open session  
or publicly posted as provided by the Rules  
of Procedure of the Convention

State Capitol, Committee Room 5

September 5, 1973

5:30 p.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mrs. Corne  
Mr. Flory  
Mr. Grier  
Mr. Haynes  
Mr. Hernandez  
Mr. Landry  
Mr. Leithman  
Mr. Lennox  
Mr. Rachal  
Mr. Riecke  
Mr. Robinson  
Mr. Sutherland  
Mr. Toca  
Mr. Wattigny  
Miss Wisham

Absent: Mr. Carmouche  
Mr. Cowen  
Mr. Segura  
Mr. Silverberg  
Mr. Thistlethwaite

The meeting was called to order at 5:30 p.m. by the chairman.

The secretary called the roll and a quorum was noted.

The minutes of August 29, 1973, were adopted.

The committee heard speakers on the subject of civil service.

Mr. Ambrose Landry, representing the Louisiana Association  
of Clerks of Court, the Louisiana Sheriffs' Association, and  
the Louisiana Assessors' Association, spoke to the committee.  
He asked that the employees of these offices be retained as  
unclassified employees in the new constitution as they are in the  
old constitution.

Mr. Flory moved for a suspension of the rules for Mr. Jack  
to have sufficient time to speak to the committee. This motion  
was withdrawn.

Mr. Flory moved for a suspension of the rules to allow  
sufficient time for Attorney Barker. There were no objections  
and the motion passed.

Mr. Hernandez moved to allow all speakers at this meeting  
to have sufficient time to speak. There were no objections and  
the motion passed.

Attorney Paul Barker, representing the New Orleans Fire-  
fighters Association said he does not share the same opinion as  
Mr. Giarrusso and Mr. Landrieu about city civil service. He  
suggested that the firemen and policemen should have a separate  
civil service. He was in favor of a seniority program with an

adequate testing system. He said strikes should be left to the  
terms of the contract between the employer and the employee.

Representing the New Orleans Firefighters Association was  
Mr. Wallace Bailey, Captain of the New Orleans Fire Department.  
He said the no strike clause has no place in the state constitution.  
Arbitration and collective bargaining should be used to avoid

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strikes. He stated that a person should be paid for the duties  
he performs. He prefers the municipal fire and police civil  
service system.

Delegate Jack spoke to the committee. After giving the  
background of his interest in fire and police, Mr. Jack spoke in  
favor of the New Orleans police being in the state system.

Mr. Flory asked the committee to revert to its previously  
established policy and ask speakers to limit their presentations  
to five minutes. Chairman Aertker agreed.

Representing the State Professional Firefighters of  
Louisiana was Mr. L. F. Peters. In response to a previous question,  
he stated that it is not practical to bring the state police into  
fire and police civil service because the latter is administered  
on a local level and state police operate on the state level.  
He recommended that if state civil service stays in the constitution,  
fire and police should be left in. If state civil service is  
taken out of the constitution, fire and police should also be  
taken out.

Patrolman Irwin Magri, Jr., representing Patrolmen's Asso-  
ciation of New Orleans, spoke to the committee. He objected to  
Mr. Giarrusso's remarks about mentally incompetent members of  
the New Orleans police force. He said the New Orleans city civil  
service system is inoperative because it is too political. He  
suggested that individuals should be promoted on the basis of  
competent, competitive examinations. He was in favor of a municipal  
fire and police system with the rule of three being excluded.

Mr. Lennox suggested that the committee invite the three

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New Orleans civil service commissioners to speak at the next  
meeting.

Mr. Toca moved to adjourn. The motion was out of order and,  
therefore, not acted on.

Mr. Landry moved to hear no more witnesses.

Mr. Lennox made a substitute motion that the three members  
of the New Orleans civil service commission be invited to the next  
meeting but limited to five minutes per presentation. Action on  
the Committee Proposal No. 9 will be taken at the next meeting  
after the three speakers. The motion was adopted.

Mr. Sutherland moved to adjourn. With no objection, the  
meeting adjourned at 7:30 p.m.

*Robert J. Aertker*  
Mr. Robert J. Aertker, Chairman

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MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice read in open session and publicly posted as provided by the Rules of Procedure of the Convention

State Capitol, Committee Room 5

September 12, 1973

5:30 p.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Carmouche  
Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Mr. Rachal  
Mr. Robinson  
Mr. Sutherland  
Mr. Toca  
Mr. Wattigny  
Miss Wisham

Absent: Mr. Haynes  
Mr. Leithman  
Mr. Riecke  
Mr. Segura  
Mr. Silverberg  
Mr. Thistlethwaite

The meeting was called to order by the chairman, Mr. Aertker.

Roll was called and a quorum was noted.

Mr. Hernandez moved to suspend the reading of the minutes of September 5, 1973, and to adopt them as written. With no objection, the motion passed and the minutes were adopted.

The secretary was asked to read each section of Committee Proposal No. 9 as the committee considered the respective section.

Mr. Lennox moved to suspend the reading of each section due to the fact that all committee members had read the entire proposal. Committee members will offer any amendments they might have. With no objection, the motion passed.

The following action was taken on Committee Proposal No. 9:

Mr. Flory moved the adoption of Paragraph A. With no objection, the motion passed.

Mr. Hernandez moved to adopt Paragraph B. The motion passed with objections by Mr. Flory, Mr. Rachal, Mr. Robinson, Mr. Landry, Mr. Carmouche, and Mr. Toca.

Mr. Lennox offered an amendment to Paragraph C-1. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Grier	Carmouche
Hernandez	Corne
Lennox	Cowen
Sutherland	Flory
	Landry
	Rachal
	Robinson
	Toca
	Wattigny
	Wisham

The amendment failed by a vote of four yeas and ten nays.

Mr. Flory moved the adoption of Paragraph C. The motion carried.

Mr. Lennox offered an amendment to Paragraph D. The amendment was defeated.

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Mr. Flory moved the adoption of Paragraph D. The motion carried.

Miss Wisham moved the adoption of Paragraph E. The motion carried.

Mr. Flory offered an amendment to Paragraph F.

Mr. Hernandez moved the adoption of Mr. Flory's amendment. The motion carried. A copy of the adopted amendment is attached hereto and made a part of these minutes.

Mr. Flory moved to adopt Paragraph F as amended. The motion carried.

Mr. Lennox offered an amendment to Paragraph G. The roll was called with the following results:

<u>Yes</u>	<u>No</u>	<u>Passed</u>
Carmouche	Corne	Hernandez
Cowen	Flory	
Grier	Landry	
Lennox	Rachal	
Sutherland	Robinson	
	Toca	
	Wattigny	
	Wisham	

The amendment failed by a vote of five yeas, eight yeas, 1 passed.

Mr. Lennox offered a second amendment to Paragraph G.

The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Grier	Carmouche
Hernandez	Corne
Lennox	Cowen
Robinson	Flory
Sutherland	Landry
	Rachal
	Toca
	Wattigny
	Wisham

The amendment failed by a vote of five yeas and nine nays.

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Mr. Hernandez moved to adopt Paragraph G. The motion carried.

Technical amendments were offered by the staff on Paragraphs G-2 and H.

Mr. Grier moved the adoption of the amendments. With no objections, the motion carried. A copy of the adopted amendments are attached hereto and made a part of these minutes.

Mr. Lennox offered an amendment to Paragraph H. The amendment failed.

Mr. Flory moved the adoption of Paragraph H. With no objection, the motion passed.

Mr. Flory moved the adoption of Paragraph I, with one amendment to correct the spelling of the word "promotion." With no objections, the motion passed.

Mr. Lennox offered an amendment (Amendment No. 17) to Paragraph J. With no objection the amendment was adopted. A copy of the adopted amendment is attached hereto and made a part of these minutes.



Mr. Hernandez moved the adoption of Paragraph J as amended. The motion passed with Mr. Robinson and Mr. Carmouche voting against the motion.

Mr. Lennox moved the adoption of Paragraphs K, L, M, and N, noting technical amendments to correct printing errors. With no objections, the motion passed.

Mr. Lennox offered an amendment (Amendment No. 18) to Paragraph O. With no objection, the amendment passed. A copy of the adopted amendment is attached hereto and made a part of these minutes.

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Mr. Hernandez moved the adoption of Paragraph O as amended. The motion carried with no objection.

Mr. Lennox offered an amendment to Paragraph P. The motion failed.

Mr. Hernandez moved the adoption of Paragraph P. The motion passed.

Mr. Lennox offered an amendment to Paragraph Q. The roll was called with the following results:

<u>Yes</u>	<u>No</u>	<u>Passed</u>
Cowen	Carmouche	Rachal
Grier	Corne	
Hernandez	Flory	
Lennox	Landry	
Sutherland	Robinson	
	Toca	
	Wattigny	
	Wisham	

The amendment failed by a vote of five yeas, eight nays, 1 passed.

Mr. Hernandez moved the adoption of Paragraph Q with a technical amendment to correct a printing error. The motion carried.

Mr. Flory moved the adoption of Committee Proposal No. 9 as amended. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Carmouche	Lennox
Corne	Rachal
Cowen	Sutherland
Flory	
Grier	
Hernandez	
Landry	
Robinson	
Toca	
Wattigny	
Wisham	

The motion passed by a vote of 11 yeas and three nays.

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Mr. Rachal offered a substitute motion to approve the Dennery proposal. This motion was out of order and, therefore, not acted on.

Mr. Lennox moved to adopt Delegate Proposal No. 27.

Mr. Flory offered a substitute motion to adjourn. The motion carried and the meeting adjourned at 7:30 p.m.

*Robert J. Aertker*  
Mr. Robert J. Aertker, Chairman

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NOTES  
Committee amendments to C.P. No. 9 omitted are found at I Journal 510-511.

MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice read in open session and publicly posted as provided by the Rules of Procedure of the Convention

State Capitol, Room 205

September 13, 1973

5:30 p.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Hernandez  
Mr. Landry  
Mr. Leithman  
Mr. Lennox  
Mr. Rachal  
Mr. Robinson  
Mr. Sutherland  
Mr. Wattigny  
Miss Wisham

Absent: Mr. Carmouche  
Mr. Haynes  
Mr. Riecke  
Mr. Segura  
Mr. Silverberg  
Mr. Thistlethwaite  
Mr. Toca

The meeting was called to order by the chairman, Mr. Aertker.

Roll was called and a quorum was noted.

Discussion was held on the inconsistency of Paragraph (Q) and Paragraph (P) of Committee Proposal No. 9, providing for state and city civil service. It was decided that any further change would be submitted as floor amendments.

The following action was taken by the committee on Committee Proposal No. 10:

Mr. Lennox offered an amendment to Paragraph A. The roll was called with the following results:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Leithman	Corne	Rachal
Lennox	Cowen	
Sutherland	Flory	
	Grier	
	Landry	
	Robinson	
	Wattigny	
	Wisham	

The motion failed by a vote of three yeas, eight nays, one abstention.

Mr. Cowen moved to defer action on Committee Proposal No. 10 and to begin taking action on the delegate proposals providing for state and city civil service referred to the committee. This motion was out of order and, therefore, not acted on.

Mr. Rachal moved to table Mr. Lennox's amendment. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Rachal	Corne
Wisham	Cowen
	Flory
	Grier
	Hernandez
	Landry
	Leithman
	Lennox
	Robinson
	Sutherland
	Wattigny

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The motion failed by a vote of two yeas and eleven nays.

Mr. Cowen moved to defer action on Committee Proposal No. 10 and to begin taking action on the delegate proposals providing for state and city civil service referred to the committee. The roll was called with the following results:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Corne	Flory	Rachal
Cowen	Landry	
Grier	Leithman	
Sutherland	Lennox	
	Robinson	
	Wattigny	
	Wisham	

The motion failed by a vote of four yeas, seven nays, one abstention.

Mr. Flory moved to adopt Committee Proposal No. 10. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Aertker	Lennox
Corne	Sutherland
Cowen	
Flory	
Grier	
Landry	
Leithman	
Rachal	
Robinson	
Wattigny	
Wisham	

The motion passed by a vote of 11 yeas and two nays.

Mr. Sutherland moved to report favorably Delegate Proposals No. 1, 27, 28, 65, 87, and 58.

Mr. Lennox seconded the motion. The chairman ruled the motion out of order.

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Mr. Lennox appealed the ruling of the chair. The roll call vote taken resulted as follows:

<u>Yes</u>	<u>No</u>
Corne	Lennox
Cowen	Sutherland
Flory	
Grier	
Landry	
Leithman	
Rachal	
Robinson	
Wattigny	
Wisham	

The ruling by the chairman was sustained and Mr. Sutherland's motion was ruled out of order.

Mrs. Corne moved to report favorably Delegate Proposal No. 1. The motion was withdrawn.

Mr. Lennox offered a substitute motion to report Delegate Proposal No. 1 unfavorably. The motion carried.

Mr. Lennox moved to report favorably Delegate Dennerly's Proposal No. 27, providing for state and city civil service.

Mr. Flory offered a substitute motion to report unfavorably Delegate Proposal No. 27. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Aertker	Corne
Cowen	Lennox
Flory	
Grier	
Landry	
Rachal	
Robinson	
Wattigny	
Wisham	

The motion passed with a vote of nine yeas and two nays.

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Mr. Flory moved to report unfavorably Delegate Dennerly's Proposal No. 28, for the transition of members of the state and city civil service commission.

Mr. Lennox offered a substitute motion to report Delegate Proposal No. 28 favorably. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Corne	Aertker
Lennox	Cowen
	Flory
	Grier
	Landry
	Rachal
	Robinson
	Wattigny
	Wisham

The motion failed with a vote of two yeas and nine nays.

A roll call vote was taken on Mr. Flory's motion to report Delegate Proposal No. 28 unfavorably. The results were:

<u>Yes</u>	<u>No</u>
Aertker	Corne
Cowen	Lennox
Flory	
Grier	
Landry	
Rachal	
Robinson	
Wattigny	
Wisham	

The motion passed with a vote of nine yeas and two nays.

Mr. Lennox moved to report unfavorably Delegate Roy's Proposal No. 65 regarding civil service employment.

Mr. Flory offered a substitute motion to defer action on Delegate Proposal No. 65 and requested Mr. Roy to explain his proposal to the committee. The motion passed.

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Mr. Cowen moved to report unfavorably Delegate Segura's Proposal No. 87 providing for state and city civil service.

Mr. Flory offered a substitute motion to defer action on Delegate Proposal No. 87. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Corne	
Cowen	
Flory	
Grier	
Landry	

Leithman  
Lennox  
Rachal  
Robinson  
Wattigny  
Wisham

Landry  
Lennox  
Rachal  
Segura  
Thistlethwaite  
Toca  
Wattigny  
Wisham

Sutherland

The motion passed unanimously.

Mr. Flory moved to defer action on Delegate Proposal No.

58. With no objection, the motion passed.

Mr. Leithman requested that Delegate Proposal No. 53

and Delegate Proposal No. 54 be placed on the agenda for the next meeting.

The meeting adjourned at 11:00 a.m.

  
Mr. Robert J. Aertker, Chairman

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MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice read in open session and publicly posted as provided by the Rules of Procedure of the Convention

Committee Room No. 5

September 19, 1973

9:00 a.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Haynes  
Mr. Hernandez  
Mr. Landry  
Mr. Leithman  
Mr. Lennox  
Mr. Rachal  
Mr. Riecke  
Mr. Robinson  
Mr. Segura  
Mr. Sutherland  
Mr. Thistlethwaite  
Mr. Toca  
Mr. Wattigny  
Miss Wisham

Absent: Mr. Carmouche  
Mr. Silverberg

The meeting was called to order by the chairman, Mr. Aertker.

Roll was called and a quorum was noted.

Mr. Wattigny moved to adopt the minutes of the meetings of September 12 and 13, 1973. With no objection, the motion passed.

Mr. Roy presented his Delegate Proposal No. 65, providing for civil service employment.

Mr. Flory offered an amendment to Delegate Proposal No. 65.

The amendment read as follows: On page 1, line 11, delete the word "dismissal" and insert in lieu thereof the words "subjected to disciplinary action except" and after the word "for" add the word "just" and after the word "cause" add the word "and".

Mr. Flory moved to adopt the amendment. The roll was called with the following results:

<u>Yes</u>	<u>No</u>	<u>Passed</u>
Cowen	Corne	Riecke
Flory	Hernandez	
Grier	Leithman	
Haynes	Robinson	

The motion passed with a vote of 12 yeas, 5 nays, and 1 passed.

Mr. Flory moved to report Delegate Proposal No. 65 with amendments. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Corne	Cowen
Flory	Hernandez
Grier	Riecke
Haynes	Robinson
Landry	
Leithman	
Lennox	
Rachal	
Segura	
Sutherland	
Thistlethwaite	
Toca	
Wattigny	
Wisham	

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The motion passed with a vote of 14 yeas and 4 nays.

Mr. Leithman asked to defer action on Delegate Proposal No. 53 and to discuss Delegate Proposal No. 54. There were no objections.

Mr. Leithman explained Delegate Proposal No. 54. Mr. Juneau also spoke in favor of Delegate Proposal No. 54. He said this proposal will provide adequate protection for education and emphasized that Section 3 was the key provision.

Mr. Segura moved to defer action on Delegate Proposal No. 54 until next week, Wednesday, September 26, 1973. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Corne	Lennox
Cowen	
Flory	
Grier	
Haynes	
Hernandez	
Landry	
Leithman	
Rachal	
Riecke	
Robinson	
Segura	
Sutherland	
Thistlethwaite	
Toca	
Wattigny	
Wisham	

The motion passed with a vote of 17 yeas and 1 nay.

Mr. Robinson moved to defer action on all other delegate proposals. With no objection, the motion passed.

Mr. Lennox suggested to the staff that the committee members receive agendas earlier in the week than they have been receiving them in order to study the business of the meeting.

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Mr. Rachal moved to adjourn. With no objection, the meeting adjourned at 11:30 a.m.

  
Mr. Robert J. Aertker, Chairman

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MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice read in open session and publicly posted as provided by the Rules of Procedure of the Convention

Committee Room No. 5

September 27, 1973

9:00 a.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Carmouche, Mrs. Corne, Mr. Cowen, Mr. Flory, Mr. Grier, Mr. Haynes, Mr. Hernandez, Mr. Landry, Mr. Leithman, Mr. Lennox, Mr. Rachal, Mr. Riecke, Mr. Robinson, Mr. Segura, Mr. Sutherland, Mr. Toca, Mr. Wattigny, Miss Wisham

Absent: Mr. Silverberg, Mr. Thistlethwaite

The meeting was called to order by the chairman, Mr. Aertker.

Roll was called and a quorum was noted.

Mr. Carmouche moved to adopt the minutes of the meeting of September 19, 1973. With no objection, the motion passed.

Mr. Lennox requested permission from the chair to be dismissed from the meeting at 10:00 a.m. in order to represent the Committee on Education and Welfare at the meeting of the Committee on Local and Parochial Government. There was no objection from the chair.

Mr. Cowen moved to report Delegate Proposal No. 54 unfavorably. The roll was called with the following results:

Table with 2 columns: Yes, No. Lists names of members voting for and against the proposal.

The motion failed by a vote of 12 nays and 5 yeas.

Mr. Robinson offered a substitute motion to defer action on Delegate Proposal No. 54 until Committee Proposal No. 7 has been considered by the convention. The roll was called with the following results:

Table with 2 columns: Yes, No. Lists names of members voting for and against the substitute motion.

The motion failed with a vote of 11 nays and 6 yeas.

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Mr. Segura offered an amendment to Section 1 of Delegate Proposal No. 54. The roll was called with the following results:

Table with 2 columns: Yes, No. Lists names of members voting for and against the amendment.

The motion failed with a vote of 9 yeas and 9 nays.

Mrs. Corne asked to be recorded as being in favor of the Louisiana school children receiving free books, supplies, and transportation.

Mr. Segura moved to reconsider the amendment that previously failed by a roll call vote. The chairman ruled his motion out of order.

Mr. Landry appealed the ruling of the chair. The roll was called with the following results:

Table with 3 columns: Yes, No, Abstain. Lists names of members voting for, against, or abstaining from the appeal.

The ruling of the chair was sustained by a vote of 10 yeas, 6 nays, and 1 abstention.

-3-

Mr. Segura offered an amendment to Section 9 of Delegate Proposal No. 54. The roll was called with the following results:

Table with 2 columns: Yes, No. Lists names of members voting for and against the amendment.

The motion failed with a vote of 9 yeas and 9 nays.

Mr. Flory moved to adopt Mr. Segura's amendment to delete Section 10 from Delegate Proposal No. 54. With no objection, the motion passed. The adopted amendment reads: "On page 3, delete lines 3 through 7, both inclusive".

Mr. Robinson offered an amendment to Section 3 of Delegate Proposal No. 54. The roll was called with the following results:

Table with 2 columns: Yes, No. Lists names of members voting for and against the amendment.

The motion failed with a vote of 10 nays and 8 yeas.

Mr. Robinson offered a second amendment to Delegate Proposal

No. 54 on Section 5. The roll was called with the following results:

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<u>Yes</u>	<u>No</u>
Carmouche	Corne
Cowen	Flory
Grier	Haynes
Hernandez	Landry
Lennox	Leithman
Robinson	Rachal
Sutherland	Riecke
	Segura
	Toca
	Wattigny
	Wisham

The motion failed with a vote of 11 nays and 7 yeas.

Mr. Segura moved to adjourn. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Cowen	Aertker
Flory	Carmouche
Grier	Corne
Haynes	Hernandez
Landry	Leithman
Lennox	Rachal
Segura	Riecke
Toca	Robinson
Wattigny	Sutherland
	Wisham

The motion failed with a vote of 10 nays and 9 yeas.

Mr. Robinson offered an amendment to Section 4.1 of Delegate Proposal No. 54.

Mr. Corne offered a substitute motion to defer action on Mr. Robinson's amendment until the next meeting on October 4, 1973. With no objection, the motion passed.

Mr. Lennox moved to adjourn. There was no objection and the meeting adjourned at 11:30 a.m.

*Robert J. Aertker*  
Mr. Robert J. Aertker, Chairman

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MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973

Read pursuant to notice read in open session and publicly posted as provided by the Rules of Procedure of the Convention

Committee Room No. 5

October 4, 1973

9:00 a.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Carmouche  
Mrs. Corne  
Mr. Cowen  
Mr. Flory  
Mr. Grier  
Mr. Hernandez  
Mr. Landry  
Mr. Leithman  
Mr. Lennox  
Mr. Rachal  
Mr. Robinson  
Mr. Segura  
Mr. Sutherland  
Mr. Thistlethwaite

Mr. Toca  
Mr. Wattigny  
Miss Wisham

Absent: Mr. Haynes  
Mr. Riecke  
Mr. Silverberg

The meeting was called to order by the chairman, Mr. Aertker. Roll was called and a quorum was noted.

Mr. Sutherland pointed out technical errors in the roll call votes in the minutes of September 27, 1973. With the corrections being made, Mr. Sutherland moved to adopt the minutes as corrected. There were no objections and the motion passed.

Mr. Cowen moved to report Delegate Proposal No. 54 unfavorably; however, he withdrew this motion.

Mr. Hernandez offered a substitute motion to defer action on Delegate Proposal No. 54 until the convention as a whole acts on Committee Proposal No. 7. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Carmouche	Corne
Cowen	Flory
Grier	Landry
Hernandez	Leithman
Lennox	Rachal
Robinson	Segura
Sutherland	Toca
Thistlethwaite	Wattigny
	Wisham

The motion failed with a vote of 9 nays and 8 yeas.

Mr. Toca offered a substitute motion to report Delegate Proposal No. 54 favorably. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Corne	Carmouche
Flory	Cowen
Landry	Grier
Leithman	Hernandez
Rachal	Lennox
Segura	Robinson
Toca	Sutherland
Wattigny	Thistlethwaite
Wisham	

-2-

The motion passed with a vote of 9 yeas and 8 nays.

Mr. Aertker voted on the previous motion; however, some of the committee members considered this action out of order. Discussion was held on the rules regarding this.

Mr. Robinson moved to permit the chairman, Mr. Aertker, to vote on the previous motion. This motion was ruled out of order.

Mr. Robinson moved to reconsider the vote to report Delegate Proposal No. 54 favorably. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Carmouche	Corne
Cowen	Leithman
Flory	Toca
Grier	
Hernandez	
Landry	
Lennox	
Rachal	

Robinson  
Segura  
Sutherland  
Thistlethwaite  
Wattigny  
Wisham

The motion passed with a vote of 14 yeas and 3 nays.

Mr. Robinson offered an amendment to Delegate Proposal No. 54. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Aertker	Corne
Carmouche	Flory
Cowen	Landry
Grier	Leithman
Hernandez	Segura
Rachal	Toca
Robinson	Wattigny
Sutherland	Wisham
Thistlethwaite	

-3-

The motion passed with a vote of 9 yeas and 8 nays. A copy of the adopted amendment is attached hereto and made a part of these minutes.

Mr. Toca moved to reconsider the reporting of Delegate Proposal No. 54 with amendments. He withdrew this motion.

Mr. Segura called for the question.

Mr. Flory offered an amendment to Delegate Proposal No. 54.

"On page 2, line 2, after the word 'private' delete the remainder of the line and insert in lieu thereof the following:

'Elementary, secondary, and proprietary schools whose sustained curriculum or specialized course of study is of a quality' "

There were no objections and the motion passed.

Mr. Robinson offered an amendment to Delegate Proposal No. 54. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Cowen	Carmouche
Grier	Corne
Hernandez	Flory
Robinson	Landry
Sutherland	Leithman
Thistlethwaite	Rachal
	Segura
	Toca
	Wattigny
	Wisham

The motion failed with a vote of 10 yeas and 6 nays.

Mr. Leithman moved to reconsider the vote and lay the motion on the table. There was no objection.

Mr. Segura offered amendments to Delegate Proposal No. 54. The roll was called with the following results:

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<u>Yes</u>	<u>No</u>
Corne	Carmouche
Flory	Cowen
Landry	Grier
Leithman	Hernandez
Rachal	Robinson
Segura	Sutherland
Thistlethwaite	
Toca	
Wattigny	
Wisham	

The motion passed with a vote of 10 yeas and 6 nays. A copy of the adopted amendments are attached hereto and made a part of these minutes.

Mr. Leithman moved to reconsider the vote and lay the motion on the table. There was no objection.

Mr. Flory moved to report Delegate Proposal No. 54 with amendments.

Mr. Cowen offered a substitute motion to adjourn. The roll was called with the following results:

<u>Yes</u>	<u>No</u>
Carmouche	Corne
Cowen	Flory
Grier	Landry
Hernandez	Leithman
Robinson	Rachal
Thistlethwaite	Segura
	Sutherland
	Toca
	Wattigny
	Wisham

The motion failed with a vote of 10 yeas and 6 yeas.

Action was then taken on Mr. Flory's motion. The roll was called with the following results:

-5-

<u>Yes</u>	<u>No</u>
Corne	Carmouche
Flory	Cowen
Landry	Grier
Leithman	Hernandez
Rachal	Robinson
Segura	Sutherland
Toca	Thistlethwaite
Wattigny	
Wisham	

The motion passed with a vote of 9 yeas and 7 nays.

Mr. Leithman moved to reconsider the vote and lay the motion on the table. There was no objection.

Mrs. Corne moved to adjourn. There was no objection and the meeting adjourned at 11:35 a.m.

ROBINSON'S AMENDMENT

COMMITTEE AMENDMENT

CC 2172

Amendment proposed by Committee on Education and Welfare

to Delegate \_\_\_\_\_ Proposal No. 54  
(Delegate or Committee) (Proposal or Resolution)

by Delegate Juneau, Leithman, and Corne

Amend \_\_\_\_\_ printed \_\_\_\_\_ Proposal as follows:  
(Original, printed, engrossed) (Proposal or Resolution)

AMENDMENT NO. \_\_\_\_\_

On page 1, between lines 26 and 27, add the following new sections:

"Section 4.1. Funding; Elementary and Secondary Education; Apportionment

Section 4.1. (A) State funds. State funds for the education of the school children of this state in the elementary and secondary schools shall be derived from sources determined by the legislature and shall be apportioned to the parish and city school boards in the manner hereinafter set forth.

(1) Minimum program. The Legislature shall appropriate sufficient funds to insure a minimum program of education in all public elementary and secondary schools. The minimum program of education to be maintained in all parish and city school systems shall be established by the educational board or authority having supervision over public elementary and secondary education. The board shall adopt formulas and procedures for the distribution of these funds to the several school boards.

(2) Other funds. Any other funds provided by the legislature for the support of public schools shall be apportioned and distributed in accordance with a formula established by the educational board or authority having supervision over public elementary and secondary education, except as otherwise specifically provided for by the law appropriating the funds.

Any funds for public education from any other source shall be distributed in the manner determined by the board or authority having supervision over public

elementary and secondary education, subject, however, to the terms of the laws governing such funds or the lawful stipulations of the source of the funds.

(B) Local funds. Local funds for the support of public elementary and secondary schools shall be derived from the following sources:

(1) Each parish and city school board, the parish of Orleans excepted, shall levy annually an ad valorem maintenance tax of five mills, or as much thereof as is necessary, on all property subject to such taxation within the parish or city in the manner prescribed by law.

The Orleans Parish School Board shall levy annually a tax not to exceed thirteen mills on the dollar on the assessed valuation of all property within the city of New Orleans assessed for city taxation and shall certify the fact to the governing authority of the city. The governing authority shall cause said tax to be entered on the tax rolls of the city and collected in the manner and under the conditions and with the interest and penalties prescribed by law for city taxes. The money thus collected shall be paid daily to the Orleans Parish School Board.

(2) For giving additional support to the public elementary and secondary schools, any parish, school district, or subschool district, or any municipality which supports a separate city system of public schools may levy ad valorem taxes for specific purposes, when authorized by a majority of the electors voting in the parish, municipality, district, or subdistrict, in an election called for the purpose. The amount, duration, and purpose of such taxes shall be in accord with any limitations imposed by this Constitution or by the legislature. No such tax shall be levied for a period longer than ten years, except that any tax levied to pay the costs of bonds or other debts incurred shall be levied and collected until the principal and interest on the bonds or other debts have been paid.

(3) The legislature may provide for additional sources of local support for elementary and secondary schools.

(C) Monroe, Bogalusa; treatment as parishes. For the effects and purposes of the provisions of this entire Section, the municipalities of Monroe, in Ouachita Parish, and Bogalusa, in Washington Parish, and no other, shall be regarded as, and treated upon the same basis and shall have the same authority as though they were separate parishes instead of municipalities.

(D) Ouachita Parish. The school board of Ouachita Parish shall not be required to pay to the city of Monroe out of the public funds any per capita for children residing without the limits of said city and who may attend the schools maintained by the city of Monroe under its legislative charter.

Section 4.2 Free School Books and Materials of instruction

Section 4.2. The Legislature shall appropriate funds to supply free school books, and other materials of instruction as prescribed by the appropriate state educational board or other authority, to school children in elementary and secondary schools."

SEGURA'S AMENDMENTS

CDMMITTEE AMENDMENT

Amendment proposed by Committee on Education and Welfare to Delegate (Delegate of Committee) Proposal (Proposal of Resolution) No. 54 by Delegate Juneau, Leithman, and Corne Amend printed (Original, printed, proposed) Proposal (Proposal of Resolution) as follows:

AMENDMENT NO. 1

On page 1, delete lines 10 through 13, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 1. The goals of the educational system of Louisiana shall be to provide learning environments and experiences designed to promote excellence so that all the children of the state may be afforded the opportunity to develop to their full potential."

AMENDMENT NO. 2

On page 2, delete lines 30 through 32, both inclusive, in their entirety and on page 3, delete lines 1 and 2, both inclusive, in their entirety, and insert in lieu thereof the following:

"Section 9. Appropriations by the legislature for educational purposes shall be made to and administered by the appropriate board, agency, or authority and shall be used solely for the operations of the institutions for which designated in the appropriations."

MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973 Held pursuant to notice read in open session

and publicly posted as provided by the Rules of Procedure of the Convention Committee Room No. 5 November 6, 1973 9:00 a.m.

- Presiding: Mr. Robert Aertker, Chairman Present: Mr. Carmouche Mrs. Corne Mr. Cowen Mr. Flory Mr. Graham Mr. Grier Mr. Haynes Mr. Hernandez Mr. Landry Mr. Leithman Mr. Morris Mr. Rachal Mr. Segura Mr. Sutherland Mr. Toca Mr. Wattigny Miss Wisham Absent: Mr. Lennox Mr. Riecke Mr. Thistlethwaite

The meeting was called to order by the chairman, Mr. Aertker.

Roll was called and a quorum was noted.

Mr. Cowen moved to dispense with the reading of the minutes and moved that they be adopted. The minutes were adopted without objection.

The committee received Delegate Proposal No. 3 and deferred action on the proposal.

Mr. Leithman briefly explained Delegate Proposal No. 53 to the members of the committee.

Mr. Flory moved that lines 20 through 25 be deleted on page 1 of Delegate Proposal No. 53. The roll was called with the following results:

Table with 4 columns: Yes, No, Abstain, and names of members. Yes: Flory, Landry, Morris, Rachal. No: Carmouche, Corne, Cowen, Graham, Grier, Hernandez, Leithman, Segura, Sutherland, Toca, Wattigny, Wisham. Abstain: Haynes.

The motion failed with a vote of 12 nays, 4 yeas, and 1 abstention.

Mr. Leithman moved to report Delegate Proposal No. 53 favorably.

Mr. Graham offered a substitute motion to defer action on Delegate Proposal No. 53 until Committee Proposal No. 7 reaches the floor of the convention of the whole. The roll was called with the following results:

Table with 2 columns: Yes, No. Yes: Carmouche, Cowen. No: Corne, Flory.

Table with 2 columns: Yes, Cont'd., No, Cont'd. Yes, Cont'd.: Graham, Grier, Haynes, Hernandez, Morris, Rachal. No, Cont'd.: Landry, Leithman, Toca, Wisham.

Segura  
Sutherland  
Wattigny

and publicly posted as provided by the Rules  
of Procedure of the Convention

The motion passed by a vote of 11 yeas and 6 nays and action was deferred on Delegate Proposal No. 53.

Mr. Morris moved to report Delegate Proposals No. 66 and 92 with no action. Without objection, the motion passed.

Mr. Aertker, on personal privilege, requested that the minutes reflect his position on nonpublic schools receiving funds. He indicated that neither he nor Mr. Robinson had introduced proposals to deny or reduce the aid now received by nonpublic schools.

Mr. Sutherland asked that the minutes reflect that he did not vote against nonpublic schools receiving their present funds.

The committee deferred action on Delegate Proposal No. 90, introduced by Mr. Lennox.

Mr. Morris moved to report Committee Proposal No. 30 favorably. Without objection, the motion passed.

Mr. Flory moved to adopt the amendments reflected in Committee Proposal No. 11, prepared and distributed by the staff. Without objection, the motion passed. A copy of the amendments are attached hereto and made a part of these minutes.

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Mr. Hernandez moved to report Committee Proposal No. 11 as amended. He also requested a technical amendment to change the names of committee members who have resigned and to include the names of their replacements. The motion was adopted without objection.

Status reports were distributed to each member of the committee by the staff. The staff then explained the report.

Mrs. Corne moved to adopt the status report. Without objection, the motion passed.

Mr. Cowen moved to adjourn. Without objection, the meeting adjourned.

  
Mr. Robert J. Aertker, Chairman

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#### NOTES

Committee amendments to C.P. No. 11 omitted are found at I Journal 754-755.

#### MINUTES

Minutes of the meeting of the Committee on Education and Welfare of the Constitutional Convention of 1973  
Held pursuant to notice read in open session

Ante Room, White House Inn,  
Baton Rouge, Louisiana,  
December 20, 1973, 12:00 noon

Presiding: Mr. Robert Aertker, Chairman

Present: Mr. Aertker  
Mrs. Corne  
Mr. Cowen  
Mr. Graham  
Mr. Grier  
Mr. Hernandez  
Mr. Jones  
Mr. Landry  
Mr. Leithman  
Mr. Rachal  
Mr. Riecke  
Mr. Sutherland  
Mr. Thistlethwaite  
Mr. Toca  
Mr. Wattigny  
Miss Wisham

Absent: Mr. Carmouche  
Mr. Flory  
Mr. Haynes  
Mr. Morris  
Mr. Segura

The meeting was called to order by the chairman, Mr. Aertker.

Mr. Cowen moved to suspend with the reading of the minutes. Without objection, the minutes were adopted.

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Discussion was held on Mr. Lennox's Delegate Proposals No. 88, 89, and 90. The chairman indicated that no one had evinced an interest in sponsoring the proposals.

Mr. Rachal moved to report Delegate Proposals No. 3, 53, 57, 58, 87, 88, 89, 90, and 94 without action.

Mr. Leithman moved to divide the question and separately vote on Delegate Proposal No. 53 without action. The roll was called with the following results:

YEAS: Cowen, Graham, Grier, Hernández, Jones,  
Landry, Rachal, Riecke, Sutherland,  
Thistlethwaite and Wisham

NAYS: Corne, Leithman, Toca and Wattigny

The motion passed with a vote of 11 yeas and 4 nays.

Without objection, Delegate Proposals No. 3, 57, 58, 87, 88, 89, 90, and 94 were reported without action.

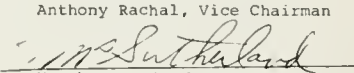
Discussion was held on the report to the Committee on Legislative Liaison and Transitional Measures on Committee Proposals No. 7, 9, 10, 11, 12, and 14.

Mr. Cowen moved to adopt the report and to refer to the Committee on Legislative Liaison and Transitional Matters. He stated that the staff has done an excellent job in handling this and all other matters. With no objection the motion passed.

With no other business the meeting adjourned.

  
Robert J. Aertker, Chairman

Anthony Rachal, Vice Chairman

  
Matthew Sutherland, Secretary



Minutes of the Committee on Education and Welfare 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  
Saturday, January 5, 1974, 8:30 a.m.

Presiding: Robert Aertker, Chairman of the Committee on Education and Welfare

Present:  
Robert Aertker  
Norman Carmouche  
Heloise Corne  
Ralph Cowen  
Gordon Flory  
R. W. "Buzzy" Graham  
Bill Grier  
J. K. Haynes  
F. E. "Pete" Hernandez  
Louis Jones  
Eual J. Landry, Sr.  
James Morris  
Louis Reicke, Sr.  
Matthew Sutherland  
John Thistlethwaite  
Harold Toca  
Mary Wisham

Absent:  
Kenneth Leithman  
Anthony Rachal  
Perry Segura  
Charles Wattigny

Chairman Aertker called the meeting to order and asked the secretary to call the roll. With a quorum established,

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the committee began consideration of the changes in COMMITTEE PROPOSAL NO. 7 suggested by the Committee on Style and Drafting.

The committee adopted the recommendations of the Committee on Style and Drafting with additional changes noted in ink in the right-hand column of the attached pages of COMMITTEE PROPOSAL NO. 7. The pages are attached to and made part of these minutes as Appendix A.

Delegate Thistlethwaite moved to send the recommended changes back to the Committee on Style and Drafting. Motion carried.

The caveats suggested by the Committee on Style and Drafting to COMMITTEE PROPOSAL NO. 7 were adopted. A copy of the caveats is attached to and made part of these minutes as Appendix B.

The committee reviewed recommendations suggested by the Committee on Style and Drafting to COMMITTEE PROPOSAL NO. 11.

At 9:45 a.m., the committee recessed until after adjournment of the convention.

The committee met at 12:45 p.m. in the Assembly Room of the White House Inn with the following members present:

Robert Aertker	Eual J. Landry, Sr.
Heloise Corne	Anthony Rachal
Ralph Cowen	Louis G. Riecke, Sr.
Gordon Flory	Matthew Sutherland
Bill Grier	John Thistlethwaite
J. K. Haynes	Harold Toca
F. E. "Pete" Hernandez	Mary Wisham
Louis Jones	

The committee considered the caveats to COMMITTEE PROPOSAL NO. 11, adopting on the motion of Mrs. Wisham, the


caveat to Section 1(C) and adopting on the motion of Delegate Sutherland, the caveat to Section 1(B). A copy of the caveats is attached to and made part of these minutes as Appendix C.

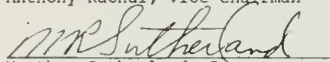
Delegate Riecke moved to send COMMITTEE PROPOSAL 11 back to the Committee on Style and Drafting with no additional recommended changes. Motion carried.

Delegate Sutherland moved to adopt the recommendations to COMMITTEE PROPOSAL NO. 12 suggested by the Committee on Style and Drafting. Motion carried.

Delegate Rachal moved to adopt the recommendations suggested by the Committee on Style and Drafting to COMMITTEE PROPOSAL NO. 14. Motion carried.

Delegate Jones moved to adjourn at 1:00 p.m. Motion carried without objection.

  
Robert Aertker, Chairman

Anthony Rachal, Vice Chairman  
  
Matthew Sutherland, Secretary

**NOTES**

Addenda A, B and C may be found in Volume XIV, below.

MINUTES

Minutes of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice by the Secretary in accordance with the Rules of the Convention.

Ante Room, White House Inn  
Baton Rouge, Louisiana  
Saturday, January 12, 1974, 8:30 a.m.

Presiding: Robert Aertker, Chairman of the Committee on Education and Welfare

Present:  
Robert Aertker  
Heloise Corne  
Gordon Flory  
Gill Grier  
J. K. Haynes  
F. E. "Pete" Hernandez  
Louis Jones  
Eual J. Landry, Sr.  
James Morris  
Louis G. Riecke, Sr.  
Matthew Sutherland  
Harold Toca  
Charles Wattigny  
Mary Wisham

Absent:  
Norman Carmouche  
Ralph Cowen  
R. W. "Buzzy" Graham  
Kenneth Leithman  
Anthony Rachal  
Perry Segura  
John Thistlethwaite

Chairman Aertker called the meeting to order and asked the secretary to call the roll. With a quorum present, the

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committee began consideration of the stylistic changes in COMMITTEE PROPOSAL NO. 9 and COMMITTEE PROPOSAL NO. 10 suggested by the Committee on Style and Drafting.

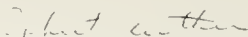
The committee requested that the staff verify that the word "coroners" on line 13, page 4, of COMMITTEE PROPOSAL NO. 9 was deleted because it appears in Article V.

Delegate Hernandez moved to send COMMITTEE PROPOSAL NO. 9 back to the Committee on Style and Drafting with no further changes suggested. Motion carried. A copy of COMMITTEE PROPOSAL NO. 9 is attached to and made part of these minutes as Appendix A.

After a review of the changes suggested in COMMITTEE PROPOSAL NO. 10, Delegate Sutherland moved to send it back

to the Committee on Style and Drafting with no changes suggested. Motion carried. A copy of COMMITTEE PROPOSAL NO. 10 is attached to and made part of these minutes as Appendix B.

With no further business before the committee, the meeting was adjourned at 9:30 a.m.

  
Robert Aertker, Chairman

Anthony Rachal, Vice Chairman

  
Matthew Sutherland, Secretary

NOTES

Documents XXV and XXX may be found in Volume XIV, below.

## B. Subcommittee Minutes

### 1. Subcommittee on Elementary and Secondary Education

#### MINUTES

##### ELEMENTARY-SECONDARY EDUCATION SUBCOMMITTEE

The members discussed some of the problems as found in the provisions of Article XII and other articles of the Louisiana Constitution. It was suggested that the subcommittee members would:

1. Study all materials provided by the research staff
2. Determine the individuals and organizations who could offer valuable input to the committee and invite them to the meeting on March 20, 1973, to present oral and written proposals.

A sub-subcommittee composed of Mr. Carmouche, Mr. Haynes, and Mr. Robinson will meet on Tuesday, March 13, at 10:00 a.m. at the L.T.A. office to formulate a list of persons to be invited to the March 20, 1973 meeting. The following organizations and individuals were mentioned:

1. Association of Parish School Board Superintendents
2. Association of State School Boards
3. P.T.A.
4. Orleans Parish School Board
5. Mr. Ewell Eaton, Chairman Coordinating Council of Higher Education
6. Mr. William Arceneaux, Director Coordinating Council of Higher Education
7. Representative Robert Chrisler, Professor of Political Science, USL
8. Senator Fredrick Eagen, Task Force on Finance
9. Mr. Douglas McLaurin, Superintendent of DeSoto Parish Schools
10. Ms. Sharon Beard, Associate Director, Coordinating Council of Higher Education

Mr. Carmouche, Chairman

#### MINUTES

Minutes of the meeting of the Sub-subcommittee on Elementary-Secondary Education of the Education and Welfare Committee of the Constitutional Convention of 1973

Louisiana Teachers Association Building,  
Baton Rouge, Louisiana

Tuesday, March 13, 1973, 10:00 a.m.

Presiding: Norman Edward Carmouche, Chairman of the Sub-subcommittee on Elementary-Secondary Education

Present:

J.K. Haynes  
Horace Robinson

The Chairman called the meeting to order and a discussion began on the people to be invited to speak before the Subcommittee on Elementary-Secondary Education at the March 20, 1973 meeting. The general consensus was that a time limit would have to be given each person testifying before the committee in order for all to be heard. Each person should come prepared to speak in the time allotted and present a written text to the members for further study. The members felt that the questioning of each

guest should be limited to the committee. If time allows the public will be recognized.

A listing of prospective speakers was compiled and is attached hereto and made a part of these minutes. The committee suggested that since this is already March 13, 1973, the speakers for the March 20, 1973 meeting should be contacted by telephone with a follow-up letter. The Chairman asked the secretary to request their Coordinator of Research, Mrs. Audrey LeBlanc, be in charge of contacting the people needed for both meetings and informing the press of the agenda.

A second meeting date of April 3, 1973, at 10:00 a.m. was agreed upon. The Chairman felt the meeting place should be changed to avoid public reaction as pertains to favoritism towards one particular group.

The Chairman asked that Mrs. LeBlanc clear the agenda for the March 20, 1973 and April 3, 1973 with the full committee Chairman, Mr. Aertker, and to keep him informed of the results of the invitations to the speakers. In the event someone cannot attend, Mr. Carmouche should be notified so that a substitute speaker can be chosen and invited.

The tentative agenda for the March 20, 1973 meeting is:

James Prescott, Executive Secretary of Louisiana School Board Association as kick-off speaker, allotted one hour.

Mr. Ed Steimel, representative of PAR to follow for one-half hour.

Mr. Edward Stagg, representative of CABL for one-half hour.

Recess for lunch from 12:00 noon to 1:30 p.m.

Mr. Victor Bussie, AFL-CIO, to start afternoon session for one-half hour.

A representative from the NAACP to follow for one-half hour.

A representative from the Chamber of Commerce for one-half hour.

A representative from the League of Women Voters for one-half hour.

A representative from the PTA for one-half hour.

Adjournment to be at 4:00 p.m.

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The tentative schedule for April 3, 1973, 10:00 a.m., follows:

Mr. Louis Michot, Superintendent for the Department of Education for the State of Louisiana, allotted one hour.

Mr. J. L. McConethy, Superintendent for Richland Parish School System for one-half hour.

Mr. N. B. Hackett, Louisiana Teachers Retirement System and Mr. Edward McCormick, Louisiana School Employees' Retirement System for one-half hour.

Recess for lunch from 12:00 noon to 1:30 p.m.

Mr. Gene Geisert, Superintendent for Orleans Parish School System to start the afternoon session for one hour.

Mr. J.O. Lancaster, Superintendent for Quachita Parish School

System and Mr. B.T. Petterson, Acting Superintendent for the City of Monroe School System for one-half hour.

Dr. Frank Mobley, Superintendent of the Bogalusa City School System and Mr. James Bailey, Superintendent of Washington Parish School System for one-half hour.

Dr. Paul J. Moses, Superintendent of Calcasieu Parish School System for one-half hour.

Adjournment to be at 4:00 p.m.

The Chairman advised that the agenda for meetings to be scheduled after April 3, 1973 would be decided by the sub-sub-committee following the March 20, 1973 meeting.

There being no further business the Chairman adjourned the meeting.

Edward Carmouche, Chairman

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#### SUGGESTED SPEAKERS FOR PUBLIC HEARINGS

Sub-committee on Elementary-Secondary Education of the Committee on Education and Welfare

1. James Prescott, Executive Secretary of Louisiana School Board Association
2. Ed Steimel, Representative of PAR
3. Edward Stagg, Representative of CABL
4. Victor Bussie of AFL-CIO
5. Representative of NAACP
6. Representative of Chamber of Commerce
7. Representative of League of Women Voters
8. Representative of FTA
9. Louis Michot, Superintendent for the Department of Education for the State of Louisiana
10. J.L. McConethy, Superintendent for Richland Parish School System
11. N. B. Hackett, Louisiana Teachers Retirement System
12. Ed McCormick, Louisiana School Employees Retirement System
13. Gene Geisert, Superintendent for Orleans Parish School System
14. J.O. Lancaster, Superintendent for Quachita Parish School System
15. B.T. Petterson, Acting Superintendent for City of Monroe School System
16. Dr. Frank Mobley, Superintendent of Bogalusa City School System
17. James Bailey, Superintendent of Washington Parish School System
18. Dr. Paul J. Moses, Superintendent of Calcasieu Parish School System
19. Emile Comar, Executive Director of Educational Freedom
20. Clea Parker, Chairman of President's Council
21. Dr. Martin Woodin, President of LSU
22. Representative of LEA
23. Representative of LTA
24. Dr. Bert Gremillion of LSU
25. Bryon Benton in regards to finance
26. William Dodd, former Superintendent of Department of Education for the State of Louisiana
27. Senator Edgar Mouton, Chairman of Senate Education, Health and Welfare Committee
28. Representative Lawrence Gibbs, House Education Committee
29. Dr. Leon Netterville, Southern University President
30. Mr. Jessie Bankston, State Board of Education
31. Dr. William Arceneaux, Director of Coordinating Council
32. Jim Oliver, Finance Office
33. Carlos G. Spaht, Chairman LSU Board of Supervisors

#### MINUTES

Minutes of the Subcommittee on Elementary and Secondary Education of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held Pursuant to a notice mailed by the Secretary of the Convention on March 13, 1973.

Louisiana Teachers Association Building  
Baton Rouge, Louisiana  
March 20, 1973

Presiding: Mr. Norman Edward Carmouche, Chairman

Present: Mrs. Corne  
Mr. Robinson  
Mr. Riecke  
Mr. Leithman  
Mr. Haynes

Others present: Mr. Edward Stagg, Executive Director of CABL; Mr. Kirby Ducote, CEF; Mr. Ed Fontaine, President of American Federation of Teachers, Local 1559; Mrs. Day, League of Women Voters; Mr. Aertker, Chairman of the Committee on Education and Welfare; Two representatives of AAUW.

Mr. Carmouche called the meeting to order at 10:10 a.m. The roll call followed and a quorum was present. Mrs. McGibbon read the minutes of the Sub-subcommittee meeting held March 13, 1973. Mr. Haynes made two corrections: Mr. McConathy is President of the Superintendents Association and James Bailey is Dr. James Bailey. The corrections were noted by the secretary and Mr. Haynes moved the minutes be adopted.

The chairman announced that Mr. James Prescott was ill and could not appear as planned. He also noted that Mr. Ed Steimel could not attend because of other commitments. Mr. Ed Fontaine asked to be allowed to speak and was granted that request. Mr. Kirby Ducote of the Citizens For Educational Freedom requested that the presentation of his organization's views be withheld until April 3, 1973, at the meeting planned by the subcommittee. Mr. Aertker advised the chairman and members that the next committee of the whole meeting would be held April 4, 1973 and again May 2, 1973, as the committee of the whole has chosen to meet the first week of each month hereafter.

Mr. Carmouche introduced Mr. Edward Stagg, Executive Director of the Council For A Better Louisiana. He informed the committee that his organization is setting up a committee to present their views in detail at a later date. He advised that his organization suggests the convention keep the Constitution as simple as possible and place authority within the legislature wherever possible. The subject of education could be stated, he said, in one simple sentence in the Constitution as "The legislature shall maintain a system of education for all of the people in Louisiana". Mr. Stagg said his organization favors an elected Board of Education and a superintendent appointed by the members of the board. The qualifications for the superintendent should not be included in the Constitution. The Council For A Better Louisiana feels the superintendent should be primarily an administrator with an educational background secondary. Mr. Stagg stated the position of the board should be to determine policies of administration and

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that the legislature should have the right to define the duties of the board as it sees fit. From the standpoint of organization, the committee might wish to give consideration to the make-up of the school boards in respect to numbers and divorce them from the police juries. Another consideration mentioned included Multi-Parish Districts which could be utilized to meet the needs of handicapped or exceptional children. The organization feels the Constitution should provide for adequate taxation, paying careful attention to

the matter of property taxes, and in all cases, allow the public to vote on the proposals.

Following a ten-minute break, the chairman introduced Mr. Ed Fontaine, President of the American Federation of Teachers, Local Number 1559. This organization is interested in seeing that the rights gained by the teachers in Title 17 are retained and extended to all levels of education. The merit system as used in institutions of higher education is a good thing in concept, but in its practice can be a terrible weapon in the hands of the administration. The education department should be concerned with the product it produces and a way must be found to secure the funds necessary to provide the public system what it needs to experiment and diversify. There should be teeth in the regulatory statutes, but the federation wants the open forum and lobby rights in the legislature left as they are. The organization feels the superintendent should be an educator and that sex discrimination, as well as racial, should be eliminated in tenure, leave of absence, etc.

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After a luncheon recess, the afternoon session was called to order at 1:30 p.m. Mr. Carmouche introduced Mr. Emmitt Douglas, Louisiana State Conference President of the NAACP. Mr. Douglas had three recommendations to present: one, create responsible authorities to administer elementary and secondary education, namely, separate the functions of collegiate and pre-collegiate education into two boards; and stipulate an equal number of elected and appointed members into both boards to insure black membership reflecting the percentage of the black population. Second, provide authority and duty for a state board of education to distribute state funds in order to insure equality of educational opportunity for all regions and peoples of the state. Third, appoint the superintendents of pre-collegiate and collegiate boards by the respective boards and let professionals administer our schools and remove them and the boards from daily politics as much as possible. A copy of Mr. Douglas' speech is attached hereto and made a part of these minutes.

Mr. Douglas was followed by Mrs. Robert Holtman of the League of Women Voters. Her organization firmly believes the Constitution should guarantee public education on a non-discriminatory basis; church-state separation and prohibition of funds to non-public schools; an elected board of education and a superintendent appointed by the board. Specifically, the organization urges the retention of Article I, Section 4; Article IV, Section 8; and Article XII, Section 13 of the 1921 Constitution. A copy of Mrs. Holtman's speech is attached hereto and made a part of these minutes.

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While waiting for the next speaker, the chairman asked the members to choose future meeting dates beyond the April 3, 1973 meeting already scheduled. The members agreed to

meet April 10, and May 1, 1973. The speakers tentatively chosen for April 10th are James Prescott, Executive Director of the Louisiana School Board Association; Mr. Lamar Walters of the Chamber of Commerce; a representative of LEA; Senator Edgar Mouton, chairman of the Senate Committee on Education, Health, and Welfare; Representative Lawrence Gibbs, chairman of the House Education Committee, Mr. Jessie Bankston, State Board of Education; Mr. Jim Oliver, regarding finance. Mr. Riecke suggested the chairman have the authority to find alternates if someone is unable to attend.

The next speaker of the afternoon was Mr. William E. Noonan, Jr. State Legislative Chairman for the Louisiana State Parent-Teacher Association. He gave members copies of resolutions and stands taken last year by the organization and brought the members up-to-date on resolutions to be presented to the membership at their annual convention to be held in April. The P.T.A. feels public funds should be for public schools and support the idea of an elected board with a superintendent appointed by that board. The legislature should not mandate the curriculum; it should be left up to the local school boards and the State Board of Education. The organization is concerned about revenue sharing and teacher-pupil ratio. The PTA affirms the separation of state and church and urges allocation of funds for classes for handicapped and other exceptional children. They support the retention of the

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tenure laws as written and feel the superintendent should serve a term of four years and have a background in the field of education. The organization is concerned with the distribution of Parish funds and hopes it will be continued on the current basis. They are seeking an alternate method of financing education. The PTA takes the position that any funds coming into the State for the use of the schools be channeled through the State Board of Education and to the local schools.

Mr. Riecke requested Mr. Noonan to send copies of all resolutions pertaining to the Constitution approved at the April convention to Mrs. Audrey LeBlanc, the subcommittee's Coordinator of Research, for distribution to the members.

Mr. Noonan added that the PTA feels the State School Board has been overweighted to Higher Education rather than Elementary and Secondary Education in the past, and their organization leans to Elementary and Secondary Education.

There being no further speakers scheduled, or business, the meeting as adjourned at 4:20 p.m.

Norman Edward Carmouche, Chairman

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HEADQUARTERS FIDELITY NATIONAL BANK BUILDING  
P. O. BOX 2978 BATON ROUGE LOUISIANA 70821

March 21, 1973

TELEPHONE  
342 5229

Mr. Norman E. Carmouche, Chairman  
Sub-Committee on Elementary and Secondary Education  
Constitutional Convention  
Post Office Box 217  
Napoleonville, Louisiana 70390

Dear Mr. Carmouche,

For your files, I will attempt to summarize the thoughts advanced at the meeting of your Sub-Committee on Elementary and Secondary Education on March 20.

At the outset, the Convention might consider a very simple statement that the Legislature be required to provide a system of public education in Louisiana. This could be ample. If, however, there is consideration for more detail, the following thoughts were advanced.

The Council for A Better Louisiana has in the past taken a position in support of having the Superintendent of Education appointed by the State Board of Education. Unless otherwise changed by the Convention as to the makeup and role of the State Board of Education, this would mean the elected State Board of Education would appoint its chief administrative officer.

Questions were raised as to stipulations on qualifications. The legislation we supported in the past included no stipulations. The reason for this is the difficulty in defining qualifications that do not eliminate potentially good people and, then, having those qualifications implemented. It would seem very undesirable to freeze into the constitution any specific qualifications. If it is to be done at all, it should be by statute.

Mr. Norman E. Carmouche

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March 21, 1973

CABL in the past has supported legislation allowing multi-parish cooperation for special education programs. It would be important that the Constitution continue to permit this. Taxing authority for special purposes might be granted, subject to a vote of the people.

The above comments were based on positions taken in the past by CABL. In addition, I offered personal comments to the effect that consideration be given to reducing the size of some school boards. The Goals for Louisiana Task Force on Education recommended boards of five to seven members. It would be desirable to remove any relationship between the size of school boards and the size of police juries.

The thought was also advanced that the Constitution should make certain there is an adequate base of taxation for local support of schools. In response to a question, I said the Constitution might provide no limit on millages. If this is done, there might be need to require a minimum millage by vote of a local school board but with any additional millage to be subject to a vote of the people. I observed removal of a limitation might not be altogether acceptable to the public. I mentioned the need to coordinate any school taxing authority with whatever proposals may be adopted in the property tax field to meet a new court decision for equalization of assessments.

I appreciated being invited to appear before the Committee. It is possible the Council for A Better Louisiana will have further suggestions. If so, we will be glad to submit them in writing or to discuss them in person.

Sincerely yours,

Edward W. Staggs  
Executive Director

EWS:ld

cc: Mr. G. Frank Purvis, Jr.



**League of Women Voters of Louisiana**

Municipal Auditorium -- Shreveport, Louisiana 71101

March 20, 1973

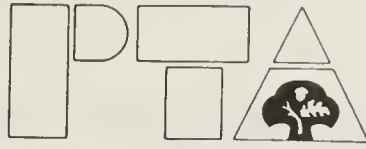
STATEMENT TO C/C 73 COMMITTEE ON EDUCATION AND WELFARE

The League of Women Voters of Louisiana firmly believe that the Constitution of the State of Louisiana should contain provisions which guarantee:

- A. Public education on a non-discriminatory basis -- to provide equal educational opportunity for every child in Louisiana's public schools.
- B. Church-state separation and prohibition to fund non-public schools -- specifically we urge the retention of Article 1, Section 4; Article 4 Section B and Article 12, Section 13 of the 1921 Constitution for the protection of public and private interests. Our state government can only be expected to have but one concern in the field of education, that of providing one good public school system throughout the state to which any citizen would be proud to send his children.

As your committee moves to the consideration of public education in general in Louisiana and also to an appraisal of the office of the State Superintendent of Education, the League of Women Voters wishes to bring to your attention our long standing position in favor of the appointment of the State Superintendent of Education by the State Board of Education.

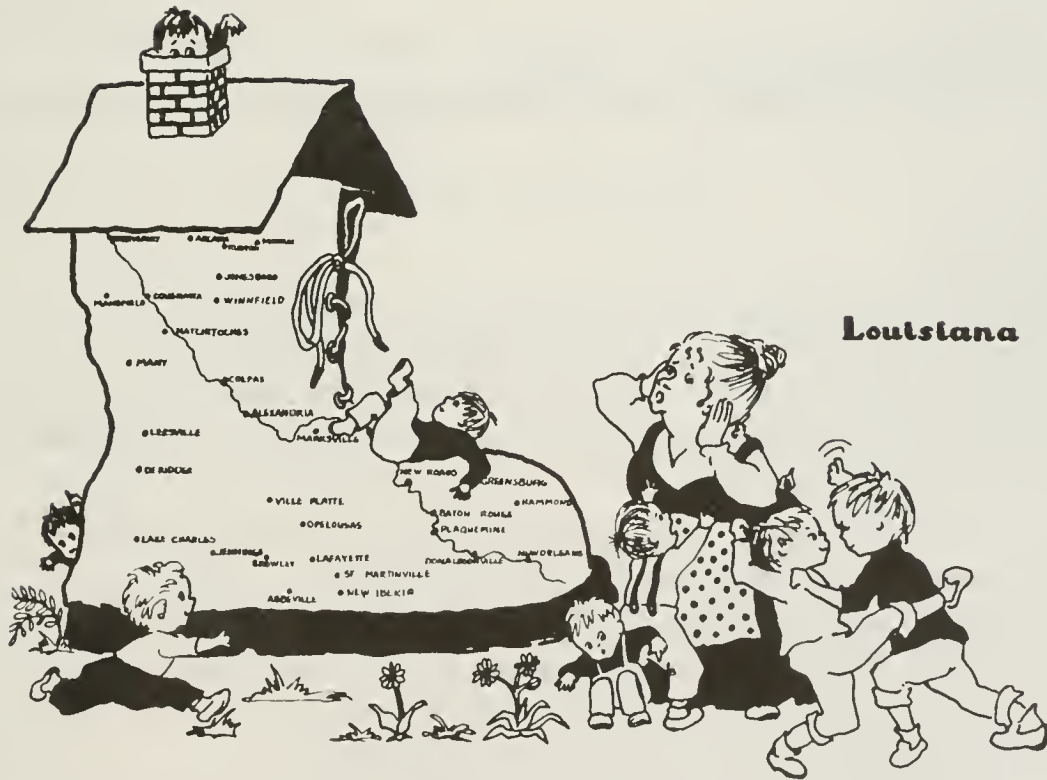
Over the years we have supported constitutional amendments in favor of an appointed superintendent. Our studies have lead to agreement that the State Board of Education, which is the elected policy making body for our state school system, should have more authority over the personnel and budget of the State Department of Education. Such reorganization would provide for a straight line of authority and a system of checks and balances, conforming to recommended procedure for efficiency and responsiveness in conducting duties. It would lead toward correction of the problems of dual authority and overlapping of functions experienced in the past. We urge you to consider seriously the advantages of an appointed State Superintendent of Education for Louisiana and recommend that this provision be included in the revised constitution.



LOUISIANA PARENT-TEACHER ASSOCIATION

# 1971-1972

# Platform



# LOUISIANA PARENT-TEACHER ASSOCIATION

## STATEMENT OF PRINCIPLES BASED ON CONVENTION ACTION OVER THE YEARS

*(Items in bold print are new items in platform – Convention Action 1971)*

The Louisiana PTA during annual convention each year passes various resolutions concerned with the health, education and welfare of children and youth. The Board of Managers may select up to five of these current items for the legislative action program for the ensuing year. Although not all of these items result in enacted legislation, the Louisiana PTA continues to have concern, and until these collective items over the years result in either legislative action or become a reality without legislation, these are listed under this Statement of Principles.

The following Statement of Principles is based on convention action and is in accordance with Article XIV, Section 4 (g) of the State Bylaws:

### COMMUNITY RESPONSIBILITY

- The sale, distribution and use of fireworks should be banned except for public display.
- Enforcement of laws against gambling.
- The minimum age for obtaining a driver's license should be sixteen (16) years for those completing driver education and seventeen (17) years for others.
- School bus routes in rural areas should be patrolled.
- Driver education should be made available to all high school students and should be required of all students seeking to obtain a driver's license for the first time.
- An organized program aimed at acquainting state, district and local PTA organizations and the general public with the recommendations of the 100-Man Curriculum Committee should be implemented.
- Strick enforcement of law requiring establishments selling alcoholic beverages to be located at least 300 feet from schools, churches and playgrounds.

### EDUCATION

- ✓ Public funds for education should be appropriated for publicly controlled tax supported schools only.
- Schools should be protected against intimidation and irresponsible attacks on academic freedom.
- Kindergartens should be included in the public school system and in the Compulsory Attendance Law.
- The personnel and budget of the State Department of Education should be subject to approval by the State Board of Education.
- School Board elections should be non-partisan.
- ✓ The selection of the state superintendent of education should be by appointment of the elected State Board of Education.
- Public education should be maintained and strengthened with maximum local control.
- We oppose Federal Aid that entails Federal Control.
- ✓ Minimum age for school entrance should be six (6) years by September 1.
- ✓ Pupil teacher ratio in elementary schools should be the same as in secondary schools.
- Proper use of Parliamentary Procedure should be emphasized at the senior high school level.
- Adequate financial support should be provided for the ever increasing needs of education.
- Public education should receive a share of any state tidelands oil revenue.
- Public education should be given priority in budgeting state funds.
- The tax exemption for industry should not include exempting taxes for public education.



- A positive program of recruitment for the teaching profession should be continued.
- Laws affecting teacher retirement shall be maintained or improved and the principle implied in a strong teacher tenure law should be preserved
- Funds derived from the Rockefeller Foundation should be distributed according to the provisions of the deed.
- Compulsory school attendance laws should be enforced
- The curriculum should include an organized program for health education, physical education, school-centered recreation and personal and family survival courses.
- Music and music appreciation and art appreciation are essential in a school curriculum. Strings and vocal programs should be included in elementary curriculum.
- An elementary guidance program should be established in all Louisiana public elementary schools and qualifications for certification should be set.
- The teaching of reading should have major emphasis in the curriculum to insure that no child shall leave school without the skill and the desire necessary to read to the full limits of his capability.
- A criterion based on age should be adopted for assignment to schools: Junior high schools should have special programs for those students who are fourteen (14) years of age or over; Senior high schools should have special programs for those students seventeen (17) years of age and over.
- Career oriented programs and specific vocational education courses should be expanded and made available to all students, particularly in junior and senior high schools.
- Adequate libraries should be supported and maintained in all schools.
- School boards should be allowed to extend the school year to twelve months and be reimbursed for all students under the equalization formula.

## CHILD WELFARE

- Constant attention should be given to improving the quality of children's books, movies, radio and television programs, and the sale and distribution of indecent literature to our children and youth should be banned and state laws on this subject should be strengthened and enforced.
- Maximum use should be made of state parks and other outdoor recreational facilities.
- School grounds and buildings should be fully utilized in the interest of the community.
- Municipal water supplies should be fluoridated.
- More complete immunization should be required for school admission and continuing health records should be maintained.
- Community groups, on a state-wide basis, composed of interested clergymen and parents of children of all faiths should join together to sponsor programs designed to solve problems of immorality.
- A duly constituted commission should be established to review the entire field of school health and to make recommendations to the legislature for a new comprehensive school health law.
- All school age children should have periodic medical examinations.
- Support efforts to control drug abuse.
- Prohibit the sale of tobacco products to all youth below the age of eighteen (18).
- A visual screening program should be established for all children.

## GENERAL

- State election laws should eliminate the unnecessary requirements of the voter's signature on tax bond election ballots and thereby ensure for all voters the cherished secret ballot.

*(Continued)*

- The character and background of demonstrators who migrate from state to state should be carefully probed and made known to the public; colleges and universities should be requested to be extremely careful in the selection of speakers; the public should be informed about Communism and its dangers; and finally, parents and teachers should be encouraged to stress the absolute need of instructing and guiding our young people to respect the law and to realize that freedom does not mean license, but that with a citizen's rights go corresponding duties.
- Civil Defense-approved fallout shelters should be incorporated in all school construction.
- Support construction of separated grade crossings for railroads at dangerous intersections.

### CONTINUING RESPONSIBILITIES

We support the following agencies, statues, movements and trends; and we will be vigilant in opposing impairment of their programs or hinderance to their progress.

- Louisiana Youth Commission
- Louisiana Legislative Council
- Louisiana State Library and its program in the extension of library services.
- Upward revision of teacher salary schedules
- Equalization of tax assessments
- Correctional institutions
- State civil service by constitutional provision
- Statewide stock law
- Motor vehicle financial responsibility law
- Child labor law
- Adequate marriage laws
- Licensing of adoption agencies

We recommend the IMPLEMENTATION of this Platform through . . .

- Study by each individual PTA member, study groups, programs, workshops, institutes, conferences, schools of information, surveys, committee projects and activities
- Involvement of youth in every way possible
- Legislative action where such action is needed
- Wide distribution and use of this platform.

Delegates:

I suspect that I am happier to be here today than most of you realize; I only regret that I did not have the privilege nor the opportunity to come before a Constitutional Convention to speak on educational reforms twenty years ago.

As you can well imagine, I would have made a strong case at that time for the elimination of the dual racial system and all other forms of segregation in Louisiana's public schools. If only we could have sat down then as fellow citizens and rationally considered what was best for our state, for all of its citizens--then perhaps we could have avoided two decades of expensive litigation, untold human suffering, tension, hostility, and even open violence. More importantly we could have rescued a generation of children from racial caste and miseducation.

But the past is over. Unfortunately, it was finally the United States and not the Louisiana constitution which committed us legally, if not always and universally in practice, to desegregated education. Still we know that the legal commitment was right and long overdue.

A sense of tragedy over earlier mistakes can never compensate for the past, but it can encourage us to eliminate the vestiges of legal discrimination in Louisiana and commit us to embark upon an era of equality in the future.

I

The lessons of our mistakes in the past should, first of all, convince us to strike out all language in the old constitution which sanctioned segregation and to draft a clear, positive declaration for equality in public educational opportunity for all our citizens regardless of race. Such a gesture would be merely symbolic today; but, like the recent action of the legislature which officially repealed all segregation laws, your action would announce to the nation and to the world that a new spirit of justice and brotherhood has come to Louisiana.

Recognizing the wrongs of a dual racial system in elementary and secondary education also provides a more important, living lesson for higher education in our state. Although I have confined my suggestions in this address to elementary and secondary education, let me just repeat a few lines from my letter which I sent to all the convention delegates together with a set of NAACP recommendations on higher education:

Our present system of black and white colleges was born in discrimination of the past and has come to haunt our state with violence and national disgrace .... The time has come for resolute statesmanship to change this unjust and dangerous system . . . . Hopefully we can avoid the unnecessary and fruitless resistance in higher education which characterized state action in responding to the desegregation of our elementary and secondary schools. The Constitutional Convention has the unique opportunity to remedy past failures and to construct a system of higher education that will serve as a model for the nation.

II

Reflecting upon the mistakes of segregation in our schools can outline some important tasks and duties for this committee, but we must go beyond repairing those past failures. We must also plan and build a system of quality education with equal opportunity for all our citizens. Such an educational system cannot be created overnight. Indeed, cluttering the Constitution with too much detail may soot-jacket future generations. Instead, the Constitution should provide basic structures to accomplish its general goals.

Let me recommend a few basic structures for your consideration. I speak not as an educational expert but as a son of Louisiana who from long experience feels the desperate need for justice and excellence in the schools of his state.

First, create responsible authorities to administer elementary and secondary education:

--Separate the functions of collegiate and pre-collegiate education into two different boards.

--Incorporate the spirit of recent state legislation into both boards

by stipulating an equal number of elected and appointed members and by insuring black membership that would reflect the percentage of black population in the state.

Second, provide authority and duty for a state board of education to distribute state funds in order to insure equality of educational opportunity for all regions and peoples of the state. The Board of Education currently has power of this sort which stemmed from our populist heritage. It was designed to insure greater equity between rural and urban schools. This was fine commitment. Consider some way to extend that power and duty to insure equality of educational opportunity not only between rural and urban dwellers, but between the children of the wealthy and the children of the poor, between the children of black citizens and the children of white citizens, between the children of urban ghettos and the children of metropolitan suburbs. Federal Courts are presently considering action which would force such policy in the states of Texas and California. Don't wait, however, until we are forced to do right; build now in the vision of equal opportunity for all. Federal revenue sharing will put federal resources in our hands; but let us also pick up the federal promise of justice which pervaded recent national legislation for equal educational opportunity. Some action by other states may prove of assistance in this regard. In particular, I commend to your attention recent provisions in the Ohio state constitution.

Third, good judgment would dictate that the superintents of pre-collegiate as well as collegiate education be appointed by their respective boards. Let professionals administer our schools, and remove them and our boards as much as possible from the whims of daily politics.

Thank you for your consideration. Although I wish that I could have spoken to such a hearing twenty years ago--indeed even ten years ago--I am proud to be here today. A new day has begun to dawn in Louisiana. It has yet to come. But we are beginning to see some light. I thank God for that. My remarks are placed before you with confidence in your intentions and the hope that they will assist you in your deliberations.

*Emmitt J. Douglas*  
EMMITT J. DOUGLAS,  
Louisiana State Conference President

MINUTES

SUBCOMMITTEE ON ELEMENTARY-SECONDARY EDUCATION  
of the Committee on Education and Welfare of  
the Constitutional Convention 1973  
Held, pursuant to a notice mailed by the Secretary of the Convention March 27, 1973

Mineral Board Hearing Room  
Natural Resources Building  
Baton Rouge, Louisiana  
April 3, 1973, 10:00 a.m.

Presiding: Norman Carmouche, Chairman

Present: Absent:

Mrs. Corne Mr. Leithman  
Mr. Riecke  
Mr. Haynes  
Mr. Robinson

Others present: Invited guests, members of the press and interested public.

The meeting was called to order at 10:00 a.m. by the chairman; the secretary called the roll and a quorum was present. The chairman requested Mrs. McGibbon to read the minutes from the meeting of March 20, 1973. There were no corrections and Mr. Riecke moved the minutes be adopted as read with Mrs. Corne seconding the motion. The motion passed and the minutes are now a part of the record.

Mr. Carmouche called upon Mr. Aertker, chairman of the Committee of the Whole, to tell the members of the subcommittee what is expected at the meeting April 4, 1973. Mr. Aertker stated he would like a report of the meetings held so far by the subcommittee, when the subcommittee expects to have proposals to present to the Committee of the Whole, and the number of additional meetings anticipated. This information is needed to work out a budget to submit to the Executive Committee. He announced that the Coordinating Committee has given permission for subcommittees to hold meetings during the tour of the Composite Committee. He stressed the need for the subcommittee to begin drafting proposals after all hearings have been completed. He will allow time in the afternoon of April 4, 1973 for the subcommittees to meet.

The Higher Education Subcommittee has requested a meeting with the subcommittee on Elementary-Secondary Education because some of the input from their hearings has included suggestions pertinent to the purview of this subcommittee. Mr. Aertker stated the Public Welfare Subcommittee is running into problems of overlap with other committees and will have to determine where responsibility lies. He feels that toward the end of May all subcommittees must plan to meet as the Committee of the Whole and must be ready to go over proposals submitted. He reminded the members that the Executive Committee has limited all committees to sixteen meetings. The chairman asked if any committee needs special outside experts, information, or materials and supplies that would cause an added expense. Mr. Aertker stated he would have the dates of the meetings of the Committee of the Whole ready to give to the subcommittees and asked that future meetings of the subcommittees be scheduled around those dates.

Mrs. Corne stated she felt it would be profitable for each committee member to attend the Composite Committee meeting in

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their area to be able to receive the general feeling of the community. Mr. Aertker replied that the Composite Committee will request this, but that they also wanted to leave it open for meetings should a subcommittee request one.

The chairman introduced the first speaker of the day, Mr. James Prescott, Executive Secretary of the Louisiana School Boards Association. He presented recommendations for consideration in the rewriting of Article XII. He pointed out that only the matter of an appointive superintendent had been approved by the association. However, he feels certain the association will be in accord with the rest of the recommendations. A copy of his speech and the recommendations are

attached hereto and made a part of these minutes. In the question and answer portion, Mr. Riecke asked Mr. Prescott what he would substitute for the "per educable" proposition. He replied the equalization arrangement would be used, utilizing a formula developed by the State Board of Education to insure the minimum foundation, because the use of "per educable" is outmoded and confusing. Mr. Haynes questioned how education could be equalized if local systems were allowed to supplement the state allocations. Mr. Prescott stated equal educational opportunity is different from equal education if you mean precisely the same dollar amount spent in each school system. He believes the present system is the best way to assure equal opportunity as it attempts to assure every child within the state of at least a minimum program of education as defined by the State Board of Education. He said he felt we sometimes leave the minimum program "minimum" too long, but at least it does assure equal opportunity. Mr. Prescott feels

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local control of schools should be maintained and not turned over solely to the state. He feels the board should be kept elective, superintendent appointed by the board, and the powers now given the superintendent should be transferred to the state board. The organization believes there should be a separate board for elementary-secondary education and special schools. Mr. Aertker informed the committee that in eleven states the superintendent is elected by popular vote and the board is appointed by the governor; in eight states the superintendent is appointed by a board which is elected by popular vote; in eight other states, the superintendent is appointed by the board which is appointed by the governor. Mr. Aertker raised the question that unless the state is willing to assume full funding statewide and the local boards are prohibited from levying taxes, etc., we would be unable to meet the standards of the recent Rodriguez Case ruling, by the Supreme Court, that one system be the exact equal of another. Mr. Prescott agreed the state would have to do all the funding.

The vocational and technical schools should, according to Mr. Prescott, fall under the post-secondary system and be included in grades kindergarten through twelfth. They would not require a separate board.

Mr. Prescott pointed out it is not his intent to harm any school system now in existence and that New Orleans is named in his proposal. Also, he provides that school boards may merge under procedures adopted by the legislature subject to approval by a majority vote of qualified electors in each of the systems.

The chairman asked if there were disadvantages to dedicated funds. Mr. Prescott pointed out that when the legislature proposed abolishing the five and three-fourths mill ad valorem tax,

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which includes the two and one-half millage for schools, the conclusion was the additional money could easily come from the general fund by act of legislature. Dedicated funds have not been sufficient and the legislature has had to supplement them

in the past. Thus dedicated funds could be eliminated. However, if the dedicated taxes are removed from the schools, they should be removed from all agencies.

After a five minute break, Mr. Ed McCormick, of the School Employees Retirement System spoke to the members. A copy of his speech and retirement formula are attached hereto and made a part of these minutes. He highly recommended one central state-wide retirement system funded by the state to replace all the various systems now in existence. The cost of starting a new retirement system would be in setting up the administration for such a system.

Mr. McCormick recommends a money-purchase system of retirement; however, it is hard to explain to the participants. This system would guarantee that the equity would be there when retirement came as it is credited to each individual. The disadvantage is that it is hard to increase the benefits. Mr. Carmouche and Mr. Aertker pointed out that Article XII provides for retirement and that it seems adequate. Mr. McCormick agreed but added he felt there should be stipulated a guarantee that the equity would be maintained. The details of establishing a single system would have to be left to the legislature.

The committee adjourned for lunch, and on reconvening at 1:10 p.m., Mr. J. L. McConathy, Chairman, of the Louisiana Association of School Administrators addressed the group. He handed out copies of his organization's recommendation. A

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copy is attached hereto and made a part of these minutes. Mr. McConathy feels one of the problems today is the fact that the powers and functions of the state board members and the state superintendent have not been defined. He stated that the State Board of Education should be administrative and the local boards of education should be policymaking. However, the state board should be a policy-making body, too, at the direction of the superintendent.

The next speaker was Mr. Gene Geisert, Superintendent of Orleans Parish School Board. He had two basic statements to present: one, the New Orleans Board favors being combined with the entire state and having one statement in the constitution covering all school systems; two, the board supports separation of church and state and advocates that public funds should not be used for nonpublic schools either directly or indirectly. He presented a proposal for constitutional taxing authority that will protect the Orleans Parish Board present millage rates. A copy of this proposal and a copy of the statement regarding church-state separation are attached hereto and made a part of these minutes. He commented that should the provision protecting Orleans Parish from paying the city for the collection of taxes be deleted, they do have some bonds that would compensate for the loss of the privilege.

The kind of entry the Orleans Parish Board would like to see in the state constitution is similar to one made by Mr. Michot: (1) equal educational opportunity shall be made available to all citizens of the state without regard to race, creed, color, sex,

or ethnic background; (2) all facets of education should be under the jurisdiction of a single governing board; (3) the age should

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not be specified in the statement because of preschool training programs and adult training programs. The single governing board affords great opportunity for cooperation between the elementary levels of education and higher education in the sharing of problems, equipment and facilities.

Dr. Harold Porter, Assistant Superintendent of Business and Business Manager for New Orleans Public Schools was introduced by Mr. Geisert to answer questions the members might have about the tax proposal. He assured them that the board's proposal of ten mills is a compromise in order to attempt to get Orleans in the "same boat" with the rest of the state. In answer to Mr. Robinson's statement that it seems New Orleans is trying to bring the rest of the state to their system, Dr. Porter replied that in the last published report of the State Department of Education of 1970-71 on state millages for school systems showed sixty of the sixty-six school systems are levying ten or more mills at the present time, and only six are levying less than ten mills for operating purposes. Of those six, five are levying five mills and one, eight mills. The first proposal states that a millage above the minimum amount of ten mills must be approved by a vote of the people and projected for a period of ten years; and second, funds for capital expenditures would have to be voted on by the people and carry with it the authority to levy the millage to service the bonds. Both Mr. Geisert and Dr. Porter pointed out their proposal on taxing is all legislative.

After a five minute break, Mr. N. B. Hackett, Secretary-Treasurer of the Teachers Retirement System spoke to the members. He feels the constitution should carry a statement re-

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garding retirement and should provide systems with safeguards to protect the rights and funds of the teachers. It is up to the legislature to grant and fund additional benefits granted to older, retired teachers. He pointed out that the twenty-year retirement provision was not at the will of the teachers, even though it has many excellent features. From 1967 to 1971 the employer's contributions to the retirement fund was 9.96 percent. In 1971 this was dropped by the legislature to 8.46 percent; 1972 to 8 percent and this year to 7.5 percent. Mr. Hackett indicated that this is contradictory to finding the necessary funds to keep the system sound and on a funded basis. The twenty-year retirement feature will cost more money, because the liabilities increase each year. His organization would like some renowned actuaries to study the system and see just where it stands. Mrs. Corne asked why it takes so long for a teacher to get a statement of the retirement amount in his account. Mr. Hackett stated that each parish school board is asked for a checklist by August fifteenth. However, they seldom receive them until the last of October, November, and December.

The next three speakers, Mr. B. A. Petterson, Acting Superintendent of Monroe City School Systems, Dr. Frank Mobley, Superintendent of Bogalusa City School System, and Dr. James Bailey, Superintendent of the Washington Parish School System all basically agreed they would like their systems left in the constitution. They were also in agreement with Mr. James Prescott's proposal, except Dr. Mobley suggested Section five not separate the second and third paragraphs. He feels point F of Section eight can serve their purpose in that it protects their taxing authority.

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At the conclusion of the speakers, the chairman in the business session, stated the Committee of the Whole needs a report of this and previous meetings. The members studied the work draft of a staff memo prepared by the research staff and agreed it was the best way to present their report.

The chairman informed the members he would be absent for the first few hours of the meeting of the Committee of the Whole and asked Mr. Riecke to present the report for the subcommittee. Mr. Robinson and Mrs. Corne told the subcommittee that they will also be late as they have been asked to appear before the joint legislative committee on education.

There being no further business, the meeting was adjourned.

Norman Edward Carmouche, Chairman

I am Jamea D. Prescott, Executive Secretary of the Louisiana School Boards Association. I appreciate the opportunity of appearing before you today to discuss proposed changes in the educational provisions contained in our Louisiana Constitution.

Let me say at the outset that only a few of the views expressed by me have been formally approved by the Louisiana School Boards Association. Indeed, except for the matter of an appointive State Superintendent of Public Education, our Association has not taken formal action on the proposals I shall make here this morning. Nevertheless, I am virtually certain that I represent the views of a majority of those whom I represent.

It is my intent to discuss for you my general ideas regarding Constitutional revision of educational matters and then to leave with you a detailed proposal for the rewriting of Article XII. I am not an attorney and I have not had a chance to discuss this detailed proposal with our general counsel so I ask that you regard my revision of Article XII accordingly. I am sure that your research staff and legal counsel can improve the wording which I recommend. Moreover, I am sure that they can reduce to statutory language those provisions which I believe can be omitted from our new Constitution, but which should be placed in the Statutes of our State.

I will now enumerate for you the changes which I propose in our Constitution. Some of these will be discussed generally while others will be presented in detail. In any case, I will be happy to answer any questions which you have at the conclusion of my presentation.

My recommendations are:

1. Much of the material in the Louisiana Constitution concerning public education can be deleted entirely, consolidated or put into the Statutes without damage to our educational system.

The proposed revision of Article XII which I will leave with you deletes from

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the present Constitution eight (8) sections in their entirety. Provisions concerning coordination of schools (Section 2), courses of study (Section 3), language requirements (Section 12), Sixteenth Section Lands (Section 18), and the Free School Fund (Section 19), the Seminary Fund (Section 20), and the A & M Fund (Sections 21-22) should be completely eliminated from Article XII.

Of these, Section 18 dealing with Sixteenth Section Lands should be placed in the Statutes. Sections 19, 20, 21 and 22 which deal with perpetual debts of the State should be eliminated by appropriations to the proper agencies of the amounts of these debts. Sections 2, 3 and 12 should be eliminated and forgotten.

Many other Sections in the present Constitution should be consolidated with other Sections or shortened considerably as seen below. Much material in these Sections can be reduced to Statutory status.

2. The present provisions for governance of education at the State level should be changed.

The Louisiana Constitution should provide for a State Board of Education responsible solely for elementary and secondary schools and the special schools of the State. The Board should be composed of the present eleven members, all of whom are elected. The only basic change in composition which appears to be needed is the reduction in terms of the members elected from Congressional Districts to six years from the present eight.

There could be workable alternatives to this recommendation, of course. For example, you could elect three members from the State-at-large instead of from these Public Service Commission Districts, you could have the Governor appoint these same three members either from the Public Service Commission Districts or from the State-at-large, or you could increase the total number to thirteen (13) and have five (5) members appointed by the Governor.

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Testimony Before Sub-Committee  
on Elementary and Secondary Education of  
the  
Louisiana Constitutional Convention

by  
James D. Prescott  
Executive Secretary  
Louisiana School Boards Association

Baton Rouge, Louisiana  
April 3, 1973

Regardless of the exact composition of the State Board, however, the majority of the members should be elected and therefore responsible directly to

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the public. In addition, this Board should appoint for a four year term the State Superintendent of Public Education who should become the Board's chief executive officer. This appointee should also possess at least the same qualifications as those required of a parish or city school superintendent.

3. Dedications from the Severance Tax to the State Public School Fund should continue only as long as dedicated funds are retained by other governmental agencies.

Dedications to the State Public School Fund have not been sufficient for about two decades to meet the financial needs of public education. Substantial revenues from the State General Fund have been used to make up the difference. Thus, if the Convention decides to remove all dedications, we believe education will be generously provided for by the Legislature. At the same time, however, we would oppose the elimination of educational dedications if other State agencies retain their dedications.

4. The Constitutional procedure for distributing the basic State funds for education should be changed.

The present Constitution calls for distributing basic funds on a per educable and an equalization basis. We believe that the per educable arrangement is antiquated, misunderstood, devoid of meaning and should be changed. The most important Constitutional provision for distributing State funds should be to insure that all students in this State are afforded at least a minimum program of education as defined by the State Board of Education. Our recommended change would eliminate entirely the per educable distribution and emphasize the distribution of funds to achieve this minimum program.

5. The Constitutional Ad Valorem Tax for education should be retained at five (5) mills.

The so-called Constitutional Tax of five (5) mills which local school boards can levy without a vote of the people should be retained. Education is too

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important a governmental function not to have some funds, no matter how meager, made available to school boards with which to provide this function. Some would have you increase the amount of millage which can be imposed but I realize the practical difficulties which confront you and would not now recommend that this amount of five (5) mills be increased.

6. There should be a drastic change in provisions for obtaining additional local funds for public education.

We see no reason why there should be any Constitutional limitations on the amount or usage of local funds from ad valorem taxes if we require that such taxes can be levied only upon a favorable vote of a majority of the electors affected and that they can not be voted for longer than ten (10) years. We would concede, too, that the Legislature should have the prerogative of imposing any additional limitations on the amount or use of local funds.

7. The provisions contained in Article XII, Section 15 whereby school taxes are to be assessed, levied and imposed on one hundred per centum (100%) of the assessed valuation should be eliminated.

There is no need to keep this provision in the Constitution in light of the recent Court ruling by Judge Doherty on the equalization of assessments. Rather, the Legislature should set the percentage of actual cash value to be used to determine the assessed valuation on which the millage is to be levied.

These are our recommendations for Constitutional change in the area of public elementary and secondary education. We appreciate the opportunity of presenting them to you and we hope that you will give them your greatest consideration.

Proposed Revision of  
Article XII of  
the Louisiana Constitution  
by  
James D. Prescott  
Executive Secretary  
Louisiana School Boards Association

ARTICLE XII -- Public Education

§ 1. Education of children; establishment and maintenance of public educational system

Section 1. The Legislature shall provide for the education of the children of the State and shall establish and maintain a public educational system to consist of all public schools and all institutions of learning operated by State agencies.

§ 2. State Board of Education; members, powers and duties

Section 2. A. There is hereby created a State Board of Education consisting of eleven members with one member elected from each of the three Public Service Commission Districts and one member elected from each of the eight Congressional Districts, all for overlapping terms of six years. The present members of the Board shall serve the remainder of their terms and their successors shall be elected for terms as provided herein. Any vacancies occurring in the membership of the Board shall be filled by appointment of the Governor. All members shall serve without pay, except such per diem and expenses as shall be fixed by the Legislature.

B. The State Board of Education shall be the governing body of the State Department of Education and shall have supervision and control of all public elementary and secondary schools and special schools as provided by law under its jurisdiction.

C. The State Board of Education shall submit to the Legislature, or other agency designated by the Legislature, a budget for the Board and State Department of Education, elementary and secondary schools, and special schools under its jurisdiction. The Legislature shall make such appropriations for the improvement, equipment, support and maintenance of said institutions as their needs may require.

D. The Legislature shall prescribe the duties of the State Board of Education and define its powers; provided, that said Board shall not control the business affairs of the parish school boards, nor the selection or removal of their officers and directors.

E. The State Board of Education shall prescribe the qualifications, and provide for the certification of the teachers of elementary, secondary, and special schools; it shall have authority to approve private schools whose sustained curriculum is of a grade equal to that prescribed for similar public schools of the State; and the certificates or diplomas issued by such private schools so approved shall carry the same privileges as those issued by the State's schools.

Proposed Revisions of Article XII of the Louisiana Constitution, Page 2

NOTE: Workable alternatives to the composition of the State Board of Education recommended above would include 1) election of three members for six year terms from the State-at-large instead of from the three Public Service Commission Districts; 2) appointment by the Governor instead of election, of the three members from the Public Service Commission Districts; 3) appointment by the Governor of three members from the State-at-large; and 4) increasing the total number of members to thirteen and having five members appointed by the Governor.)

§ 3. State Superintendent of Public Education; qualifications, duties and responsibilities; term of office; salary; vacancy

Section 3. The State Board of Education shall appoint a State Superintendent of Public Education who shall possess at least the same qualifications as those required of a parish or city school superintendent. The State Superintendent of Public Education shall be the ex-officio secretary of the State Board of Education and shall serve as its chief executive officer.

The State Superintendent of Public Education shall be appointed by the State Board of Education to serve for a term of four years, beginning May 15, 1976, at a salary fixed by the Board.

All powers and duties now or hereafter vested in the State Superintendent of Public Education, whether by the Constitution or laws or otherwise, hereafter shall be exercised under the direction and supervision of the State Board of Education, to which he shall be responsible.

§ 4. Institutions of higher learning

NOTE: The Louisiana School Boards does not intend to make a recommendation in this area.

§ 5. Parish school boards, parish superintendents

Section 5. The Legislature shall provide for the creation and election of parish school boards which shall elect parish superintendents for their respective parishes, and such other officers or agents as may be authorized by the Legislature. The State Board of Education shall fix the qualifications and prescribe the duties of parish superintendents who need not be residents of the parishes.

School boards and systems now in existence by virtue of special or local legislative acts or previous Constitutional provisions are hereby recognized, subject to control by and supervision of the State Board of Education, and the power of the Legislature to further control them by special laws.

Two or more parish or city school boards and systems may be consolidated under procedures enacted by the Legislature subject to

Proposed Revisions of Article XII of the Louisiana Constitution, Page 3

the approval of a majority vote of the qualified electors in each system affected.

§ 6. Public funds for private or sectarian schools; co-operative regional education

Section 6. No public funds shall be used for the support of any private or sectarian school. Provided, that the Legislature may enact appropriate legislation to permit institutions of higher learning which receive all or part of their support from the State of Louisiana to engage in interstate and intrastate education agreements with other state governments, agencies of other state governments, institutions of higher learning of other state governments and private institutions of higher learning within or outside state boundaries.

§ 7. Elementary and secondary schools; sources of funds; apportionment

Section 7. There is hereby established a State Public School Fund. All State funds for the support of public schools as herein, heretofore, or hereafter provided for, shall be segregated and kept separate in bank accounts, apart from other State funds. Funds for the support of the public elementary and secondary schools shall be derived from the following sources and shall be apportioned to the parish school boards in the manner herein provided:

Sources: A. The residue of the Severance Tax Fund of the State, after allowing funds and appropriations as provided for elsewhere by this Constitution, and providing that not more than Five Hundred Thousand (\$500,000.00) Dollars per annum may be appropriated by the Legislature for the cost of administering and inspecting and enforcing of the taxes accruing to the Severance Tax Fund, and for the administration of the conservation laws incident to the severance of natural resources from the soil and water of the State, which severance tax fund shall be devoted, after allowing such funds and appropriations, as fixed in this Constitution, first to supplying free school books, second, to supplying free school supplies such as library books, writing paper, pencils, pens, ink and the like, to the school children of the State. After July 1st of each year, the State Treasurer shall forthwith set up a fund for the payment of the fixed charges hereinabove mentioned.

B. The proceeds of particular taxes, now or hereafter levied by the Legislature and dedicated, allocated, destined to or designated for said State Public School Fund.

C. Such other funds as the Legislature has or hereafter may designate, allocate, appropriate, or otherwise provide therefor or destine thereto.

Apportionment: A. There shall be appropriated out of the State Public School Fund and/or out of the State General Fund enough monies to provide and insure a minimum program of education in all of the public schools of the State. These funds shall be paid in twelve monthly payments and shall be apportioned and distributed and the minimum program administered by the State Board of Education under its rules and regulations.

B. Any other State funds provided by law for the support of public schools shall be apportioned and distributed in accordance with a formula established by the State Board of Education except as otherwise provided for by the Act appropriating the same.

Proposed Revisions of Article XII of the Louisiana Constitution, Page 4

C. Any other funds for public education from whatever sources shall be distributed under the authority and jurisdiction of the State Board of Education and in accordance with the terms of the law governing such funds or the stipulations of the source.

§ 8. Local school funds; sources

Section 8. The local funds for the support of elementary and secondary public schools shall be derived from the following sources:

A. The parish school board of each parish, the Parish of Orleans excepted, and no other parochial or municipal authority, except as provided for in this Constitution, is hereby provided and directed to levy an annual ad valorem parish-wide maintenance tax of five (5) mills, or as much thereof as may be necessary on all property subject to taxation within said parish.

B. The provisions, under the caption "A" item above, for an ad valorem tax of five mills, shall not apply to property within a municipality exempt under existing laws from parochial taxation; but in lieu of such tax from which exemption so lies, the governing authority of each such municipality shall annually levy, collect and pay to the parish school board of the parish in which such municipality is situated, out of the proceeds of the general ad valorem tax for municipal purposes, such millage as shall equal the rate of five (5) mills levied hereunder by the parish school board.

None of the provisions under the caption "A" item above, for an ad valorem tax of five (5) mills shall apply to municipalities which under Constitutional or legislative authority, are actually conducting, maintaining, and supporting public schools of their own; but in lieu of such tax from which exemption so lies the school board in each such municipality shall be required to levy an annual tax of five (5) mills on the assessed valuation of all property within said municipality, the proceeds whereof shall be exclusively for the maintenance of the public schools.

C. The Orleans Parish School Board shall levy annually a tax not to exceed thirteen (13) mills on the dollar on the assessed valuation of all property within the City of New Orleans assessed for City taxation and shall certify the fact to the Council of the City of New Orleans, or other governing body of said City, which shall cause said tax to be entered on the tax rolls of said City, and collected in the manner and under the conditions and with the interest and penalties prescribed by law for the City taxes. The money thus collected shall be paid to said Board.

D. For giving additional support to the public elementary and secondary schools, any parish, school district or sub-school district may levy ad valorem taxes for specific school purposes or incur debt and issue bonds when authorized by a majority of the electors qualified to vote in such parish, district or sub-district,

provided that the amount and usage of such proposals shall be in accord with any limitations imposed by the Legislature and provided further that any tax proposal shall not run for a period longer than ten years.

E. Local funds for the support of public schools of elementary and secondary grades shall be additionally derived from such other revenues as may be provided for by law.

Proposed Revisions of Article XII of Louisiana Constitution, Page 5

F. For the effects and purposes of the provisions of this entire section and for the purpose of ascertaining and determining the maximum allowable millage as may be imposed by the Legislature, and levying the taxes herein authorized, the municipalities of Monroe, in Ouachita Parish, and Bogalusa, in Washington Parish, and no other, shall be regarded as, and treated upon the same basis and shall have the same authority in respect to this section as though they were separate parishes instead of municipalities.

Provided, further, that the provisions of this entire section shall apply to the Parish of Orleans just as it does to other parishes except as it may specially exempt or as may otherwise be provided for in this Constitution.

G. The school board of Ouachita Parish shall not be required to pay to the City of Monroe out of the public funds any per capita for children residing without the limits of said city and who may attend the schools maintained by the City of Monroe under its legislative charter.

§ 9. General Parish School Fund

Section 9. Parish school boards shall place into one fund, to be known as the General Parish School Fund, all revenue received for the general maintenance of public schools from State and parish constitutional and statutory sources; and such funds shall not be subdivided, apportioned or separated in any manner whatsoever, nor shall they be paid to any ward, district, or other subdivision, but such revenue shall be dedicated and used exclusively, to pay the cost of the current operation of public elementary and secondary schools within the parish and under the control of the parish school board, as provided for by the laws of the State.

Provided, that funds received from special taxes or the sale of bonds for the construction or repair of school buildings, the purchases of sites and of school equipment, shall not be placed in the general parish school fund but shall be kept separate and apart therefrom, and shall be used exclusively for the purposes for which they are intended, as provided for by the laws of the State.

§ 10. Retirement funds; teachers; school employees

Section 10. The Legislature shall provide for a retirement fund for aged and incapacitated teachers in the State public schools. The Legislature shall also provide for a retirement fund for aged and incapacitated employees of the State public school system engaged in transporting students to and from schools and those engaged as custodians, maintenance, school lunch and all other employees.

§ 11. Tulane University

Section 11. The Tulane University of Louisiana, located in New Orleans, is hereby recognized as created and to be developed in accordance with provisions of the Legislative Act No. 43 approved July 5, 1884.



STATE OF LOUISIANA

SCHOOL EMPLOYEES RETIREMENT SYSTEM

BATON ROUGE 70801

April 3, 1973

EDWARD A. MCCORMICK  
SECRETARY TREASURER

150 THIRD ST.  
SUITE 201

Mr. Edward A. McCormick

Consolidation of Various Retirement Systems:

I. Advantages:

- A. Would end confusion as to where to locate retirement records etc. of an individual
- B. Would simplify reporting and record keeping for various agencies such as school boards, who now report to: 1) Teachers, 2) School Employees, 3) School Board and Employees' retirement systems as well as to 4) Social Security.
- C. Legislative body more easily determine the total costs of employee retirement benefits as the consolidation would eliminate multiple agency budgets.
- D. May eliminate multiple boards which now administer the various funds unless such boards were retained as subordinate boards for present funds or for specified groups.
- E. May eliminate competition between various systems to get a certain benefit simply because another system has such a benefit



F. Effects of legislation on cost to the state could be more easily determined as a new benefit to one group or one system is immediately requested for all other systems in the next legislative session.

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G. Would eliminate one person holding membership in more than one state supported retirement system (this would probably be the largest saving to the state if not the only saving that consolidation would effect. The amount of saving would depend on how extensive this practice actually is and whether the dual job holding is for two jobs actually performed which could justify dual membership.)

#### II. Disadvantages to Consolidation

- A. Administrative cost per member and total administrative cost would almost certainly be higher
- B. Individual member would have less representation on board controlling the system as board would not be controlled by or made up of one group with a common interest and who personally understands their problems as is now the case with school bus drivers, civil service employees, teachers etc.
- C. The combined membership of a consolidated system would have a potential for getting favorable legislation (favorable to the members) passed than they now have. (This has not been the result in states that have only one or two systems but in Louisiana members are already experienced in using legislative pressure as a group and no doubt when they find themselves in a state-wide situation with various degrees of influence on every legislator they are going to use it to good advantage.)

#### III. Methods that may be Considered for Consolidation.

- A. The administration of all systems might be put under one board or embodied in one agency with the various funds or plans as they now exist being temporarily left intact as departments or branches, as the combined system consolidated in one location (and after the initial shock wore off it would in all probability

Page 3

make every effort to consolidate or combine like systems provided of course that the legislature gave the board the authority to do this. The biggest drawback to this system would be the heavy administrative cost which is going to exceed present administrative cost.

- B. The legislature after studying the various systems may either direct selected system to begin consolidating themselves, or consolidate them by legislation as was done with the Orleans teacher system and the State system.
- C. The membership in the present systems could be frozen by the legislature and still another state wide system formed in which all future employees would be enrolled. This new system could easily have various provisions to take care of those employees who have special problems such as those who have relatively short

tenure on the job because the jobs require physical strength and agility or any special situation now taken care of in present retirement systems, this hopefully would be a funded system with members of the present systems having the option of transferring to this new system. If a good system was formed, transfers would be plentiful. In any event, most present systems would be insignificant in ten years and almost non-existent in 20 years. The advantages of this are numerous: (1) avoid the conflict of interest of combining funded and non-funded systems (not to mention the conflict between unequally funded systems) (2) avoid the chances that law suits the above conflicts may institute would result in the courts doing the consolidating or non-consolidating as the results may be and (3) would give the administrator a chance to design a system that would be adequate

Page 4

to do the job at a reasonable cost-twenty or thirty different systems would not have to be made compatible over night. If this new system were to be a funded system, present members of non-funded systems who chose to do so could be transferred under the provisions of acts 46 and 47 of 1972. If the new system were to be a non-funded system, present members from funded systems could transfer under the same acts but I suspect that transfers under this condition will be nil unless the full faith and credit of the State of Louisiana is pledged to cover the unfunded employers portion, a funded system is without question the cheapest to the state (employer) for the simple reason that interest earnings pay approximately one-half the employers' cost (ie. Funds kept fully invested at 6% double themselves in 12 years and as most retirees have about 24 years service, some of the funds will double again, making the average employers cost be 50% from contributions and 50% from interest earnings) This last proposal is perhaps the simplest to accomplish as well as the cheapest method of effecting a consolidation. Also it probably will get the job done in about the same time that any other plan, about 10 years, and without creating chaos. There are without question too many retirement systems in this state as there are too many other agencies. However, except for perhaps the proposal in paragraph "C" above or some variation of this, the administrative costs will go up considerably and even with that proposal administrative costs are going to be somewhat higher initially. After that costs will depend on the ability of the man running the show and what

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future legislation is passed. The only objection I can see to this last proposed method of consolidation is that the top job in the new system may (and probably will) be given to someone other than me, and to this I object.

Retirement Formulas

I. Percentage formula vs. Money Purchase Plan

- 1. Member and employer contributions credited to members account each year or
- 2. At retirement, employer portion (from two to five times member contribution as determined by legislature) added and total paid as annuity over remaining life expectancy of the retiring member.

II. Supplementary or additional benefits above this amount could be paid from annual appropriations made for that specific purpose or could be funded as a percentage of payroll each year with the rate determined by an actuary.

III. Advantages of money purchase plan over percentage formula

- (a) Benefit is directly proportionate to funds paid into the system which in turn is directly proportionate to years of service and earnings.
- (b) Requests for extra membership credit, etc., would be minimal or nonexistent as years of service without corresponding contributions from the member would not provide a larger benefit at retirement.
- (c) Is probably fairest retirement formula ever devised (was in use in most funded systems until percentage formula became popular)
- (d) Early retirement possible without affecting the soundness of a funded retirement system or constituting a heavy drain on resources of a nonfunded system.
- (e) Early vesting would be more realistic (i.e., easily funded and/or paid).

IV. Disadvantages of money purchase plan.

- (a) Members cannot readily determine the approximate amount that their retirement benefit will be at retirement as benefit is determined by actuarial tables of life expectancy of membership and they do not normally have access to such tables.
- (b) Even though can be set up to provide equivalent benefits to any other plan and is more equitable than any other plan, it is hard to explain to the members.

State School Employees Retirement System  
Edward W. McGorrick

CONSTITUTIONAL CONVENTION SUBCOMMITTEE REPORT

ON

ELEMENTARY AND SECONDARY EDUCATION

J.L. McConathy, Chairman

Louisiana Association of School Administrators

Sec. 1: Education of school children; financial assistance; beginning age

Note: There are three paragraphs in this section

- (1) "The legislature shall provide for the education of the school children of the state. The public school system shall include all public schools and are institutions of learning operated by state agencies."
- (2) The second paragraph authorizes the Legislature to provide financial assistance directly to school children of the state who attend private-non-sectarian elementary and secondary school.  
Note: This should be deleted as it has been invalidated by the Courts.
- (3) The third paragraph prescribes a minimum beginning age for entering the public schools:  
Note: This could become a policy to be set by the State Board of Education.

Sec. 2. Coordination of schools.

- (1) "The elementary and secondary schools and the higher education institutions shall be coordinated as to lead to the standard of higher education established by the Louisiana State University and Agricultural and Mechanical College."

Note: Function of Coordination of schools should rest within the State Board of Education.

Sec. 3. Elementary schools; Course of study

- (1) "There shall be taught in the elementary schools only fundamental branches of study, including instruction upon the constitutional system of state and national governments and the duties of citizenship."

Note: Determination of the Course of study should be the duty of the State Board of Education

Sec. 4: State Board of Education; members; powers and duties

Note: The State Board should set policies and procedures for operation of elementary secondary school programs. The Legislature should continue to prescribe the duties and define the power of the State Board of Education. Limitations should remain within the authority of the legislature to prescribe powers and duties to the State Board of Education as follows:

- (1) The State Board may not control the business affairs of parish school boards.
- (2) The State Board may not control the selection and removal of officers and directors of parish school boards.
- (3) The State Board members should continue to be elected by popular vote with overlapping terms of eight years, one from each Congressional district, and one from each public service district elected with overlapping terms of six years.
- (4) Vacancies on the state board should be filled by the governor if the term is less than one year, but vacancies for a period of in excess of one year should be filled by electing someone by popular vote of the next general election.
- (5) The per diem and expense rate should be set by the legislature.

Sec.5: State Superintendent of Public Education

- (1) Should continue to be elected for a term of four years by popular vote of the people in the state general election.
- (2) Minimum qualifications should be stated as equal to the requirements for a person to serve as superintendent of a parish school system.

(2)

- (3) Required to be a citizen of the state
- (4) To serve as Ex-officio Secretary of the State Board of Education.

Sec. 6: State Board of Education; Control of Public Schools

Note: "The State Board of Education should continue to have supervision and control of all public schools."

Sec. 10: Parish school boards; parish superintendents

- (1) The School Board members should be elected for a term of six years with overlapping terms with no greater than one third of the board being up for election at any one time. Vacancies should be filled by appointment of the Governor from a list of three nominees furnished by the remaining board members. Appointments should not be for a longer period of time than one year, after which they would have to seek office by election procedure to be held at the general election; The one-man-one vote principal would be followed to insure proper representation of the people.
- (2) The parish superintendent should be appointed by the parish school board for a term of not less than four years.
- (3) Duties of the parish superintendent should be spelled out.

Sec. 12: English Language should be used in conduction of the general exercises in the public schools.

Sec. 13: No appropriation of public funds should be used for private or sectarian schools.

Sec. 14: Elementary and secondary schools; sources of funds; apportionments.

- (1) Dedication of state monies for public education should continue if any other agency is to receive dedicated funds.
  - (2) Special Grants from congress through land grants, special appropriations and private sources
- (3)
- should be allowed to continue at the option of the local parish school board.
- (3) Apportionment of the funds from the State Public School Fund should be made on the basis of an equalization formula so as to insure minimum educational opportunities for all children throughout the state. This function should be under the direction of the State Board of Education.

Sec. 15: Parish school funds; sources and management

- (1) Parish school boards should be required to levy up to five mills parish-wide without votes approved. To participate in the equalization program fully each parish would be required to levy the five mills or the amount set by the State Board of Education for all school systems.

(2) Additional millage with voters approval should be at the option of the local school board.

(3) Other sources of revenue such as local sales tax should be optional with local school board and approval of the people. However these sources should not affect the funds to be derived from the state equalization formula.

Sec. 18: Sixteen section or indemnity lands should continue to be a local source of income.

Sec. 19: Retirement funds; teachers; school employer should be included and the state should assure full funding to provide benefits enacted by the legislature.

(4)

Statement by  
Orleans Parish School Board  
Relative to  
Constitutional Taxing Authority  
of School Boards

The Orleans Parish School Board believes that the new Constitution should clearly spell out that the State has the responsibility of providing adequate public educational facilities for all citizens. It further believes that the interests of the public school system of the state would be better served if all parish and city school boards were subject to the same constitutional rights and duties. However, it is also concerned that its fiscal authority not be weakened.

The Board therefore proposes the following general principles for consideration by other boards and by the constitutional convention:

1. Each parish and city school board shall be authorized to levy an annual ad valorem tax for school purposes not to exceed ten (10) mills on each dollar of assessed valuation on all property within its jurisdiction.
2. Each parish and city school board shall be authorized to continue to levy additional taxes heretofore approved in an election until such authority shall expire in accordance with the terms of the election, except that the provisions of paragraphs 1 and 2 shall not operate to increase the amount of millage any board can levy.
3. Each parish and city school board shall be authorized to levy such additional ad valorem tax for school purposes as may be approved hereafter by eligible voters in the parish or city in a special election held for that purpose, except that such additional tax shall not be levied for more than ten years.
4. Each parish and city school board shall be authorized to levy an ad valorem tax each year hereafter in an amount sufficient to pay principal and interest coming due during the year on all bonds presently outstanding.
5. Each parish and city school board shall have the authority to sell any bonds heretofore approved in an election but not yet sold and shall have the authority to levy an ad valorem tax for each year after such bonds are sold, in an amount sufficient to pay principal and interest coming due during the year.
6. Each parish and city school board shall have the authority to sell additional bonds as approved by eligible voters in an election held for that purpose and to levy additional taxes each year in an amount sufficient to pay principal and interest coming due during the year, provided that such bonds shall not run for more than forty years and that the average interest rate shall not exceed a rate to be fixed by the Legislature of Louisiana.

The Orleans Parish School Board believes that these proposals form an ad valorem tax basis which is fiscally sound and responsive to the will of the people.

HTP:smf  
3/30/73

Statement by  
Orleans Parish School Board  
Relative to  
State Support of Non-Public Schools

The Orleans Parish School Board wishes to confirm the position which it has consistently taken in the past:

The doctrine of separation of Church and State should be strictly construed: public funds should not be used for support of non-public schools, either directly or indirectly.

HTP:vwf  
4/2/73

#### MINUTES

Minutes of the meeting of the Subcommittees on Higher Education and Elementary-Secondary Education of the Committee on Education and Welfare of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on March 29, 1973  
East Baton Rouge Parish School  
Board Room, Baton Rouge, Louisiana  
April 4, 1973, 2:30 P.M.

Presiding: Robert Aertker, Chairman of the Committee of the Whole

Present:

Mr. Sutherland	Mr. Carmouche
Mr. Toca	Mr. Robinson
Mr. Segura	Mr. Riecke
Mr. Silverberg	Mrs. Corne
Mr. Cowen	Mr. Haynes
Mr. Thistlewaite	Mr. Leithman

The meeting was called to order at 2:30 p.m. by Mr. Aertker. He suggested that the two subcommittees hold a joint meeting to discuss the following: one, the placement of vocational education in the education system; two, the question of one board or two or more; three, whether the superintendent should be appointed or elected; four, the organization of education in the State of Louisiana.

Mr. Carmouche stated that his subcommittee should be finished with hearings by the first of May. Mr. Sutherland voiced the opinion that his subcommittee will need one more day to hear those unable to attend meetings already held. The subcommittee on Higher Education set April 11, 1973 for these hearings in the Education Building, sixth floor, conference room.

The subcommittee on Elementary-Secondary Education changed the May 1, 1973 meeting to April 24, 1973. The joint meeting of the two subcommittees will be 10:00 a.m., April 12, 1973. A decision of joint and single jurisdiction for the subcommittees will be determined. Mr. Silverberg presented material prepared by Nichols State University on the statutory laws now in existence. The chairman of the Committee of the Whole asked the research staff to study the report and see if perhaps all members should have a copy, or if it is a duplication of material the members already have.

Mr. Aertker suggested that after both subcommittees have finished their hearings the possibility of merging into one subcommittee might not be feasible.

Mr. Aertker stated the agenda for the joint meeting of April 12, 1973 should include a discussion of

1. Appointive or elected superintendent of education
2. Structure and place of vocational-technical education
3. One board or several boards of education
4. Information relative to dedicated funds
5. Possible merger of the two subcommittees.

He felt that items (1.) and (5.) are the most important at this time, as this will serve as a guide to future decisions.

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Mrs. LeBlanc suggested the members of both subcommittees review the proposal from Mr. Prescott and the recommendations of the Louisiana Constitutional Revision Commission before the joint meeting of April 12, 1973 for possible discussion.

Mr. Aertker told the members that if the research staff will call Mr. Winston Riddick in the Education Building and inform him of the number expected at the meeting, he will have Mr. Howard, the man in charge of the Fifth Street parking lot, reserve places. All that is necessary on the day of the meeting is to drive onto the lot, identify yourself, and he will show you where to park.

There being no further business, the joint meeting of the subcommittees on Higher Education and Elementary-Secondary Education adjourned.

Robert Aertker, Chairman  
Committee of the Whole

#### MINUTES

Minutes of the meeting of the Subcommittee on Elementary-Secondary Education of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on April 2, 1973

State Capitol Building, Room 205

Baton Rouge, Louisiana

April 10, 1973, 10:00 a.m.

Presiding: Mr. Norman Carmouche, Chairman of the Subcommittee on Elementary-Secondary Education

Present

Mr. Riecke  
Mr. Leithman  
Mr. Robinson  
Mrs. Corne

Absent

Mr. Haynes

The meeting was called to order at 10:10 a.m. The secretary called the roll and a quorum was present. Following the reading of the minutes by the secretary, Mr. Riecke moved they be adopted, Mrs. Corne seconded the motion and the

motion passed. Mr. Robinson questioned the statements in the minutes of Mr. McCormick which refer to one retirement system for the state. The secretary was instructed to check the tapes of the meeting. This was done and the members of the subcommittee agreed to leave the minutes as read.

Mr. Leithman suggested that at the beginning of each meeting a review of the future meeting dates and sites be read. The following are the dates set: April 12, 1973, 10:00 a.m., joint meeting of the Subcommittees on Higher Education and Elementary-Secondary Education at the East Baton Rouge Parish School Board Office. On that same day the Committee of the Whole will meet at 1:00 p.m. The April 24, 1973 meeting at the Louisiana Teachers' Association Building has been set for 9:00 a.m. to hear from a representative of the association and Mr. Kirby Ducote's group representing Citizens for Educational Freedom. The Committee of the Whole meetings are: May 3, May 8, June 1, June 13, and June 20, 1973. They will all be held in the East Baton Rouge Parish School Board Office and all will begin at 10:00 a.m. The chairman stated that perhaps after the April 24, 1973 meeting the subcommittee will merge with the Subcommittee on Higher Education and hold joint meetings thereafter.

The chairman introduced the first speaker of the day, Dr. James Oliver, assistant superintendent of education for management, research, and finance. He spoke in place of Mr. Louis Michot, superintendent of public education. He read the statement prepared by Mr. Michot and a copy is attached hereto and made a part of these minutes. In the question and answer period Dr. Oliver stated that the matters of distribution formula, the Coordinating Council's formula, and the retirement system belong in the statutes or the quasi-constitution which he heard was being taken under

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consideration. He said most people think of the single board as bringing LSU into the present state board. However, he believes that the method of selecting the members for the single board would encompass more than the present state board in its operations. He admitted that one of the problems facing a single board is the matter of day-to-day operations of the institutions. Dr. Oliver has suggested leaving this to a policymaking and planning board. When asked why the plan of Mr. Michot provided for an eleven member board, Dr. Oliver replied it was an arbitrary figure and includes people from single member districts. The minority would be represented by those appointed by the governor with confirmation from the Senate. Dr. Oliver stated that most of the items now in Article XII can be put in the statutes. As to the question concerning the phrase "equal educational opportunity", Dr. Oliver said that, Mr. Michot is trying to strive for equality whether the child, either by accident of birth or residence of parents, is in an area which does not provide

as nearly equal, as equal can be defined, educational opportunity. Mr. Michot believes it is the obligation of the state to give as close as is possible the equality of educational opportunity. Mrs. Corne suggested that if such a state obligation were carried out it would destroy community incentive and Dr. Oliver stated this was happening already. Mr. Robinson pointed out that by putting the statement of "equal educational opportunity" in the constitution people could sue and win if they felt they were being deprived of such.

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Dr. Oliver stated that frankly he is for the people and that they ought to have such a right.

In answer to just what was meant by the power of the single board to create other boards, Dr. Oliver replied that the intention of the superintendent is to eliminate and reduce the proliferation of boards and not increase them. However, as the need becomes manifest, whatever it might be, the board would establish a governing body according to the criteria most appropriate at that time. This allows a vehicle to meet the needs of the times as changes come about. Dr. Oliver suggested that the board should have the following relationship with the legislature:

1. Under statutes existing and passed at the time, the board would set up the necessary policies to carry out and implement the edict of the legislature.
2. The board would also be a strong recommending body to the legislature for legislation necessary to enable it to carry out its operations.

Dr. Oliver suggested the constitution remain silent in defining or spelling out functions of the board or legislature. The educational opportunity concept merely implies the state will provide such and the parishes can supplement if they wish. Mr. Riecke asked the staff to get legal advice on the phrase in question, "equal educational opportunity" as to the advisability of including it in the constitution. When asked how many other states have a single governing board of education, Dr. Oliver replied about two to four. The change has come about because of trends in education and the need for cooperation of all systems.

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A short discussion followed a ten minute break. During that time, Mr. Leithman remarked he had seen only one local tax request turned down by the legislature.

After lunch, Dr. Gil Browning, assistant superintendent of school programs, Louisiana State Department of Education, discussed his paper that was presented earlier to the committee. A copy is attached hereto and made a part of these minutes. He stated he wrote the paper with several intentions in mind. He feels the constitution has the opportunity to give governance to education. Dr. Browning feels the system would be dysfunctional if the board and the superintendent are both elected and the premise is that one serve the other.

Dr. Browning informed Mr. Michot of the position paper and the paper had three basic intents: 1. to stir thinking; 2. to be strictly informational; 3. to add a provocateur element in suggesting alternating methods of selecting the superintendent and board of education. Dr. Browning has a strong bias in seeing an educator as superintendent, as he feels that the expertise that comes with having been involved in depth cannot be substituted for. As a result, he does not view the elective method as the best to obtain expertise; rather he favors the appointive method. As to who would appoint the superintendent he suggested this subject is argumentative. He favors an attempt at the provocateur in his paper. The whole notion is to try to get the best person obtainable. When asked to explain his provocateur,

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Dr. Browning replied that alternately the superintendent would be appointed and elected. In other words, if the state superintendent were appointed in 1976, then in 1980, he would have to be elected; 1984, appointed, etc. The simple logic is to marry appointive with elective so that every eight years one gets the opportunity to put into effect the advantages that are inherent in both. Dr. Browning suggested that an important part of his paper deals with entrenchment. He feels it is a reality in Louisiana that education has fallen under the rule of an individual for a long period of time and his provocateur attempts to avoid entrenchment, by using the alternating methods of selecting the superintendent. Dr. Browning feels the paper does attack entrenchment which tends to be detrimental.

Dr. Browning's presentation provoked questions from the members of the audience. The chairman stated the paper was more of a personal study intended to provoke thinking and present his personal ideas to the delegates.

Other committee business was discussed. For the joint meeting with the Subcommittee on Higher Education, the Subcommittee on Elementary-Secondary Education decided it should identify the areas of similar concern and discuss the board and governance of education, vocational-technical education, special institutions, etc. Mr. Leithman informed the members that by Thursday evening there should be a directive from the conference he is attending as to the place of vocational-technical education.

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Mr. Leithman and several others on the subcommittee expressed concern over the fact that it appears each committee is unaware of the progress or happenings in the other. The members wished there was some way to have better inter-committee communication.

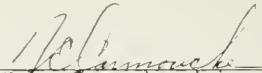
Mr. LeBlanc pointed out that each committee will be directed to identify areas it will not study; areas not

assigned or overlapping; obvious obsolete provisions which are verbatim in the statutes; provisions whose intent is the same as in the statutes. This information will be submitted to the Coordinating Committee, which might suggest a procedure to be used in reviewing proposals from various committees relative to the same thing.

The rough drafts of proposals are to be ready by June 13, 1973 for presentation to the Committee of the Whole to be finalized and typed and presented to the convention delegates.

In the discussion which followed, it was determined that boards for governing education, the superintendent, dedicated funds, and distribution formulas should be included in the constitution. The members suggested that whatever goes into the constitution will involve recommendations to the statutes.

There being no further business, the chairman adjourned the meeting.

  
Norman Caymouche, chairman

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POSITION RELATIVE TO EDUCATION  
FOR THE CONSTITUTIONAL CONVENTION

Louis J. Michot  
Superintendent of Education

The entry in the constitution should be relatively brief:

"Equal educational opportunity shall be provided for citizens of the State of Louisiana, without regard to race, creed, color, sex or ethnic background. All public education shall be under the jurisdiction of a single Board of Education.

The Board shall be composed of eleven members elected from single-member districts, and six members appointed by the Governor and confirmed by majority vote of the Senate. Members shall be elected or appointed for four-year terms.

The Board of Education shall appoint as its chief administrative officer a State Superintendent of Education, subject to confirmation by the Senate. He shall be authorized to employ such staff as is necessary to conduct the affairs of the State Department of Education.

The Board of Education shall be responsible for planning, for establishing policy and for coordinating educational efforts. To govern the operations of the various segments which comprise education within the state the Board shall have the authority to appoint such bodies as it deems necessary."

There will probably be considerable sentiment for special mention of the LSU System. However, that tends to lengthen the Constitution; also, other groups would then be encouraged to request special mention. Statutes could be developed, if desired, which would give the prominence to LSU which has been suggested.

Actually, some consideration might be given to a single State University system for all of higher education. This would be feasible under the proposed structure. However, I think that too should be relegated to the statutes rather

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than to the Constitution.

Another point at issue might be whether "such bodies" mentioned in this

proposed entry should be defined in more detail. I think not. As a need becomes manifest, the Board would establish a governing body according to criteria most appropriate at that time, and appoint to it those persons who would be best able to serve. In addition to avoiding unnecessary bulk in the Constitution, such a procedure would allow for adapting to prevailing conditions. It is my contention that we will witness more need for making changes in education during the next 10 years than have occurred in the past 50 years or so!

As for the rationale for a single board as is proposed herein, several points should be made:

1. All education should have a common objective -- education of the child. Policy should be set by a single entity, and implemented by one staff.
2. Coordination among all aspects of the educational process is a must. It is becoming more important than it has ever been. Presently each segment is acting virtually independent of all other segments.
3. Career education is the direction which education will be taking in the future. The interactions among the various components which together compose career education will mandate the need for a single policy for all of them.
4. Assigning responsibility for all of education to a single body will insure that it acts as a planning and policy body. Such a board would not have time to consider day-to-day governance of the institution(s).
5. Competition for the tax dollar among the various educational components already exists, and will get worse. As long as we have multiple boards each will strive for funding of its constituency.

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6. Election of the members would insure accountability to the people. Also, each candidate for office would be required to expose his qualifications to the public.
7. There should be representation on the Board from all segments of society. The Governor would be expected to make appointments so that minority members on the Board would become a possibility.

The idea of the single board for all of education is neither new or novel. Nor is it necessarily the panacea to cure all of the ills of education. However, it will provide a better vehicle by which competent men, with the proper intention and dedication, have a chance of "putting it all together".

## SELECTING A STATE SUPERINTENDENT OF EDUCATION: PROBLEM AND PROPOSAL

C. B. Browning

The author of this paper, Dr. C. B. Browning, is Assistant Superintendent for the Division of Development and Innovative Programs, Louisiana State Department of Education. However, the ideas expressed in the paper are not to be taken as a reflection of an official position of the State Department, but only as personal exploration of some of the factors involved in determining the most efficacious method of electing a Chief State School Officer (CSSO). It is offered not as an exhaustive study but as a stimulus to provoke closer scrutiny of the factors involved.

Focusing on the problem of selecting the Superintendent of Education, Michot's attitude expressed both optimism and since his campaign that careful consideration of the appointment versus election question is needed.

A great advantage in a representative democracy is that public officials are accountable to the electorate. Certainly, this is the most basic principle in all governmental operations in the United States. It is no different in the State of Louisiana.

However, as is the case with any official who is chosen by the electorate, problems of a political nature often diminish his effectiveness, at least insofar as his ability to operate freely in the implementation of especially bold, venturesome programs, given that they are upsetting enough to the political status quo. This applies with special acuity to those officials who affect one particular area only (such as Commissioners of Insurance, or Education, for instance).

It is true that whenever it becomes evident that the effectiveness of a given official, along with the entity he heads, is sufficiently diminished, the citizenry at large usually takes bold action. Almost always this comes through the failure to reelect and is labeled "reform." Occasionally, however (infrequent as it might be), more severe measures are taken, even to the point of recall or impeachment. That in the United States such has been the very rare exception is in itself testimony to the fact that the elective process works reasonably well. Nevertheless, this does not alter the fact that certain inadequacies due to the elective process do exist, some of which might be not only easily anchored, anchorage being particularly needed where warranted by the very nature of a particular office - such as the special nature of a chief school officer's position. The purpose of this paper is to argue just such a point relative to selecting the Chief State School Officer in Louisiana.

The State of Louisiana, in its constitution, provides for an elected State Superintendent of Education. The method of election is by popular vote through the medium of party primaries. This same method is used in twenty-one other states. The State of Louisiana also elects a State Board of Education by popular vote, as do nine other states. However, Louisiana is the only one which elects both its State Board of Education and Chief State School Officer by popular vote through the normal elective process.<sup>1</sup> The immediate significance of this information is not readily apparent, chiefly because on the surface such an arrangement appears to

<sup>1</sup>Four other states (Florida, Mississippi, South Carolina, and Washington) elect the Chief State School Officer and have a Board comprised of elected officials, but the method of choosing the elected officials is either not the normal elective process, or the Board is composed of public officials elected for other purposes.

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be quite satisfactory. The result from the commonly held and, in many instances, unspoken assumption that the present method of election is to many times chosen by public officials is more convincing to the electorate. Under election conditions, the vote is an effective and, however, careful consideration of the fundamental and complex nature of Louisiana's Chief State School Officer, the elected Chief State School Officer of School Boards, in addition to his inevitable coming from the present manner of electing both.

The root cause of the problems arising from the present arrangement is that two entities are asked to derive in a highly complimentary manner are highly highly. Because of this, it is conceivable that the elected officials can only do their duties insofar as they find themelves in a cross purpose, as is often the case in a duality. The reasons become obvious when the problem is examined from a political perspective. From such a viewpoint the following deductions can be made:

1. Few, if any, elected officials are ever elected without "political" obligations. When an agency has dual leadership, and both elements which provide the leadership are chosen by election to perform both governmental functions (in this case what has evolved into virtually the same function) it can be assumed that the political obligations, charged to the system extended in this manner will be greater than usual. "Thus" the political obligations incurred places a tremendous burden on any elected official, a burden which, even if incurred because of a very "desirable" program, is sometimes excessive, given the abuses so common in today's political arena.
2. Examination of the constitutional authority and legislative statute providing for both the Chief State School Officer and a State Board of Education and a State Superintendent of Education reveals that the latter was and is to provide, on the one hand, a controlling authority, and on the other, an administrative entity for executing the will of the con-

trolling authority. That the two would never be at cross purposes of a major nature is certainly implicit in the laws. This, however,

<sup>2</sup>The State Board is by strict definition an elected entity. The State Superintendent is an elected official, though the agency he heads, the State Department of Education, is not by strict definition an elected entity, since all other personnel comprising the Department are appointed. Nevertheless, the reference to the State Superintendent and his agency as an "elected entity" is justifiable for purposes of presenting the arguments in this paper, the chief justification being the Superintendent's absolute power to hire and fire all persons in his employ.

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may be unreasonable to expect, since both entities are constituted by election, and thus enjoy the highest level of sanction the society provides. Such being the case, each enjoys powerful autonomy, and it may be safely not intended in the laws providing for the arrangement.<sup>3</sup>

In sum, the legal, constitutional, and statutory intent in providing for the present arrangement was, and is, to provide a vehicle to manage public education, that vehicle being one which both controls and administers - and further, that the State Board control and that the State Superintendent administer.<sup>4</sup> The issue, then, is really one of relationship between the two entities. It is an especially important issue when, and if ever, the State Superintendent should aspire to assert the power he enjoys by virtue of his election. From this angle perspective - that of his statewide base of support resulting from statewide election - the State Superintendent, in many respects, enjoys greater power than his board members, who are elected by regional districts. Because of this fact, it is relatively easy for the Superintendent to be far more powerful than he might otherwise be, and in so being, thwart the true intent of the legal provisions creating his position. What such is the case the educational system suffers. The more astute educators, public leaders, political observers, and interested citizens would agree that this has been happening in Louisiana in previous decades.

Thus far, one aspect of the problem has been discussed, the one resulting from taking a "pedagogic perspective." There are other ills generated by the present arrangement of electing both Board and Superintendent. Among these, the more apparent are the following:

1. Over control of the decision-making process, which causes delays in translating decisions into action.
2. Confusion on the part of subordinates in the overall system as to whom they are accountable.
3. Confusion on the part of the electorate which results in its inability to express its voting power as intelligently as it might otherwise do, if the system were less complicated and more functional.

<sup>3</sup>Those who drafted the laws germane to this issue must have felt that putting both a Board and a State Superintendent to the ultimate test, that of being elected by the people, would be the greatest safeguard to the system. However, scrutiny of the Constitution and statutory provisions providing this arrangement clearly shows that creating autonomy was not a purpose intended in what was written. On the contrary, the reverse is true. Presumably, the drafters assumed no problems would arise from the arrangement.

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4. Inflated educational expenditures - result of duplicated functions and overlapping efforts on the part of the two entities. (Do not coordinate each other.)

Assuming the validity of the arguments and the one presented in reference to public school administration, it is reasonable to suggest that some alternative to the present arrangement could be brot. In this paper such an alternative will be suggested. This, to be sure, is not, however, an examination of what other states do in order,

#### HOW OTHER STATES CHOOSE THEIR

#### CHIEF STATE SCHOOL OFFICERS AND BOARDS OF EDUCATION.<sup>5</sup>

1. In one state (Louisiana) the CSSO and the Board are elected by popular vote.
2. In two states (Florida, Mississippi) the CSSO is elected by popular vote and the Board consists of elected State Officials.

3. In one state (South Carolina) the CSSO is elected by popular vote and the Board is elected by legislative delegations representing judicial districts.
4. In one state (Washington) the CSSO is elected by popular vote and the Board is elected by boards of directors of school districts in congressional districts. The number is determined by population.
5. In eleven states (Alabama, Arizona, Georgia, Idaho, Indiana, Kansas, Kentucky, Montana, North Carolina, North Dakota, South Dakota) the CSSO is elected by popular vote and the Board is appointed by the Governor.<sup>6</sup>
6. In three states (California, Oklahoma, Oregon) the CSSO is elected by popular vote and the Board is appointed by the Governor with Senate confirmation.

<sup>4</sup>Education in the States: Nationwide Development Since 1900. Council of Chief State School Officers. Edited by Edgar Fuller and Jim L. Pearson, Vol. II, National Education Association of the United States. Washington, D. C. (1969), pp. 80-92.

<sup>5</sup>The voters in South Dakota passed a constitutional amendment abolishing the position of Chief State School Officer in the November 7, 1972, general election.

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7. In two states (Illinois, Wisconsin) the CSSO is elected by popular vote and there is no Board for elementary and secondary education.
8. In eight states (Colorado, Hawaii, Nebraska, New Mexico, New York, Ohio, Texas, Utah) the CSSO is appointed by a Board elected by popular vote.
9. In one state (Michigan) the CSSO is appointed by a Board which is elected in the general election from party nominees chosen at the party conventions.
10. In one state (New York) the CSSO is appointed by the Board which is elected by the State Legislature.
11. In one state (Nevada) the CSSO is appointed by a board which is both elected and appointed.<sup>6</sup>
12. In eight states (Alaska, Arkansas, Connecticut, Delaware, Iowa, Maryland, Rhode Island, New Hampshire) the CSSO is appointed by the Board which is appointed by the Governor.
13. In one state (Minnesota) the CSSO is appointed by the Board which is appointed by the Governor. The CSSO's appointment must have Senate confirmation.
14. In two states (Maine, Massachusetts) the CSSO is appointed by the Board, which is appointed by the Governor with the consent of the Executive Council.
15. In two states (Missouri, Vermont) the CSSO is appointed by the Board which is appointed by the Governor with Senate confirmation.
16. In one state (Tennessee) the CSSO and the Board are appointed by the Governor.
17. In one state (New Jersey) the CSSO and the Board are appointed by the Governor, with both needing Senate confirmation.
18. In two states (Pennsylvania, Virginia) the CSSO and the Board are appointed by the Governor, with Board appointments approved by Senate confirmation.

<sup>6</sup>Nevada has a Board comprised of eight members. Six board members are elected by popular vote, one from each of six "educational supervision districts" in the state. These six members, in turn, appoint the two remaining members. These two members must represent labor and agriculture.

5

It is readily apparent that the states use a variety of methods for selecting boards of education and chief state school officers. It is also apparent that every state has a problem in determining the method of election used.<sup>7</sup> It would require a rather lengthy treatment to present adequately each of the types of state election laws, the problems inherent in the practice, and possible solutions. It is the purpose of this paper to present an alternative which clearly is not specifically directed at one quarter which are direct problem-peculiar to any one state method, the scope of the paper, in this respect,



will be limited to a general consideration of the pervasive factors affecting all methods.<sup>8</sup> In view of this, the remainder of the paper will be devoted to the following:

1. Background for the proposed plan, including a general discussion of advances in both the election and appointment methods, and some consideration of problems generated by "entrenchment"
2. The proposed plan
3. Consideration of potential resultant improvement

#### BACKGROUND

That certain difficulties develop when officials are elected and certain others when officials are appointed is easily demonstrated. It would seem logical, then, to assume that if the two methods could be combined to produce a marriage based on the strength of each, such a union would be desirable. It is evident that this reasoning is the basis for the various "combination" plans used in more than two-thirds of the states. It is further evident that to develop a plan based on this reasoning, one must understand what strengths and weaknesses are characteristic of each method.

The chief advantage of electing officials by popular vote has already been alluded to. That, of course, is the direct accountability of officials

bias is justifiable in view of the particular issue. The more fundamental issue is that Louisiana needs to change its present method of electing its State Superintendent. Given this goal, the problem is made vastly complicated because this so-called "problem" on which states usually base their election and appointment methods is not so simple, one must examine the educational system of all the states, and the one which is best, and most likely to be adopted by the state's chief educational leader. Unfortunately, this could not necessarily result in the necessary improvement, because various other than the method of selection of the Chief State School Officer must be in concert to the success of that particular system. To attempt to borrow ideas from other states, do might help, or, just as likely, Louisiana might find herself importing, along with another state's method, all of the problems inherent in that method.

To try something never tried before (given that arguments that can be offered in support of the suggestion are logically defensible) might prove the most viable alternative to consider in regard to Louisiana's problem in choosing its CSSO. Given the fact that problems exist in all methods of selection, and given that over two-thirds of the states use some combination of election and appointment as their method, such a suggestion is not far-fetched. This is especially true when it becomes clear that, as yet, no plan has been tried which is directed at a particular evil apparently characteristic of all selection of election methods. The particular evil in question will be here labeled "entrenchment."

It is "entrenchment" that is largely responsible for the limited success of previous attempts to balance control of education through combining election and appointment of boards and the chief state school officers.

"Entrenchment," as used above, refers to the fact that, once an elected official takes office, he must, in order to achieve his goals as he conceives them, start to build in his agency that intricate network of people and processes necessary to effect the impress of his personality, his plans, and indeed, his power. Once begun, there is often no end to this effort. The particular people and the particular processes he controls usually become more fixed, more rigid, more unalterable as the years roll by. Whatever agency, or "system" the official heads, he gradually shapes to serve his own ends, one of which must of necessity be to maintain his political support, which, in regard to education, is and will continue to be of critical importance as change becomes ever more rapid, and a responsive and flexible school system becomes, therefore, ever more necessary.

It must be noted that some elected officials have a built-in check to such entrenchment, such as a two-term limit: but all too many positions,

<sup>7</sup>Op. Cit., pp. 77-99.

<sup>8</sup>Fuller and Pearson, in Chapter II of Education in the States: Nationwide Development Since 1900, present an excellent discussion of these plans, together with data on trends and suggested conclusions arising therefrom. A more general discussion can be found in Morphet, Johns, and Reller, Educational Organization and Administration. Several government documents provide additional information. Among these, State Boards of Education and Chief State School Officers: Their Status and Legal Powers, prepared by Deffenbaugh and Reescker, is particularly relevant.

to the elector. An inherent check of this advantage is not necessary, but is a fundamental premise upon which all responsible government plans are based.<sup>9</sup>

The chief motivation for appointment of the chief executive certain public officials is the assurance that a considerable portion of certain officials are appointed, and are not elected. In this regard, the office in 1900, the superintendent of Education in Louisiana, to have had by appointment, rather than by election, him or her, or a person of the method of a committee, the committee would tend to insure that the person who fills the office would be more likely to have the necessary characteristics in a laboratory for the highest development of the educational system of a state. This could be true at any time, but particularly in times of emergency, when there might be increased probability for selection of a person not properly equipped to deal with exigencies of the moment. For example, in a state whose conception of problems of the moment are financial, the appointment method offers great assurance that a finance "expert" would be chosen. If, worse, if current or reform is the issue of the moment, a conservative expert would be more likely to be chosen, and so on. Such choices are far less likely when the selection method used is that of election by popular vote, the reason being that the electorate, in its impartiality, would not be as thoroughly informed or responsive to the critical issues as would an appointing authority.

This point becomes even more critical when election campaigns constitute the principal means by which issues are brought to the public's attention. It so happens that the election campaigns of today often obscure rather than clarify issues, particularly when a multitude of campaigns are ongoing during general elections. It seems reasonable, therefore, that an appointing authority, mandated to select the most suitable talent available, would be far more knowledgeable of the issues and the type of person to best resolve them than would the citizenry at large.<sup>10</sup>

Thus far, a tentative bias toward appointment of Louisiana's Chief State School Officer is apparent in this paper. However, that such a

<sup>9</sup>Most textbooks used in high school or in college survey courses of government, political science, civics, and so forth, offer sufficient additional explanation. Seymour Lipset in Political Man, The Social Bases of Politics, makes an especially succinct presentation.

<sup>10</sup>Beman, Lamar T. "Election Versus Appointment of Judges," The Reference Shelf, Vol. 4, No. 2. (Beman's discussion of this question is confined to the selection of judges. In principle, however, his arguments apply across the board to the election-appointment issue.)

among them, the Chief State School Officers, have no such check. As Beman has said, the agency or "system" becomes ever more fixed, and can be said that something akin to atrophy, softening, "drift" is characteristic of the system's function at a diminishing level of service to the citizenry, while operating at an annual level of cost. To speak bluntly, the system becomes, at worst, merely a money-making entity for its "owners," a sort of moral "pool" from which to pay patronage debts. Even a best, once the atrophy sets in, the system loses credibility with the public (justifiably) and the reform is far less effective than desirable.

But not only is entrenchment possible in the case of elected officials, it is also possible with an appointive officer, under certain circumstances favorable to the assured continuance in office. To say then that "to appoint a Chief State School Officer will remove all impediments to effective operation" is not necessarily true; what must be removed is the impossibility of entrenchment, or, in as a stifling force.

Entrenchment may be understood in yet another context, that is, in the difference between an entrenchment of the process of choosing leaders and the literal entrenchment of existing methods, systems, or a combination thereof, of service, people, and so forth. The distinction here is important because to suggest a change in the process of choosing a State Superintendent is of no value unless the proposed change can be shown to have potential for improving the system managed by that Superintendent. That a distinction exists does not negate the heretofore unstated but evident correlation in the "literal" entrenchments. Simply put, entrenched leaders, but on retirement, in office have everything to gain by perpetuating the method used to elect them where they are (unless, of course, a better method for finding them there turns up; and further, they have everything to gain by having the system they run to serve their end. The point is that entrenchment of the process of choosing leaders contributes to the entrenchment in office, and thus to the entrenchment of the system they operate.

It follows that if the process of choosing a public official in a real way is to be improved, the process itself would have to be changed, on the system to change the method used to elect them where they are (unless, of course, a better method for finding them there turns up; and further, they have everything to gain by having the system they run to serve their end. The point is that entrenchment of the process of choosing leaders contributes to the entrenchment in office, and thus to the entrenchment of the system they operate.)

At this point it must be clarified that this argument pertains only when a system has "atrophyed" as a result of the entrenchment of men of less than high principle. Obviously, when men of high principle hold office, the argument has little value, but then this is true regardless of what methods are used in selecting leaders. Hence, it remains a perpetual

truth that "the effectiveness of public entities is directly related to the integrity of their leaders." There is no one-size-fits-all, and it is precisely at this point that the problem of entrenchment can best be understood. In a sense of a system, then, the major elements of the argument presented in this section would follow:

1. Entrenchment of a system is rarely over a period of time, and especially when leaders of less than high principle are in power.
2. When this is done, entrenchment of a system is partly due to the efforts of leaders to perpetuate themselves in office.
3. Entrenchment of the method by which the choice is made will be perpetuated by men of less than high principle. Leaders of high principle, more favorable to the educational needs than to political needs are not established.
4. "Detrenchment" (a procedure insuring a less entrenchment) of the method of choosing leaders is not as difficult for less than high principle men to entrench themselves and the system as they would build.

Conclusion: To diminish the effects of what is here labeled entrenchment offers potential for the improvement of certain public service entities (in this case the educational system).

### A PROPOSED PLAN

Through the medium of this position paper it is proposed that the method of selecting the Chief State School Officer in Louisiana be as follows:

1. That the method of selecting be alternated every four years.
2. That election by popular vote, or that appointment by an appropriate authority (with whatever confirmations, contingencies, etc., are desired) be the method used in 1976.
3. That the method used in 1976 be changed in the 1980 election year so that whichever method used in 1976 not be used in 1980.
4. That this procedure of alternating the method of selection every four years be continued.

In essence, the three elements of this plan are: 1) to improve the appointments of high principle men to positions of integrity. 2) the change method of selection. 3) the change in the system for all public systems who are not currently electing their leaders. 4) to entrench high principle. This indirect effect of the proposed plan is to be seen as the feasible aspects of both the election and appointment methods. If they were done, it could be generally expected that the leaders chosen would be of higher principle and greater competence. Consider that the following might be reasonable expectations expressed here ideally of the method suggested here, or some variation of it, were implemented:

1. A Superintendent elected for four years, whose tenure beyond that four year would be dependent upon re-appointment, would surely have less reason to use his office to increase his power base among the electorate.
2. A Superintendent appointed for four years (by whatever authority) would be less likely to be a political tool of the appointing authority if extension of his tenure beyond the four year appointment were contingent upon election by popular vote.
3. On any given appointment anniversary (every eight years), the appointing authority could choose the very best qualified person, whether that person be politically oriented or not. At present in this state, little differentiation is made by the electorate in regard to the special needs of education as compared to the needs of other government agencies in the state, even though such differentiation is rather critical. To be able to bring in the needed expert when the situation absolutely warrants a certain type person would be advanta-

geous, and it is possible that upon completion of a four year appointment, such a person might well have demonstrated such a degree of effectiveness that the people would elect him despite his not being politically oriented.

<sup>11</sup>It is not an intended purpose that this paper specify details and mechanics of the plan, which surely must be dealt with. The now evident purposes are simply to present an alternative based on a novel concept designed to anchorate a particular evil inherent in the selection methods under discussion. Additionally, matters such as removal from office, replacement in case of emergency, and so forth, will not be considered in this paper.

### CONSIDERATION OF POTENTIAL RESULTS OF THE PROPOSED PLAN

Such issues as the quality of care, of control, of "initiative," that "the best" method of selection is available, and the general quality and integrity of the leaders selected are all subjects for improvement. In fact, both the present and proposed methods, if it is something of an oversimplification to label the present method of selection as the quality of political and educational conditions favorable for the selection of a person fully committed to the needs of Louisiana education as the basic method of selection could develop this as the justification of the "new" method of selection proposed in this paper for by some other method different from the one presently used, seems quite possible. That all in all, between the two methods, the better method is probably that of its being able to deal to a certain degree with the problem attendant upon the present method of choice, with a view to needed change, is a certainty.

Like all complex issues, the one of the "appointments vs. elective superintendency" has many ramifications. Some major advantages for each method of selection have been indicated, as have major drawbacks. Over and above the main issue concerning method of choice lies the possibility of entrenchment in office. The entire subject can negate the advantages accruing to either method of choice has been examined.

Members of the Constitutional Convention must examine the issue which is the focus of this discussion. Over the nation, education . . . educational systems . . . indeed, the entire educational structure is being questioned. To make such a bold, dramatic change as suggested in this paper - even if only to test the procedure - would represent a "first" for Louisiana, a "first" in the form of innovative governmental reform.

Some revision of the method of choosing the Chief State School Officer in Louisiana seems to be mandated. Many alternatives besides the one presented here exist: appointment of certain members or all members of the board; election of a CSSO from a limited field of nominee named by various groups; election of both board members and CSSO from a slate of nominees - and many other possibilities too numerous to mention. Points reviewed in this paper might well serve as prime considerations in the minds of those whose task it is to help decide the question, "What

is the best way to choose Louisiana's State Superintendent of Education, to insure a constantly refreshed, completely responsive school system, so necessary to the progress of our state?"

Hopefully, this is a very well thought out proposal of choice - either the bold one suggested here, or some other creative alternative.

Barnett, James W. "The Political System: Appointment of Leaders." *The Educational Record*, Vol. 1, No. 1, 1967, pp. 1-10.

Bible, J. "The Political System: Appointment of Leaders." *The Educational Record*, Vol. 1, No. 1, 1967, pp. 11-15.

Deffenbaugh, W. S. and Ward W. "The Selection of the Superintendent of Education and Chief of Schools: A Study of the Matter and Legal Powers." U.S. Office of Education, Public No. 1, Monograph 1, Washington, D. C.: Government Printing Office, 1961.

Fuller, Edgar L., Director, Louisiana State Board of Education, Baton Rouge, Louisiana, 1969.

Lapsley, Seymour M., Director, Louisiana State Board of Education, Baton Rouge, Louisiana, 1969.

Morphet, Edgar L., Director, Louisiana State Board of Education, Baton Rouge, Louisiana, 1969.

MINUTES

Minutes of the meeting of the Subcommittees on Higher Education and Elementary and Secondary Education of the Constitutional Convention of 1973.

Held pursuant to notice given by Chairman of the Committee on Education and Welfare, Robert Aertker on April 5, 1973.

State Capitol, Baton Rouge, Louisiana  
Thursday, April 12, 1973, 10:00 A.M.

Presiding: Robert Aertker, Chairman of the Committee on Education and Welfare

Present: Robert Aertker, Chairman  
Norman Edward Carmouche  
Mrs. Heloise Corne  
Ralph Cowen  
J. K. Haynes  
Louis G. Riecke, Sr.  
Horace Robinson  
Perry Segura  
Joe Silverberg  
Matthew Sutherland  
John Thistlethwaite  
Rep. Harold Toca

Absent: J. Kenneth Leithman

The meeting was called to order at 10:00 a.m. by Mr. Robert Aertker. The roll was called and a quorum was present. Mr. Sutherland read the minutes of the last joint subcommittee meeting. With no objections, the minutes were approved.

The chairman of each of the subcommittees gave a short presentation as to the position of his subcommittee. At previous meetings, the possibility of the two subcommittees merging was discussed, but it was decided that the two would continue to meet separately until the public hearings and general discussions were completed by both subcommittees.

Mr. Sutherland, chairman of the Subcommittee on Higher Education, asked for the Elementary and Secondary Education Subcommittee's position on governance and the organizational structure of education. A general discussion followed which indicated that members of the Subcommittee on Elementary and Secondary Education felt that elementary and secondary education should have a separate board.

Mr. Mack Abraham, a delegate to the Constitutional Convention, but not a member of either subcommittee, presented his views to the subcommittee. In his presentation, Mr. Abraham said that he saw no need for a Board of Regents. He suggested that there be two elected boards, one for higher education and one for elementary and secondary education.

Mr. Aertker suggested that there be another joint meeting

of the two subcommittees. It was decided that the meeting would be held on Tuesday, April 17, at 1:30 p.m. at the East Baton Rouge Parish School Board Building.

With no further business to come before the subcommittees, the meeting adjourned at 11:45 a.m., Thursday, April 12, 1973.

Chairman

MINUTES

Minutes of the joint meeting of the Subcommittee on Higher Education and the Subcommittee on Elementary-Secondary Education of the Committee on Education and Welfare of the Constitutional Convention of 1973

East Baton Rouge School Board Office,  
Conference Room, Baton Rouge, Louisiana  
April 12, 1973, 3:00 p.m.

Presiding: Robert Aertker, chairman of the Committee on Education and Welfare

Present:

Mr. Thistlethwaite  
Mr. Cowen  
Mr. Silverberg  
Mr. Sutherland  
Mr. Toca  
Mr. Carmouche  
Mr. Riecke  
Mrs. Corne  
Mr. Robinson  
Mr. Haynes

Absent:

Mr. Segura  
Mr. Leithman

Mr. Aertker, chairman, called the joint meeting to order at 3:00 p.m. and a quorum was present.

The chairman reminded the members that they had ended the morning joint session without the Elementary-Secondary Subcommittee reaching a consensus on its position concerning the structure of the governing board for education. The chairman stated that he had the impression from the morning session that the subcommittee wanted a board for elementary-secondary education, grades K-12; whereas the Subcommittee on Higher Education was trying to see if they could reconcile such a board as far as higher education was concerned.

Mrs. Corne expressed her opinion that she is in favor of one board over all colleges and universities and elementary-secondary education with the possibility of having within that body a board to overlook elementary-secondary education.

Mr. Aertker recommended that members of the Subcommittee on Elementary-Secondary Education pool their resources and ideas and present recommendations to the Subcommittee on Higher Education and vice versa. Higher Education Subcommittee has to know what direction the Subcommittee on Elementary-Secondary Education is going to take in order to develop its own recommendations. Mr. Sutherland stated that one point on which the subcommittee members of higher education agreed is the board of regents to plan and coordinate all education, as presented in the proposal submitted by the Coordinating Council. The argument centers over whether other boards are necessary, whether they belong in the constitution, and just how many boards are needed.

Mr. Robinson questioned the power of a board of regents over elementary-secondary education. Mr. Sutherland replied it would only do the coordination and planning.

Mr. Silverberg illustrated on the blackboard the plan submitted to the Subcommittee on Higher Education April 11, 1973. The plan has a board of regents at the pinnacle. Under this board is a board for the management of the LSU system and a state board for the management and control over all state colleges and universities, plus responsibility for primary and secondary, vocational-technical training below the twelfth grade level. The legislature would appropriate directly through the board of regents which, in turn, would put the funds into the system. The plan also permits the legislature to establish a separate board for vocational-technical education. Chairman Aertker suggested that with the board of regents being the one to present the budgets to the legislature he could foresee the cream of the money going to higher education and

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elementary-secondary education being left out as usual. Mr. Robinson suggested leaving the board of regents as proposed and letting the state board, under the board of regents, go directly to the legislature with the budget for the elementary-secondary schools.

Mr. Silverberg recommended a management board for all state colleges and universities and let the State Board of Education manage elementary-secondary schools.

Mr. Aertker suggested that the Hood proposal might have more merit than the other systems presented. However, with any of the proposals, he is still concerned over the funding.

Mr. Haynes asked that all members strive for a written provision in the constitution assuring equal education opportunity. Mr. Aertker suggested this point will have to be left up to the convention itself.

Following further discussion, Mr. Sutherland stated he would suggest the members of the Subcommittee on Elementary-Secondary Education study the different plans and if they felt the concepts were agreeable, then come to a meeting of the minds with the Subcommittee on Higher Education on changes within the plan chosen. Mr. Carmouche agreed and both subcommittees agreed to meet again on April 17, 1973, at 1:30 p.m. Mr. Carmouche moved the meeting be adjourned and the chairman so ordered.

\_\_\_\_\_  
Chairman

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#### MINUTES

Minutes of the joint meeting of the Subcommittees on Elementary-Secondary Education and Higher Education.

Held pursuant to notice given by the chairman

Mr. Robert Aertker on April 12, 1973

East Baton Rouge Parish School Board  
Building, Baton Rouge, Louisiana  
Tuesday, April 17, 1973, 1:30 P.M.

Presiding: Mr. Robert Aertker, Chairman of the Committee on Education and Welfare

Present: Robert Aertker  
Heloise Corne  
Ralph Cowen

J. K. Haynes  
Horace Robinson  
Joe E. Silverberg  
Matthew Sutherland  
John R. Thistlethwaite  
Rep Harold J. Toca

Absent: Kenneth Leithman Perry Segura  
Louis C. Riecke, Sr.

Quorum present.

The Subcommittees on Elementary-Secondary Education and Higher Education met in a one day session at the East Baton Rouge Parish School Board Building on Tuesday, April 17, 1973 at 1:30 P.M. the meeting was called to order by the chairman, Mr. Robert Aertker.

The chairman introduced Mr. Jesse Bankston of the State Board of Education, who had presented a proposal to the Subcommittee on Higher Education on March 16, 1973. Mr. Bankston turned the meeting over to Mr. Roy who clarified the Board's proposal to the subcommittees.

He said the constitution should be shortened, that the three boards now operating should be eliminated, and there should be one board of education to run all phases of education. He said that the state should guarantee a public education to all people regardless of race, color or creed, that the state board of regents should consist of 15 members who are elected on a regional basis, and that the legislature would redistrict to represent minority groups, and that this board should have plenary powers over all education in Louisiana. A copy of this presentation is attached hereto and made a part of these minutes.

Mr. Haynes asked Mrs. LeBlanc to research the 15 member district.

With the completion of Mr. Bankston and Mr. Roy's presentation, Mr. Aertker suggested dispensing with the reading of the minutes of the meeting of April 12, 1973. Mr. Robinson made a motion to that effect and it was seconded by Mr. Cowen.

The revised proposal presented by the Coordinating Council of Higher Education was reviewed. Mr. Aertker submitted to each member a proposal based on the Hood plan. After discussion of the proposal, Mr. Robinson moved that the subcommittees adopt a policy of establishing a governing board for elementary and secondary education separate from the board of higher education and post secondary education. Mr. Thistlethwaite seconded the motion.

From the discussion on the motion it was indicated that the board of regents should coordinate all of education with the state board having budgetary control only over elementary and secondary education.

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After more discussion of the motion, Mr. Aertker suggested that Mr. Robinson withdraw his motion and that the subcommittees separate and meet at separate meetings. With no objection from Mr. Thistlethwaite, Mr. Robinson withdrew his motion. Mr. Robinson restated his motion by moving for the adoption of the plan presented by Mr. Aertker (Hood plan). His motion was seconded by Mr. Thistlethwaite. The chairman

called for a vote and the motion was carried by a 6-2 vote with one abstention.


It was decided that after a 10 minute recess, the two subcommittees would meet separately. With no objection, the joint meeting adjourned.

  
Robert Aertker, Chairman

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April 17, 1973

MEMORANDUM

TO: Health, Education and Welfare Committee  
Louisiana Constitutional Convention  
FROM: Jesse H. Bankston   
SUBJECT: Educational Governance

On March 16, 1973, your Higher Education Sub-Committee permitted me to make a presentation on educational governance. In making this presentation, I pointed out to the members of this sub-committee that I was speaking only for myself as a member of the State Board of Education and I did not know the consensus of the Board. A copy of my memorandum is attached.

Subsequent to this proposal which contemplated the election of a 15 member board, I was encouraged to work with representatives of the Board of Supervisors of L.S.U. and the Coordinating Council of Higher Education to come to some compromise. In an effort to facilitate the decision, I did agree to present to the members of the State Board of Education a compromise proposal which was recommended by representatives of the other boards. When this proposal compromise was presented to the members of the Board of Education, they were unanimous in the decision that the compromise is totally unacceptable. They were also unanimous in agreeing that there should be one single policy-making body elected by the people from single member districts. Furthermore, they are in agreement that this is the only means of eliminating the spoils system, which has plagued our state too long, in the hands of the educational policy makers.

In making this proposal, the entire membership of our Board of Supervisors are fully aware that this means the abolition of the State Board of Education, the Board of Supervisors of L.S.U., and the Coordinating Council of Higher Education.

It was most gratifying to me to see that the membership of the State Board of Education took a position substantially the same as my proposal which was submitted to your sub-committee on March 16, 1973.

JHB:jf

Attachment

NOTES

The attachment from Jesse Bankston on "Educational Governance" is found as an addendum to the Minutes of the Subcommittee on Higher Education, March 20 and 21, 1973.

MINUTES

Minutes of the meeting of the Subcommittee on Elementary-Secondary Education of the Constitutional Convention of 1973  
Held pursuant to direction given by Mr. Robert Aertker, chairman of the Committee on Education and Welfare, during a joint meeting of the Subcommittees on Elementary-Secondary and Higher Education

East Baton Rouge Parish School Board  
Building, Baton Rouge, Louisiana  
Tuesday, April 17, 1973, 3:30 P.M.

Presiding: Mr. Norman Carmouche, Chairman of the Subcommittee on Elementary-Secondary Education.

Present: Norman Carmouche  
Heloise Corne  
J. K. Haynes  
Horace Robinson

Absent: Louis G. Riecke, Sr.  
Kenneth Leithman

Quorum present.

The Subcommittee on Elementary-Secondary Education met in an afternoon session at the East Baton Rouge Parish School Board Building, Tuesday, April 17, 1973. The meeting was called to order by the chairman, Mr. Norman Carmouche. He said that the subcommittee had to decide where to place the state superintendent and the method of selection.

Mr. Robinson said that the superintendent should be an educator and should be elected. He said that an elected superintendent emphasizes the importance of the office.

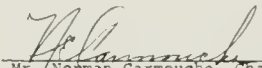
Mr. Robinson pointed out that the present constitution only states that there shall be a state superintendent, but leaves to the legislature the power to designate what his duties shall be.

Mrs. Corne indicated that she had not been given an opportunity to present her views on the educational system. A verbatim transcript of Mrs. Corne's statement is attached hereto and made a part of these minutes.

Mr. Carmouche suggested that the subcommittee return to the subject of the superintendent. Mr. Robinson made a motion that there be a chief administrative school officer for public elementary and secondary education and that this officer be associated with the state board for elementary and secondary education as ex-officio secretary with administrative powers. Mr. Haynes seconded the motion. The chairman called for a vote and the motion carried by a 4-0 vote.

With regard to the method of selection and qualification of the superintendent, the chairman suggested that this be tabled until all members of the subcommittee are present.

Mr. Haynes moved that the meeting adjourn and the chairman so ordered.

  
Mr. Norman Carmouche, Chairman

Presentation by Mrs. Heloise Corne to the Subcommittee on Elementary-Secondary Education, April 17, 1973

The administration of elementary-secondary and post secondary education should be by a single board known as the Board of Education of Louisiana. Delegates of this board could delegate within itself committees to look after elementary and secondary education and also all colleges and universities. No other plan can afford proper coordination of education. I cannot justify a variety of boards with over-

lapping functions. Nor can I justify boards that compete for tax monies that come from one single source, namely the people. A single board would be in a position to know what each division of education is doing, what its needs are and where its services are needed. Federal revenue sharing funds will be forthcoming. Surely, as a single board responsible for education of all would do a better job of allocation. I cannot justify the division which sets our great state university apart from other universities and colleges and for that matter from all other educational divisions. A separate board for LSU with 4% of the student population is a lopsided division. If we intend to have smooth operation of our schools, we had better coordinate our efforts under one single board, whose function and powers are well defined. We should avoid a system where there is competition for academic excellence within the state. We should instead unite our efforts to strong competition with other states. There is no true concern for academic excellence when we cannot or will not forget tradition and political expediences. In the diverse proposals, no matter how beautifully camouflaged, I see a dual system of education. I sincerely believe that the voters have become to sophisticated to buy it.

#### MINUTES

Minutes of the meeting of the Subcommittee on Elementary-Secondary Education of the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on April 17, 1973

Louisiana Teachers' Association Building

Baton Rouge, Louisiana

April 24, 1973, 9:00 A.M.

Presiding: Mr. Norman Carmouche, Chairman of the Subcommittee on Elementary-Secondary Education

Present: Mr. Norman Carmouche  
Mrs. Heloise Corne  
Mr. J. K. Haynes  
Mr. Kenneth Leithman  
Mr. Louis Riecke  
Mr. Horace Robinson

Absent: None

The Subcommittee on Elementary-Secondary Education of the Committee on Education and Welfare met in a one-day session at the Louisiana Teachers' Association Building on Tuesday, April 24, 1973. The meeting was called to order by the chairman Mr. Norman Carmouche at 9:15 a.m. The chairman noted that none were absent and that a quorum was present. The secretary read the minutes of the previous meeting. Mrs. Corne noted that the final paragraph on page 2 of the minutes should be amended to correctly reflect Dr. James Oliver's title. There being no further changes, Mr. Riecke moved that the minutes be approved as amended and Mrs. Corne seconded the motion.

Mrs. LeBlanc gave a brief summary of the joint meeting of Elementary and Secondary Education and Higher Education

of April 17, since the minutes of that meeting were not yet prepared.

Mr. Carmouche called the subcommittee's attention to the fact that June 22 is the date by which the committee of the whole will submit proposals to the convention, but that the committee of the whole had decided to set June 13 as the deadline. It was decided that the subcommittee would meet again on April 30, 1973 at 10:00 a.m. and on May 1, 1973 at 9:00 a.m., both meetings being at the Louisiana Teacher's Association Building. Mrs. LeBlanc suggested that each member of the subcommittee review the proposals submitted to him, in order that these proposals may be discussed at the next meetings.

The chairman introduced Mr. Emile Comar, vice president of the Louisiana Federation, Citizens for Educational Freedom. Mr. Comar pointed out some statements which are frequently used against nonpublic education. He indicated to the subcommittee that it is said that CEF, and the parents it represents is opposed to public education. Mr. Comar denied this and said that, in fact, CEF has, with its own funds, supported bond issues and unpopular tax increases for the promotion and advancement of public schools.

Mr. Comar also said that according to public educators, CEF takes money away from public schools. He also denied this and said that in 1970, CEF supported a request by public school teachers for a \$60 million pay raise. The request was granted.

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Mr. Comar also pointed out that CEF is not opposed to aid to nonpublic schools. He said that there is a need for diversity in education and for the state's realizing its obligations to the students in nonpublic schools.

Mr. Comar stated that CEF primarily stands for the rights of parents to determine the educational destiny of their children. CEF supports public education and recognizes that most of the children in the country will be educated in public schools. But CEF realizes that without aid to parents and children in the nonpublic schools, the parents will not be able to exercise their rights to direct the education of their children. A copy of Mr. Comar's presentation is attached hereto and made a part of these minutes.

Following Mr. Comar's presentation, the chairman recognized Mr. Kirby Ducote, executive director, Louisiana Federation, Citizens for Educational Freedom. Mr. Ducote appeared on behalf of himself and also on behalf of parents of nonpublic school children. He based his presentation on the subject of providing public funds for nonpublic schools.

Mr. Ducote said that CEF believes in separation of church and state, but not in all areas of social and welfare concern. Such fields as child care and child placing, care of the aged and sick, and many state-run institutions rely upon church-state cooperation if its citizens are to be taken care of. Therefore, should only education be deprived of state funds

for support, or should all of these fields of concern be deprived of the same? A copy of Mr. Ducote's presentation is attached hereto and made a part of these minutes.

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The next witness to appear before the subcommittee was Brother Felician Fourrier, superintendent of schools, Diocese of Baton Rouge. Brother Felician noted that in the present state constitution, there is a prohibition of use of public funds for the support of any private or sectarian school. This is what is known as the Blain-type amendment. He also noted that there is a compulsory school attendance law in Louisiana found in R.S.: Title 17, Section 221. This law requires attendance at school and provides for penalties for nonattendance. Yet the only way a person has the right to choose the school which he is to attend is if he is willing to pay for that right. Brother Felician contends that the Blain-type amendment should not be a part of the Louisiana Constitution, nor any other constitution. A copy of Brother Felician's presentation is attached hereto and made a part of these minutes.

Following Brother Felician's presentation, the chairman recognized Mr. Thomas Rayer, attorney, Citizens for Educational Freedom. Mr. Rayer's presentation was also based on the subject of public aid to private institutions. He presented the subcommittee with an analysis of Article XII of the present state constitution, entitled "Public Education." Mr. Rayer said it is essential that the convention critically evaluate the provisions of Article XII, since the convention is dealing with the fundamental law of the state which will form a foundation upon which legislation for years to come may be formulated. A copy of Mr. Rayer's presentation is attached hereto and made a part of these minutes.

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Mr. Eugene Linse, national president, Citizens for Educational Freedom, was the next witness to appear before the subcommittee. Mr. Linse spoke first on the subject of freedom. He said that freedom is under attack as never before in the 200 years of history under the American Constitution. Mr. Linse said that the right of parents to choose an education for their children is limited to their ability to pay for a private education, or they must accept the government schools.

Mr. Linse also touched on the subject of support for non-public education. He said that in discussion of this subject, it is assumed that such support is aid to religion. But Mr. Linse said that it is essentially aid to education in a religious atmosphere and the same is true for public education. It too contributes to education as well as religion, as it relates to the value system or ethical considerations.

Mr. Linse feels it is essential to take into consideration the exercise of freedom of choice, enhancement of the exercise of religious freedom and providing a larger measure of equality

of opportunity. A copy of Mr. Linse's presentation is attached hereto and made a part of these minutes.

Mr. Horace Robinson, executive secretary of the Louisiana Teachers' Association, and an appointed delegate to the Constitutional Convention was next to appear before the subcommittee. Mr. Robinson indicated that he was appearing as a substitute for the president of the Louisiana Teachers' Association, Dr. C. L. Sanders.

Mr. Robinson said that the Louisiana Teachers' Association had taken several positions on a number of issues before the

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subcommittee. These positions are listed on paragraph 4 of page 1 of Mr. Robinson's presentation, a copy of which is attached hereto and made a part of these minutes.

Mr. Robinson commented on constitutional revision. He said that we should endeavor to find out what the consequences of any changes made in the constitution will be. He said that provisions of the constitution which will require frequent amendment must be modified or removed.

Mr. Robinson said that there should be a separate board of education for public elementary and secondary education. It is the foundation of our system of public education, and the constitution should reflect this.

The state superintendent of public education should be elected. The practice in Louisiana has been to elect the state superintendent and our people are accustomed to voting for a chief state school officer.

Mr. Robinson made several other recommendations of grave importance, all of which are listed on the attached presentation.

Following Mr. Robinson's presentation, the chairman recognized Mr. Alphonse Jackson, assistant executive secretary, Louisiana Education Association. Mr. Jackson spoke to the subcommittee first on Article XII, Section 3, entitled Elementary Schools; Course of Study:

There shall be taught in the elementary schools only fundamental branches of study, including instruction upon the constitutional system of state and national government and the duties of citizenship.

Mr. Jackson said that the language of Article XII, Sec. 3 is restrictive and inconsistent with what we believe to be

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the full role of today's elementary schools. He indicated that we must have educational experiences that are designed to enable all children to build onto and continue using the learning skills he brings with him to school for the first time, and to acquire better ways of finding out how to take the essential steps in the process of becoming human. Mr. Jackson said that this state must make a complete commitment to the development of an educational enterprise that is open, humane, and provides excellence for all children.

Mr. Jackson presented a proposal on page two of his presentation, a copy of which is attached hereto and made a part of these minutes.

Following Mr. Jackson's presentation, the chairman recognized Mr. James O. Lancaster, superintendent of the Ouachita Parish School Board. Mr. Lancaster feels that the State Board of Education should be changed such that the board can be responsible for the elementary program, vocational-technical program and special schools that will be nondegree granting. The members of this board should be elected and appointed, and serve rotating terms consisting of six years. The board could appoint a superintendent, who should be a person who has some background and knowledge in public education.

Mr. Lancaster then turned his presentation to local matters of Ouachita and Washington parishes. He recommended that somewhere in the constitution, the city school systems of these parishes be defined and boundaries placed upon them.

Lois Workman was next to appear before the subcommittee.

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Mrs. Workman represented the New Orleans Branch of American Association of University Women. In her presentation, Mrs. Workman asked that the subcommittee adopt a system of organization favoring one state board of education.

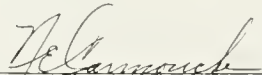
Mrs. Workman indicated that the branch further asks that the subcommittee give special consideration to keeping vocational-technical education an integral part of the whole system. The creation of a separate board for vocational education would serve to separate and isolate those students, regardless of the intent of the board.

Mrs. Workman pointed out that in our changing society, a worker will need to be retrained several times during his productive years. Many persons will have more and more leisure time. To make this time productive, these persons will need a broad humanitarian and liberal education.

A copy of Mrs. Workman's presentation is attached hereto and made a part of these minutes.

With the completion of the final presentation, there was a general discussion of the presentations made to the subcommittee.

There being no further business to come before the subcommittee, Mr. Riecke moved that the meeting adjourn and Mr. Robinson seconded the motion. With no objection, the meeting adjourned at 3:20 p.m., Tuesday, April 24, 1973.

  
Norman Carmouche, chairman

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Education, Committee on Education and Welfare, Louisiana Constitutional Convention.

Presented at Baton Rouge, Louisiana, April 24, 1973.

As one who has worked in the news and educational fields of this state for more than 25 years and who has had the opportunity during that time to be active in the joint promotion of both public and nonpublic education, I appreciate the invitation to be heard by you today.

As vice president of the Louisiana Federation, Citizens for Educational Freedom since its inception in Louisiana in 1967, I feel it is important at the outset to tell you what CEF is NOT, since our mission is frequently misunderstood and frequently misrepresented by those who oppose aid to children in nonpublic schools.

I hope in this brief presentation to dispel some of the most widely spread misrepresentations which hamper, rather than help, the cause of unity for educational advancement in Louisiana. One speaker who will follow me will go into the philosophy of why we feel that diversity in education must be preserved in a free society. For the moment let me touch on some frequent scare statements used against nonpublic education for I know that you are not interested in emotionalism but rather the facts.

1. CEF, and the parents we represent, it is said by our opposition, oppose public education or, at best, have no interest in the welfare of public schools. The fact is that CEF and the leadership of the nonpublic schools in this state have publicly, and frequently, supported public educational causes, particularly with regard to obtaining additional funds needed for their upgrading. We have, with our own funds, supported bond issues and unpopular tax increases for the promotion and advancement of public schools.

2. According to public educators, CEF seeks to take money away from public schools. That is a lie and I brand it as such today. In 1970, for example, the public school teachers of this state were asking a pay raise in excess of \$60 million. CEF supported the agreement under which teachers got the full amount of their request and only then did nonpublic school children -- for a short period of time -- benefit from a separate \$10 million appropriation which was to assist teachers of non-religious subjects in nonpublic schools.

We have not in the past and we will not in the future seek to divert money from the appropriations of public education to nonpublic schools. The frequent misrepresentations by the Louisiana Teachers Association and the Louisiana School Boards Association and others have damaged relationships between public and nonpublic schools in some areas of the state.

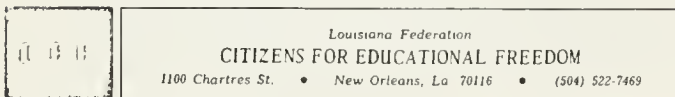
3. I know you have heard frequently that the question of aid to nonpublic schools is a "Catholic" issue since the majority of nonpublic schools are, in fact, operated by Catholic organizations. That issue should be pulled out into the open and branded for what it is -- bigotry. If we are going to deny aid to children in nonpublic schools on the grounds that most of the children are Catholic would we then seek to use the same logic to deny civil rights to all citizens because most of those in need of the defense of their civil rights are black?

Lutheran, Christian Reform, Orthodox Jews, Baptists, Episcopalians, Catholics and others all speak out for the rights of children in nonpublic schools. I recall, for example, appearing some two years ago before a Constitutional revision committee with Dr. Earl Guinn, president of Louisiana Baptist College at Pineville.

We both spoke to the need for diversity in education and of the absolute necessity for the state's realizing its obligations to the students in nonpublic schools. Dr. Guinn spoke of the crisis at the college level and I spoke of the needs at the elementary and high school level. Dr. Billy Graham, Baptist Evangelist; the national association which represents Episcopal schools; the national association which represents Hebrew schools; the Missouri Synod of the Lutheran Church; and many others have addressed themselves to the need for financial aid for children attending non-government schools. Only through such programs of aid are we going to preserve freedom in education in this state and in this nation.

CEF primarily stands for the rights of parents to determine the educational destiny of their children. We support public education and we recognize that most of the children in this country will be educated in public schools. But we defend the right of parents to select a school which may have a different educational philosophy, or a different set of moral standards.

Outside of the field of education, we all seem to pride ourselves on opposition to monopolies in this country -- on the grounds that diversity is the bulwark of freedom. We provide government assistance to hospitals, airlines, shipping, private colleges and universities, farmers, small businesses, big businesses, ad infinitum, and yet many seek to deny aid to parents and children in the nonpublic schools. Without those aids the vast majority of people in this country will not be able to exercise their parental rights to direct the education of their children. And without freedom in education, the greatest monopoly of all -- government monopoly of education -- will find roots in what has been, thus far, a free nation.



Remarks by Emile Comar, Vice President, Citizens for Educational Freedom, before the Subcommittee on Elementary and Secondary



Louisiana Federation  
CITIZENS FOR EDUCATIONAL FREEDOM

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Presented April 24, 1973, to the Subcommittee on Elementary and Secondary Education, Education and Welfare Committee, Louisiana Constitutional Convention, Meeting in Baton Rouge, La.

By Kirby J. Ducote, Executive Director, Louisiana Federation, Citizens for Educational Freedom.

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I am Kirby Ducote, executive director of the Louisiana Federation Citizens for Educational Freedom. I wish to thank the committee for the opportunity to present the views of parents of nonpublic school children for consideration in the proposed new Louisiana constitution.

During the past several weeks testimony has been given to this committee by other organizations concerning their positions on state aid which would assist the children in nonpublic schools. I heard several of the representatives of those organizations say that "public funds should not be used for support of nonpublic schools, directly or indirectly." They base their opposition on grounds of separation of church and state.

I wish to emphasize that CEF also is totally committed to separation of church and state. However, one must clearly understand that CEF does not believe there is an absolute wall separating church and state. Rather there is a thin veil separating the two, allowing interaction for the good of the citizens of Louisiana in the field of education as well as in numerous other fields of social and welfare concern.

The First Amendment to the United States Constitution says that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..." We believe this wording should be examined for inclusion in the Louisiana constitution. Such wording would cover a multitude of situations where state and religious organizations cooperate and it would allow the courts more latitude in ruling on the church-state issue.

I am not an attorney and there is a speaker here today with much legal background, particularly in the various cases as they relate to state aid programs passed by the Louisiana Legislature. But as a layman I believe that those who repeatedly declare "no aid, direct or indirect" are placing in jeopardy even traditional forms of public aid not only to the school children of this state but to welfare clients; to children needing foster care and correctional homes; to aid for the elderly in nursing homes run by charitable-religious bodies; to aid for children in schools for the retarded operated by the various faiths; and so on down the line.

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For how can the "separatists" ask this committee to declare that a "wall of separation" exists between the state and the children in nonpublic schools and that there is no "wall of separation" between the state and other persons who are also in need of joint state-private programs. If the children in elementary and high schools alone are left behind the wall it is clearly a case of rank discrimination and raw political power used exclusively against one segment of our society.

Let's look at some joint state-private programs in Louisiana. I will use 1971-72 figures, which are the most recent ones prepared by the State Department of Education.

1. In 1971-72 an allocation of \$5.24 per child was allowed for textbooks, library books and school supplies for the children of Louisiana. The state thus provided \$823,565 for books and supplies for over 158,000 nonpublic school children.

2. More than 40,000 nonpublic school children were transported to their schools each day.

3. In 1971-72 the state provided \$1,245,759 to nonpublic school children for lunches, and in addition, provided \$415,905 to supplement salaries of lunchroom workers in nonpublic schools.

4. There are health services, such as the dental care program, and other programs in which nonpublic school children participate.

But take all these state programs and combine the totals and Louisiana, we estimate, is making available only between \$40-50 per nonpublic school student. On the other hand, over \$800 per child is required for every child in average daily membership to the public schools of the state.

You and the other members of this Convention are being asked by organizations which oppose aid to take away the above benefits and make sure that no others are instituted -- again on the grounds that there is a "wall of separation" which prohibits such aid.

What are you going to do in the field of education -- and then what are you going to do about a "wall" in other areas of combined church-state cooperation?

Is the "wall of separation" to be applied in the welfare field? The State Welfare Department has contracts with Lutheran, Jewish, Baptist, Catholic and Methodist institutions for child caring and

child placing. The department pays some \$100 a month for the cost of care. This does not cover the full cost of providing for the children, of course, so these Lutheran, Jewish, Baptist, Catholic and Methodist homes raise private funds so that they may be partners with the state in caring for children.

In 1971, quoting the most current figures available, more than \$28.5 million was paid to private and religious nursing homes for the care of the aged and the sick. Why? Because the state itself does not provide nursing services to the elderly in state run institutions and must rely on church-state cooperation if its citizens are to be taken care of.

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Exceptional, or retarded, children are the joint concern of the state and many churches. Most of the \$2.5 million which the state spends on exceptional children is paid out for their care in private and religious institutions.

The state pays the salaries of chaplains of all faiths in public institutions; the state purchases the services of religious communities to run hospitals, including "Big Charity" in New Orleans which is the largest public health hospital for the indigent in the South.

Are these programs to be wiped out -- or are only the elementary and high school children of the state to be placed behind a wall of discrimination that would prohibit them from also benefiting from taxes as do other segments of the society cared for by private effort?

Testimony Before the Education Committee of the Constitutional Convention of 1973

Presented by: Brother Felician Fourrier, S.C., Superintendent of Schools of the Diocese of Baton Rouge

In the present Constitution of the State of Louisiana, Article XII, Section 13, there is a prohibition of the use of public funds for the support of any private or sectarian school. In educational parlance, this is what is termed a "Blaine-type" amendment. The designation comes from the fact that James G. Blaine proposed that this amendment be included in the federal constitution. It was an issue in the presidential election of 1876 when Blaine opposed Grover Cleveland and accused Cleveland of "Rum, Romanism, and Rebellion". The results of the contest are history-- Blaine lost the presidential election and his bid to make the prohibition of the use of public funds for the support of private education an amendment to the United States Constitution.

Having lost at the federal level, Blaine pressed on in the state of New York, and in 1890 the New York Assembly made his amendment part of the New York constitution. The year 1890 was, probably, the high water mark of the Populist Party. The name today doesn't even ring a bell, but the Populist Party was opposed to Irish immigration, and, since most of the Irish who came to America at that time were Catholic, it was highly anti-Catholic. Almost every state in the union has a Blaine-type amendment in its Constitution, and it is a hold-over of the bigotry which characterized the Know-Nothing movement in the mid-west and the Populist movement in the East. Politically, I would hope that this country has far outstripped such petty, provincial thinking.

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In the recent San Antonio v Rodriguez case, Justice Potter voting with the majority ironically admitted that "the method of financing public schools....can fairly be described as chaotic and unjust." He did not find it unconstitutional, however, which is a travesty. Had he included the financing of non-public schools, he would have found another source of injustice and another case of constitutionality. At this point, it might be a propos to note that in a subsequent decision, the court, in the words of Justice Potter, clearly decided that education was not even

an implicit right under the U. S. Constitution. If the several states have public school systems, their validation is found only under the general welfare clause of the Constitution and the police power of the state. It is under this same clause -- the general welfare clause -- that we feel that a Blaine-type amendment in the Louisiana Constitution is violative of the equal-protection clause of the United States Constitution .

Since education is not even "an implicit right under the United States Constitution", we are going to have to look elsewhere to find just where this right is found. For this, we will have to go back to 1922 when the State of Oregon adopted by a referendum vote of 115,000 to 103,000 a law to compel all children between eight and sixteen to attend public schools. The measure had as its plain purpose the destruction of the Catholic school system in Oregon and was initiated by the Scottish Rite Masons. A State legal official, appearing at the start of the trial in which the measure was tested, conceded as much when he stated: "I appear here primarily as the representative and at the instance of the Scottish Rite Masonic bodies."

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The law was to go into effect on September 1, 1926. Its constitutionality was challenged in the famed Pierce cases, since known as the Oregon School case. Federal district court issued an injunction forbidding enforcement of the law which it held to be unconstitutional. The three-judge court ruled that parents had the right to supervise their children's education by sending them to appropriate schools of their choice. It further held that the law violated the Fourteenth Amendment by depriving private school educators of their property without due process of law. (The court interpreted the right to conduct a school as "property.") The district court ruling was appealed to the United States Supreme Court, and that body in a unanimous opinion on June 1, 1925 upheld the lower court's ruling that the Oregon law was unconstitutional. It said there was no issue involving the state's right "reasonably to regulate all schools," but denied this meant the state could make attendance of one kind of school compulsory.

Of the private school educators who challenged the law the court noted: "These parties are engaged in a kind of undertaking not inherently harmful, but long regarded as useful and meritorious." And as for parents' rights in education, it stated emphatically: "The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." I might add at this juncture, that in this case amicus briefs were filed by the Protestant Episcopal Church, the Seventh-Day Adventists, and the American Jewish Committee.

Now, to go back to the wording of the Supreme Court decision in this, the Oregon School Case: ". . . excludes any general power of the state to standardize its children by

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forcing them to accept instruction from public teachers only." There is a compulsory school attendance law in Louisiana found in R.S.: Title 17, Sec. 221. It requires attendance at school and provides for penalties for non-attendance. The Oregon decision

says that "children cannot be forced to accept instruction from public teachers only." Yet, the only way a person has the right of choice, under the present constitution, is if he is willing to pay for that right. What the state cannot force by law, it does by economics. It is but another instance of the power to tax, being the power to destroy. It is my contention that a Blaine-type amendment should not be part of the Louisiana Constitution, or of any constitution. It is a throw-back to Populism, Know-Nothingism, provincialism and to the type of thinking which is violative of distributive justice. It is a vehicle for small minds to peddle their bigotry.

COMMENTARY ON CERTAIN ASPECTS OF THE PROVISIONS OF  
THE LOUISIANA CONSTITUTION OF 1921 PERTAINING TO  
EDUCATION

BY THOMAS A. RAYER

The present Constitution contains numerous provisions with respect to the establishment, administration, and supervision of the educational system and institutions within the State of Louisiana. Basically, these provisions are to be found in Article XII which contains twenty-six (26) separate sections.

Although Article XII is entitled "Public Education", there are numerous provisions therein which have either direct or indirect application to and effect upon the total educational process within the State from kindergarten through higher education, in both the public and private sector.

It is the purpose of this commentary to present an analysis of the provisions of Article XII which relate either directly or indirectly to private education in Louisiana at all levels thereof. Specifically, this analysis will deal with the limitations which the constitution in Article XII has imposed upon the legislature in the area of enacting legislation designed to promote, encourage, or assist the citizens of this State in obtaining an education outside the public system.

The first section of Article XII was amended in 1954, 1958, and 1962. These amendments were basically the outgrowth or desire on the part of the legislature to attempt to circumvent the impact of the U.S. Supreme Court Decision of 1954 in the case of Brown v. Board of Education, which mandated the elimination of separate but equal educational facilities based on race. This series of amendments has resulted in language of doubtful constitutional validity, and which is in apparent or potential conflict with the provisions of other sections of Article XII pertaining to public financial assistance for children in non-public schools. The Federal Courts struck down the provisions of Section 1 which sought to mandate racially segregated schools in the case of Orleans Parish School Board v. Bush in 1957 (242F 2d 156, 138F supp. 336). Further attempts at amendment were likewise struck down in the subsequent Bush decision in 1961 (188F supp. 916).

The outgrowth of these legislative and judicial confrontations is the language of Paragraph 2 of Section 1 which provides that "the legislature also may provide financial assistance directly to school children of the State for attendance at private non-

sectarial elementary and secondary schools in this State". Irrespective of the political or social factors which motivated this amendment to the Constitution, it must be borne in mind by the Convention that the people of this State did approve, as a matter of public policy at a time in the not too distant past, substantial financial assistance to non-public education. More importantly, it should be borne in mind that the subsequent "grant-in-aid" legislation, which was struck down by the Federal Courts, was declared invalid not because of the unconstitutionality of such aid itself, as a matter of legitimate government concern and interest, but rather because of the invidious nature of the private schools themselves, which were established for the purpose of perpetuating racial segregation in private education.

It is important to contrast the language of Section 1, however, with that of Section 13 of Article XII which provides, in part, that "no appropriation of public funds shall be made to any private or sectarian school".

This provision has been contained in one form or another in each Constitution which has been adopted by this State since 1864.

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It is, however, important to compare the language of this prohibition as set forth in each successive Constitution to glean a picture of the historical and social developments which have given rise to its inclusion in the fundamental law of this State. The language of the comparable Section of each previous Constitution is attached hereto as Appendix A for your analysis.

The Constitution of 1864 contained perhaps the strongest language in terms of public hostility toward private education, when it not only prohibited appropriations by the legislature for the support of any private school, but mandated "the highest encouragement shall be granted to public schools throughout the State".

Just four (4) years later in the Constitution of 1868, this attitude of public policy considerably softened with the deletion of the "encouragement" clause therefrom.

A rather significant change in language took place in the revision of the Constitution of 1879, in that the prohibition against the expenditure of public monies for private education was circumscribed to the extent that it excluded the expenditure only of "funds raised for the support of public schools". The distinction, therefore, was made on the basis of public policy that monies dedicated for the purpose of public education should not be diverted by the legislature into the support of private education, but the comprehensive terminology of "appropriation" was deleted.

This same terminology was again adopted almost verbatim in the Constitutions of 1898 and 1913.

However, in the Constitution of 1921, the Convention saw fit to revert back to the terminology as used in the 1868 Constitution of "appropriation", rather than "funds raised for the support of public education".

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The impact of this amendment on the right of the legislature to exercise its wisdom of discretion in providing for the education of all children in Louisiana, is most succinctly set forth by our Louisiana Supreme Court in the 1970 decision of Seegers v. Parker (241 SO. 2d 213). The Court, in interpreting the provisions of Section 13, as amended by the 1921 Constitution, had this to say:

"We have expressed in Article 12 of our Constitution our dedication to a public-supported public school system operated by state agencies and providing free education to the children of our state. Public funds for public education shall be expended only in the furtherance of "public schools". The prohibition under Article 12 of the Louisiana Constitution is all-determinative of both propositions - - that is, aid to private sectarian and aid to private non-sectarian schools. We do not require, for it would be constitutionally impermissible, that educational pursuits be followed only in public institutions of learning; but for those who cannot afford or do not choose private or sectarian education, we have provided free public education through one institution, the public school system, and all of every persuasion and faith may partake of it. We are aware that private education has rendered a valuable service to this state and this country. So long as it exists as independent educational facilities without governmental control, it will continue to render that valuable service. Indeed, were all education coerced through governmental systems, there could be danger of indoctrination and regimentation, and the present health diversity of educational institutions would be eliminated."

This analysis will not address itself to the wisdom of this educational philosophy, rather it is the purpose herein to simply point out that, under the existing provisions of Section 13 of Article XII, the legislature of this State has had imposed upon it limitations and restrictions which could effectively prevent any form of assistance of a substantial or direct nature being provided in the area of private education of the citizens of this State at

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all levels thereof, including that of higher education in our private universities and colleges.

It is, therefore, incumbent upon this Convention and the Subcommittee on Education in particular, to critically and objectively evaluate the provisions of Article XII in this particular area, having in mind the impact on private education that the all-embracing language of the Seegers decision conveys, and likewise having in mind the consideration that the Convention is dealing with the fundamental law of this State which hopefully will form a foundation upon which legislation for years to come may be formulated. With these considerations in mind, the Convention should seriously ask itself whether, as a matter of public policy of this State, its Constitution should contain such all-embracing restrictions on the freedom of the legislature, from time to time and for years to come, to adopt the ways and means of providing quality education for all the people of Louisiana.

Finally, from a constitutional standpoint, a clear distinction must be made between those provisions of our State Constitution which pertain to the expenditure of public funds for

the support of religious institutions or enterprises, and those provisions thereof which pertain to the prohibition of expenditure of public funds for the support of education outside of the public school systems of Louisiana. What has been said in this commentary heretofore is in no way based upon any considerations of the religious affiliation of non-public schools. What is contained in the provisions of Article XII as discussed herein, is in no way founded constitutionally or legally upon prohibitions against the expenditure of public funds in support of religious institutions. What the Convention must concern itself with in an analysis of Article XII, is singularly a question of the mode and method of the

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expenditure of public funds for the education of the citizenry of this State. More essentially, the Convention must concern itself with the fundamental question of whether the Constitution should restrict the rights of the legislature to meet future educational needs by means of public education alone.

This basic policy consideration involves the issue of public versus private education, not public versus church-related education.

The Convention need not address itself to the area of church-related education, and public assistance thereto, in any consideration of provisions of a new Constitution relating to education as such.

The Convention should properly address itself to this issue as it considers the redrafting of a fundamental Bill of Rights which should properly contain language similar, if not identical, to the Federal Constitution pertaining to the free exercise of religion and the prohibition against the establishment thereof.

It is essential that this distinction be made, since under the Federal Constitution and the numerous decisions interpreting the First Amendment thereto, a rather clear line of jurisprudence has evolved which now gives meaning and substance to the extent to which a state may give assistance to a church-related school, or the parents or children enrolled therein, without violating the establishment clause of that First Amendment. There is no need to attempt to further delineate the extent to which the legislature may go in aiding church-related schools in any new Constitution. The danger, however, is that, should the Convention embark upon such task, it runs the inevitable risk of circumscribing such aid to perhaps parents or children enrolled in these schools to the

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point where these prohibitions now encroach on the constitutional rights of the citizens of this state to benefit as tax payers, simply because of their religious affiliations. The safest and simplest course to follow, therefore, is to do no more, nor less, than what has been done by the Founding Fathers of this Nation in the adoption

of the language as contained in the First Amendment of the Constitution of the United States.

(N.B. Thomas A. Rayer is a practicing attorney in New Orleans who has had extensive experience in the field of constitutional litigation involving aid to non-public schools, and is presently serving as Special Counsel to the Attorney General and the State Department of Revenue in the Federal Court litigation involving the constitutionality of Act 93 of the 1972 Legislature providing for tax credit to parents of children enrolled in non-public schools in Louisiana.)

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#### APPENDIX A

##### Constitution of 1864

Article 146. No appropriation shall be made by the legislature for the support of any private school or institution of learning whatever, but the highest encouragement shall be granted to public schools throughout the State.

##### Constitution of 1868

Article 140. No appropriation shall be made by the general assembly for the support of any private school or any private institution of learning whatever.

##### Constitution of 1879

Article 228. No funds raised for the support of the public schools of the State shall be appropriated to or used for the support of any sectarian schools.

##### Constitution of 1898

Article 253. No funds raised for the support of the public schools of the State shall be appropriated to or used for the support of any private or sectarian schools.

##### Constitution of 1913

Article 253. No funds raised for the support of the public schools of the State shall be appropriated to or used for the support of any private or sectarian schools.

## CITIZENS FOR EDUCATIONAL FREEDOM

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Remarks by Dr. Eugene Linse, before the Subcommittee on Elementary and Secondary Education, Louisiana Constitutional Convention.

Presented at Baton Rouge, Louisiana, April 24, 1973.

Members of the Committee:

My name is Eugene Linse. I am president of Citizens for Educational Freedom, a national organization which for the past 13 years has espoused the cause of freedom of choice in education for those who have children to educate.

The emphasis in my remarks today focuses precisely on this question of freedom, for it is freedom on the part of the ordinary citizen that is under attack as never before in our 200 years of history under the American Constitution. We are told that the freedom of the press is no longer a preferred freedom, but needs to be balanced against the needs of the state; we are told that the right to know what occurs in our political society, a right claimed historically by Congress and the citizen, is to be limited to what the executive branch of government wishes to reveal. The right of parents to choose an education for their children is to be limited to their capacity to pay or they must accept the government schools. On the face of it some of these are great incursions into the activities of the ordinary citizen; yet, collectively they are the "first invasions of our freedoms" against

which James Madison and Tom Jefferson warned in the Virginia Remonstrances two centuries ago.

"Effective choices for alternatives in education are declining," says the The Final Report of the President's Panel on Nonpublic Education in Nonpublic Education and the Public Good. No one has disputed the claim that nonpublic education is a national asset. What has occurred is that the public sector of education has assumed for itself the position of preempting the field of education, has seldom given attention to what has occurred in the nonpublic sector, and has exerted ever mounting claims on the public purse. What has followed is an increasing erosion of nonpublic education. The impact of such losses on public education cannot be overlooked:

- a) because public schools least able to accommodate additional pupils are the ones generally hardest hit by transfers when a nonpublic school closes its doors; and
- b) because cities, already burdened with rising taxes for projected public education needs, are faced with demands for higher tax rates for public schools.

The economic problem involved has many dimensions, not the least of which is that nonpublic schools are affected by economic change, rising costs, general inflation, like public schools, but differing in this respect that they cannot command resources needed to compete with public education. When then, inevitably, a nonpublic school is forced to close, the entire society loses, for what is lost is a meaningful alternative, the freedom to choose an alternative to public education.

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As a citizen, a taxpayer, a political scientist -- and in that order -- I am concerned about the public welfare; I am concerned about the costs of education; I am concerned about the constitutional implications involved in whatever course of action is proposed. First a word about this latter point.

In the case of Sloan v. Lemon, currently before the U. S. Supreme Court, testing the constitutionality of Pennsylvania's Parent Reimbursement Act, the acting Solicitor General of the U. S., Daniel Friedman, in an Amicus Curiae brief argues (p. 13) that the mere fact that the Act may aid religiously affiliated schools does not invalidate it. He then cites Ilton v. Richardson, "...the simplistic argument that every form of financial aid to church-sponsored activity violates the religion clauses (of the Constitution) was rejected long ago" in the words of Chief Justice Warren Burger. "I admit that the Constitutional question, particularly as it relates to the church-state issue is important. Certainly, some kinds of activity, notably direct assistance to church related schools, is prohibited." That's why the courts have developed certain tests against which public acts are measured to determine their constitutionality, notably the tests of intent, effect and entanglement. Only counsel for plaintiffs regard these tests as almost universal prohibitions of state action.

In 1971, the Minnesota Legislature enacted M.F. 371 into Chapter 944, of the Minnesota Statutes, providing a tax credit to parents who send their children to nonpublic schools. Minnesota's law was the first tax credit law in the nation and became a model for action by other states as well as for M.F. 49, currently before the Congress of the United States. In a lengthy and scholarly decision the Ramsey County Court in which the law was first tested found that the intent of the act was constitutional, that the effect violated neither establishment nor free exercise, that excessive entanglement was not involved. Said the Court, "It is federal law that a parent has a constitutional right to determine whether his child will attend a public school or whether his child will attend a private school, even if the private school is religious. If this right of choice is to mean anything, the state cannot make it more burdensome for a parent to send his child to a religious nonpublic than to a nonreligious public school. Such a situation is clearly a denial of the Equal Protection Clause of the 14th Amendment." (p. 35)

When Governor Wendell R. Anderson presented his budget message to the Minnesota Legislature two years ago, and allocated \$23 million for the tax credit bill for the ensuing biennium, he said that he was aware of his constitutional obligation to maintain the necessary separation of church and state; but then he added, "...I do not think that we depart from the spirit of that tradition when we recognize that private and parochial schools in Minnesota are facing a crisis of unprecedented scope. No principle is served by closing our eyes to a situation which, if unaltered, may well place a very large burden upon our public school system." On April 11, 1973, I attended a legislative study committee meeting whose task it is to review the effects and administrative procedures employed in implementing the Minnesota tax credit law. Two remarks made in that meeting struck me as unusual. The first by the Assistant Commissioner of Education, Sig Ode, in regard to middle school programs, "We welcome the innovative programs of your private school people in this area. You are ahead of us. We can learn from you." The second remark, by an

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assistant state auditor: "I have ordered a printout of those tax returns claiming state income tax credit for nonpublic schools. I am amazed. In our additional audits these returns run at a rate of a one percent margin of error. Our average margin of error on all other returns is 5 percent." All of the gloomy forebodings of conflict and entanglement and prophecies of evil consequences have failed to materialize. The enrollment in nonpublic education in Minnesota has stabilized, while in the previous 10 years the average annual decline was 5 percent. Public school officials and nonpublic school administrators have developed some mutual respect. No new burden has been imposed on public education. No new divisive behavior has resulted. I can report that after two years of operation the Minnesota law works very well indeed.

But back to the question of freedom. My concern is not just with law but with public policy. At the national level the past two years have seen a distinct shift in policy -- from one of neutrality to one of acceptance of nonpublic education. In 1970 the President of the United States indicated his concern for the problems facing nonpublic education. In their platforms during the past year both major political parties endorsed some form of assistance for nonpublic schools, the Democrats a bit more cautiously than the Republicans. Both candidates -- Richard Nixon and George McGovern, spoke out in behalf of nonpublic education. What was previously treated with indifference was raised to a level of concern. In many respects the hearings before Mr. Wilbur Mills and Ways and Means late last summer on a federal tax credit proposal were unprecedented, historically. Time and again the question of freedom -- freedom to choose -- emerged in these discussions and presentations. A recent issue (March 28) of U. S. News and World Report quotes Mr. Mills as still committed to support nonpublic education, even after it appears that tax reform, a long and dear concern of Mr. Mills, is dead. In summary, what

is new is that nonpublic education stands to benefit from bipartisan support, largely through proposed tax-credit legislation. Perhaps action at the national level is necessary, if for no other reason than to allay the fears of many citizens who have been taught to believe that any benefit in this area must of necessity be suspect, constitutionally.

Thomas Jefferson and James Madison are frequently cited by those who oppose some of the new laws enacted in the states as prohibiting any and every form of assistance, institutionally, in the secular/sacred dispute. Let me remind you of what James Madison said in The Federalist #10, in his discussion of factions, arguing as he does for a constitution. In removing the cause for faction -- (in our case, allowing nonpublic education to pass from the scene) Madison notes that two methods exist: "...the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions and the same interests."

"It could never be more truly said than of the first remedy, that it is worse than the disease.... The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed.... The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government."

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What Madison is arguing for in a political system is diversity as against uniformity, liberty as against conformity, freedom as against repression and regulation.

This may well be the most significant issue at stake in this entire and lengthy discussion. Failure to respond at a time of crisis may be more culpable, lead to greater ultimate loss than any gain allegedly achieved in observation of an historic interpretation of a canon of the law of noninter-vention. In our great zeal to guarantee that no government shall make any law respecting an establishment of religion, unclear as that term may be, is it possible that we go to such extremes as to derogate the free exercise of religion? Whether or not certain state laws aid religion has become so clamorous a concern that careful attention seems scarcely to have been given to the second religious clause, the free exercise clause, to say nothing of the equal protection clause of the 14th Amendment. Does the Minnesota tax credit law aid religion? This is in dispute. What many seem to miss is that the absence of the law would materially inhibit the free exercise of religion, or as Judge Plunkett noted, deprive parents of the equal protection guarantee of the 14th Amendment.

One additional consideration seems important to me this morning. Discussions of support for nonpublic education frequently involve the assumption that such support is aid to religion. What goes by the board is that it is essentially aid to education, education in a religious atmosphere, but nonetheless genuinely and properly education. The same is true for public education; it too, contributes both to education and religion; for it is not without a value system or a discussion of ethical considerations. The fundamental question to be raised is: Whose value system shall prevail? --- not -- whether one is to exist or no. Shall it be the values of secular humanism? Let me remind you that the Supreme Court recognized secular humanism as having the status of a religion in the Torcaso Case in 1961. Or shall it be an education within a value system espoused by Lutherans, Catholics, or people of other religious faiths?

The question that emerges is whether parents are to have a free choice of value systems within which their children are to be educated. In pursuit of answers to this question parents should enjoy the encouragement of the state.

In support of such diversity, let me remind you of the words of John Stuart Mill in his essay On Liberty. "An education established and controlled by the State should only exist, if it exists at all, as one among many competing experiments, carried on for the purpose of example and stimulus, to keep the others up to a certain standard of excellence."

Or if you prefer, the words of the President in his Message to Congress on Educational Reform on March 3, 1970:

"Should any single school system -- public or private -- ever acquire a complete monopoly over the education of our children, the absence of competition would neither be good for that school system nor good for the country."

To sustain these alternatives, to exercise the freedom of choice in education, to enhance the exercise of religious freedom, to provide a larger measure of equality of opportunity, rather than to stand by with folded hands while these erode and vanish, --- it is to these noble objectives that I urge you to attend.

STATEMENT

to the

SUBCOMMITTEE ON ELEMENTARY AND SECONDARY EDUCATION

OF THE

LOUISIANA CONSTITUTIONAL CONVENTION

by

Horace C. Robinson  
Executive Secretary

LOUISIANA TEACHERS' ASSOCIATION

April 24, 1973

I am Horace C. Robinson, Executive Secretary of the Louisiana Teachers' Association, and an appointed delegate to the Constitutional Convention representing education. I am appearing here today as a substitute for the President of the Louisiana Teachers' Association, Dr. C. L. Sanders. Dr. Sanders had planned to be here on May 1, which was the tentative date set for this meeting earlier, but was unable to attend today because of previous speaking engagements.

The Louisiana Teachers' Association is a voluntary association of approximately 27,000 teachers and school administrators, most of whom are employed in the public elementary and secondary schools. To the best of our knowledge and belief, we have almost four times as many members as the second largest organization of teachers in Louisiana, and we are perhaps twenty times as large as the third largest organization of teachers. The association has been in continuous existence since 1892.

The basic policies of the Louisiana Teachers' Association are expressed in resolutions adopted by the House of Delegates and membership of the association meeting in our annual convention. The Executive Council of the association is the governing body of the association between conventions, and may adopt policies not inconsistent with the resolutions approved at conventions.

As of this date, the Louisiana Teachers' Association has taken a formal position on only a limited number of the issues before this subcommittee. The current legislative program and 1972 convention resolutions of the association support the following positions:

1. The association supports the maintenance and operation of Teachers' Retirement System on a sound actuarial accrual-reserve basis;
2. The association asks that there be no reduction in the rates of the present taxes which support public education and that there be no diversion of public school funds from taxes dedicated to the public school system;
3. The association is opposed to providing from public funds any new or additional services or expenditures for nonpublic schools;
4. The association supports the minimum foundation program of state school finance under which state funds are allocated to the several parish and municipal school systems in such manner as to enable all systems to maintain a minimum program of education;
5. The association favors the election by the people of the state superintendent of public education;
6. The association believes that new and existing vocational schools or departments should be established as an integral part of the public elementary and secondary school system of the State under the jurisdiction of the parish and municipal school boards.

The enumeration of these positions taken by the LTA does not necessarily mean that the association favors their incorporation into the constitution. A convention resolution calling for the election of the state superintendent of education was adopted with specific reference to the constitution. The other positions were not adopted with specific reference to the Louisiana Constitution. Similarly, many important constitutional issues may arise in the Constitutional Convention which will be of much concern to members of the Louisiana Teachers' Association, although these issues have not been the subjects of discussion in recent conventions of that association.

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Most of the opinions I shall express to you are my own. The proposals which I have made for Article XII are also my own, although I have discussed all of Article XII at length with Mr. James D. Prescott, who is the Executive Secretary of the Louisiana School Boards Association. You will note a remarkable similarity between some of my proposed sections for Article XII and those submitted by Mr. Prescott. This is not accidental. You will also note at least one major difference. Mr. Prescott has recommended the appointment of the state superintendent of education by the state board of education and the transfer of all statutory powers heretofore given to the state superintendent to the state board. I have recommended that the state superintendent be elected by the people and that the state superintendent retain whatever statutory powers and responsibilities are granted to him by the legislature. Both Mr. Prescott and I have used the recommended draft for Article XII as developed by the Committee on Education and Welfare of the Louisiana Constitutional Revision Commission as a basis for our current proposals.

General comments on constitutional revision or reform. For what they may be worth, I would like to make some comments of a general nature on the writing of the new constitution.

My first general observation is that we should know, or endeavor to find out, what the probable consequences of any change we propose to make in the constitution shall be. If we don't have a very good idea what the effects of the change will be, we would be well-advised to keep the provisions we have, less any clearly obsolete, undesirable, or amendment-generating portions. The present constitution has been the subject of hundreds of court decisions, and when major changes are made many other court decisions may be required to determine what the new provisions really mean.

Another general comment is that the notion that a new constitution should be so simple that every school child can read and understand it is, in my view, more than a little naive. The Constitution of the United States is brief. But one who wishes to know what it means must prepare himself by many years of study and have access to a huge library. Unfortunately, the simpler and shorter a constitution is the more extensive must be the process of interpretation. The typical citizen, even though he be well-educated, will spend little time reading the Constitution of Louisiana, if he ever reads it at all. The typical citizen does not particularly care whether the constitution is long or short. The important thing to him is what it does to and for him. Brevity is a virtue, but the thing which has caused something of a voter rebellion in this state is not simply the length of the constitution. The rebellion has come about because the voter objects strenuously to voting on a great many long and complex propositions which few if any people can fully understand. One would be unwise to interpret this voter reaction as meaning that the people are ready for any and all kinds of governmental reforms which the Constitutional Convention might propose.

Provisions of the constitution which will surely require frequent amendment must be modified or removed. The people have said as much by their negative reactions to constitutional amendments. But, in my view, the convention must steer a careful course between constitutional revision and governmental reform. The convention should not attempt to become a super legislature. A resolution of most highly controversial issues should be left to the regular political and legislative processes. Those issues which polarize the people into conflicting groups must be avoided to the extent possible. Although the legislative act creating the convention provides for the submission of alternative proposals to the people, this provision should be used sparingly. Too many such proposals could lead to the same kind of voter reaction which has resulted in the defeat of constitutional amendments in recent years. Eventually, the new constitution must be passed by the people. The inclusion of too many controversial reforms could create so much opposition as to make it mathematically impossible to pass a new constitution.

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The major reform which must unquestionably be made is to remove material which can be expected to require frequent amendment.

Now, to more specific matters.

There should be a separate board of education for public elementary and secondary education. There should be a public board which has no other function than the governing of public elementary and secondary education. Public elementary and secondary education is the very foundation of our system of public education, and the constitution should reflect this. Although in one sense this might be considered a reform proposal, one effect of Act 712 of 1972 might be to leave the state board of education only the task of governing public elementary and secondary education. The example of the present State Board of Education indicates that when a board has supervisory functions over both higher education and elementary and secondary education it is elementary and secondary education which receives the least attention.

It is proposed in the attached draft of an article on public education that the board consist of thirteen members with one member to be elected from each of the eight congressional districts for overlapping six-year terms and five members to be appointed for overlapping six-year terms by the governor.

It is contemplated that the state board of education would have very much the same allocation of constitutional powers relative to public elementary and secondary education as the present State Board of Education has under the present constitution. These grants of power are substantial, notwithstanding the history of the State Board of Education to date.

One change which is proposed in the suggested draft is removal of the specific provision which relates to certification of teachers. This power could be placed in the statutes. Hopefully, some day the statute could be modified to permit the members of the teaching profession to have a greater role in establishing and maintaining their own standards.

The state superintendent of public education should be elected. It is proposed that the state superintendent of education continue to be elected. Many educational writers favor the appointment of the state superintendent by the state board of education. Nevertheless, the practice in Louisiana heretofore has been to elect the state superintendent, and precedents involving election of state officials are not to be dismissed lightly. Our people are accustomed to voting for a chief state school officer. It cannot be said that there is overwhelming evidence available to demonstrate that one method of selecting a state superintendent is vastly better than another. In this connection, the following paragraph is quoted from a recent publication by the U. S. Office of Education entitled State Departments of Education, State Boards of Education, and Chief State School Officers:

Few, if any objective measures of the relative merits of the three methods of selecting chief State school officers are possible. The particular organizational patterns or administrative devices used cannot guarantee the success of the chief State school officers or the departments of education which they administer. In this regard, Winget, Fuller, and Bell have observed: "There have been both successful and unsuccessful chief State school officers under all leading systems of organization and administration, perhaps because the best system cannot make an incompetent person successful, and the worst system cannot prevent success by the most competent."

The position of state superintendent is in part a post of political as well as educational leadership. There can be little question but that an elected state superintendent is a more formidable political figure than a superintendent who is appointed and serves at the pleasure of the appointing authority. An elected state superintendent is unquestionably the head of the state public school system. An

appointed state superintendent is only the executive officer of the board which appoints him. In state government we usually elect our major office holders, and we appoint technicians and administrators. The way one views the job of state superintendent will influence his opinion as to the most appropriate method of selecting the incumbent.

It is believed that the constitution and statutes can provide for a rational allocation of power and responsibility between the state board of education and the state superintendent of education. The idea that election of both entities necessarily generates conflict while appointment of the superintendent reduces conflict is certainly true in a very limited sense, because under the appointive system a superintendent can be dismissed along with his objections. But factions do develop within public boards, and conflict on the board is just as real as conflict between a board and the chief state school officer. An elected state superintendent can take his case to the people. An appointed superintendent must take his case into retirement.

Good arguments can be advanced for both the elected and appointive methods of recognizing a chief state school officer. The members of the Louisiana Teachers' Association appear to feel sincerely that in Louisiana election is better for the public school system. They have expressed themselves quite clearly on this question.

Existing local school boards should be recognized, but future consolidations should be provided for. Present parish and municipal school boards should be recognized in the constitution, but it should be possible for school systems to be consolidated without the necessity for further amendment of the constitution. The proposed draft permits consolidation of one or more school systems when the consolidation is approved in each of the affected school systems by a majority vote of the electors in each system in an election called on the issue.

By recognizing the school boards in existence at the time the constitution is adopted, it is possible to remove much material which is presently in the constitution.

The minimum foundation program should be given constitutional status. Louisiana has developed a system for allocating state school funds on a plan which guarantees every school child a minimum program of education regardless of the wealth of his parish or community. This is one of the more enlightened state finance programs in the United States. The minimum foundation program has developed from, and has now superseded, the old "per educable" and "equalization" distributions provided for in the present constitution. The minimum foundation program embraces a fundamental principle, and a guarantee of at least a minimum program of education for every child should be written in the constitution. The minimum program would be that defined by the state board of education.

Although the notion that all children shall have equal educational opportunity is certainly an attractive one, it is believed that such a guarantee in the constitution would lead to a proliferation of lawsuits and might actually have the practical effect of reducing educational opportunity for many children. If the level of the minimum program is set high enough, the ideal of equal educational opportunity for all children will be well served. Louisiana has, under its present system of school finance, made much progress toward equality of opportunity.

Present constitutional provisions for local school support should be simplified. The present provisions of the constitution which authorize the levying of various taxes for local school support are unreasonably lengthy and complex. One of the present provisions authorizes school boards to levy, without a vote of the people, an ad valorem tax of five mills.

It is proposed that these several tax authorities be replaced with provisions which, in effect, authorize school boards to levy a five mill ad valorem tax by vote of the school board, and in addition such other ad valorem taxes for school support

or for retiring of bond issues as may be approved by the people. This authority would be subject only to any general limitations which may be established by the legislature or in the constitution.

The Orleans Parish School Board presently has special taxing authority in that the school board can levy an ad valorem tax of up to thirteen mills without a vote of the people. Specific constitutional provisions presently authorize and regulate the sale of certain bonds for school construction in Orleans, some of which have not been sold. It is thus difficult to draft a general provision which applies to all parish and municipal school systems and which will not be in conflict with the unique provisions under which Orleans Parish has operated. It is hoped that the language proposed will permit Orleans, at some time in the future, to be governed by the same general provisions for local school support as the rest of the state, but will give to the legislature the authority to permit the Orleans Parish School Board to continue exercising the special taxing authority which the board now has until such time as the school board can see its way clear to follow the same practices as the rest of the state. The specific authority to continue the present thirteen-mill levy would be set forth in an accompanying statute. A special provision has also been added to permit the Orleans Parish School Board to sell the bonds authorized in the present constitution.

Retirement funds for teachers and school employees should be protected. Contributions by the members of the retirement systems now operated by the state for teachers and school employees total hundreds of millions of dollars. Similarly, the contributions by the employers of teachers and school employees are now a significant part of the remuneration of these employees. The equity of younger employees in the huge funds accumulated for their retirement can be seriously jeopardized if the systems are not soundly financed. The reason is

that contributions made by the employer against the pension liability accruing on account of the service of younger members may be used to pay benefits for older employees on retirement or reaching retirement instead of being held and invested at interest so that the funds needed to pay the pensions of the younger employees may be accumulated by the time they reach retirement. This is the classic case of "robbing Peter to pay Paul."

The dissipation of funds contributed on account of the employer's pension liability for the service of one group of employees to the retirement of another group of employees in the same system may be unlawful. Nevertheless, the actuarial principles involved are not easily comprehended by the layman, and the very existence of a large reserve fund may give the illusion that all is well, even though the reserves in the retirement fund are, in fact, grossly inadequate. The costs involved are so great that it may be virtually impossible to make up the unfunded liability when the inadequacy of the reserves does become evident and the problem has been further compounded by the loss of interest income which should have been earned over a period of many years.

The proposed section on retirement funds would do the following: (1) require that a retirement fund be provided for aged and incapacitated teachers and school employees; (2) require that the equity of each member in his own contributions and those made by his employer on account of his service will be maintained; and (3) require that benefits paid to retired members will be backed up by the full faith and credit of the state.

Minor dedications of funds to the public schools should be removed from the constitution, and the severance tax should remain dedicated if any dedications are to remain in the constitution. It is frequently asserted that dedication of funds is greatly handicapping the legislature in the budgeting and appropriating of state funds. This is more theoretical than real, particularly with reference to public education. Dedicated funds support only a part of the expenditure level which is currently maintained for public schools. The balance must be provided from undedicated revenues of the state. Only in the wake of a major financial catastrophe, or because of a decision to greatly reduce public school expenditures, would the dedication of the severance tax to public schools have any great significance in the budgeting and appropriation of state revenues.

It is suggested that several minor dedications be removed from the constitution, and that the only dedication to the state public school fund be the dedication of the severance tax.

The prohibition against the use of public funds for private or sectarian schools should be retained. Regardless of one's feelings about the provision of state aid to nonpublic schools, removal of the present prohibition against such aid would amount to a major reform or change in state policy. This issue alone could generate sufficient controversy to greatly reduce the chances for acceptance of the new constitution by the people. Such explosive issues should be resolved through normal political processes or in the courts rather than by the Constitutional Convention. The convention is not a super legislature, nor is it a super court.

Much material which is now in the constitution can be deleted. The proposed draft for Article XII would involve the outright deletion or relegation to the statutes of much material which is now in the constitution. Specifically, Section 2 of the present constitution relative to coordination of schools to the standard of Louisiana State University is obsolete and should be removed. Sections 3 and 12 relate to the curriculum of the public schools, and curricular decisions should be deleted from the constitution and left with the state board of education.

Section 18 dealing with sixteenth section lands could be placed in the statutes, unless further research should reveal some compelling reason for constitutional status. Section 19 relative to the free public school fund should be eliminated from the constitution and be placed either in the statutes or eliminated entirely by an appropriation discharging the "debt" of the state established by this section.

Sections 20, 21, and 22 also deal with "debts" of the state to the "seminary fund" or to the "agricultural and mechanical college fund" and should be made statutory or eliminated entirely by an appropriation to clear the debt.

The proposed draft would also eliminate a great deal of verbiage even from the sections which are retained, and, hopefully, a more logical arrangement is provided.

Horace Robinson

## ARTICLE XII: PUBLIC EDUCATION

### Section 1. Public Educational System of the State

The legislature shall provide for the education of the children of the State and shall establish and maintain a public educational system to consist of all public schools and all institutions of learning operated by State agencies.

### Section 2. State Board of Education for Public Elementary and Secondary Education

(A) The State Board of Education shall consist of thirteen members, with one member to be elected as provided by law from each of the eight congressional districts for overlapping terms of six years and five members to be appointed by the Governor for overlapping terms of six years. Vacancies occurring in the membership of the board shall be filled by appointment of the Governor. Members of the board shall serve without pay except for per diem and expenses as shall be fixed by the legislature.

(B) The legislature shall prescribe the duties of the State Board of Education and define its powers; provided, that the board shall not control the business affairs of the parish or municipal school boards, nor the selection or removal of their officers and directors.

(C) The State Board of Education shall have supervision and control of all elementary and secondary schools, and special schools as provided by law.

(D) The State Board of Education shall submit to the legislature, or other agency designated by the legislature, a budget for the board and for the State Department of Education, and for the elementary and secondary schools and special schools under its jurisdiction. The legislature shall make such appropriations for the improvement, equipment, operation, support, and maintenance of said institutions as their needs may require. Except as otherwise provided in this constitution, the legislature shall prescribe the terms under which funds for educational purposes shall be disbursed.

(E) The State Board of Education shall have authority to approve private schools whose sustained curriculum is of a grade equal to that prescribed for similar public schools of the State, and the certificates or diplomas issued by such private schools so approved shall carry the same privileges as those issued by the public schools of the State.

(F) The State Board of Education shall not create or maintain any administrative department in which salaries or expenses are payable from state funds unless authorized by the legislature.

(G) The State Board of Education shall adopt appropriate measures to secure coordination between the programs and administration of the public elementary and secondary schools and special schools under its supervision and the public institutions of higher education of the State.

### Section 3. State Superintendent of Public Education

(A) There shall be elected by the people at each succeeding general election a State Superintendent of Public Education, who shall be ex officio secretary of the State Board of Education, and whose other duties and responsibilities shall be provided by law. The annual salary of the State Superintendent of Public Education shall be fixed by the legislature, and the salary of the superintendent shall be payable upon his own warrant.

(B) To be eligible for the office of State Superintendent of Public Education, a person must be a citizen of the State and must hold a valid teaching certificate issued by the State of Louisiana, or, alternatively, he must have had at least five years of experience as a teacher or administrator in an institution of higher learning; provided that any person who was elected to the office of State Superintendent of Public Education at any time prior to the adoption of this constitution shall be eligible to hold that office whether or not he meets the other qualifications enumerated in this paragraph.

(C) If the office of State Superintendent of Education becomes vacant because of death, resignation or for any other reason, the vacancy shall be filled by the State Board of Education for the remainder of the term.

### Section 4. Public Institutions of Higher Learning

NOTE: No recommendations are made for the control of higher education. However, it is believed that the public elementary and secondary schools will fail to receive the attention they should have from any board which has responsibilities for both higher education and elementary and secondary education. The elementary and secondary schools are the foundation of our educational system, and this status should be reflected in the constitution.

### Section 5. Parish and Municipal School Boards

(A) The legislature shall provide for the creation and election of parish school boards which shall elect parish superintendents for their respective parishes, and such other officers or agents as may be authorized by the legislature. The State Board of Education shall fix the qualifications and prescribe the duties of parish superintendents who need not be residents of the parishes.

(B) Parish and municipal school boards and systems in existence as of the date this constitution is adopted by virtue of special or local legislative acts or previous constitutional provisions are hereby recognized, subject to control by and supervision of the State Board of Education, and the power of the legislature to further control them by special laws.

(C) Two or more parish or municipal school boards and school systems may be consolidated in accordance with procedures enacted by the legislature, when such consolidation has been approved in each of the parish or municipal systems affected by a majority of the qualified electors voting in an election called on the question of consolidation.

### Section 6. No Public Funds for Support of Private or Sectarian Schools

No public funds shall be used for the support of any private or sectarian school; provided, that the legislature may enact appropriate legislation to permit institutions of higher learning which receive all or part of their support from the State of Louisiana to engage in interstate and intrastate education agreements with other state governments, agencies of other state governments, institutions of higher learning of other state governments and private institutions of higher learning within or outside state boundaries.

### Section 7. State Public School Fund

(A) There is hereby established for the support of the elementary and secondary schools a State Public School Fund. All state funds for the support of public schools as herein, heretofore, or hereafter provided for shall be segregated and kept separate in bank accounts apart from other state funds.

(B) Funds for the support of the public elementary and secondary schools shall be derived from the following sources and shall be apportioned to the parish school boards in the manner herein provided.

(1) The sources of funds are as follows:

- (a) The residue of the Severance Tax Fund of the State, after allowing funds and appropriations as provided for elsewhere by this constitution, and providing that not more than five hundred thousand (\$500,000.00) dollars per annum may be appropriated by the legislature for the cost of administering and inspecting and enforcing of the taxes accruing to the Severance Tax Fund, and for the administration of the conservation laws incident to the severance of natural resources from the soil and water of the State, which severance tax fund shall be devoted, after allowing such funds and appropriations, as fixed in this constitution, first to supplying free school books, second, to supplying free school supplies such as library books, writing paper, pencils, pens, ink and the like, to the school children of the State. After July 1st of each year, the State Treasurer shall forthwith set up a fund for the payment of the fixed charges hereinabove mentioned;
- (b) The proceeds of particular taxes, now or hereafter levied by the legislature and dedicated, allocated, destined to or designated for the State Public School Fund;
- (c) Such other funds as the legislature has or hereafter may designate, allocate, appropriate or otherwise provide therefor or destine thereto.

(2) The apportionment of funds shall be as follows:

- (a) There shall be appropriated out of the State Public School Fund and out of the general fund of the State sufficient funds to provide for and to insure a minimum program of education in all public elementary and secondary schools of the State. The minimum program of education to be maintained in all parish and municipal school systems shall be established by the State Board of Education. Funds for the maintenance of the minimum educational program shall be paid in twelve monthly installments, and shall be distributed to the several parish and municipal school systems in accordance with such plans, formulas, rules and regulations as shall be adopted by the board for the administration of the state minimum program of education;
- (b) Any other funds provided by law for the support of public schools shall be apportioned and distributed in accordance with a formula established by the State Board of Education except as otherwise provided for by the Act appropriating the funds;
- (c) Any funds for public education from any other source shall be distributed under the authority and jurisdiction of the State Board of Education and in accordance with the terms of the laws governing such funds or the lawful stipulations of the source of the funds.

### Section 8. Local School Funds

(A) The parish school board of each parish is hereby required and directed to levy an annual ad valorem parish-wide maintenance tax of five (5) mills, or as



much thereof as may be necessary on all property subject to taxation within said parish; provided that the legislature may authorize the Orleans Parish School Board to levy annually a tax of not less than five mills and not more than thirteen mills on the dollar on the assessed valuation of all property within

the City of New Orleans assessed for city taxation. The authority of parish school boards to levy an ad valorem parish-wide maintenance tax not to exceed five mills shall be subject to the following further restrictions and conditions:

(1) The provisions of Paragraph (A) authorizing the levy of an ad valorem parish-wide maintenance tax of five mills shall not apply to property within a municipality exempt under existing laws from parochial taxation; but in lieu of such tax from which exemption so lies, the governing authority of each such municipality shall annually levy, collect and pay to the parish school board of the parish in which such municipality is situated, out of the proceeds of the general ad valorem tax for municipal purposes, such millage as shall equal the rate of five (5) mills levied hereunder by the parish school board;

(2) None of the provisions of Paragraph (A) authorizing the levy of an ad valorem parish-wide maintenance tax of five (5) mills shall apply to municipalities which, under constitutional or legislative authority, are actually conducting, maintaining, and supporting public schools of their own; but in lieu of such tax from which exemption so lies the school board in each such municipality shall be required to levy an annual tax of five (5) mills on the assessed valuation of all property within said municipality; the proceeds whereof shall be exclusively for the maintenance of the public schools.

(B) To provide additional support for the public elementary and secondary schools, the school board governing any parish, school district, or sub-school district may levy ad valorem taxes for specified school purposes, or incur debt and issue bonds, when such tax levies or bond issues have been authorized by a majority of the electors qualified to vote in the parish, district, or sub-district. Ad valorem taxes and bond issues authorized by this paragraph shall be subject only to such limitations as may be imposed by this constitution or by the legislature. No ad valorem tax levy authorized by this paragraph shall run for a period longer than ten years, provided that taxes required to retire bonds shall be collected until the principal and interest on the bonds shall have been paid.

(C) Local funds for the support of public elementary and secondary schools shall be additionally derived from such other revenue sources as may be provided by law.

(D) Parish and municipal school boards shall have the authority to sell any bonds heretofore approved by a majority of the qualified voters in a parish, district, or sub-district but not yet sold as of the date this constitution is adopted, and such school boards shall levy an ad valorem tax for each year after such bonds are sold in an amount sufficient to pay the principal and interest due in each such year.

(E) For the purposes and provisions of this Section and for the purpose of ascertaining and determining the maximum allowable millage as may be imposed by the legislature, and levying the taxes herein authorized, the municipalities of Monroe, in Ouachita Parish, and Bogalusa, in Washington Parish, shall be regarded as and treated upon the same basis and shall have the same authority in respect to this section as though they were separate parishes instead of municipalities. The provisions of this entire Section shall apply to the Parish of Orleans just as it does to other parishes, except as the Parish of Orleans may be specially exempted or as may otherwise be provided for in this constitution.

Section 9. Accounting for Parish School Funds

(A) Parish and municipal school boards shall place into one fund, to be known as the General Parish School Fund, all revenue received for the general maintenance of public schools from state and parish constitutional and statutory

sources; and such funds shall not be subdivided, apportioned or separated in any manner whatsoever, nor shall they be paid to any ward, district, or other sub-division, but such revenue shall be dedicated and used exclusively to pay the cost of the current operation of public elementary and secondary schools within the parish and under the control of the parish or municipal school board, as provided for by the laws of the State.

(B) Funds received from special taxes or the sale of bonds for the construction or repair of school buildings or for the purchases of sites and of school equipment, shall not be placed in the general parish school fund but shall be kept separate and apart therefrom; and shall be used exclusively for the purposes for which they are intended, as provided for by the laws of the State.

Section 10. Retirement Funds for Teachers and School Employees

The legislature shall provide for the retirement of aged and incapacitated teachers and other regular employees of the public schools. The lawful equity of each member of any retirement system maintained for such teachers and employees, both in the member's own contributions and in any contributions made by his employer on account of his service in the public schools, shall be protected and maintained at all times, and the retirement benefits for which teachers and other school employees lawfully qualify shall be supported and guaranteed by the full faith and credit of the State.

Section 11. Tulane University

The Tulane University of Louisiana, located in New Orleans, is hereby recognized as created and to be developed in accordance with provisions of the Legislative Act No. 43 approved July 5, 1884.

THE LOUISIANA EDUCATION ASSOCIATION'S STATEMENT ON ELEMENTARY EDUCATION

(PRESENTED TO THE CONSTITUTION CONVENTION SUB COMMITTEE ON ELEMENTARY EDUCATION)

ARTICLE XII - SECTION 3 - ENTITLED ELEMENTARY SCHOOLS; COURSE OF STUDY STATES:

THERE SHALL BE TAUGHT IN THE ELEMENTARY SCHOOLS ONLY FUNDAMENTAL BRANCHES OF STUDY, INCLUDING INSTRUCTION UPON THE CONSTITUTIONAL SYSTEM OF STATE AND NATIONAL GOVERNMENT AND THE DUTIES OF CITIZENSHIP.

THE LANGUAGE OF ARTICLE XII SECTION 3 IS RESTRICTIVE AND INCONSISTENT WITH WHAT WE BELIEVE TO BE THE FULL ROLE OF TODAY'S ELEMENTARY SCHOOLS, IN ADDITION TO THE RESTRICTIVE LANGUAGE OF ARTICLE XII SECTION 3, THIS SECTION HAS SERIOUS PHILOSOPHICAL OMISSIONS THAT NOT ONLY DATES AND ANTIQUATES ITS AS A BOARD CONCEPT FOR ELEMENTARY EDUCATION BUT ALSO RENDERS ITS USELESS AND TOTALLY INADEQUATE AS A FRAME OF REFERENCE FROM WHICH SCHOOL SYSTEMS CAN RECEIVE THE SUPPORT AND MOTIVATION TO FASHION FULL EDUCATIONAL EXPERIENCES THAT ARE EQUAL, HUMANE, AND REVELANT. WE MUST HAVE EDUCATIONAL EXPERIENCES THAT ARE DESIGNED TO ENABLE ALL CHILDREN TO BUILD ONTO AND CONTINUE USING THE LEARNING SKILLS HE BRINGS WITH HIM TO SCHOOL FOR THE FIRST TIME, AND TO ACQUIRE BETTER WAYS OF FINDING OUT HOW TO TAKE THE ESSENTIAL STEPS IN THE PROCESS OF BECOMING HUMAN. IT IS THE BELIEF OF THE LOUISIANA EDUCATION ASSOCIATION THAT THIS STATE MUST MAKE A COMPLETE COMMITMENT TO THE DEVELOPMENT OF AN EDUCATIONAL ENTERPRISE THAT HIS OPEN, HUMANE AND PROVIDES EXCELLENCE FOR ALL CHILDREN - THE LOUISIANA EDUCATION ASSOCIATION OFFERS THIS PROPOSAL FOR THE CONSIDERATION OF THE COMMITTEE ON HEALTH, EDUCATION AND WELFARE AND THIS SUB COMMITTEE ON ELEMENTARY EDUCATION.

PROPOSAL:

THE ELEMENTARY SCHOOL *The public elementary schools*  
ELEMENTARY SCHOOLS ~~NOT~~ PROVIDE AT ALL STAGES OF HUMAN DEVELOPMENT, LEARNING ENVIRONMENTS AND EXPERIENCES THAT ARE HUMANE, JUST AND DESIGNED TO ENSURE EXCELLENCE IN THE FUNDAMENTAL BRANCHES OF STUDY, IN ORDER THAT EVERY ~~CHILD~~ *CHILD* CAN DEVELOP TO HIS FULL POTENTIAL.

THE LOUISIANA EDUCATION ASSOCIATION OFFERS THIS PROPOSAL BASED ON THE FOLLOWING RATIONALE:

THAT EDUCATION IN AMERICAN AT THIS VERY CRUCIAL LEVEL, MUST MOVE FROM THE FALSE PREMISE THAT LEARNING MUST BE BASED ON THE PRINCIPLES OF STIMULUS AND RESPONSE. THESE ARE PRINCIPLES ESTABLISHED BY PAVLOV'S FAMOUS EXPERIMENT WITH DOGS AND ARE REFLECTED IN THE LANGUAGE OF THE CONSTITUTION AND THE STATUTES RELATING TO ELEMENTARY EDUCATION IN THE STATE OF LOUISIANA. THE LOUISIANA EDUCATION ASSOCIATION BELIEVES THAT THE NEW CONSTITUTION FOR OUR STATE MUST SET FORTH A WHOLE NEW DIRECTION FOR ELEMENTARY EDUCATION IN LOUISIANA. A DIRECTION THAT PROVIDES

FOR A DOWNWARD EXTENSION AT THIS LEVEL TO EMBRACE EARLY CHILDHOOD EDUCATION AS A PART OF THE SYSTEM OF PUBLIC EDUCATION. A NEW DIRECTION THAT ENABLES EDUCATORS TO DEAL REALISTICALLY WITH THE THINGS THAT MAKE US TRULY HUMAN - THE QUESTIONS OF HOW TO DEVELOP COMPETENCY IN THE BASIC TOOL AREAS, OF HOW TO DEAL WITH THE QUESTIONS OF HUMAN BELIEFS, ATTITUDES, FEELINGS, UNDERSTANDINGS, AND CONCERNS - THE THING WE CALL THE AFFECTIVE DOMAIN. A DIRECTION THAT WILL MANDATE CHANGE AND ENABLE US TO MAKE THE WHOLE TEACHING AND LEARNING ENTERPRISE HUMANE, JUST AND EFFICIENT. THE LOUISIANA EDUCATION ASSOCIATION ASK FOR THE FULL CONSIDERATION OF THIS COMMITTEE OF ITS RECOMMENDED PROPOSAL FOR ELEMENTARY EDUCATION.

Testimony Before Sub-Committee  
on Elementary and Secondary Education  
of the  
Louisiana Constitutional Convention

by

James O. Lancaster, Jr.  
Superintendent  
Ouachita Parish School Board

April 24, 1973

I am James O. Lancaster, Superintendent of the Ouachita Parish School Board. I very much appreciate the opportunity of appearing before you today to discuss my views on the proposed changes in the Louisiana Constitution.

I apologize for not being able to keep the two previous dates but in each case a school board meeting was held that could not be changed.

First of all it is my feeling that the present Constitution calling for a State Board of Education should be changed and provide for a Board to be responsible for the Elementary-Secondary schools, Vocational-Technical schools and special non-degree granting schools for the State of Louisiana.

This Board should be a combination elective body and appointive as follows: Retain the eight members from the congressional districts with a term of office being on a rotation basis for six years. The other three members should be appointed for six years with one appointment coming from recommendations of the School Boards Association, one appointment from the recommendation of the Louisiana Educational Association and one appointment from the recommendation of the Louisiana Teachers' Association. This would allow the majority of the members to be elected and their responsibility would

be directly to the public. The other three appointments would then be responsible to the agencies that would be served by the Board.

My second recommendation would be that this body appoint for a four year term the Superintendent of Public Education who would become the Board's chief executive officer. The qualifications for the State Superintendent of Education should be along the same lines as those qualifications for a parish or city school superintendent.

A third recommendation is that the dual system of public education which exists in Ouachita Parish be reviewed so that neither system would be treated any differently with the allocation of funds than any other system in Louisiana. A problem which exists at the present time is that with the growth of the City of Monroe and additional lands become included as a part of the City the Ouachita Parish School System then loses ad valorem taxes necessary to maintain existing facilities. A solution to this problem would be that a tax boundary be defined between the two school systems. This would not prohibit the growth of the City of Monroe but would create a tax boundary in which the two systems would operate.

These are my recommendations on the proposed changes in the Louisiana Constitution. I appreciate the opportunity of presenting them to you and hope that you will give them your deepest consideration.

*Portland & not knowledge  
outgoing*

*1. Dept. of Education*

*2. State Board of Education*

NEW ORLEANS BRANCH

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

The New Orleans Branch, AAUW, asks that the subcommittee reconsider the compromise plan and adopt a system of organization favoring one State Board of Education.

The Branch further asks that the Committee give special consideration to keeping vocational education an integral part of the whole system. The creation of a separate board for vocational education would serve to separate and isolate these students, regardless of the intent of the board. Training for careers should begin in early school years, and be concurrent with training in general basic skills. The system should remain open from kindergarten through graduate and professional schools for students to leave and re-enter as they see the need for further training. Students training as paraprofessionals should be able, if they wish, to continue training at a later date for full professional status. Many, on the basis of maturity and motivation, will desire to do so and will be successful.

The need for good general background is most obvious for two reasons:

1. In a rapidly changing technological society, a worker will need to be re-trained several times during his productive years. He will only be able to do this if he has adequate skills in reading, general math and other basics.

*State Bd. of Education*

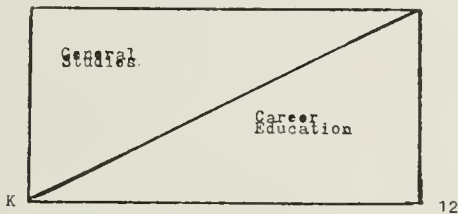
*Constitution*

2. In our changing society many persons will have more and more leisure time. To make this time productive for himself and society, the individual will have need of a broad humanitarian and liberal education. This need will be especially great for

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those employed in the less-challenging trades and technological areas.

Therefore, we recommend that vocational education be a part of the complete educational structure of the state and that there be a single board. Also, that vocational education parallel general studies within one system. Some states are accomplishing this at the present time by use of a plan such as the one shown in the greatly simplified diagram below. We ask that the Committee consider this when planning the organization of the State Board of Education.



MINUTES

Minutes of the meeting of the Subcommittee on Elementary and Secondary Education of the Committee on Education and Welfare of the Constitutional Convention of 1973.

Held pursuant to notice mailed by the Secretary of the Convention on April 25, 1973.

Louisiana Teacher's Association Building  
Monday, April 30, 1973, 10:00 a.m.

Presiding: Mr. Norman Carmouche, chairman

Present: Mr. Norman Carmouche  
Mrs. Heloise Corne  
Mr. Louis Riecke  
Mr. Horace Robinson  
Mr. J. K. Haynes

Absent: Rep. Kenneth Leithman

The Subcommittee on Elementary and Secondary Education of the Committee on Education and Welfare met in a one-day session at the Louisiana Teachers' Association Building on Monday, April 30, 1973. The chairman called the meeting to order at 10:00 a.m., the secretary called the roll and a quorum was present. The secretary read the minutes of the joint meeting of the Subcommittees on Elementary - Secondary Education and Higher Education dated April 17, 1973; the minutes of the meeting of the Sub-

committee on Elementary and Secondary Education dated April 17, 1973; and the Subcommittee on Elementary and Secondary Education dated April 24, 1973. A correction was noted on the minutes of the joint meeting dated April 17, 1973, after which Mr. Robinson moved that the words "higher education" in the last paragraph of page two be deleted and that the words "elementary and secondary education" be substituted. Mrs. Corne seconded the motion. With no objection, the chairman so ordered. The remaining two sets of minutes were adopted as written.

The next item on the agenda was discussion of proposals for Article XII of the constitution. The chairman asked if there was any objection to having Mr. Jimmy Prescott participate in the meeting. With no objection, Mr. Prescott joined the members at the table.

The subcommittee considered Article XII, Section 1 as adopted in 1962. Mr. Haynes suggested that the words "equal educational opportunity" be inserted in this section. After a lengthy discussion, Mr. Riecke moved that the subcommittee adopt Mr. Prescott's proposal, as amended in the discussion. The motion was carried by a vote of three to one.

Mr. Haynes asked permission to submit a minority report referring to equal educational opportunity. With no objection from the other members, permission was granted.

The subcommittee considered Article XII, Section 2. After a brief discussion, Mr. Robinson moved that this section be deleted from the new constitution and the motion was unanimously adopted.

The subcommittee considered Article XII, Section 3. It was noted by the subcommittee that Mr. Alphonse Jackson submitted a proposal on this particular section. After a

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brief discussion of this proposal, Mr. Haynes moved that the subcommittee adopt Mr. Jackson's proposal, as amended in the discussion. The motion was unanimously adopted.

Mr. Robinson moved that the subcommittee recess for lunch until 1:30 p.m. and the chairman so ordered.

In the afternoon session, the subcommittee continued the discussion of Article XII. The first section discussed was Section 4. The subcommittee discussed Article XII, Section 4 as it is presently in the constitution, after which there was a discussion of study proposal No. 1 which had been drafted for this section. In paragraph A of the proposal pertaining to the establishment of the board of public education, Mrs. Corne moved that the subcommittee adopt lines 8 through 14 as amended. The motion was unanimously adopted. Mr. Riecke moved that the subcommittee adopt lines 14 - 19 as amended. The motion was unanimously adopted.

The subcommittee then turned its attention to study proposal No. 2 pertaining to the superintendent of public education. The subcommittee discussed paragraphs A-1 and A-2 of the proposal, after which Mr. Riecke moved that the

subcommittee adopt paragraph A-2. Mr. Haynes offered a substitute motion that the subcommittee adopt paragraph A-1 subject to the amendments made in the discussion. The substitute motion carried by a vote of three to two.

After discussion of paragraphs B-1 and B-2 of the proposal, Mr. Robinson moved that the subcommittee adopt lines 18 and 19 of paragraph B-1 and delete lines 20, 21,

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and 22. Mrs. Corne offered an amendment to the motion to the effect that the word "salary" be inserted on line 18 thereof. The chairman called for the previous question and the motion, as amended, was unanimously adopted.

The subcommittee then returned to discussion of study proposal No. 1. The subcommittee discussed paragraphs B-1 and B-2 of the proposal pertaining to the composition of the board of public education. After discussion of the paragraphs, Mrs. Corne moved that paragraph B-2 of the proposal be adopted as amended in the discussion. Mr. Carmouche offered an amendment to the motion to the effect that lines 4-7 of paragraph C-2 of the proposal, pertaining to per diem and expenses, be adopted and that paragraph E of the proposal pertaining to eligibility for membership on the board be adopted as written. Mr. Haynes offered an additional amendment to Mrs. Corne's motion to the effect that at least five of the appointed members of the board be representatives of the minority race. Due to the fact that Mrs. Corne objected to this amendment, the chairman called for a vote. Mr. Haynes' amendment failed for lack of majority. The chairman called for a vote on Mrs. Corne's original motion, as amended by Mr. Carmouche. The motion carried by a vote of three to one.

A copy of the proposal drafted after this meeting is attached hereto and made a part of these minutes.

There being no further business to come before the subcommittee, Mr. Haynes moved that the meeting adjourn.

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With no objections, the meeting adjourned at 4:00 p.m., Monday, April 30, 1973.

  
Mr. Norman Carmouche, chairman

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**NOTES**  
Draft proposal cited in Minutes is found below as an addendum to Minutes of the Subcommittee of May 1, 1973.

## MINUTES

Minutes of the meeting of the Subcommittee on Elementary and Secondary Education of the Committee on Education and Welfare of the Constitutional Convention of 1973.

Held pursuant to notice mailed by the Secretary of the Convention on April 25, 1973.

Louisiana Teachers' Association Building

Tuesday, May 1, 1973, 9:00 a.m.

Presiding: Mr. Norman Carmouche, chairman

Present: Mr. Norman Carmouche  
Mrs. Heloise Corne  
Mr. Louis Riecke  
Mr. Horace Robinson  
Mr. J. K. Haynes  
Rep. Kenneth Leithman

Absent: NONE

The Subcommittee on Elementary and Secondary Education met in a one-day session on Tuesday, May 1, 1973. The chairman called the meeting to order at 9:00 a.m. The secretary called the roll and a quorum was present.

Mrs. LeBlanc gave a brief summary of the action taken at a meeting on the previous day. After Mrs. LeBlanc's statement, Mrs. Corne moved that the board for elementary and secondary education be called "The State Board for Public Elementary and Secondary Education." Mr. Riecke seconded the motion. The motion was unanimously adopted.

After a discussion of the remaining terms of present members of the board, Mr. Robinson moved that the staff draft the language which will accomplish the aim of keeping present members on the board until the expiration of their term on the board; that if the Committee on Education and Welfare sees fit to present a schedule for transitional provisions which will not be a permanent part of the constitution, that this language be included in the schedule provided in the constitution. The motion carried by a vote of four to zero, with one abstention.

Mr. Haynes stated that he was not satisfied with the legal interpretation of the inclusion of racial guarantees on the board of public education. He asked that staff to obtain the United States Attorney General's opinion on inclusion of racial guarantees.

Following Mr. Haynes' request, the subcommittee turned its attention to paragraph B of Section 7 of Article XII, pertaining to teacher certification. After a lengthy discussion, Mr. Leithman moved that the subcommittee include paragraph B of Section 7 of Article XII in the new constitution. The motion carried by a vote of three to zero with two abstentions.

The subcommittee discussed Article XII, Section 8 of the 1921 Constitution. After a lengthy discussion, Mr. Robinson moved that the present Section 8 be deleted from the new constitution. Mr. Leithman seconded the motion and it was unanimously adopted.

Mr. Riecke then moved that paragraph D of proposal No. 1, which was submitted to each member on the previous day,

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be adopted subject to the amendments made in the discussion. Mr. Leithman seconded the motion and it was unanimously adopted.

The chairman stated that the subcommittee would take no action on Section 9 since it pertained to higher education.

The subcommittee considered Article XII, Section 10 of the present constitution. Mr. Riecke moved that the last sentence of Section 10 be deleted. The chairman called for the previous question and the motion was unanimously adopted. Mr. Robinson moved that Section 10 be adopted as amended. Mrs. Corne seconded the motion and it was unanimously adopted.

The subcommittee discussed Article XII, Section 11 of the present constitution. Mr. Robinson moved that the present section be deleted and that the subcommittee insert Mr. Robinson's proposal in its place. The motion was unanimously adopted. Mr. Robinson then moved that Mr. Prescott's proposal providing for the consolidation of parish school boards be added to Article XII, Section 11. The motion was unanimously adopted.

The subcommittee discussed Article XII, Section 12. Mrs. Corne moved that Section 12 be deleted, Mr. Riecke seconded the motion, and it was unanimously adopted.

The subcommittee then discussed Article XII, Section 13. Mr. Robinson moved that the present Section 13 be adopted as written. Mr. Leithman offered a substitute motion deleting the present Section 13 and adopting the

-J-

language read by him to the subcommittee. After several questions were directed to Mr. Leithman, he asked for time to deliberate.

Mr. Haynes moved that the subcommittee recess for lunch. With no objections, the chairman so ordered.

In the afternoon session, Mr. Leithman withdrew his substitute motion and offered another substitute motion. Mr. Leithman moved that (part 1) the subcommittee adopt the language submitted in his first substitute motion with the exception that the word "nonprofit" be inserted after the word "nonpublic", and (part 2) that the subcommittee delete the present Section 13. The chairman called for a vote on part 1 of Mr. Leithman's substitute motion. The motion failed for lack of majority. The chairman then called for a vote on part 2 of Mr. Leithman's substitute motion. The motion failed for lack of majority.

Mr. Riecke moved for the previous question on Mr. Robinson's original motion. The motion failed for lack of majority. Mr. Robinson then moved that only the first

sentence of the present Section 13 be included in the constitution. The motion was adopted by a vote of three to two.

The subcommittee discussed Article XII, Section 14 by paragraphs. Mr. Riecke moved that paragraph 1 of Section 14 be deleted. The motion was unanimously adopted.

Mr. Robinson moved that the subcommittee retain paragraph 2 of Section 14, as amended in the discussion. Mr. Haynes offered a substitute motion to defer action on this paragraph of Section 14 until the subcommittee gets a report from the

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Revenue, Finance and Taxation. Mr. Leithman seconded the motion. The motion carried by a vote of three to two.

After a five-minute break, Mr. Riecke moved for reconsideration of his vote on Mr. Haynes' previous motion. Mr. Riecke's motion carried by a vote of four to one, after which he moved for the adoption of the second paragraph of Section 14 as previously moved. The motion carried by a vote of three to two as follows:

Mrs. Corne	yes
Mr. Haynes	no
Mr. Leithman	no
Mr. Riecke	yes
Mr. Robinson	yes

The subcommittee considered paragraph 3 of Article XII, Section 14. Mr. Robinson moved that this paragraph be adopted as written. Mr. Riecke seconded the motion and it was unanimously adopted.

The subcommittee then considered paragraph 4 of Article XII, Section 14. Mr. Haynes moved that paragraph 4 be adopted as written. Mr. Robinson offered a substitute motion that this paragraph be deleted for the reason that it is now obsolete. Mr. Riecke seconded the substitute motion and it was unanimously adopted.

Paragraph 5 of Article XII, Section 14 was discussed by the subcommittee. Mr. Robinson moved that the subcommittee add to the preceding sources of funds as already adopted, a paragraph to read:

"Such other funds as the legislature has or hereafter may designate, allocate, appropriate, or otherwise provide therefor or destine thereto."

The motion was unanimously adopted.

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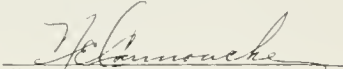
With reference to the apportionment of funds, Mr. Robinson moved that the subsection on the apportionment of funds in his proposal be adopted. Mr. Robinson's motion carried by a vote of four to one.

The subcommittee discussed paragraph 6 of Article XII, Section 14. After a discussion, Mr. Robinson moved that this paragraph be deleted. The motion was unanimously adopted.

After a discussion of Article XII, Sections 15 and 16, Mr. Riecke moved that the subcommittee delete Sections 15 and 16 of the present constitution and further that paragraphs A-G of Section 8 of Mr. Prescott's proposal be adopted. The motion was unanimously adopted.

A copy of the proposal drafted after this meeting is attached to the minutes of April 30, 1973.

There being no further business to come before the subcommittee, Mr. Riecke moved that the meeting adjourn. With no objection, the chairman so ordered and the meeting adjourned at 4:10 p.m., Tuesday, May 1, 1973.

  
Mr. Norman Carmouche, chairman

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CC-248

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To create and establish a system of elementary and secondary  
6 education; establishment of a state board of elementary and  
7 secondary education and state superintendent of public elementary  
8 and secondary education.

9 PROPOSED SECTIONS:

10 Article \_\_\_\_, Section \_\_\_\_\_. Public Educational System

11 Section \_\_\_\_\_. The legislature shall provide for the  
12 education of the people of the state and shall establish  
13 and maintain a public educational system to consist of  
14 all public schools and all institutions of learning  
15 operated by state agencies.

16  
17 Article \_\_\_\_, Section \_\_\_\_\_. Elementary Schools; Course  
18 of Study

19 Section \_\_\_\_\_. The public educational system shall  
20 provide at all stages of human development, learning environ-  
21 ments and experiences that are humane, just, and designed to  
22 ensure excellence in the fundamental branches of study, in  
23 order that every individual can develop to his full potential.

24  
25 Article \_\_\_\_, Section \_\_\_\_\_. State Board of Elementary and  
26 Secondary Education

27 Section \_\_\_\_\_. There shall be a body corporate known as the  
28 State Board of Elementary and Secondary Education which shall  
29 supervise, control, and have budgetary responsibility for all  
30 public elementary and secondary schools and special schools  
31 as provided by law under its jurisdiction. The State Board  
32 of Elementary and Secondary Education shall have such other  
33 specific powers, duties, and responsibilities as shall be  
34 provided for by the legislature, except that the board shall  
35 not control the business affairs of parish and municipal  
1 school boards, nor the selection or removal of their officers  
2 or other employees.

3 The board shall consist of members who are elected for  
4 overlapping six-year terms as provided for by the legislature.  
5 One member shall be elected from each congressional district,  
6 as each district is constituted at the time of such election,  
7 and seven at-large members shall be appointed by the governor

8 for overlapping terms of six years as provided by the legis-  
9 lature. Vacancies occurring in the membership of the board  
10 shall be filled by appointment of the governor. Members of  
11 the board shall serve without pay except for per diem and  
12 expenses as shall be fixed by the legislature.

13 Provision for retaining the membership of present  
14 State Board of Education.

15  
16 Article \_\_\_\_, Section \_\_\_\_\_. State Superintendent of  
17 Public Elementary and Secondary Education

18 Section \_\_\_\_\_. There shall be a state superintendent of  
19 public education for elementary and secondary education, who  
20 shall be elected for a term of four years and who shall be  
21 the ex officio secretary of the State Board of Public Education  
22 and shall serve as its chief executive officer.

23 The state superintendent of public education shall possess  
24 at least the same qualifications as those required of a parish  
25 school superintendent, provided that any person who was elected  
26 to the office of state superintendent of public education at  
27 any time prior to the adoption of this constitution shall be  
28 eligible to hold that office whether or not he meets the other  
29 qualifications enumerated in this paragraph.

30 The powers, duties, responsibilities, and salary of the state  
31 superintendent of public education shall be prescribed by the  
32 legislature.

33 If the office of state superintendent of public education  
34 becomes vacant because of death, resignation, or for any other  
35 reason, the vacancy shall be filled by the State Board of

1 Public Education for the remainder of the term.

2  
3 Article \_\_\_\_, Section \_\_\_\_\_. Teacher Certification;  
4 Approval of Private Schools

5 Section \_\_\_\_\_. The board shall prescribe the qualifications  
6 and provide for the certification of the teachers of public  
7 elementary and secondary and special schools provided by  
8 law under its jurisdiction; it shall have authority to ap-  
9 prove private schools whose sustained curriculum is of a  
10 grade equal to that prescribed for similar public schools;  
11 and the certificates issued by such private schools so  
12 approved shall carry the same privileges as those issued by  
13 the state public schools.

14  
15 Article \_\_\_\_, Section \_\_\_\_\_. State Board of Elementary and  
16 Secondary Education; Funds

17 Section \_\_\_\_\_. The legislature shall appropriate the  
18 necessary funds for the operation and maintenance of the State  
19 Board of Elementary and Secondary Education.

20  
21 Article \_\_\_\_, Section \_\_\_\_\_. Parish School Boards; Parish  
22 Superintendents

23 Section \_\_\_\_\_. The legislature shall provide for the  
24 creation and election of parish school boards which shall  
25 elect parish superintendents for their respective parishes,  
26 and such other officers or agents as may be authorized by the  
27 legislature. The State Board of Elementary and Secondary  
28 Education shall fix the qualifications and prescribe the duties

29 of parish superintendents who need not be residents of the  
30 parishes.

31  
32 Article \_\_\_\_\_, Section \_\_\_\_\_. Parish and Municipal School  
33 Boards

34 Section \_\_\_\_\_. Parish and municipal school boards and  
35 systems in existence as of the date this constitution is  
1 adopted, by virtue of special or local legislative acts or  
2 previous constitutional provisions, are hereby recognized,  
3 subject to control by and supervision of the State Board of  
4 Elementary and Secondary Education and the power of the legis-  
5 lature to further control them by special laws.

6 Two or more parish or city school boards and systems may  
7 be consolidated under procedures enacted by the legislature,  
8 subject to the approval of a majority vote of the qualified  
9 electors in each system affected.

10  
11 Article \_\_\_\_\_, Section \_\_\_\_\_. Public Funds for Private or  
12 Sectarian Schools

13 Section \_\_\_\_\_. No public funds shall be used for the  
14 support of any private or sectarian school.

15  
16 Article \_\_\_\_\_, Section \_\_\_\_\_. Elementary and Secondary  
17 Schools; Sources of Funds; Apportionment

18 Section \_\_\_\_\_. State funds for the support of the public  
19 schools of elementary and secondary grades shall be derived  
20 from the following sources and shall be apportioned to the  
21 parish school boards in the manner herein provided:

22 First: The residue of the Severance Tax Fund of the state,  
23 after allowing funds and appropriations as provided for else-  
24 where by this constitution, and providing that not more than  
25 five hundred thousand (\$500,000.00) dollars per annum may be  
26 appropriated by the legislature for the cost of administering  
27 and inspecting and enforcing of the taxes accruing to the  
28 Severance Tax Fund, and for the administration of the conser-  
29 vation laws incident to the severance of natural resources  
30 from the soil and water of the state, which severance tax fund  
31 shall be devoted, after allowing such funds and appropriation,  
32 as fixed in this constitution. First to supplying free school  
33 books and such other materials of instruction as may be pre-  
34 scribed by the Board of Elementary and Secondary Education.  
35 After July first of each year, the state treasurer shall

1 forthwith set up a fund for the payment of the fixed charges  
2 hereinabove mentioned.

3 When sufficient funds have accumulated for the payment  
4 of all such school books and materials of instruction and  
5 other fixed charges, then, before the tenth day of each month,  
6 the state treasurer shall transfer to the state public school  
7 fund such balances as have accrued.

8 Second: The proceeds of particular taxes, now or hereafter  
9 levied by the legislature and dedicated, allocated, destined  
10 to, or designated for the state public school fund.

11 Third: Such other funds as the legislature has or here-  
12 after may designate, allocate, appropriate, or otherwise  
13 provide therefor or destine thereto.

14 The apportionment of funds shall be as follows:

15 (a) There shall be appropriated out of the state public  
16 school fund and out of the general fund of the state sufficient  
17 funds to provide for and to insure a minimum program of edu-  
18 cation in all public elementary and secondary schools of the  
19 state. The minimum program of education to be maintained in  
20 all parish and municipal school systems shall be established  
21 by the State Board of Elementary and Secondary Education.  
22 Funds for the maintenance of the minimum educational program  
23 shall be paid in twelve monthly installments, and shall be  
24 distributed to the several parish and municipal school systems  
25 in accordance with such plans, formulas, rules and regulations  
26 as shall be adopted by the board for the administration of the  
27 state minimum program of education.

28 (b) Any other funds provided by law for the support of  
29 public schools shall be apportioned and distributed in accordance  
30 with a formula established by the State Board of Elementary and  
31 Secondary Education except as otherwise provided for by the act  
32 appropriating the funds.

33 (c) Any funds for public education from any other source  
34 shall be distributed under the authority and jurisdiction of the  
35 State Board of Elementary and Secondary Education and in accordance

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1 with the terms of the laws governing such funds or the lawful  
2 stipulations of the source of the funds.

3 The local funds for the support of elementary and secondary  
4 public schools shall be derived from the following sources:

5 First: The parish school board of each parish, the Parish  
6 of Orleans excepted, and no other parochial or municipal author-  
7 ity, except as provided for in this constitution, is hereby re-  
8 quired and directed to levy an annual ad valorem parish-wide  
9 maintenance tax of five (5) mills, or as much thereof as may  
10 be necessary on all property subject to taxation within said  
11 parish.

12 Second: The provisions, under the caption "A" item above,  
13 for an ad valorem tax of five mills, shall not apply to property  
14 within a municipality exempt under existing laws from parochial  
15 taxation; but in lieu of such tax from which exemption so lies,  
16 the governing authority of each such municipality shall annually  
17 levy, collect, and pay to the parish school board of the parish  
18 in which such municipality is situated, out of the proceeds of  
19 the general ad valorem tax for municipal purposes, such millage  
20 as shall equal the rate of five (5) mills levied hereunder by  
21 the parish school board.

22 None of the provisions under the caption "A" item above, for  
23 an ad valorem tax of five (5) mills shall apply to municipali-  
24 ties which under constitutional or legislative authority, are  
25 actually conducting, maintaining, and supporting public schools  
26 of their own; but in lieu of such tax from which exemption so  
27 lies, the school board in each such municipality shall be required  
28 to levy an annual tax of five (5) mills on the assessed valua-  
29 tion of all property within said municipality; the proceeds  
30 whereof shall be exclusively for the maintenance of the public  
31 schools.

32 Third: The Orleans Parish School Board shall levy annually  
33 a tax not to exceed thirteen (13) mills on the dollar on the  
34 assessed valuation of all property within the city of New Orleans

1 assessed for city taxation and shall certify the fact to the  
2 council of the city of New Orleans, or other governing body  
3 of said city, which shall cause said tax to be entered on the  
4 tax rolls of said city, and collected in the manner and under  
5 the conditions and with the interest and penalties prescribed  
6 by law for the city taxes. The money thus collected shall be  
7 paid daily to the Orleans Parish School Board.

8 Fourth: For giving additional support to the public ele-  
9 mentary and secondary schools, any parish, school district, or  
10 subdistrict may levy ad valorem taxes for specific school  
11 purposes or incur debt and issue bonds when authorized by a  
12 majority of the electors qualified to vote in such parish,  
13 district or subdistrict, provided that the amount and usage  
14 of such proposals shall be in accord with any limitations  
15 imposed by the legislature, that any tax proposal shall not  
16 run for a period longer than ten years, and that taxes re-  
17 quired to retire bonds shall be collected until the principal  
18 and interest on the bonds shall have been paid.

MINUTES

Minutes of the meeting of the Subcommittee on  
Elementary and Secondary Education of the Com-  
mittee on Education and Welfare of the Consti-  
tutional Convention of 1973.

Held pursuant to notice mailed by the Secretary  
of the Convention on May 3, 1973.

Louisiana Teachers' Association Building  
May 10, 1973, 10:00 A.M.

Presiding: Mr. Norman Carmouche, Chairman

Present: Mr. Robert Aertker  
Mrs. Heloise Corne  
Mr. J. K. Haynes  
Rep. Kenneth Leithman  
Mr. Louis Riecke  
Mr. Horace Robinson

The Subcommittee on Elementary and Secondary Education  
met in a one-day session at the Louisiana Teachers' Association  
Building on May 10, 1973. The chairman called the meeting to  
order at 10:00 a.m., the secretary called the roll and a  
quorum was present.

The secretary read the minutes of the meeting on  
April 30, 1973 and May 1, 1973. The research staff was given  
permission to change the language in the minutes. There being  
no further corrections, the chairman ordered that the minutes  
be adopted.

The first item on the agenda was a presentation by  
Mr. Nathan Mensia of the East Baton Rouge Parish Principals'  
Association. Mr. Mensia introduced the other gentlemen  
who appeared with him. They were Mr. Howard Marcellos, Mr.  
Joe Boyd, Mr. William Stevenson, Mr. Arthur Lamb, and Mr.  
Robert West.

Mr. Mensia raised several issues to be considered  
by the subcommittee, after which there was a discussion of

these issues. Mr. Carmouche asked Mr. Mensia to present a  
written statement reflecting the views of the association he  
represents.

After a five minute break, the chairman recognized Mr.  
Harold Porter. Mr. Porter made several suggestions as to  
changes in language in the proposal submitted at the meeting  
of the Committee of the Whole. After a discussion, Mrs.  
Corne moved to reconsider lines 19-23 of page one of proposal  
No. CC-248. With none opposed, the motion carried.

Mr. Riecke moved that the word "ensure" on line 22  
of said proposal be deleted, and the word "promote" be inserted  
in its place. With no objection, the motion carried.

Mr. Porter suggested that on page three, line 18  
of proposal No. CC-248, the phrase "operation and maintenance"  
be deleted and "support" be inserted in its place. The  
subcommittee agreed by a common consensus.

On Page four, lines 13 and 14, Mrs. Corne moved to  
add the following statement:

"This section shall not apply to funds from  
federal sources provided to the state for the  
express purpose of distribution to nonpublic  
education."

With no objection, the motion carried.

After a lengthy discussion, Mr. Robinson moved to  
reconsider the vote by which the subcommittee adopted the  
section of the proposal entitled "Elementary and Secondary  
Schools; Sources of Funds; Apportionment". Mrs. Corne  
seconded the motion and the motion carried. Mr. Robinson  
then moved that the subcommittee include paragraphs E and  
F of Mr. Prescott's proposal on page 7 of proposal No. CC-248  
with the exception that the last paragraph of Paragraph F  
be deleted. With no objection, the motion carried.

Mr. Robinson then moved that the meeting recess for  
lunch to return at 1:10 p.m.

In the afternoon session, the secretary called the  
roll and a quorum was present. The subcommittee discussed  
a date for the next meeting. It was decided that the  
subcommittee would meet again on Monday, May 21, 1973 at  
4:00 p.m.

The subcommittee discussed Article XII, Section  
23, after which Mr. Robinson moved that the present Section  
23 be deleted and his proposal for Article XII, Section 23  
be inserted. Mr. Riecke offered an amendment to the effect  
that the word "fund" be inserted after the word "retirement".  
There was a discussion of the word "regular" in Mr. Robin-  
son's proposal, after which Mr. Robinson agreed to strike  
this word from his proposal. Mr. Riecke moved for the  
adoption of Mr. Robinson's motion as amended. The motion  
was unanimously adopted.

After a discussion of Article IV, Section 4, Mr.  
Leithman moved that this section be retained and that it



be referred to the Committee on Legislative Powers and Functions. With no objections, the motion carried.

The subcommittee discussed Article IV, Section 14. Mr. Leithman moved that this section be deleted and the motion was unanimously adopted.

After a discussion of Article IV, Section 16, Mr. Robinson moved that the subcommittee defer action on this section and that it be referred to the research staff for further study. Mrs. Corne seconded the motion and it was unanimously adopted.

The subcommittee discussed Article VII, Section 69 (2). Mr. Robinson moved that Article VII, Section 69, Paragraph A, subparagraph 2 and the first sentence of Paragraph B be deleted, that this matter be transferred to the statutes recommending a time limit with regard to the submission of the list of names submitted to the governor on vacancies occurring in the membership of the city and parish school boards, and that the governor make his appointment within a specified period of time. With no objections, the motion carried.

The subcommittee discussed Article X, Section 7, after which Mr. Riecke moved that this section be retained and that it be referred to the Committee on Revenue, Finance and Taxation with a recommendation for approval. The motion was unanimously adopted.

After a discussion of the agenda for the next meeting,

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Mr. Robinson moved that the meeting adjourn. With no objections, the meeting adjourned at 2:50 a.m., Thursday, May 10, 1973.

  
Mr. Norman Carmouche, Chairman

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#### MINUTES

Minutes of the meeting of the Subcommittee on Elementary and Secondary Education of the Committee on Education and Welfare of the Constitutional Convention of 1973.

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

Louisiana Teachers' Association Building  
Monday, May 21, 1973, 4:00 p.m.

Presiding: Mr. Norman Carmouche, chairman

Present: Mr. Bob Aertker  
Mr. Norman Carmouche  
Mrs. Heloise Corne  
Mr. J. K. Haynes  
Mr. Horace Robinson

Absent: Rep. Kenneth Leithman  
Mr. Louis G. Riecke, Sr.

The Subcommittee on Elementary and Secondary Education met in a one-day session on Monday, May 21, 1973. The chairman called the meeting to order at 4:00 p.m., the secretary called the roll and a quorum was present.

The secretary read the minutes of the previous meeting. Corrections were noted, after which Mrs. Corne moved that the minutes be adopted as amended, Mr. Haynes seconded the motion and it was unanimously adopted.

The subcommittee discussed study proposal No. CC-147 and CC-147A providing for a retirement fund for public school employees. After a lengthy discussion Mr. Robinson moved for the adoption of the following language:

"The legislature shall provide for the retirement of teachers and other employees of the public schools through the establishment of a retirement system or systems for public school employees. The rights of each member in the contribution made by the member and by the employer to such systems shall be maintained at all times. The state shall guarantee the benefits to which the members of such systems are entitled."

With no opposition, the motion carried.

The subcommittee discussed Section 1 of proposal No. CC-248. Mrs. Corne moved to delete section 1 of said proposal and to substitute this for what is in the Model State Constitution, with the exception that the word "children" shall be changed to the word "people" and that lines 14 and 15 of proposal No. CC-248 be inserted in the proper place. The motion failed for lack of majority and Section 1 was retained as written.

Mr. Haynes moved to adopt Section 2 of the proposal as written. The motion was unanimously adopted.

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Mr. Aertker moved to adopt Section 3 of the proposal as written. The motion carried with one abstention by Mr. Haynes.

Mrs. Corne moved to adopt Section 4 of the proposal as amended. The words "or having served" shall be inserted on line 33 of page 3 between the words "serving" and "as". The motion carried by a majority of the votes. Mr. Aertker asked that the minutes reflect the fact that he voted against the motion.

MINUTES

Mr. Haynes moved for the adoption of Sections 5 and 6 as amended. The amendments are as follows:

- (1) Insert the words "and provide for the" between the words "prescribe" and "qualification" on line 32 of page 4.
- (2) Delete the word "grade" and insert the word "quality" on line 10 of page 5.

The motion was unanimously adopted.

After a five-minute break, the secretary called the roll and a quorum was present. The subcommittee continued discussing the study proposal No. CC-248.

Mr. Aertker moved for the adoption of Section 7 as written. The motion was unanimously adopted.

Mr. Haynes moved to adopt Section 8 as written. Mrs. Corne offered an amendment to the effect that the word "voting" be inserted between the words "electors" and "in" on line 21 of page 6 of the proposal. The motion was unanimously adopted as amended.

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A motion was made to the effect that the subcommittee retain Section 9 as written. With no opposition, the motion carried.

Mr. Robinson moved to adopt Section 10 as written. The motion was unanimously adopted.

Mr. Aertker moved to adopt Section 11 as amended. The amendments are as follows:

- (1) Delete lines 3,4, and 5 of page 9 beginning with the word "Funds" and ending with the word "installments".
- (2) On line 28 of page 10, delete the words "qualified to vote" and insert the word "voting".
- (3) On line 33 of page 10, delete the word "and" and insert the words "except that".
- (4) On page 11, delete the word "Orleans" on line 5 and the word "Parish" on line 6.
- (5) Delete lines 16-19 of page 11.

With no objection, the motion carried.

With the completion of the discussion of study proposal No. CC-248, the chairman asked the research staff to contact Mr. Matthew Sutherland, chairman of the Subcommittee on Higher Education, to set a date for a joint meeting of the two subcommittees. The subcommittee agreed on May 28, 1973, at 10:00 a.m. as a tentative date and time.

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There being no further business to come before the subcommittee, Mr. Haynes moved that the meeting adjourn. With no objection, the meeting adjourned at 7:35 p.m., Monday, May 21, 1973.

Mr. Norman Carmouche, chairman

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Minutes of the joint meeting of the Subcommittees on Elementary-Secondary Education and Higher Education.

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

East Baton Rouge Parish  
Instructional Resource Center  
Monday, May 28, 1973, 10:00 a.m.

Presiding: Mr. Robert Aertker, Chairman

Present: Ralph Cowen  
Joe Silverberg  
Matthew Sutherland  
John Thistlethwaite  
Norman Carmouche  
Heloise Corne  
J. K. Haynes  
Louis G. Riecke, Sr.

Absent: Perry Segura  
Harold Toca  
Kenneth Leithman  
Horace Robinson

The Subcommittees on Elementary-Secondary Education and Higher Education met in a one-day session at the East Baton Rouge Parish Instructional Resource Center, Monday, May 28, 1973. The chairman called the meeting to order at 10:00 a.m., the secretary called the roll and a quorum was present.

The secretary read the minutes of the previous meeting. After corrections were noted, the minutes were adopted as amended.

The chairman pointed out that he had received a letter from Mr. T. P. Sutherland, dean of College of Education at Northwestern University and that copies of the letter would be given to each of the members of the subcommittees.

The chairman introduced Mr. Ed Stagg, director of the Council for A Better Louisiana. Mr. Stagg invited the members of the subcommittees and research staff to attend a luncheon on May 30, 1973 at 12:15 p.m., at which Dr. Richard Millard would discuss structures for the governance of higher education. The chairman asked Mr. Stagg to send a memo to the subcommittees reflecting what transpired at the luncheon. He also asked the staff and subcommittee members who were available to attend the meeting.

In the discussion of study proposal No. CC-210, the subcommittees took the following action:

Section 1 on page 1 shall become Section 2.

The word "all" on line 14 shall be omitted.

Section 2 on pages 1 and 2 shall become Section 1. The title shall become "Educational Goals". On line 2 of page 2, the word "purpose" shall be deleted and the word "goal" shall be inserted in its place. Lines 6 and 7 shall be deleted beginning with the word "in" and ending with the word "education".

Section 3 was adopted as written.

In Section 4, Mr. Thistlethwaite moved that line 16 be changed to read "be appointed by the State Board of Education for a term of four years". The motion carried

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by a vote of 5-3. The words "or to be reelected to" shall be deleted from line 27 of page 4.

Sections 5-9 were adopted as written.

Section 10 was inserted as written between lines 6 and 7 on page 9 as the sixth power of the Board of Regents. This section shall be replaced with a provision prohibiting dual membership by one person on two or more boards created by or pursuant to the article.

At this time, Mr. Riecke moved to recess for lunch. With no objections, the meeting recessed to return at 1:30 p.m.

In the afternoon session, the secretary called the roll and a quorum was present.

Continuing in the discussion of study proposal No. CC-210, the subcommittee adopted Section 11 as written.

Section 12 was adopted as written.

In Section 13, Mr. Silverberg moved to delete the entire subject matter from the constitution. The motion failed by a vote of 4-5, and the section was adopted as written.

Paragraphs A and B of Section 14 were combined to read:

"The legislature shall appropriate funds for the operations and administrative expenses for the boards created pursuant to this article."

Section 15 was amended to include the words "Higher Education" on line 1 of page 17 and to delete the words "Higher Education" on line 2 of page 17.

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Section 16, Paragraphs (A), (B), (C), and (E) were adopted as written. Paragraph (D) was referred to the research staff to modify the language.

With the completion of discussion of study proposal No. CC-210, the subcommittees discussed study proposal No. CC-147 providing for a retirement fund for public school employees. No affirmative action was taken at the time. This subject is on the agenda for the meeting of the Committee of the Whole on June 13, 1973.

There being no further business to come before the subcommittees, Mr. Cowen moved that the meeting adjourn. With no objections, the meeting adjourned at 3:10 p.m., Monday, May 23, 1973.

Robert J. Aertker  
Robert J. Aertker, Chairman

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May 18, 1973

Mr. Robert J. Aertker  
Box 2950  
Baton Rouge, LA

Dear Robert:

Attached is a position paper that I have written regarding the Louisiana State Superintendent of Public Education, whether he should be elected or appointed. Since you are working with the Constitutional Convention and I believe interested in the opinion of many people regarding revisions, I thought you should receive a copy of this paper. It is my hope that it will appear in "The Boardman" and "Louisiana Schools."

If you have any questions regarding this paper, please feel free to call on me.

Yours truly,

T.P. Southerland

T.P. Southerland, Dean  
College of Education

TPS:krm

Enclosure

*Dear Bob.  
This may be "way out" but we all  
need to do some thinking on this  
position - Good luck in your work -  
Tom*

STATUS OF THE POSITION: - - -

LOUISIANA STATE SUPERINTENDENT FOR PUBLIC EDUCATION

T.P. Southerland, Dean  
College of Education  
Northwestern State University

In the past few years there has been much rhetoric regarding the status of the State Superintendent of Public Education for Louisiana. Public body study groups' recommendations, individual's opinions, and private study groups' suggestions have been made concerning this influential position, yet no definite plan has been formalized. This paper represents one professional educator's views regarding this question. My thesis is based on years of experience in practically all phases of public education in the State of Louisiana. It is my hope that when plans are made that the response of many groups and individuals will have been utilized.

After much study and consideration of the problem in question and of the responsibilities of a State Superintendent of Education, it is the opinion of this educator that the position should be an appointed one. This is the major point to be decided on when seeking a solution by which a better operational environment for a State Superintendent of Education can be created. Having made this decision, one must then consider how the machinery for making such an appointment should function. This leads to the sub-surface problem underlying the appointment of a chief officer of education. This has been the "knotty riddle" that has delayed

many Louisiana citizens' endorsement of the "appointed position" concept. Assuming these two points are key factors in this process, the following discussion seeks to present a solution to these problems.

Point One: The appointment of a State Superintendent of Education.

I firmly believe that the person who assumes this role should be appointed and that he should be a well-qualified educated person who has his education and experience in the field of public education. His experience must reflect a rich and successful practice in the area of educational administration. The following points support this position. A well-prepared school administrator should have the same basic background and training for the role of administration as that required of a banking administrator, hospital administrator, or any other type of administrator with the exception that each should be knowledgeable about his administrative area. The educational administrator certainly should be a master student of pedagogy. Too often the public is led to believe that any capable business executive can be a successful educational administrator. Nothing could be more deceiving than this assumption. The fact that the business executive does not have an adequate understanding of the theories of learning, of child growth and development, of the foundations of education, of the history of public education, of the skills in development of curriculum, and of the learning needs of various individuals, both youth and adult, would render him ineffective in structuring, designing, and making decisions about learning programs, processes, and properties.

Vision is an important attribute of any capable administrator. It is essential in education for developing broad and comprehensive programs

which are projected for the future. One cannot visualize in an area where he is intellectually blind.

Decision-making would be ranked by most authorities as the number one responsibility of an effective administrator. Just as the master violinist can distinguish the slightest variation in the pitch of a note, the art of decision making is almost as delicate. In both cases, experience and knowledge of the area of concern renders one either a master or just another "fiddler." The chief educational officer must be a scholar in education, for no matter how capable one may be as a business administrator, skilled in administrative procedures, he will have to rely on others for the important decisions in educational matters. Unless he is surrounded by capable and resourceful educators with unbiased ambitions (and who is to decide this?) then he is at the mercy of others in the important area of making proper decisions--decisions that will affect the instructional programs for children, young adults, and adults for generations. With fear of belaboring the point, but to be very candid, it is my conviction that the situation will "run true to life" and those surrounding a pseudo-school administrator--will not give him honest input but will "feed to him" what they think he wants to hear. This could be as detrimental to the system of public education as the "cow that kicked over the lantern" causing the disastrous Chicago fire.

Why not continue with the elected superintendent of education? The answer is simple. With cost of participating in political races today, we have a limited number of qualified educational administrators who could financially participate in such a campaign. In order to get

involved in a political campaign he has to be independently wealthy or become excessively obligated to many persons and forces for financial support. I may be too naive on these matters, but those who maintain that this position is realistic, is acceptable, and should not affect later decisions of such an elected educational official have either a personal motive at stake or they are as naive as this educator. It seems to me that once he is obligated to his financial supporters, then it is certain this will affect decisions he will make pertaining to the educational welfare of Louisiana's children. The acceptance of the appointed superintendent concept will make it possible for the appointment of a well-qualified person who can make decisions based on his professional background, rather than an obligation to a party or person who has financed his campaign. I will not attempt to define the certification requirements of this position, but it should be at least equivalent to those required of our local parish school superintendent.

Point Two: Method of appointing. We shall now examine the second important issue in this matter: How will the chief educational officer be appointed? This is significant since the method of selection may be structured in such a way that it would hamper the consequential process of "decision-making." It has been suggested that the superintendent be appointed by the State Board of Education and while this seems practical and logical there are some inherent fallacies in this method. Many educators express concern about this method because it is their belief that if the superintendent is appointed by the State Board of Education that he will be unduly

obligated to the Board. Furthermore, he will not only be responsible to them for his actions but indebted to the Board for his position. This arrangement may bear some influence on the decision-making process. This appointed officer will surely be influenced by the appointing body's attitude on some educational issues where the decision is important enough that his recommendations to the Board must be based on the best that his educational experience can offer and must be free of any hidden influence. I certainly am not implying that members of the State Board today or in the future would want the superintendent to act otherwise, but the arrangement is open for the opportunity.

Having studied both the pro's and con's of an elected superintendent, some proponents of the "elected" position have used as a strong point that the elected official would be free of influence of an appointing body. How can we have an appointed State Superintendent of Education and retain some of the features of an elected official? I am a great believer in our American way of government. The "checks and balances" system has created a great nation, and we must not lose this phase of our system if we are to remain a democratic society. At this critical point in the history of our State when a new constitution is being considered, I see no reason why we should not strive for a workable solution in the appointment of a chief school officer. I offer a very simple solution--a solution that will be effective and will have far reaching influence on the improvement of public education in Louisiana. The solution? The appointment of the State Superintendent of Public Education by two appointing bodies. One

body would be the State Board of Education and the other would be a legally constituted body of professional and para-professional educators. The Constitutional Convention of 1973 could develop the machinery for the legal appointment of the superintendent by these two bodies. One would be the officially elected representative of the people, and the other would represent professional and para-professional education associations in Louisiana. I am assuming that the State Board of Education for Public Education would be constituted as it is at present. The second appointing body would be composed of the (1) Executive Secretary of the Louisiana School Board Association, (2) President of the Louisiana Superintendents Association, (3) Executive Secretary of the Louisiana Education Association, (4) Executive Secretary of the Louisiana Teachers' Association (until such time that the L.E.A. and L.T.A. are merged), (5) President of the Louisiana Association for Curriculum and Development, (6) Presidents of the Louisiana Principals' Association and the L.E.A. Principals' Association, (7) Presidents of the Classroom Teachers' Association both L.E.A. and L.T.A., (8) President of the Louisiana School Bus Drivers' Association, and (9) President of the Louisiana Vocational Association. These positions represent a cross-section of all phases of the public education structure in Louisiana. These officials are elected by their professional organizations for periods of one to four years. This feature would eliminate the possibility of establishing a "power group" from these professional organizations that might attempt to perpetuate any one appointed superintendent.

With the establishment of two bodies, for the purpose of appointing a superintendent, we now examine the operation of the process. Both bodies

would make a concerted effort to procure the best qualified candidates for this important post. At the conclusion of the search phase, the two bodies will meet together and systematically interview all candidates. This procedure should produce three to five candidates on which both bodies have agreed are the superior candidates for the position of chief school officer. After further interviews of these selected candidates by each body, meeting separately, a candidate should be selected by each group. The final selection of a Louisiana Superintendent of Public Education would be made jointly and with the approval of both bodies. It is suggested that the appointment be made for a period of six years with the following stipulations. After four years the appointee must have a vote of confidence by both bodies with the provision that in the event of failure to receive such an endorsement then he would be subject to dismissal. At this point the appointing bodies must meet, study the evidence upon which the lack of confidence was reached, and attempt

to reach a consensus on whether to dismiss the superintendent. Unless both boards agree to dismiss him he may serve the additional two years. When the six years have expired the process will begin a re-cycling, searching for a superintendent to serve another term. The incumbent may or may not be a candidate for the next tenure in office.

What are just a few of the advantages of such a system? There are many advantages, some have previously been listed. Capable educational administrators who could not finance a political race in the elected concept could be considered by this method. This process demands careful study of persons considered for the superintendent's position. The selection

will be made by elected lay representatives and by professional and para-professional educators. The method of final selection should produce the highest type of individual. This total process will encompass some of the better features of the elected superintendent concept since the approval of employment or dismissal is made by two distinctly different structured bodies which will tend to give the chief school officer a wider latitude in making decisions.

There will no doubt be questions regarding the reasons for the second appointing body being composed of educators. But, why not? What other group is better qualified to judge the competencies of an educational administrator? Who would be called on to judge the competencies of lawyers, physicians, or architects? American educators have often been admonished for not adopting some procedures of European school systems. In many of these systems members of the supervisory and controlling boards must be composed of experienced educators, not laymen. We do not wish to emulate these systems but the second appointing body composed of educators certainly possesses many advantages. It, if nothing else, creates an excellent "check and balance" system of appointment.

It is my belief that a Superintendent of Public Education appointed under this process, meeting selected qualifications, would be free to develop an educational program in Louisiana based on the public goals for education and the needs of the populace.

This solution may be too simple. It may need more refinement, but at least I have given it some thought. It is my hope that it will stimulate

others to such action either by differing with my plan or by presenting their own. This position is too important in its influence on so many lives for generations and generations not to hold the most careful consideration by the members of the Constitutional Convention, educators, and all concerned citizens.

## 2. Subcommittee on Higher Education

### NOTES

Subcommittee on Higher Education met in joint meeting with Subcommittee on Elementary and Secondary Education on the following dates: April 4, April 12, April 17 and May 28, 1973. Minutes of those joint meetings are reproduced in Chapter I. B. 1., above.

Ralph L. Cowen  
Perry Segura (Present at March 20 meeting)  
Joe E. Silverberg  
Matthew R. Sutherland, Chairman  
John R. Thistlewaite  
Representative Harold J. Toca  
Joe L. Smith, Senior Research Assistant

Absent: NONE

Quorum present.

The Subcommittee on Higher Education met in a two day session at the Education Building on Tuesday, March 20, 1973 and Wednesday, March 21, 1973. The meeting was called to order by Mr. Matthew R. Sutherland, Chairman. Mr. Sutherland told the committee that the purpose of the meeting was to hear certain persons invited to present their views on governance of higher education in Louisiana.

Mr. Jesse Bankston, President of the State Board of Education, was the first to appear before the subcommittee to present his views. In his presentation, Mr. Bankston said that the provisions of the constitution concerning the governance of education, should include at least the following guarantees:

1. Effective coordination of all educational services.
2. Ample provision for Legislative Authority to meet the changing needs of education.
3. Preservation of the right of the voters to select the major policy makers in educational governance.
4. Ample provision for planning, fiscal control and policy making to assure that education meets the changing needs of all society.

Mr. Bankston presented a written statement, a copy of which is attached hereto and made part of these minutes.

The second group to appear before the subcommittee represented the L.S.U. system of education. Judge Carlos Spaht, Chairman of the L.S.U. Board of Supervisors, made a short preliminary statement in which he noted the great change in the L.S.U. system between the period of 1940 and 1973. He said he believed that it is time that a thorough and complete study be made of higher education due to the many changes that have taken place, so as to come up with some changes that will enhance the management, governance and coordination of higher education.

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After his preliminary statement, Judge Spaht turned the meeting over to Judge J. T. Hood, Jr., Chairman of the Constitutional Revision Study Committee of the L.S.U. Alumni Federation. Judge Hood's committee recommended that there be a planning and coordinating agency to plan and coordinate all post-secondary education in the state, and to be vested with the powers needed to serve that purpose. It will not govern or administer any institution. This board

### MINUTES

SUBCOMMITTEE ON HIGHER EDUCATION OF THE COMMITTEE  
ON EDUCATION AND WELFARE OF THE CONSTITUTIONAL  
CONVENTION 1973

March 9, 1973, Education Building,  
Baton Rouge, Louisiana

Presiding: Matthew R. Sutherland, Chairman

Present:

Ralph L. Cowen  
Perry Segura  
Joe E. Silverberg  
John R. Thistlewaite  
Representative Harold J. Toca

Absent:

The Subcommittee on Higher Education decided to meet March 20 and March 21, 1973 in the Conference Room on the sixth floor of the State Department of Education Building, 626 North Fourth Street. The Subcommittee will invite several people to appear to speak on higher education with initial emphasis on governance. The following persons are to be contacted:

1. President of the State Board of Education, Mr. Jesse Bankston
2. Representatives from the Alumni and Board of Supervisors, Dr. Martin Woodin, Dr. Cecil Taylor, and Dr. Homer Hitt of Louisiana State University
3. Dr. G. Leon Metterville, President of the Southern University System and representatives of the System and Alumni Association
4. Senator Donald Williamson, Joint Legislative Committee on Education
5. Dr. William Arceneaux, Executive Director of the Higher Education Coordinating Council
6. Mr. Edward Steimel, Executive Director, and Miss Emogene Pliner of the Public Affairs Research Council
7. Mr. G. Frank Purvis, President, and Mr. Edward Stagg of the Council for A Better Louisiana

### MINUTES

Minutes of the meeting of the Subcommittee  
on Higher Education of the Constitutional  
Convention of 1973.

Held pursuant to notice given by Chairman

Matthew R. Sutherland on March 13, 1973.

State Capitol, Baton Rouge, Louisiana

Tuesday, March 20, 1973, 10:00 A.M.

Wednesday, March 21, 1973, 9:00 A.M.

Presiding: Matthew R. Sutherland, Chairman of the Subcommittee on Higher Education

Present: Robert Aertker, Chairman of the Committee on Education and Welfare (Present at March 21 meeting)

shall be known as the Board of Regents. The governing and administering of post-secondary schools will be vested in two separate boards, the L.S.U. Board of Supervisors, to govern and administer the institutions which are presently in the L.S.U. system, and the Board of Trustees of State Colleges and Universities to govern and administer all post-secondary schools of higher learning which are not in the L.S.U. system. In addition to these three boards, there shall be a State Board of Education to govern and administer all education at the primary, elementary and secondary level up to and including the twelfth grade.

With regard to vocational technical training, Judge Hood stated that there are 33 schools in the state, a majority of which must be classified either at or below the twelfth grade level. Career education schools at the twelfth grade level or below should remain under the control of the State Board of Education. This will insure better coordination of those institutions with elementary and secondary education. Vocational technical training at the

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post-secondary level should be controlled by an agency other than the State Board of Education; however, it should be subject to the planning and coordination of the Board of Regents. It would be impractical to set up a separate governing board for career educational schools at the post-secondary level, due to the changing needs of career education in Louisiana. All vocational technical schools at the post-secondary level should be governed and controlled initially by the Board of Trustees for State Colleges and Universities and should remain under the administration of this board until the Legislature determines that the creation of a new governing board for post-secondary career education schools is needed.

Judge Hood suggested that the following three provisions be contained in the Constitution with regard to vocational technical training or career educational schools:

1. Board of Regents and State Board of Education be required to jointly plan and coordinate vocational technical training at the elementary and secondary level.
2. Legislature shall provide for the establishment, construction, maintenance, governing and operation of institutions of post-secondary vocational technical training or career education.
3. The Legislature may create a separate board to govern and administer the post-secondary career education schools subject only to the specific coordinating powers granted to the Board of Regents.

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Judge Hood exhibited several charts which illustrated in graphic form his committee's proposal.

In the afternoon session, Senator Donald Williamson appeared before the subcommittee to present his views on governance. He felt that there should be one board over all education in the state. This board would be divided into three divisions: elementary and secondary, vocational technical and career education, and colleges and universities. Each division would have an advisory board with specific responsibilities and duties. Senator Williamson said that his proposal would insure that there would be an awareness of what is going on in every department.

Senator Williamson was asked to put his proposal in writing and submit it to the subcommittee for further reference.

The meeting adjourned at 4:45 P.M., until 9:00 A.M., Wednesday, March 21, 1973.

At the March 21 session, the first group to appear before the subcommittee was representatives of the Southern University system. Mr. Ashford Williams, President of the Southern University Alumni Federation, presented a written statement, a copy of which is attached hereto and made a part of these minutes. In his statement, Mr. Williams offered the following suggestions to the subcommittee:

1. That Southern University be written into the Constitution as a permanent educational institution and that a vote of the people of the state be required to abolish that system or any of its components.

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2. That the authors of the Constitution of the State of Louisiana provide and insure that the board or boards having supervision, management or control of any educational institution, system or unit, be composed of minority representation in proportion to the predominant minority population in the total population of the state.

Mr. Williams said that, if there must be boards, the Southern University Alumni Federation favors a board of governors or trustees of each college or university that will also adhere to the principal of proportionate representation of minorities on those boards.

After Mr. Williams' presentation, Dr. G. Leon Netterville, President of Southern University, made a short preliminary statement, a copy of which is attached hereto and made a part of these minutes.

The subcommittee asked that it have another chance to discuss Southern University's views on higher education at some time before April 4, which is the date that the Committee on Education and Welfare meets again.

Following Southern University, Mr. Wayne Collier, President of the L.S.U.N.O. Alumni Federation appeared before the subcommittee at his request. Mr. Collier gave the following three proposals:

1. That there be a single board for higher education to guide and coordinate, but not to administer.

2. A formula allocation of funds to serve the needs of higher education to insure that the

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resources of the state are best allocated to meet the educational needs.

3. Geographic representation of the single board of higher education.

Mr. Collier was asked to put his recommendations and comments in writing and submit them to the subcommittee for further reference.

The last to appear before the subcommittee was Mr. Louis J. Michot, Superintendent of Education. Mr. Michot prepared a written statement, a copy of which is attached hereto and made a part of these minutes. This statement contains what Mr. Michot recommends should be included in the constitution. Mr. Michot said that there should be a single board over all facets of education referred to as the Board of Education, State of Louisiana. This board shall appoint its chief officer, the State Superintendent of Education, upon confirmation of the Senate. The superintendent shall employ such staff as is necessary to conduct the affairs of the State Department of Education. The board shall establish policies and coordinate educational efforts. The board shall have the authority to appoint such bodies as it deems necessary.

With the conclusion of Mr. Michot's proposal, and the subcommittee finding that there was no further business to be discussed, the meeting adjourned at 4:45 P.M., Wednesday, March 21, 1973.

*Jesse H. Bankston*  
Chairman

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MEMORANDUM

TO: Higher Education Sub-Committee  
Health, Education and Welfare Committee  
Louisiana Constitutional Convention

FROM: Jesse H. Bankston

SUBJECT: Educational Governance

The provisions of the constitution concerning the governance of education, should include at least the following guarantees:

1. Effective coordination of all educational services
2. Ample provision for Legislative Authority to meet the changing needs of education.
3. Preservation of the right of the voters to select the major policy makers in educational governance.
4. Ample provision for planning, fiscal control and policy making to assure that education meets the changing needs of all society.

COORDINATE ALL EDUCATIONAL SERVICES

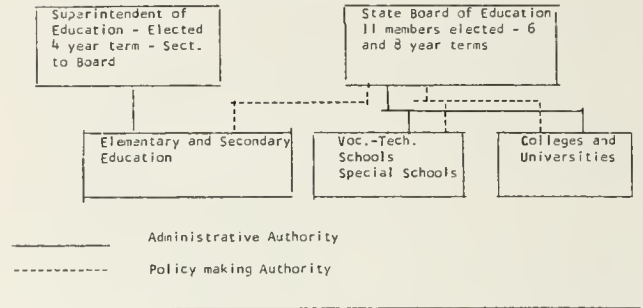
The State of Louisiana is one of the few states in the nation which has practically all of its educational services under the jurisdiction of a single state agency. With the exception of LSU with its 33,000 enrollment which is less than 4% of all enrollment in public education, all other educational services have been under the jurisdiction of the State Department of Education. In recent years, all energies have been directed toward coordination of higher education. This has resulted in the creation of the Coordinating Council for Higher Education. The Coordinating Council has proven to be an effective mechanism for providing some coordination of two independent agencies responsible for higher education. However, to follow its recommendations and those of other groups, to separate higher education from all other educational services will do violence to a presently fairly well coordinated but somewhat outmoded system of educational governance.

I am firmly convinced that the new constitution should provide for a single state agency to administer all educational services. The separation of higher education from other educational programs will certainly bring about much greater conflicts than we have experienced under existing conditions.

THE STATE DEPARTMENT OF EDUCATION IS OUTMODED

It is my contention that the State Department of Education as presently organized and operated is far from ideal and has many imperfections. The chart showing the existing structure of the Department of Education indicates some of the problems in governance.

EXISTING STRUCTURE  
STATE DEPARTMENT OF EDUCATION



The State Board of Education has general policy making and quasi-legislative functions in relation to elementary and secondary education and the Superintendent of Education is the Chief Executive Officer in the administration of these functions. On the other hand, the State Board of Education has administrative, policy making and quasi-legislative direction over 5 special schools, 30 vocational technical schools, and 3 colleges and universities. The Superintendent of Education is secretary to the Board but has no administrative authority over these institutions. As educational functions have expanded and become more complex, the Board has simply not been given the tools to perform its mandate. The lack of adequate staff support, rather than proper organization, has been the principal cause for ineffectiveness of this Board.

FRAGMENTATION WILL JEOPARDIZE COORDINATION

The present legislation which will become effective January 1, 1974, and some proposals to set up additional boards, will result in a most detrimental fragmentation of the educational functions. The pulling away of higher education, and thereby creating two or more boards, will only necessitate future coordinating boards.

The basis of my statement is quite apparent. These may be summarized:

1. Fiscal - There will continue to be competition for the educational dollar. If there are two or more boards, the competition will surely be enhanced. Federal Revenue Sharing Funds will be made to states in very broad categories. These funds will be distributed to all levels of education. A single agency and Board could be expected to do a better job of allocation of these funds than two or more competing governmental agencies.
2. Policy matters - An example of the expected difficulties which may arise if Higher Education and other education is placed in two or more agencies is that of Career Education. Career and Vocational Education is the responsibility of all education. Although Vocational-Technical educational institutions have the prime responsibility for vocational-technical teaching, colleges and universities are also entering this field with numerous certificate programs. If vocational-technical schools are separated from colleges and universities the conflicts will be more pronounced than the conflicts between L.S.U. and other institutions of higher education.
3. Teacher Certification - The revision of teacher education is a responsibility of the State Board of Education. The present organization permits elementary and secondary and universities to participate in the development of those standards.

ELECTIVE BOARD

I suggest that the new constitution contemplate the abolition of the present State Board of Education and the Board of Supervisors of L.S.U. and create a 15 member elective State Board of Regents. Of course, this would eliminate the need for a Coordinating Council for Higher Education, as all policy making functions of education would be coordinated.

Education is far too important to deny the people the right to choose their representatives on this important quasi-legislative body. The election of 15 members for 6 year overlapping terms would allow for 5 new members to be elected every other year, and each 7 existing representative districts would be making the selection.

This Board of Regents should be given the authority to make appointments of heads of educational institutions, directors of the major divisions created within the agency, except the Superintendent of Education. It would serve as the policy making, appeal and review agency for all education. It would have the authority and the ability to coordinate all educational functions.

MAJOR DIVISIONS OF EDUCATION

There are three major functions of education, which should be recognized in the constitution. These are:



1. Elementary and Secondary Education
2. Vocational-Technical Education
3. Colleges and universities

It is suggested that the constitution at least recognize these three major divisions and define their major functions.

The people of the State of Louisiana have rejected every effort to provide for an appointed superintendent. While this may have merit, I do feel that the present Superintendent of Education with jurisdiction over the elementary and secondary education should be continued as an elected public official.

As for the divisions of Vocational-Technical Education and a division for colleges and universities, it is my recommendation that the constitution provide for the appointments of the Chief Executive officers of each of these divisions by the Board of Regents for a definite term and that these appointments be confirmed by the Senate. The importance of their positions and the degree of responsibilities they would have in rendering state service justifies participation by the State Senate at least in the confirmation of their appointments.

#### ADVISORY BOARDS

It is recognized that from time to time, there may be justification for the creation of subordinate advisory boards whose functions would be supportive or supplemental to the functions of the Board of Regents. These advisory bodies should be purely creatures of the legislature and should be created, merged or abolished as the legislature deems advisable. It is felt that with this type of arrangement, that it would be possible to recognize special interest groups, specialized technical knowledge and other areas of concern. It would be the responsibility of the legislature to determine the method of appointment, terms of office, and compensation. While not prospecting on the types of advisory bodies which the legislature may see fit to create, we may see the following:

1. State Board for Elementary and Secondary Education
2. State Board for Vocational Technical Education
3. Board of Supervisors - L.S.U.
4. Board of Higher Education

It should be clearly defined in the constitution that these can be advisory bodies only.

Suggested Organization  
for  
EDUCATIONAL GOVERNANCE

BOARD OF REGENTS

Membership - 15 members, 6 year overlapping terms, single member districts, elected by the people.

Appointive Authority - Directors of Voc.-Tech. & Higher Educ.; Presidents of colleges and universities; Directors Voc. & Tech. Schools; Directors Special Schools; Board Staff; Special Study Committees.

Legislative Powers - Final quasi-legislative body for all education.

Planning and Policy Making - Program, fiscal, physical

Fiscal Authority - Budget supervision and distribution of special funds.

Appeal and Review - Final appellate authority in all state operated and supervised educational services.

Coordination of Education - to assure well balanced services.

Research and Fact Finding - administrative and policy matters.

Constitutional Authority

Division of Elementary and Secondary Education
Functions now under present Superintendent of Education; schools for blind; deaf; spastics and retarded
State Superintendent of Education - Elected, 4 yr. term

Division of Vocational-Technical Education
Vocational-Technical Schools; adult education
Director, Voc.-Tech.Ed. Appointed by Board of Regents - 4 yr. term, Confirmed by Senate

Division of Colleges and Universities
All colleges, state universities, junior colleges
Director of Higher Education - appointed by Bd. of Regents - 4 year term, Confirmed by Senate

Legislative Authority

Possible Advisory Boards Created by Legislature

Advisory Boards - Authority to create such advisory boards as it deems advisable, to fix terms of office, define functions, method of selection.

Creation & Abolition of Institutions - Exclusive function of legislature

Creation or Merging Divisions

State Board for Elementary and Secondary Education

State Board for Vocational Technical Education

Board of Supervisors L.S.U.

Board of Higher Education

SOUTHERN UNIVERSITY ALUMNI FEDERATION'S POSITION ON THE  
SOUTHERN UNIVERSITY SYSTEM AND HIGHER EDUCATION

The Southern University Alumni Federation began discussion of the implications of the Constitutional Convention on the future of the Southern University System in the Summer of 1972. As a result of those discussions, a Constitutional Study Committee was appointed that included lawyers and citizens from throughout the State of Louisiana. The Committee was given the task of conducting an indepth study of the Louisiana System of higher education and the role that Southern will play in that system.

After listening to the report of the special Constitutional Committee, conducting exhaustive discussions with the members of the Executive Council and conferring with persons outside the Alumni family, we make the following recommendations to the Constitutional Convention delegates:

1. That the Southern University System be written into the Louisiana Constitution as a permanent educational institution, and that a vote of the people of the State be required to abolish this system or any of its components.

Southern University is a system of three collegiate institutions: Southern University in Baton Rouge, Southern University in New Orleans and Southern University in Shreveport. The Southern University System is the largest and only predominantly Black University System in the United States with an enrollment of about 12,000 students in 1972.

Southern University has served the people of the State of Louisiana since 1880. During those years the University has made a significant contribution to the upward mobility of minority people in the State. The expertise

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developed at this institution in motivating and helping minorities acquire the knowledge, skills and attitudes needed to fulfill their potential as human beings and citizens is in greater demand today than when the institution was established.

2. That the authors of the Constitution of the State of Louisiana provide and insure that the board/s having supervision, management, or control over any educational institution, system or unit, will be composed of minority representation in proportion to the predominant minority population in the total population of the State.

This will provide for adequate representation and involvement of all elements of the population. The best interest of the State will be served by providing opportunity for all ethnic groups of the State to participate in the decision-making process of determining their aspirations and destinies.

To achieve the goal of proportionate representation of minorities, some consideration must be given to electing and/or appointing members to these boards. In the past, adequate representation of minorities on boards has not been achieved when all members were elected.

REMARKS BY PRESIDENT G. LEON NETTERVILLE  
BEFORE THE COMMITTEE ON HIGHER EDUCATION  
OF THE CONSTITUTIONAL CONVENTION

March 21, 1973

Historically, Southern University has made a conscious attempt to respond creatively to the needs of its constituency. Consequently as its constituency

has grown larger and more diverse, the program of the institution has become correspondingly more complex. Southern University's faculty, administration and alumni consider this commitment to respond to the needs of its constituency as crucial to Southern's right to exist as a bona fide institution of higher learning. Through its years of experience with clientele who have been denied adequate educational backgrounds at the elementary and secondary levels, Southern University has amassed a reservoir of expertise in guiding entering students from a state of relative academic inadequacy to a level which permits them to leave the University able to compete favorably in the job market, in graduate and professional schools and in all areas of human endeavor. These programs have built into them recognition of the inner needs of the underprivileged of all races for encouragement, patience and imaginative dispensing of instruction. The extent to which Southern has been successful in this mission is reflected in the fact that it ranks second among all publicly supported predominantly Black colleges in the production of doctorates.

History has clearly indicated that the dominant culture has not dealt fairly with minority groups in any association of merger or cooperation. Rather, minority groups have been consumed within the majority interests and

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these interests have not served well the needs and aspirations of the smaller groups. Elementary and secondary schools in Louisiana and throughout the south are blatant examples of this phenomena. The demise of the Black administrator and teacher, the increasing dropout rate among Black students and the unsympathetic response to the Black students' aspirations for recognition and involvement underscore the inadequacy of merger as a viable scheme for providing equal access to educational opportunity for Blacks. We feel that the continued existence of those institutions which have proved most adequate in the education of disadvantaged students is mandatory, lest the disadvantaged become more disadvantaged.

Several alternative plans of governance have been presented both in the press and to the Constitutional Convention. We have examined each of these and find that all have some merits, as does the Super Board Plan which emanated from the Coordinating Council and received the endorsement of the State Legislature. To date the State Board of Education has not taken an official position on the question of the structure of a governing board. As an agency of the State Board of Education, we are obliged to be guided to a considerable extent by the position which it takes. However, Southern University is convinced that whatever the particular scheme for structuring governance of Louisiana higher education, there is one principle which we feel is essential. That is the principle of equitable Black presence. Absence of such presence would continue to deprive the Blacks and the State at large of authentic input from a large and significant sector of the State's population. Presently the State Board of Education and the LSU Board of Supervisors are without Black representation and the

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Louisiana Coordinating Council's Black representation is far from reflective of the population distribution in the State. Thus, we feel that the present Constitutional reconceptualization of the nature and structure of governance of higher education presents an ideal opportunity to redress this age old and legitimate grievance of Black people of the State. Equitable Black presence, we feel, is so basic that it ought to be written into the Constitution itself and not left to the discretion of the Legislature or the uncertainty of electoral politics.

I should like to summarize by saying:

- that the Southern University System be written into the Louisiana Constitution as a permanent educational institution, and that a vote of the people of the State be required to abolish this System or any of its components;

- that the authors of the Constitution of the State of Louisiana provide and insure that the Board's having supervision, management, or control over any educational institution, system or unit, will be composed of minority representation in proportion to the predominant minority population in the total population of the State.

POSITION RELATIVE TO EDUCATION  
FOR THE CONSTITUTIONAL CONVENTION

Louis J. Michot, Superintendent

The entry in the convention should be brief:

"Equal educational opportunity shall be made available to all citizens of the State of Louisiana, without regard to race, creed, color, sex or ethnic background. All facets of public education shall be under the jurisdiction of a single governing Board, to be referred to as the Board of Education, State of Louisiana.

The Board shall be composed of eleven elected members, from 11 single-member districts, and six appointed members, appointed by the Governor and confirmed by majority vote of the Senate. All members, whether elected or appointed, shall serve four-year terms and shall be eligible for re-election and/or re-appointment.

The Board of Education shall, upon confirmation by the Senate, appoint as its chief administrative officer a State Superintendent of Education. He shall be authorized to employ such staff as is necessary to conduct the affairs of the State Department of Education.

The Board of Education shall be responsible for establishing policy and for coordinating educational efforts. To govern the operations of the various segments which comprise education within the state the Board shall have the authority to appoint such bodies as it deems necessary."

There would probably be some sentiment for a special mention of the LSU System. However, that tends to lengthen the Constitution; also, other groups would then be encouraged to request special mention. Statutes could be developed which would give the prominence to LSU which has been suggested.

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Actually, some consideration should be given to a single State University system for all of higher education. However, I think that too should be relegated to the statutes rather than to the Constitution.

Another point at issue might be whether the other bodies mentioned in this proposed entry should be defined in more detail. I think not. As a need becomes manifest, the Board would establish a governing body according to criteria most appropriate at that time and appoint those persons to it who would be best able to serve. In addition to avoiding unnecessary bulk in the Constitution, such a procedure would allow for adapting to prevailing conditions. It is my contention that we will witness more need for making changes in education during the next 10 years than have occurred in the past 50 years or so!

As for the rationale for a single board as is proposed herein, several points should be made:

1. All education should have a common objective. Policy should be set by a single entity, and implemented by one staff.
2. Coordination among all aspects of the educational process is a must. It is becoming even more important than it has ever been. Presently each segment is acting virtually independent of all other segments.
3. Career education is the direction which education must take in the future. The interactions among the various components which together compose career education will mandate the need for a single policy for all of them.
4. Assigning responsibility for all of education to a single body will insure that it acts as a planning and policy body. Such a board would not have time to consider day-to-day governance of the institution(s).

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5. Election of the members would insure accountability to the people. Also, each candidate for office would be required to expose his qualifications to the public.
6. There should be minority representation on the Board. The Governor would be expected to make appointments so that minority members on the Board would become a possibility.

The idea of the single board for all of education is neither new or novel. Nor is it necessarily the panacea to cure all of the ills of education. However, it will provide a better vehicle by which competent men, with the proper intention and dedication, have a chance of "putting it all together".

REPORT OF LSU ALUMNI FEDERATION  
CONSTITUTIONAL REVISION STUDY COMMITTEE  
By Judge John T. Hood, Chairman

(Delivered to Sub-committee on Higher  
Education of the Constitutional  
Convention, March 20, 1973)

In August of last year the President of the LSU Alumni Federation appointed a committee to study education in Louisiana, and to recommend provisions relating to that subject which the members feel should be incorporated into our State Constitution. It was my privilege to serve as a member of that committee.

The committee was instructed to study all aspects of education in this state, including the overall planning and coordination of our educational programs and facilities, and also the governing and administering of institutions of learning, at all levels. We were directed to study the role which vocational-technical training has played, and should play, in our educational system, and the means by which that type of training might be better coordinated with our other educational programs.

Twenty-one people served on that committee. They represent every part of the state geographically, and I think they make up a good cross section of the people in it. I will not take time to name them, but you should know that the committee included farmers, businessmen, a physician, a banker, attorneys, a state senator, a state representative, two judges, a prominent black person, an engineer, the publisher of a newspaper, an insurance executive, a representative of big industry, and a cattleman. All of them are vitally interested in education, and all of them devoted a great deal of time toward conducting the studies and discharging the duties which were assigned to us.

The committee began its work as soon as it was appointed in August of last year. During the five or six month period which elapsed from that time until the latter part of last month, the full committee held meetings almost weekly in Baton Rouge. Several sub-committees were formed, and these smaller groups held additional meetings in various parts of the state, conducting interviews with knowledgeable people on the subject of education. Individual members of the committee conducted other interviews, reporting them to the full committee, and some committee members met with organizations to discuss the subject. Literally thousands of volunteer man-hours were spent in completing this study.

We started by collecting and studying all Louisiana documents on education which we felt would be helpful. Although many documents were studied, there were a few which we considered to be of outstanding value.

One of these was the Project of a Constitution of the State of Louisiana, prepared by the Louisiana State Law Institute in 1954, together with the five volumes of comments which accompanied that Project.

Another was the report submitted in 1972 by the Education and Welfare Committee of the Louisiana Constitutional Revision Commission, under the chairmanship of Senator Donald W. Williamson.

We found to be of great help the Masterplan for Higher Education in Louisiana, submitted by the Louisiana Coordinating Council for Higher Education, in 1972.

The Public Affairs Research Council of Louisiana has made several studies of education, and has prepared excellent reports of those studies. We attached much importance to all of those PAR reports, but we found to be especially helpful the report issued by it in 1966, entitled "Louisiana Higher Education - Coordination and Planning," and the very recent publication entitled "Meeting Louisiana's Need for Vocational-Technical Education: A Summary."

We considered and adopted some of the suggestions contained in the report of a special committee of the LSU Alumni Federation on the Constitutional Status of the LSU Board of Supervisors, submitted in 1969.

And, finally, we obtained much valuable information from the report of a study made by a Special Task Force on the Coordination and Governance of Higher Education, in the State of Missouri. That study was completed and the report was submitted in 1972.

In addition to these special studies and reports, we reviewed the recommendations of a number of nationally-known experts in education, such as M. M. Chambers, author of the book entitled Higher Education in the 50 States, Dr. Robert K. Selden; Robert O. Berdahl, Lyman Glenny, T. L. Zwingle and others.

Our research included analyses of the educational systems of all of the other states of the union, but more intensive study was given to the systems used in Tennessee, Ohio, Illinois, Indiana, North Carolina, Wisconsin, Florida, Georgia, Missouri, Oregon, New York and Colorado.

Many experts in the field of education appeared before our full committee in Baton Rouge and gave us the benefit of their experience and recommendations. Among those who accepted our invitations, and voluntarily met with us to discuss education in Louisiana, were Dr. Martin Woodin, President of LSU; Gen. Troy H. Middleton and Dr. John A. Hunter, former presidents of the University, and Dr. Paul M. Hebert, Dean of the Law School and former acting president of LSU. Others were Dr. Leon Netterville, President of Southern University, and two members of his staff; Mr. Enoch Nix, who was then president of the State Board of Education; Mr. Louis Michot, State Superintendent of Education, Dr. Clea Parker, President of Southeastern Louisiana University and also President of the State Board Presidents Council; Chancellor Cecil C. Taylor of the Baton Rouge Campus of LSU; Chancellor Homer Hitt, of LSU-MO; Judge Carlos C. Spahr, chairman of the LSU Board of Supervisors; Dr. J. Denson Smith, long-time director of the Louisiana State Law Institute; Senator Donald W. Williamson; Miss Emogene Pliner, of Public Affairs Research

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Council, Mr. Ed Stagg, Executive Director of the Council for a Better Louisiana; and Dr. William Arceneaux, acting director of the Louisiana Coordinating Council for Higher Education. We also interviewed several members of the Louisiana Coordinating Council for Higher Education, and we received extensive written comments and recommendations from Dr. Bernard L. Sliger, former director of that Council.

We also obtained recommendations from the directors of some of our vocational-technical schools.

Two out-of-state educators appeared before our full committee. One of them was Dr. Joseph Saupe, of Missouri, who was a member of the Task Force which conducted an extensive study of educational systems throughout the United States. We found the report of the studies made by that Task Force, and the information given to us by Dr. Saupe, to be of great value. The other was Dr. Mario Coglia, Vice-Chancellor for Research of the Georgia Board of Regents. Dr. Coglia has done extensive research in the planning and coordination of education, and he explained in detail the system being used in the State of Georgia.

The LSU Law School assigned two distinguished members of its faculty to assist us. These law professors researched legal questions for us, and they assisted in drafting the constitutional provisions which the committee has recommended.

All of the work assigned to the committee has been completed, and we have prepared a report of our studies and recommendations. A copy of that report has been sent to every member of the constitutional convention. It contains the provisions which we feel should be included in the new Constitution of Louisiana relating to education, with a commentary giving our reasons for including most of those provisions.

After conducting many interviews with knowledgeable people, and studying the materials which we collected, the committee concluded that a great deal needs to be done to improve the coordination and governance of education in Louisiana. The most pressing need, we feel, is to accomplish the orderly planning and coordination of educational programs and facilities at all levels, and particularly in the area of post-secondary education and vocational-technical training.

The lack of adequate planning and coordination has resulted in the inefficient use of our educational resources and facilities, in the expensive and unnecessary duplication of programs, in the failure to provide the type of training which will fill the needs of many of our young people, and in watering down the quality of education offered in some of our institutions of higher learning.

Another need, which we believe to be as pressing as the one already mentioned, is the institution of adequate programs of vocational-technical

training, or career education, coupled with proper planning, so that this type of training can be developed and coordinated with other educational programs

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in this state. Louisiana has fallen far behind most other states in developing vocational-technical training, and in coordinating that type of training with other educational programs in this state.

And finally, we think there is a need for improvement in the governing and administration of education and educational institutions at all levels.

Our committee feels that some of these improvements can be accomplished by legislative acts, but we are convinced that the ones which we recommend for inclusion in the new Constitution can be accomplished only by incorporating the substance of those provisions in the basic law of our state -- the Constitution.

The Louisiana Legislature for several years has been aware of the need for better planning and coordination of post-secondary education, that is, education above high school level in this state.

As early as 1946, a special legislative committee was created to study all phases of education, from kindergarten through institutions of higher learning. That committee reported in 1948 that "the problem of coordination of all education is acute." It recommended that state colleges and special schools be removed from the State Board of Education and placed under a board to be appointed by the governor and confirmed by the Senate, and that there be created a State Coordinating Council on Education, which was to have only advisory powers. The recommendations of that committee were enacted into law in 1948, but no funds were ever appropriated for the hiring of a director or staff, and the Coordinating Council thus never functioned.

Six years later, in 1954, the Louisiana Commission on Higher Education was created to make a comprehensive study of higher education in Louisiana. In reporting the results of that study that commission stressed the need for coordination, and it recommended that the Coordinating Council, authorized in 1948, be re-established, and that it be provided with a professional staff and a director who was to be a "highly competent and respected educator and academic administrator." The commission also recommended that the Coordinating Council be vested with some regulatory powers. Those recommendations, however, were never enacted into law, and thus they were never implemented.

The 1956 and 1957 legislatures created a joint legislative committee to study and evaluate the proposals which had been made two years earlier by the Louisiana Commission on Higher Education. In its report, published in 1958, it noted that there was a lack of proper coordination between institutions of higher learning, and it recommended that a Board of Regents be created to coordinate higher education in Louisiana. The State Board of Education and the LSU Board of Supervisors were to continue to govern institutions under their control, but they would be subject to the relatively strong regulatory power of the Board of Regents.

Bills to implement the recommendations of this joint committee were introduced in the 1958 regular session, but they were overwhelmingly defeated.

An attempt to establish a Coordinating Council was made in 1961 by a voluntary agreement between the State Board of Education and the LSU Board of Supervisors. Such a council was organized, but it met only twice, and then became delunct.

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In 1968 a constitutional amendment was adopted authorizing the legislature to create a Coordinating Council, and pursuant to that authority, the legislature created the present Louisiana Coordinating Council for Higher Education. That council, in its brief history, made substantial progress in the orderly planning and coordination of higher education, but it did not make the progress which was anticipated, primarily because it was not adequately equipped, either financially or by constitutional regulatory powers, to bring about or to enforce the changes needed to accomplish its purpose.

Three or four years later, amid talk of expensive duplication of academic programs, the legislature in its 1972 session debated the subject of creating a single board for higher education in this state. That debate culminated in the adoption of Act 712 of 1972.

That act creates a single board, designated as the Board of Regents, and places in that board the duty of governing and administering all institutions of higher education, and also the duty of planning and coordinating all education. The act abolishes the existing Coordinating Council for Higher Education. It abolishes the LSU Board of Supervisors, and it removes from the State Board of Education the authority which it now has to govern colleges and universities. The authority heretofore exercised by these last mentioned boards are merged and consolidated into the newly created single board, the Board of Regents. In its wisdom, however, the legislature provided that Act 712 would not go into effect until January 1, 1974, which will be very near the time scheduled for the completion of the drafting of a new state constitution by this convention.

The research which our committee conducted convinced us that the organizational structure provided in Act 712 of 1972 is not the answer to the needs of this state. The greatest need in Louisiana is for long-range planning and coordination. We think the substitution of a single board, as envisioned by Act 712, would hinder rather than improve this overall planning and coordination.

The LSU Board of Supervisors governs and administers five degree granting institutions of higher learning, plus two medical schools and a dental school.

The State Board of Education governs and administers 11 degree granting institutions of higher learning.

Most of the knowledgeable people who appeared before us agreed that these governing boards are kept busy handling the day-to-day problems of governing the institutions under their control. These governing boards must give preference to such pressing matters as engaging college presidents, deans and professors, the hiring of athletic coaches, adopting dormitory regulations, constructing new facilities, ironing out parking problems, awarding contracts, handling campus disturbances, preparing budgets, defending lawsuits and other such matters. We think there would be a tremendous loss of efficiency, and perhaps chaos, if a single board were to undertake only the governing and administering of the institutions of higher learning which are presently governed by two boards. It would be a physical impossibility for a single board to do the long-range planning and coordination which is so badly needed, while attempting to govern and administer 19 institutions of higher learning at the same time.

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Our committee recommends that there be created a planning and coordinating agency which we have named the "Board of Regents." That board will have the duty of planning and coordinating all post-secondary education in this state, and it will be vested with the powers needed to serve that purpose. It however, will not govern or administer any institution.

We recommend that the governing and administering of post-secondary schools, including all colleges and universities, be vested in two separate boards. One will be the LSU Board of Supervisors, which will govern and administer the institutions which are presently in the LSU system. The other will be called the "Board of Trustees for State Colleges and Universities." This last mentioned board will govern and administer all post-secondary schools, or institutions of higher learning, which are not within the LSU system.

In addition to these three boards -- that is, the Board of Regents, the LSU Board of Supervisors, and the Board of Trustees for State Colleges and Universities -- we propose that there also be a State Board of Education, which will govern and administer all education at the primary, elementary and secondary level, up to and including the 12th grade. I will discuss later the composition of these boards and our recommendations relating to vocational-technical education.

In recommending that there be a planning and coordinating agency known as the "Board of Regents," the committee emphasizes the fact that this board must be a constitutional agency. Studies indicate that it is difficult to attract the top-notch staff necessary to make this a successful agency, unless the coordinating board enjoys the protection of the Constitution.

We propose that the Board of Regents have the following duties and responsibilities.

First, it will be required to formulate a master plan for higher education and/or vocational-technical training at the post-secondary level.

Second, it will have the power to revise or to eliminate any existing degree program, or department of instruction, in any of our institutions of higher learning. We found that the authority to eliminate a degree is a power which the coordinating agency must have by constitutional authority if it is to succeed in the overall planning and coordinating of education in a state.

Third, the Board of Regents may approve, disapprove or modify any new degree program or department of instruction which may be sought to be inaugurated. No new degree program or department of instruction can be established in any institution of higher learning without the prior approval of the Board of Regents.

Fourth, the Board of Regents will be required to study and to submit a written report on the feasibility of any proposed new institution of higher education. No new institution of higher learning can be created by the legislature until after the report of the Board of Regents is filed, or within one year after the proposal is submitted if no report is filed, and even then a 2/3 vote of the membership of each house in the legislature will be required before the new institution may be created. This applies to the establishment of branches of existing institutions, or the conversion of a two-year college into one offering longer courses of study.

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And, finally, the Board of Regents is required to study the annual budget proposals of all institutions of higher learning, and to submit to the legislature its recommendations as to the appropriations which should be made. The board also will recommend priorities throughout the state for capital construction and improvements. All such recommendations of the Board of Regents are required to be consistent with its master plan for post-secondary education in Louisiana.

The principal difference between the Board of Regents and the governing board is this: The Board of Regents shall be responsible for state-wide planning and coordination, long-range goals and the effective and efficient use of resources in Louisiana. To do its job properly it must have no ties to particular institutions in the state. It must be a public board. It must not be involved in the day-to-day governing, managing or administering of institutions of higher education. We recommend that the constitution contain a provision to the effect that all powers not specifically given to the Board of Regents are reserved to the appropriate governing board.

We have recommended two governing boards for institutions of higher education -- that is, the LSU Board of Supervisors and the Board of Trustees for State Colleges and Universities -- because there is a limit to the number of institutions which can be administered by a single board. While there is no standard or model to gauge the number, it was frequently pointed out by experts who appeared before us, that 8 to 10 institutions is probably the maximum number which can be effectively governed by a single board.

Let me turn now to the composition of these various boards.

We recommend that the State Board of Education be composed of 14 members, all of whom are to be elected by popular vote. We suggest that two be elected from each congressional district for terms of six years, with elections staggered every two years. We also recommend that the State Superintendent of Education be appointed by the State Board of Education, and that that Board have authority to fix his term of office, qualifications, duties, and salary, and to remove him from office.

Our recommendation is that the other three boards, that is, the Board of Regents, the LSU Board of Supervisors, and the Board of Trustees for State Colleges and Universities, be composed of 14 members each. They are to be appointed by the governor, with the advice and consent of the Senate, for terms of seven years. The appointments are required to be staggered so as to have two individuals on each board appointed each year. This will give all three boards the continuity which we think is desirable.

With regard to geographic distribution of the members, it is recommended that at least one member of the Board of Regents be appointed from each congressional district, and that not more than three members shall be from any single congressional district. We make the same recommendations for the LSU Board of Supervisors, that is, at least one member must be appointed from each congressional district, and not more than three from any single congressional district. This will allow the appointing authorities some flexibility, and it also will insure geographic representation at all times. Insofar as the Board

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of Trustees for State Colleges and Universities is concerned, we recommend that one member of that Board be from each congressional district, but that not more than two members be from any single congressional district. We decided to make the geographic distribution a little stricter, with less flexibility on the part of the appointing officer, in the case of the Board of Trustees for State Colleges and Universities, because the institutions of higher learning which are administered by that board, are more regional or sectional in nature, and we felt that the geographic dispersion should be as equitable as possible under those conditions.

To meet the requirements of the act which called the Constitutional Convention, and also to provide for continuity and orderly transition, we propose that "grandfather clauses" be incorporated in the Constitution applicable to members of present boards. Our recommendation is that members of the present coordinating Council for Higher Education continue to serve as members of the newly created Board of Regents until the expiration of their present terms, and that members of the LSU Board of Supervisors continue to serve as members of the newly created LSU Board of Supervisors until the expiration of their terms. With regard to the present members of the State Board of Education, we propose that they be given the option of serving on either the newly created State Board of Education or the newly created Board of Trustees for State Colleges and Universities. Our recommendation also is that the present State Superintendent of Education continue to serve in that capacity until the end of his present term, at which time the Board may appoint his successor.

The committee recommends that no quota system, based on race, sex, religion, ethnic groups, occupation or age, be established for appointment to any of these boards. We stipulate, however, that no officer, employee or faculty member of any state institution of higher education or post-secondary career school shall be eligible for membership on any of the appointive boards. No member of an appointive board shall accept or hold any other public office, either elective or appointive. Our recommendations also provide that a member of the board cannot be reappointed to succeed himself, but that he may be reappointed after a lapse of two years from the expiration of the last term to which he was appointed.

The committee devoted a substantial part of its efforts to a study of vocational-technical training, now generally referred to as career education, in Louisiana. There are 33 vocational-technical schools in this state. Some experts feel that only one such school in Louisiana can be classified as being at the post-secondary level, that is, above high school level, while others say that there are a few more which might be put in that category. It is clear, however, that the great majority of our vo-tech schools must be classified as being at or below the 12th grade level.

Our committee concluded that career education schools which are classified as being at the 12th grade level, or below, should remain under the control of the State Board of Education. This will insure better coordination of those institutions with elementary and secondary education. The career education schools which may be classified as being at the post-secondary level, that is, above high school level, should be governed and controlled by an agency other than the State Board of Education. Those higher level vo-tech schools should be subject to the planning and coordination of the Board of Regents, so that

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the courses of study offered by them can be coordinated with the programs of other institutions of higher learning.

I have already noted that Louisiana has fallen behind most other states in developing and coordinating its career education program. A great deal of interest has developed in that type of education recently, however, and more attention is now being devoted to our vo-tech schools. Due to the changing nature of career education in Louisiana, we found that it was impractical to set up a separate governing board for career schools at the post-secondary level at this time.

Our recommendation is that all vocational-technical schools which are classified as being at the post-secondary level, that is, above high school level, should be governed and controlled initially by the Board of Trustees for State Colleges and Universities, and that they should remain under the administration of that board until the legislature determines that the creation of a new governing board for post-secondary or career education schools is needed.

Our proposal is that the constitution contain three provisions relating to vocational-technical training or career education schools.

First, we recommend that the Board of Regents and the State Board of Education be required, by constitutional provisions, to jointly plan and coordinate vocational-technical training in the elementary and secondary schools of the state.

Second, the legislature shall provide for the establishment, construction, maintenance, governing and operation of institutions of post-secondary vocational-technical training or career education.

Third, the legislature, if and when it sees fit to do so, may create a separate board to govern and administer the post-secondary or career education schools, subject only to the specific coordinating powers granted to the Board of Regents.

Every member of the committee was keenly aware of the need of developing better vocational-technical training in Louisiana. We believe, however, that our recommendations will enable educators, public officials, governing and coordinating boards, or the legislature to set up standards by which such schools can be classified as secondary or post-secondary institutions, and that the legislature then can create a separate governing board for the post-secondary career education schools, if it determines that such a board is needed.

We are aware of the recommendations which have been made by the State Superintendent of Education and by Public Affairs Research Council relating to the establishment of vocational-technical schools. We believe that the consti-

titutional provisions relating to vo-tech schools which we recommend will enable the legislature to adopt the basic features of those plans and put them into effect, without the need for any further constitutional revisions.

I have tried to give you the substance of and the reasons for our recommendations. We have prepared some charts, however, which I think will show

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more clearly than I have been able to do what we propose. With your permission I would like to show you these charts.

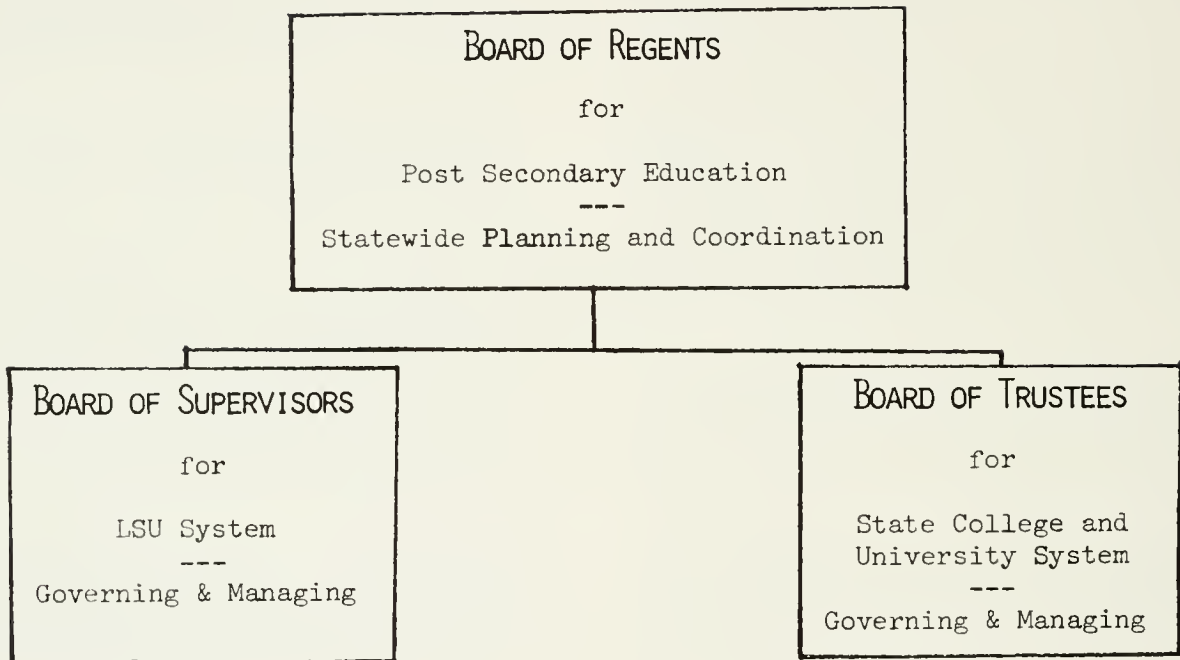
(Exhibit and explain charts)

The members of our committee believe that the adoption of the constitutional provisions which have been recommended will substantially improve the planning and coordination of education in Louisiana, as well as the governing and administering of our institutions of learning.

We sincerely hope that the information which we have gathered will be of some help to you in drafting a new constitution for this state, and that our work will prove to be of some value to the cause of education in Louisiana.

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POST SECONDARY EDUCATION





ELEMENTARY & SECONDARY EDUCATION

BOARD OF EDUCATION

for

Education at Grade 12 and Below

---

Statewide Planning and Coordination

PARISH AND CITY SCHOOL BOARDS

---

Governing and Managing

## RESPONSIBILITIES OF BOARDS

### BOARD OF REGENTS FOR POST SECONDARY EDUCATION

---  
Statewide Coordination, Master Planning  
Authority over Scope and Curricula of Institutions  
Review and Recommend Operating and Capital Budgets

### BOARD OF SUPERVISORS FOR LSU SYSTEM

---  
Govern, Manage and Operate, subject to  
specific authority of Board of Regents.  
Powers not given to Board of Regents  
are retained by LSU Board.

### BOARD OF TRUSTEES FOR STATE COLLEGE AND UNIVERSITY SYSTEM

---  
Govern, Manage and Operate, subject to  
specific authority of Board of Regents.  
Powers not given to Board of Regents  
are reserved to Board of Trustees.

## COMPOSITION OF BOARDS

### BOARD OF REGENTS

---

14 members, 7-year terms, appointed by Governor  
At least one from each Congressional District  
No more than three from any Congressional District

### BOARD OF SUPERVISORS

---

14 members, 7-year terms, appointed by Governor  
At least one from each Congressional District  
No more than three from any Congressional District

### BOARD OF TRUSTEES

---

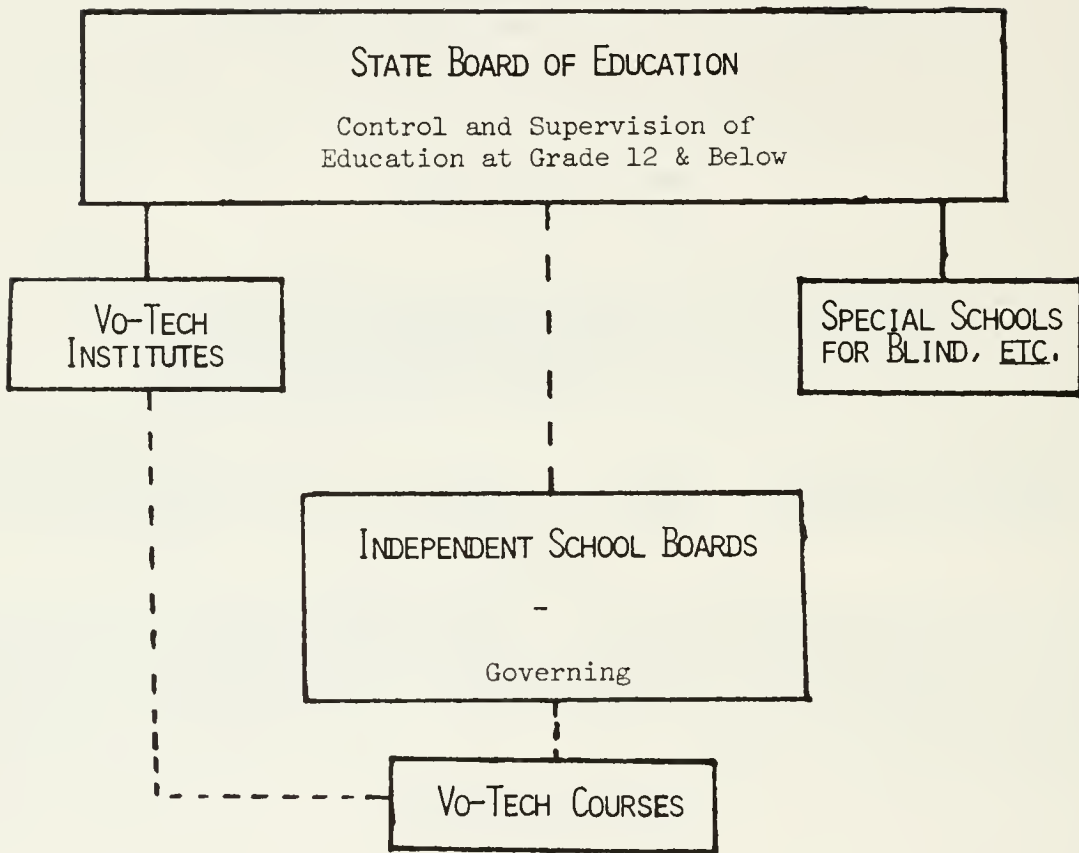
14 members, 7-year terms, appointed by Governor  
At least one from each Congressional District  
No more than two from any Congressional District

### BOARD OF EDUCATION

---

16 members, 6-year terms, Elected  
Two from each Congressional District

## ELEMENTARY & SECONDARY EDUCATION



## VO-TECH EDUCATION

1. State-wide planning for the secondary level of Vocational-Technical Education and career education:
  - A. By Board of Education
  - and
  - B. By Board of Regents
2. Board of Education shall plan and coordinate vo-tech education at secondary level and below.
3. The Legislature "shall provide for the establishment, construction, operation, maintenance, governance and management of institutions of post-secondary vocational-technical training and career education."
4. The Legislature may create a new board to govern post-secondary vo-tech schools.
  - A. New Board to govern and administer, subject to state-wide planning authority of Board of Regents.
  - B. Elective or Appointive
5. Until or unless a new board is created, the Board of Trustees will govern vo-tech schools at post-secondary level.

MINUTES

Minutes of the meeting of the Subcommittee on Higher Education of the Constitutional Convention of 1973.

Held pursuant to notice given by Chairman

Matthew R. Sutherland on March 21, 1973

Friday, March 30, 1973, 10:00 A.M.

State Capitol, Baton Rouge, Louisiana

Presiding: Matthew R. Sutherland, Chairman of the Subcommittee on Higher Education

Present: Robert Aertker, Chairman of the Committee on Education and Welfare

Ralph L. Cowen  
Joe E. Silverberg  
Matthew R. Sutherland, Chairman  
John R. Thistlewaite  
Representative Harold J. Toca  
Joe L. Smith, Senior Research Assistant  
Lemmie D. Walker, Sgt. at Arms

Absent: Perry Segura

Quorum Present

The Subcommittee on Higher Education met in a one day session at the Education Building on Friday, March 29, 1973. The meeting was called to order by the Chairman, Mr. Matthew R. Sutherland. Mr. Sutherland submitted a copy of the minutes of the previous meeting to each of the members of the subcommittee, after which he asked if there were any changes or corrections. Hearing no reply from the members of the subcommittee, the minutes were approved as read.

The Chairman stated that the purpose of the meeting was to hear additional persons give their views on governance of higher education in Louisiana.

The first to appear before the subcommittee were Mr. Edward Steimel and Miss Emogene Pliner of the Public Affairs Research Council. Miss Pliner presented a report which reflected what PAR recommended should be included in the new constitution. Her report stated that the present organizational structure needs no change but one -- providing for a State Superintendent appointed by the State Board of Education. Miss Pliner stated that:

1. The State Board of Education should remain elective from various regions of the state and continue to have responsibilities for coordinating and setting policies for all of public education except LSU.
2. A separate board for LSU should be maintained, since it is designed to be unique among other institutions of higher education.
3. There must be an agency to coordinate and plan higher education. Miss Pliner stated that Louisiana has such an agency in the Coordinating Council for higher education, which has considerable authority if it chooses to exercise it.
4. The State superintendent of education should be appointed by the State Board of Education. As to qualifications for the state superintendent, PAR feels he should be a person who can manage people and programs; an administrator of real competence who has some real acquaintance with education.

In summary, PAR recommends proper manning of the structure Louisiana now has. PAR felt that the Coordinating Council needs a competent and prestigious staff to provide the information and leadership required to perform its functions. The State Board of Education needs the staff of the State Department of Education headed by a well qualified superintendent to provide information and leadership to perform its functions.

Miss Pliner submitted a written statement, a copy of which is attached hereto and made a part of these minutes.

After hearing recommendations from the Public Affairs Research Council, the subcommittee recessed for lunch.

In the afternoon session of the meeting, the Chairman stated that he had received a resolution passed unanimously by the Northeast Louisiana University Alumni Association Board of Directors, setting forth their recommendations on governance of higher education. Mr. Sutherland stated that he had also received a copy of a letter from Rev. James C. Carter of Xavier University addressed to Mr. Anthony M. Rachal, Jr., Executive Vice-President of Xavier University and delegate to the Constitutional Convention. The subcommittee also received a resolution from students representing student government associations of the state which reflected their position of having student representation on any board designated to govern higher education. Copies of these documents are attached hereto and made a part of these minutes.

At this time, the Chairman stated that the subcommittee

will not meet on April 3, but will meet on April 4 with the Committee on Education and Welfare.

Mr. Sutherland introduced the next speakers, Dr. William J. Arceneaux, Executive Director, Mr. Ewell Eagan, Chairman, and Mr. D. S. Young, Constitutional Committee chairman, all of the Louisiana Coordinating Council for Higher Education.

The Coordinating council gave a short presentation and made the following recommendations.

The State shall provide for:

1. An efficient system of quality public educational institutions and services. Education shall be free in public schools through secondary level. There may be other free education as the Legislature may provide by law.
2. A single appointive governing board called the Board of Regents to govern all public higher education. This board shall appoint its chief executive officer.
3. A state board of education composed of a combination of elected and appointed members as prescribed by law, to govern all other public education in Louisiana. The superintendent of education shall be appointed by this board.

The Coordinating Council submitted a written statement, a copy of which is attached hereto and made a part of these minutes.

At the conclusion of the presentation by representatives

of the Coordinating Council for Higher Education, the Chairman stated that he had received a written statement from Mr. Wayne

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Collier of the LSUNO Alumni Federation, who appeared before the subcommittee at its last meeting, a copy of which is attached hereto and made a part of these minutes.

There being no further business to come before the subcommittee on Higher Education, the meeting adjourned at 3:45 P.M., Friday, March 29, 1973.

Chairman

#### PAR STATEMENT ON GOVERNANCE OF HIGHER EDUCATION

Constitutional Convention Committee on  
Education and Welfare,  
Subcommittee on Higher Education  
March 30, 1973

A 1966 PAR study gathered considerable evidence pointing to a compelling need for coordination and planning of higher education in Louisiana. There was a proliferation and fragmentation of programs around the state, a profusion of extremely small classes in certain courses, and few degrees granted by some institutions in certain disciplines. Louisiana's institutions of higher education had been created and expanded in a haphazard and unplanned manner.

The answer back in 1966 seemed clear—create a state agency with sufficient authority and highly qualified professional staff to plan and coordinate higher education. A PAR nationwide survey indicated that this was the direction in which a preponderance of states had moved. For 20 years, Louisiana had been trying to create a coordinating and planning agency, but on a voluntary basis with institutions to be coordinated represented on the board. All such attempts had failed.

Today there is still a compelling need for coordination and planning of higher education, despite the fact that a coordinating council was approved in 1968 and began operating in 1969. The coordinating council itself acknowledged that it has failed to do its job, and recommended that it be abolished and replaced by a "super board." This single board for higher education was approved by Act 712 of 1972.

#### Why Coordination and Planning of Higher Education?

Coordination and planning of higher education is not easy. It requires a great deal of information gathered by a competent staff, objectivity in interpreting and applying such information, and courage to do what is right and in the best interest of the state and the students. We have not heard of any state where the job has been easy, but we have heard of states that have successfully gotten the job done.

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The most important factor in the success of a coordinating and planning agency is the quality of personnel. Members of a coordinating council should be persons who are knowledgeable about higher education, but who represent the public interest. The quality of the director and his staff are also of critical importance. Since the director will have to deal with university presidents including the legislature, he must be a leader of the caliber of a good university president, who is also research oriented. If the director is to have the information he needs to guide the council, he must have a top-level professional staff knowledgeable in such areas as program and curricula analysis, budget and cost analysis, capital planning, space utilization, and future manpower needs. The director should provide the council with detailed recommendations, supported by facts, as to future direction of higher education in Louisiana.

has no confidence in recommendations of the director, then they should replace him with someone in whom they do have confidence. If the council establishes a reputation for fair and sound judgment, then its decisions will be accepted; if it fails to do so, it matters little what legal authority it is given—its decisions will not and should not be accepted.

The short history of Louisiana's Coordinating Council for Higher Education indicates that it has failed to establish a good reputation and image. This does not appear to be due to a flaw in its organization nor serious voids in its legal authority. Rather, the council has committed a number of serious blunders, lacks the staff and direction it needs, and has thus failed to live up to its potential.

#### Findings of the Coordinating Council

Some of the failings of the Louisiana Coordinating Council are as follows:

1. Soon after the council began operating, it started approving new degree programs even though it had no master plan nor knowledge of whether new programs were needed or if so, where. The council was warned that other states had taken similar action, such as North Carolina, and thus had difficulty justifying its actions. Without guidelines and criteria, a council has difficulty saying "no" because institutions can argue that others were not refused.

2. A coordinating council is not intended to be purely a "no" agency. However, there is a negative aspect in that every institution cannot have everything it would like to have. One of the reasons for having a coordinating council is to have the right program in the right area at the right time.

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Louisiana's coordinating council has relied on the initiative of individual institutions to request new programs, and it has continued its early practice of usually saying "yes" to requests. According to a report of the Louisiana Coordinating Council in the July 1972 issue, Higher Education in the States:

"During the past year, the Coordinating Council considered 28 proposals for new degree programs dealing with 32 degrees at 9 institutions in the state. Of these only one, an associate degree program in dental hygiene, was disapproved."

3. The Louisiana Coordinating Council has authority to recommend elimination of programs, but there is little evidence that there has been an attempt to do so. While it is difficult to cut out programs, strong persuasion and restriction of dollars can provide effective incentives.

4. Soon after the council began operation, it approved elevation to university status of all campuses but Grambling which wished to remain a college. The governor had previously vetoed such legislation, deferring to judgment of the council. While it is true that some states have followed this practice, it means that university campuses will aspire to live up to their name and try to offer a galaxy of programs at the undergraduate as well as graduate and professional levels. Louisiana simply does not have the money to have 10 or more universities. It might be added that many colleges added doctorate programs immediately prior to creation of the coordinating council; it is now painfully evident that there is an oversupply of Ph.D.'s in many fields.

5. The council has never been properly staffed, nor has it received effective guidance and leadership from its director. Salaries are ample enough to attract persons of high calibre with considerable status as director and assistant director. The payment of large salaries to persons who lack these qualifications and experience has brought discredit to the council.

6. The council published a master plan for higher education. It is unique from most such plans of other states in that it fails to give specific guidelines in such critical areas as the role and scope of particular institutions. Under the plan, institutions under the State Board of Education are to serve regional needs while LSU-Baton Rouge is to continue to be a full-scale comprehensive university. This is hardly a blueprint for the future.

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7. The Coordinating Council admitted in the master plan that it did a poor job. Rather than knuckle down and try harder, it blamed its failings on the system and recommended its own demise. A bill to abolish the council and create a super board was presented in the 1972 session and passed with little change. The primary changes were to add blacks to the transition board and to postpone its effective date. Most who examine Act 712 agree that it has serious gaps, i.e., what happens to the bonded debt of LSU and other institutions, and what becomes of LSU system officers and staff. In fact, what becomes of the LSU system? The transition board, consisting of 37 members, would be cumbersome and since members of the Board of Education and the LSU Board would be on it, there would be serious conflicts. It would create

a new system for higher education that would divide this segment from other areas and levels of education. Most people seem unhappy with Act 712 and agree it must be changed

One of the council's arguments for a single "super" board for higher education that would govern as well as coordinate and plan was that the national trend changed. North Carolina and Wisconsin, which had coordinating councils, had replaced them with single boards. These are recent developments in these states, but it is yet to be proved whether problems in these two states will be solved by a new organization. In fact, it is yet to be seen what does develop. In North Carolina, it appears that it will not have a single board but a coordinating board, with separate governing boards for the various campuses. The previous North Carolina council had many weaknesses, and was in such disrepute that the legislature and others ignored it. Wisconsin had a weak council—primarily advisory. The Wisconsin council had 8 of 17 members who represented institutions of higher education—a factor that has almost assured failure wherever it has been tried—Louisiana and other states

#### PAR Recommendations

PAR is frequently viewed as an organization that advocates change, and that is true whenever change appears needed to improve a situation. However, we see many factors in the present organization of education to commend it, although admittedly the people filling various slots have failed to get the job done. We have seen little in various proposals for structural change that commend them. Other states can offer good insight, but each state must organize to meet its own special needs.

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After analyzing the present situation and reviewing various proposals for change, PAR has come to the conclusion that the present organizational structure needs no change but one—provide for a state superintendent appointed by the board. The problem is not with Louisiana's structure so much as it is with manning that structure.

1. The State Board of Education should remain elective from various regions of the state, and continue to have responsibility for coordinating and setting policy for all of public education except LSU. If education is to be coordinated at various levels, as it certainly should, particularly under the new career education concept, then it should not be divided by various independent boards.

2. A separate board for LSU should be maintained. LSU, by its very name, is designed to be unique among institutions of higher education. It is not designed to be a model for other institutions to try to emulate. If it is to be different, then it should have its own board to set policies for its diverse activities.

3. Since there are two boards for higher education in Louisiana, and it has been shown that these boards will not voluntarily cooperate to have a rational, cohesive and realistic state plan, then there must be an agency to coordinate and plan higher education.

We have such an agency in the Coordinating Council for Higher Education. The type of agency that Louisiana has follows the predominate pattern in the country, particularly those created in the past 20 years, and is geared to a state that has not had a single board for higher education but does have many institutions of higher education.

Louisiana's coordinating council has considerable authority if it chooses to exercise it. It has virtual veto power over establishment of new campuses, and none have been created since it was established. It has authority to approve all new programs and recommend elimination of existing ones. It has authority to recommend the operating and capital budgets of the institutions, and even authority to approve organizational changes within institutions. It has authority to obtain information and to draw up and keep current a master plan.

It does not have authority to hire and fire presidents, faculty and football coaches. It does not have authority to establish student fees or dormitory regulations. It does not have authority to hire architects, contractors and engineers. We don't think it should. These areas involve governing and administering, not coordinating and planning. When an agency tries to do both, usually coordinating and planning suffer.

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If the coordinating council lacks necessary authority to coordinate and plan, let them go for additional authority. Two acts were passed in 1972 to do just that. They may need specific authority to eliminate programs and to recommend programs where there is a void. If the

council lacks necessary money to hire a sufficient number of staff, let them strive to get the necessary money. If present council members feel that they cannot do the job that needs to be done, let them resign and let the governor replace them with people willing to back a courageous and energetic director.

4. The change that PAR has proposed for many years and continues to propose is that the state superintendent of education be appointed by the State Board of Education. Louisiana is the only state that has an elected state superintendent of education and an elected State Board of Education. This has created conflicts and vacuums. The State Board of Education does not have a staff to provide it with necessary information for its decisions, and hence it has become a rubber stamp in many important areas. This problem would be resolved if the state superintendent were appointed by the board, for all of the staff of the Department of Education would serve as the board's staff. The board could and should confine its activities to making broad policies, and let the superintendent and his staff carry them out.

In essence, therefore, our recommendations call for proper manning of the structure Louisiana now has. The Coordinating Council needs a competent and prestigious staff to provide the council membership the information and leadership required to perform its functions. The State Board of Education, likewise, needs the staff of the State Department of Education headed by an equally well qualified superintendent to provide it the information and leadership to perform its functions. Until this is tried, no one can ever know if the present system is good or bad.

Structure alone cannot guarantee a good system.

#### What Should be in the Constitution?

If the constitutional convention decides to have a basic, "bare bones" constitution, it could decide to place in the constitution the wording of the Model State Constitution:

"For a Public Schools; Support of Higher Education. The legislature shall provide for the maintenance and support of a system of public schools open to all children in the state and shall establish, organize and support other public educational institutions, including public institutions of higher learning, as may be desirable."

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Such a provision would conform to constitutional provisions in many other states which are quite broad and generally are confined to guaranteeing a public education system. This could be expanded by adding a proviso, traditional in Louisiana and many other states, which prohibits use of public funds, grants, donations or land for private and sectarian schools.

PAR made this suggestion to the Constitutional Revision Commission in 1970. Some felt that this would be too radical a departure from what we are accustomed to in Louisiana, and that education is too important to leave entirely to determination by the legislature.

If it is felt that the constitution should be more specific, then certainly an elected State Board of Education should be incorporated into the constitution to assure the election of such members. The constitution need not specify the number of members, qualifications, terms of office nor manner of election; these should be provided by legislation. The present constitution is not specific as to the duties of the State Board of Education, and again, these could be defined by law. The constitution could provide that the Board of Education confine its activities to policy-making and appoint the chief state school officer who would then be the executive and administrative officer for the board.

Since the State Board of Education has responsibility for all of public education in Louisiana except LSU, it would seem logical that the constitution give recognition to a board for LSU. However, details on composition and terms of members should be left to legislative determination.

If the coordinating council for higher education is to have any authority over two constitutional boards, it must also have constitutional status. The constitution should provide that there be a state agency to coordinate and plan higher education but detail as to composition, duties, terms and powers should be spelled out in the statutes.

It should be noted that constitutional status alone does not guarantee security for an agency. If the legislature or a governor wants to abolish or curb activities of an agency, they can do so through the power of the purse or through authority to merge and consolidate. The best guarantee for continuation of the coordinating council or any other agency is to do a good job.



Northeast Louisiana University  
 Alumni Association  
 Monroe, Louisiana 71201

The following Resolution was passed unanimously by the Northeast Louisiana University Alumni Board of Directors in regular meeting on March 22, 1973:

WHEREAS, the Northeast Louisiana University Alumni Board of Directors, an organization representing more than thirteen thousand (13,000) alumni, recognize a serious weakness in the system of control for Higher Education in the State of Louisiana, and

WHEREAS, the time for correcting this weakness is at hand because of the writing of a new Constitution for the State of Louisiana, and

BE IT RESOLVED, therefore, that we, the Board of Directors of the Northeast Louisiana University Alumni Association, urge the Constitutional Convention and the Subcommittee on Education to establish in the proposed new Constitution for Louisiana, a single Board of Control for all of Higher Education in the State.

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to the Chairman of the Constitutional Convention Subcommittee on Education and to the Chairman of the Constitutional Convention.

*Thos. J. Coenen*  
 President

ATTESTED:

*William E. Lind*  
 Executive Secretary

"Indian Territory"



LOYOLA UNIVERSITY IN NEW ORLEANS / 6303 ST. CHARLES AVENUE / NEW ORLEANS, LOUISIANA 70118

March 8, 1973

Mr. Anthony M. Rachal, Jr.  
 Executive Vice President  
 Xavier University  
 7325 Palmetto Street  
 New Orleans, Louisiana 70125

Dear Mr. Rachal:

I am writing you in your capacity as delegate to the Constitutional Convention, particularly in light of your connection with the committee having to do with educational matters.

We are currently preparing a statement to show the benefits to the state of Louisiana provided by the private institutions of higher learning. As you are aware, educational costs have risen over the past two decades in a pace which makes it impossible for tuitions and endowments to keep up. Education is a field in which productivity cannot be improved at the same rate as it can on an assembly line or in a department store. Because costs have outstripped tuition in spite of superior management, it is absolutely essential that our private institutions of higher learning look to the state for help. Precedents in other states establish the fact that there is no impediment in the federal constitution to such aid.

By this letter, I urge you and the Constitutional Convention to see to it that Louisiana's new constitution affirms complete agreement with the principles stated in our federal constitution, but that no further limitation on aid to private higher education be established. I think it would be in the best interests of the people of the state if the new constitution contain an enabling provision which would make it possible for the state to aid its private colleges in their financial distress.

Please be it noted that the state can provide financial aid to students in private institutions in such a way that it is subsidizing only those services which it provides totally in publically-supported institutions. We are only asking for help to independent colleges in areas in which the state is already involved. It is only fitting that those distinctive services provided by an independent institution which are not offered by the state be financed by private means. Since the

Mr. Anthony M. Rachal, Jr.  
 Re: State Aid to Private Colleges  
 March 8, 1973  
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service rendered by independent institutions is partly unique and partly the same as that provided by the state, it is perfectly fitting that funding be partially private and partially public. There are many precedents, notably the G.I. Bill program and the state-funded rehabilitation programs.

I wish you and your committee all success in its other work with the Constitution. Please let me know if Loyola can be of any help.

Very sincerely yours,

James C. Carter, S.J.  
 Provost

JCC:ldh

cc: Fr. Kennelly  
 Fr. Longenecker  
 Dean Garsaud  
 Professor Lemann

*S. H. H. H.*

RESOLUTION

WHEREAS, education is of utmost importance in the state of Louisiana, and

WHEREAS, those of us assembled have education as a priority in the state of Louisiana, and

WHEREAS, the future of Louisiana depends on its newly emancipated youth, and

WHEREAS, we represent these newly emancipated youth in higher education, and

WHEREAS, there is a well defined need for student input into the existing boards of education, and

WHEREAS, the proposed coordinated Board of Higher Education will benefit greatly from this input, and

WHEREAS, there is no provision in the present constitution for student representation;

THEREFORE BE IT RESOLVED that we the undersigned recommend that the Constitutional Convention of 1973 make provisions in the revised constitution for voting student membership on its "educational governing body."

By acclamation

*Robert W. Thompson - President ASB - Tulane*  
*William C. Moore, Sr. - Ex. Sec. ASB - Tulane*  
*Jody E. Brannon - SGA Pres. Nicholls State U.*  
*John E. Mitchell - H. Bernard Comm. Coll. S.H.R. Pres*  
*Steve G. Baker - Student Body Association President, Nicholls*  
*Michael J. Oliver - Student Body President, Nicholls*  
*Steven L. Patten - Law School*  
*Kerry L. Pomeroy - SGA President, L.S.U. B.R.*

LOUISIANA COORDINATING COUNCIL FOR  
HIGHER EDUCATION  
CONSTITUTIONAL CONVENTION COMMITTEE

The Constitutional Convention Committee of the Louisiana Coordinating Council for Higher Education met at 10 a.m. on March 29, 1973, in the 12th Floor Conference Room of the State Office Building.

The following members were present: P. S. Young, Ewell E. Eagan, Thomas James, Dean Fred C. Frey, W. E. Whetstone, J. K. Haynes, John Tristletchwaite, A. L. Swanson, M. J. DeFolter, Eugene C. Couaux, Dr. Albert W. Dent.

The following members were absent: Joe B. Smith, Troy Middleton, Mrs. Noibe W. Denney, Leonard W. Phillips.

The committee presents the following recommendations to the Council:

- I. A basic goal of the People of the State of Louisiana is the educational development of all persons to the limits of their individual capacities.

The State shall provide for an efficient system of quality public educational institutions and services. Education shall be free in public schools through the secondary level. There may be such other free education as the Legislature may provide by law.

- II. The Louisiana Coordinating Council for Higher Education recommends a single appointive governing board to be called the Board of Regents to govern all of public higher education in Louisiana. The Board of Regent's shall appoint its chief executive officer.

- III. The Louisiana Coordinating Council for Higher Education recommends a State Board of Education to be composed of a combination of elected and appointed members as prescribed by law to govern all other public education in Louisiana. The Superintendent of Education shall be appointed by this Board.

The Alumni Association of Louisiana State University in New Orleans (LSUNO) agrees with the concept of making the proposed Constitution of Louisiana a concise (and yet a complete) document. The support of public education, including public higher education, by the state of Louisiana is vital to the orderly management of state government and that support should be so stated in the Constitution.

Having stated that the proposed Constitution of Louisiana should, at the same time, be concise and support public higher education, the Alumni Association of LSUNO recommends the following guidelines for consideration by the Constitutional Convention in their deliberations of the content of higher education in the proposed Constitution:

1. A Single Board of Regents should be established in the Constitution to guide and plan the course of higher education in Louisiana. This Board of Regents should be responsible for making policy for all institutions of higher learning in Louisiana, and forming a master plan, both in capital and operating budget areas, to eliminate the duplication of efforts and resources which have plagued the state in the past.

The Board of Regents should not become involved in the day to day administration of college campuses, but instead should delegate that responsibility to the administrative heads of individual campus units.

Through its own determination, the Constitutional Convention should recommend the exact composition (in number) of the Board of Regents and whether the Board of Regents will be elective or appointive. However, equitable representation for all geographical areas of the state must be insured in whatever method of selection or election is taken.

2. The support of a fair and systematic allocation of funds on a formula basis should be included in the proposed Constitution.

While we do not wish that a particular formula be written into the Constitution, we do feel that the concept of a fair and uniform method of formula allocation needs to be included in the Constitution. The Constitution should stipulate that state funding for higher education be granted on the basis of a systematic formula with the appropriate state agencies handling the administrative duties subject to approval of the legislature.

The basis of the guidelines presented here are simple, and yet we feel that they are essential to the future success of higher education in Louisiana. They represent a change in the status quo, and this is necessary if colleges and universities are to be indeed coordinated and funded by the state on an equitable basis.

There have been many "plans" which have thus far been presented for inclusion in the document which will govern Louisiana in the future. Obviously, all plans cannot be incorporated into the Constitution although there is some merit in all. Our purpose in this presentation is to insure that the principles enumerated above be given the highest priority in the final document of the Constitution which will be voted upon by the citizens of Louisiana.

Respectfully submitted,

Wayne A. Collier  
President  
LSUNO Alumni Association

MINUTES

Minutes of the meeting of the Subcommittee on Higher Education of the Constitutional Convention of 1973  
Held pursuant to notice given by Chairman Matthew R. Sutherland on April 5, 1973  
State Capitol, Baton Rouge, Louisiana  
Wednesday, April 11, 1973, 10:00 A.M.

Presiding: Matthew R. Sutherland, Chairman of the Subcommittee on Higher Education

Present:

Robert Aertker, Chairman of the Committee on Education and Welfare

Ralph L. Cowen  
Perry Segura  
Joe E. Silverberg  
Matthew R. Sutherland, Chairman  
John R. Thistlewaite  
Representative Harold J. Toca  
Joe L. Smith, Sr. Research Assistant

Absent:

None

Quorum present

The Subcommittee on Higher Education met in a one day session at the Education Building on Wednesday, April 11, 1973. The meeting was called to order by Mr. Matthew R. Sutherland, chairman. Mr. Sutherland told the subcommittee that the purpose of the meeting was to try to decide on what should be included in the constitution. The chairman asked each member to give his views on the subject. Their replies were as follows:

Mr. Silverberg suggested that the committee should first decide what language it wants in the constitution, not only in drafting the verbiage, but also in such things as the number of boards to govern higher education, the type of superintendent - whether elected or appointed, and whether or not there should be a criteria set up as it relates to the duties and responsibilities of the individual who would be selected to operate as the chief executive officer.

Mr. Silverberg indicated that he had not changed his opinion of the LSU Alumni Federation plan. This plan includes a board of regents, which would be responsible for mission control, coordination, and budgetary control over all areas of higher education. Mr. Silverberg suggested a management board for the LSU system for the day-to-day operation of LSU, and a management board for the state colleges and universities. These three boards would be appointed by the governor. Another suggestion was to leave the funding of primary and secondary education to the legislature and State Board of Education. The language used in the constitution should be flexible so as to enable the state to improve its system of public education.

Mr. Cowen agreed in substance with Mr. Silverberg's views. He said it is important that specific provisions be written into the constitution so that they cannot be changed by the

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legislature. Mr. Cowen said that the LSU system should be written into the constitution because it is the state university. It has developed greatly in recent years and has overcome its faults and scandals. It must be preserved. He thinks the board of regents is important. It should be a coordinating board that will coordinate all of higher education in the state.

Mr. Thistlewaite spoke to the subcommittee as a member of the Coordinating Council. He said that the council would prefer to go along with Mr. Silverberg's views. Under the board of regents would be the LSU Board and the elected board of education. The board of regents would be given two powers: (1) power to

control budgets, and (2) power to abolish or do away with existing higher education programs, as well as pass on new proposals. Personally, Mr. Thistlewaite agrees with the LSU alumni plan of creating a board of trustees to manage colleges. The state board should retain control for two reasons: (1) they will have a staff to do the management work, along with the administrators of the colleges, and (2) they will have the authority to go to the board of regents with their budget requests.

Mr. Segura agrees with the LSU alumni plan because he thought it was made up from an objective frame of reference. However, he pointed out some things in the plan that should be discussed further, such as whether the members of the board should be elected or appointed, and which would provide

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for the best caliber of men. Mr. Segura said that the board of regents should have the final decision on budgets and curriculum.

Representative Toca indicated that he is in favor of a board of regents to control budgets. He also thought that a system for educating all of the people in the state should be provided. He said that the constitution should be in simplified form, and should not tie the legislature down especially when it is so difficult to predict the future. The constitution should mainly provide for updating education in the state.

Mr. Aertker also indicated that he was in favor of the LSU alumni plan. He said that the biggest tragedy that could happen to higher education is to lose the management and also the stature of LSU. Elementary and secondary education needs a separate board.

Mr. Sutherland said that he is in favor of a strong board of regents with powers broader than the suggestions which were made by the other members of the subcommittee. The board of regents would coordinate and plan education in the state, including elementary and secondary, vocational-technical training and post-secondary, and would also have strong budget control. The board of regents should be both elected and appointed. Elected members would provide for geographic representation, and appointed members would provide for representation of groups which are not elected to serve on the board. If there are going to be boards other than the board of regents, there should be one to handle university systems, another for colleges and junior colleges, and

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still another for elementary and secondary education. Mr. Sutherland said that education should not be divided on the coordinating and planning level. As to the superintendent of education, Mr. Sutherland suggests that he be appointed, particularly if the board is elected. The state board does not necessarily have to be an elected board.

After hearing the views of all of the members of the subcommittee, there was a general discussion, after which the subcommittee recessed for lunch.

The agenda for the afternoon session included Mr. Emmitt Douglas, state president of the Louisiana State Conference of the NAACP. Mr. Douglas made a presentation, a copy of which is attached hereto and made a part of these minutes. In his presentation Mr. Douglas referred to a report made by the NAACP, a copy of which is also attached hereto and made a part of these minutes.

After Mr. Douglas's presentation, there was some discussion of his concept of a unitary system of higher education. At the completion of the discussion period, the subcommittee recessed for thirty minutes.

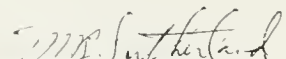
Before the next presentation, the chairman read a letter from Mr. Kirby K. Awagain, director of the Bureau of Vocational Education, expressing his regret that the vocational-technical school directors would not be able to appear before the subcommittee on this date. This letter is attached hereto and made a part of these minutes.

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Next on the agenda were Judge Carlos Spaht of the LSU Board of Supervisors, Mr. Jesse Bankston, president, and Mr. Ed Whitstone of the State Board of Education, and Mr. Ewell Eagan, chairman, Dr. William Arceneaux, executive director, Mr. D. S. Young, Mr. Gene Goaux and Mr. Woodrow DePelice of the Coordinating Council. Mr. D. S. Young made a short statement, which he indicated represented the views of all of the witnesses. After which Dr. William Arceneaux explained the revised Higher Education Coordinating Council's proposal. A copy of this statement is attached hereto and made a part of these minutes. Each witness expressed his views on the proposal, after which there was a general discussion of the same. At the completion of the discussion period, the witnesses expressed their gratitude for being given the opportunity to appear before the subcommittee for a second time. With no further business to be discussed with the witnesses, they were excused.

The subcommittee remained to discuss the proposal made by the second group of witnesses. The chairman asked Mr. Joe Smith to research the proposal and provide the language necessary to reflect the changes suggested by the members. The subcommittee postponed the scheduling of another meeting until a later time.

There being no further business to come before the subcommittee the meeting adjourned at 4:00 p.m.

  
Matthew R. Sutherland, Chairman

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Like many citizens in Louisiana, I have been carefully reading the reports of your committee hearings. All of your deliberations will surely have tremendous impact on our state, but few issues seem so pertinent at this moment as higher education. Change is imminent. Our legislature as well as federal agencies and courts have called for a major revamping of the administration and structure of our public colleges and universities.

Some have come before you however, to urge resistance to change. Some powerful interests have evolved elaborate plans to maintain their privileged positions. An institution which was originally designed to bring higher education within the reach of average citizens now demands constitutionally imposed superiority. Surprisingly, others who manage colleges which have been the objects of racial discrimination, also came before you to fix their present status in the constitution. Both positions are cries from the past, cries of arrogance and cries of fear. I urge you to ignore both of them.

I have come before you today to represent a different spirit—a confident spirit which recognizes the need for change and supports just and necessary action. Because of the rapid, haphazard growth of higher education in the past two decades, many states have devised a single, efficient agency to manage and coordinate their institutions of higher learning. Two forward-looking states, North Carolina and Wisconsin, have led the way. Since their proposals may provide you with some valuable experience, I recommend them to you. Our state clearly needs a single board of regents to direct the affairs of higher education. Citizens of all classes, races and regions in the state can agree with such a development. It can bring efficient expenditures, cut waste, and devise educational programs to meet the educational needs all over

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our state for all of our citizens. Our own legislature, despite the cries of vested interests, recognized the wisdom of such a board, first, by establishing a Coordinating Council and, second, by following the advice of that same Council to create a single, more powerful board of higher education.

While we applaud the actions of the legislature in moving toward a single board of regents for higher education, the NAACP feels that even more resolute action should be taken. The legislative bill, S397, for example, would allow many years to pass before the Board of Regents would come into full development. There is no reason why this Convention cannot make the legislature's proposed Board of Regents effective immediately with the adoption of the new constitution. A few weeks ago I sent each of you copies of a proposal adopted by the Louisiana State Conference NAACP in November 1972. This report spells out a proposal for erecting a unitary system both at the administrative level and also for coordinating and preventing the duplication of efforts and institutions.

Just this past February, Judge John H. Pratt of the U.S. District Court in D.C. ordered HEW to secure compliance of desegregation laws in Louisiana and several other states. A few weeks later we filed suit to merge LSU and Southern Campuses in New Orleans, and Shreveport and to force greater interaction among the other campuses where unnecessary duplication exists for racial objectives. The merger of certain schools will require skillful, diplomatic, and understanding leadership at all levels to assure success.

Consequently we call not only for a powerful Board of Regents but also for the appointment of special advisory boards for each of the colleges in the state to present the Board of Regents with local community needs and desires. For those merged campuses, we have called for advisory boards of equal numbers of blacks and whites.

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I hope that you will give serious consideration to our straight forward, but far reaching proposal. It should not be considered racial in character, for the safeguards and protections it provides would guarantee that every Louisiana citizen is afforded equal opportunity to fulfill his potential, irrespective of race or color. I am sure that you realize that one uneducated or undereducated citizen is a potential drain on the state's resources be he black or white.

Let me repeat to you again what I wrote to each of you earlier:

"The Constitutional Convention has the unique opportunity to remedy past failures and to construct a system of higher education that will serve as a model for the nation. The NAACP proposal has been submitted with the confidence in your intentions and the hope that it will assist in your deliberations."

Delegates, I am counting on you to consider this proposal as if our educational future depends upon it. It does.

*Emmitt J. Douglas*  
EMMITT J. DOUGLAS, PRESIDENT  
LOUISIANA STATE BOARD OF CONFERENCE NAACP

REPORT

of the  
Louisiana NAACP Special Committee on Desegregation  
of  
Public-Supported Higher Education in Louisiana

Submitted to the twenty-sixth annual Convention  
of  
Louisiana State Conference of NAACP Branches and Youth Councils  
Lafayette, Louisiana November 12, 1972

(Mrs.) Rupert A. Clemons, CHAIRMAN

Members

- Thomas C. Bailey
- Horace C. Eynus, Sr.
- Michael Cassinere, Jr.
- Allison L. Chapital, Jr.

(Mrs.) Ethel Floyd

(Miss) Julie Gosin

Joseph Logsdon

Llewelyn J. Soniat

Paul L. Stewart

(Miss) Franca L. Volter

Dennis Ware

I  
PROBLEM

The Louisiana State Conference of NAACP Branches and Youth Councils decided to seek an end to the dual system of public higher education in Louisiana for two primary reasons:

- 1) Unequal education of black students because of an unequal distribution of public resources
- 2) The threat of consolidation and coordination by state authorities who would give little consideration to the needs and status of black students, faculty, and administrators.

Inequality

Although it is not a well known fact, all public black colleges in Louisiana came into existence only after Reconstruction when state authorities refused to continue the newly established Agricultural and Mechanical College on the integrated basis proposed during Reconstruction. Instead the A & M college was merged with L.S.U. and closed to black students. Reluctantly, black leaders accepted public, segregated colleges for black students as a temporary expedient.

The history of state expenditures and program development at the black colleges clearly demonstrates that Louisiana authorities had no intention of maintaining separate and equal opportunities in higher education. Undergraduate departments were purposely understaffed and underfinanced. At no time did their schedule of appropriations equal that given to the white colleges. Perhaps the most glaring inequality, however, took place in graduate and professional schools. As society became more complex and required advanced skills and specialized training, black colleges were almost completely ignored. Black students therefore could not obtain training within the state at public expense for medicine, law, pharmacy, engineering, architecture, or dentistry. Advanced programs of study in other fields at the level of the Master's degree or the Ph.D. degree were entirely closed to black students in the state. As a result, the laboratories, sophisticated equipment, research facilities, well supplied libraries, and the highly accomplished faculty and staffs that were necessary to carry out advanced programs were denied to the black colleges and students. This deprivation affected not only their higher degree aspirations but also their undergraduate training. White students, even as undergraduates, often were able to benefit from the advanced staff

and facilities that were available at white colleges. These denials of equal educational opportunities were calculated and cynical attempts to keep black people in a semi-educated state.

Little change occurred in this unequal, racist system until it was challenged by specific NAACP law suits and threatened sanctions by officials in H.E.U. Only after the late NAACP attorney, M.P. Tursec, opened formerly all-white professional and graduate departments for black students, did state authorities establish a few advanced programs at black colleges. Their motive was clearly to undercut significant desegregation of white facilities and at the same time to maintain inferior black professional programs. The desegregation of white undergraduate colleges, particularly L.S.U., led to the expansion of the dual system. When L.S.U. opened branches in New Orleans and Shreveport, the legislature responded to fears of significant desegregation by opening branches of Southern University in close proximity to the new L.S.U. branches. Again the motive was clearly to undercut significant desegregation. Each dual extension was also a calculated attempt to extend the superior-inferior relationship to the branch campuses. The Southern branches opened with fewer facilities, degree programs, library resources, etc. than the LSU branches.

Prior to 1966, no one seriously challenged the entire dual system in higher education. The NAACP was forced to concentrate its efforts on the elimination of the dual system at the elementary and secondary school levels. The federal government, on the other hand, had been largely disinterested. When H.E.U. finally made a significant effort in 1963-65, under the leadership of Leon Panetta, to quieten the race of desegregation and the elimination of the dual system in higher education; state authorities in Baton Rouge and Washington led a drive to force Panetta out of office. Since that time, the merger start at cooperation between black and white colleges, which H.E.U. encourage as a first step in the dismantling of a dual system, has been stalemated. The H.E.U. action, however, spurred the NAACP into action and a determination to break the vicious cycle that forces unequal higher education upon black students in our state.

Even the most casual observer cannot help but admit that black schools cannot possibly rival their white counterparts given the long, sinister history of action by state officials to starve black colleges into inferiority or to keep them on a strait financial budget to maintain mediocrity at best. Such inequality, moreover, cannot be remedied by any new commitment to equalize future annual expenditures within the dual system. Here financial equity in the future will not alter the major source of inequality on black campuses--the accumulation of unequal appropriations over many decades for library holdings, buildings, equipment, laboratories, computers, landholdings, and trained staff. And surely no one would expect the Louisiana legislature to bring the black colleges up to a real position of equality by massive, compensatory appropriations in the future.

The prophetic warning of that great seer, W.E.B. DuBois, who quite accurately predicted in 1955 that following the Supreme Court's decision of May 17, 1954, should serve as a constant reminder. He said in part:

It took it will be a generation before the segregated Negro public school entirely disappears. But considering the worldwide developments since the United States has at last started to become a democracy without a color line, it is going to be difficult for the South and the northern cooperators to trace the separate school decision as they have treated Negro disfranchisement since 1876.

Nevertheless this decision . . . faces Negroes with a cruel dilemma. They want their children educated. That is a must, also they continue in servile servitude. Not even the propaganda of Booker T. Washington with his backing from wealth and fame could bribe black America from this dehumanization. Here they will stand; God helping them, they can do nothing else.

Yet with successfully mixed schools they know what their children must suffer for years from southern white teachers, from white hoodlums who sit beside them and under school authorities from janitors to superintendents, who hate and despise them. They know, dear God, how they know! Yet they also know that they themselves must accept this verdict and even insist on it. They dare do nothing else, for equality is what they have demanded for 250 years and now that a further such has been achieved with dirty accommodations, they must accept it in justice to generations to come, white and black. They must eventually surrender race solidarity and the idea of American Negro culture to the concrete world humanity, above race and nation. This is the price of liberty. This is the cost of integration. Yet we will survive . . . It's just one more long battle, but we are ready to fight it.

Unfair Coordination and Consolidation

The NAACP was also stimulated to take action in the field of public higher education after the threat of unfair coordination and consolidation. Louisiana authorities have given clear evidence that they will develop new plans and bodies to avoid duplication and waste in higher education. The state is approaching a serious fiscal difficulty because of declining oil allowances and a stubborn unwillingness of the legislature to reform the state's tax structure.

Evidence of danger to black colleges, students, and staff already exists. Three developments have emphasized our fears:

1. The suggestion by the Coordinating Council that Southern University in New Orleans be merged under the present all white, conservative LSU Board of Supervisors
2. The move to close the two-year branch of Southern in Shreveport and allow the recently expanded four-year LSU branch there to remain under the LSU Board of Supervisors
3. The call for a new super board of higher education under a plan of organization which will provide little if any black representation for over a decade when most of the consolidation, undoubtedly, will take place.

Experience in other Deep South states, particularly Florida and Arkansas, demonstrates the dangers of consolidation without careful supervision or challenge by black citizens. Public educators and college administrators, black or white, cannot take up that role. Their positions make them peculiarly vulnerable to outspoken or independent action.

We in the NAACP, therefore, must take up the initiative to make certain that the inequalities of education are no longer perpetuated either through continuance of the status quo or through new, less vulnerable structures of state authority.

Improvement in higher education will require steadfast, knowledgeable action by an independent, dedicated organization supporting the interests and aspirations of black people. We can think of no better organization for that battle in Louisiana than the NAACP with its history of accomplishment in this field.

II

STRATEGIC ACTION

Our committee gathered opinion from various interested groups and individuals in the black community of Louisiana. Administrators, faculty, and students from predominantly black and predominantly white colleges were heard. Different strategies and alternatives of action were proposed. Everyone agreed that black colleges are not treated equally and therefore black students in the state were deprived of adequate opportunity in public higher education in Louisiana.

Disagreement centered on the methods required to bring about equality of educational opportunity for black students. Some persons representing public black college were adamant in their opposition to any action that would eliminate separate black schools or alter their identity. We are at one with those who insist that there is a role for black colleges. We believe that private black colleges should not only continue in existence, but should also expand their services. However, we will concede no more role for black colleges than we will for Catholic, Jewish, Islamic, or other special interest groups. We do not believe that these schools should exist from significant support from public funds. In a sense that we have traditionally called public black schools are not really black because they are white-controlled. These so-called black schools in Louisiana are all controlled by an all-white State Board of Education.

The crux of our problem therefore is not so much the inability to agree upon the final goals of a unitary system. The key question rather is, how can we bring about change and equality within a white controlled, discriminatory society. Long experience within Louisiana and other states demonstrates that only desegregation of public educational institutions brings effective improvement. Only when state authorities cannot single out black people in separate facilities can we hope to share equitably in the resources offered for education by white dominated bodies of authority. Even the recent gains of accommodations and facilities for public black colleges in Louisiana are attributable to the pressure to desegregate white schools. Unless we continue to maintain that pressure, we can expect little progress toward the goal of equality of educational opportunity in our state.

We do not ignore the difficulties and sacrifices that will probably have to be faced in the process of creating a true unitary system of higher education. Despite the hollow criticism of some recent commentators, the NAACP has always recognized that desegregation will bring problems. These problems, however, should never make us refuse to demand equality and so

bring about change of the status quo. The difficulties instead should rather make us more vigilant and determined in our policies and actions.

III

PROPOSALS

1. Single Board of Higher Education

Black membership on this board should be at least proportionate to the ratio of black population in the state. We recommend a Board of Regents whose membership and duties would be as defined in SEC 7 adopted by the 1972 session of the Louisiana legislature. However, the permanent sixteen member Board of Regents should be composed of at least six black citizens and should become fully operative by no later than 1974.

2. Larger of L.S.U. and Southern Branches in New Orleans and Shreveport

Each of the new merged campuses should be renamed. Special appointed boards of equal numbers of black and white members should be established for each merged campus to make recommendations concerning the utilization of plant, curriculum programs, administrative staffs, and faculties.

3. Co-University and College Centers

Cooperative centers should be set up between a) Southern University and Louisiana State University at Baton Rouge, and b) Grambling College and Louisiana Tech University. These centers should develop joint programs and facilities especially at the graduate level. Until these cooperative structures are established, no new degree programs or buildings should be permitted.

Every effort should also be made to eliminate duplication of degree programs and educational facilities wherever possible. Course credit at each campus should be automatically transferable to the other.

4. New Law School

A single law school should be opened at the Co-University Center at Baton Rouge and a new law school be opened at the merged university campus in New Orleans.

5. Existing Professional Schools

Each professional school in medicine, dentistry, and law should take

on the identity of the merged campus in its vicinity or of the co-university center where it is located.

Each of the professional schools, especially medicine, dentistry, and law should be instructed to pursue greater desegregation of its student body with the ratio of the state's black and white population as its goal.

6. Maintenance of Low Tuition and Open Enrollment

If black students are to share equitably and fully in the benefits of public education, it is absolutely mandatory that the Louisiana tra-

ditions of low tuition and open enrollment for all high school graduates be supported and continued. The L.C. must be vigilant in championing these traditions in higher education; for any unitary system, whatever its features will eliminate the vast number of poorer black students without low tuition and open enrollment.

#### 7. Implementation of proposals

The President and Board of Directors of the Louisiana State Conference, L.S.C. should take immediate action to implement these proposals through the courts and the state constitutional convention.



STATE OF LOUISIANA  
DEPARTMENT OF EDUCATION  
LOUIS J. MICHOT  
STATE SUPERINTENDENT  
BATON ROUGE 70804

April 10, 1973

Mr. Joe L. Smith  
Senior Research Assistant  
Constitutional Convention of 1973  
P. O. Box 44473  
Baton Rouge, Louisiana 70804

Dear Mr. Smith:

Relating to our telephone conversation of this date, it will be impossible for the vocational-technical school directors to appear before the Subcommittee on Higher Education of the Committee on Education and Welfare on April 11. We are involved in the development of final plans in coordination with the regional conferences held by the Joint Legislative Committee on Education throughout the State. I am sure that at a later time the directors would be in a position to meet with the Subcommittee on Higher Education when plans have been developed and approved by the State Board of Education.

Thank you for your cooperation and assistance in this matter.

Sincerely yours,

Kirby K. Awagain  
Director  
Bureau of Vocational Education

NKA:ld

On January 8, 1973, the Louisiana Coordinating Council for Higher Education passed a resolution regarding the 1973 Constitutional Convention and the governance of education in Louisiana. The Council called for the delegates to the Convention to establish "one single board, with ultimate planning and policy-making authority, to direct all public institutions of higher education in Louisiana. The establishment of such a board does not preclude the creation or retention of sub-level operational governing boards designed to administer the day-to-day operations of an institution or group of institutions."

On March 29, 1973, the Coordinating Council adopted another resolution which echoed the January 8 decision and called for the creation of a "single appointive...board to be called the Board of Regents to govern all public higher education in Louisiana." The March resolution continued, "The Louisiana Coordinating Council for Higher Education recommends a State Board of Education...to govern all other public education in Louisiana. The Superintendent shall be appointed by the Board."

During those months, the membership and the staff of the Council has been engaged in numerous hours of deliberation and discussion with other groups concerned with the governance of education in Louisiana. The Council's goal in sponsoring these meetings was twofold: first, to establish a unified coalition in order to create a model system of education governance; and, two, to avoid a confrontation within the education com-

munity inevitably resulting in institutional scars and personal animosities. The report to be issued at this time ties together the previous pronouncements of the Council with the results of these meetings.

In addition, the structure to be recommended below establishes a sophisticated network for educational governance. It differentiates between planning and coordinating, and the day-to-day, routine operations of institutions and systems. It is a plan committed to the flexible development of a state-wide system with a style and technique of liaison and intercommunication.

Louisiana's 1973 Constitutional Convention should establish a model system of education governance. The goal of such a system must be, simply, quality education at every level. Although we must look to other states who have moved farther and faster in this area, Louisiana--if you will pardon the cliché--must march to the beat of its own drums. Our current educational structure has shortcomings and they must be overcome; but that structure also has many serviceable features, and they must be maintained. In our deliberations, we established these basic philosophical observations as the basis for negotiation.

### PUBLIC EDUCATION

#### Section 1. Board of Regents

A. There shall be a body corporate known as the "Board of Regents" which shall plan and coordinate all education in the state. It shall have such powers, duties and responsibilities as are provided in this Section.

B. The Board shall consist of fifteen members to be appointed by the Governor for seven-year terms, by and with the advice and consent of the Senate. There shall be at least one member of the Board who is a resident of each congressional district.

C. The Board shall have the following powers, duties, and responsibilities with respect to all public institutions of higher education and post-secondary vocational-technical training and career education:

1. To revise or eliminate any existing degree program, department of instruction, institute, school, division or similar subdivision.

2. To approve, disapprove or modify any new degree program, department of instruction, institute, school, division or similar subdivision sought to be insuolated.

3. To study and analyze the need for and feasibility of any new institution of higher education. If the creation or establishment of a new institution is proposed, the Board shall report its findings and recommendations within one year to the Legislature, the Governor, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and the State Board of Education in writing, and only after such report has been filed, or if no report is filed within one year, the Legislature may create or establish the proposed new institution by vote of two-thirds of the membership of each house of the Legislature. This subparagraph shall apply to the establishment of branches of existing institutions and to the conversion of branches of institutions offering two-year courses of study to institutions offering longer courses of study.

4. To formulate a master plan for higher education and post-secondary vocational-technical training and career education in the state.

5. To require the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the State Board of Education, and any board created by the Legislature to submit to it, at times specified by the Board of Regents, their annual budget proposals for the operational and capital needs of each institution under their respective control. The Board shall submit to the Legislature, not later than the opening day of each regular session, its recommendations on budgets for all institutions of public higher education and post-secondary vocational-technical training and career education in the state. It shall recommend priorities for capital construction and improvements.

D. The Board shall have only broad planning and coordinating functions over elementary and secondary education.

E. Appropriations by the Legislature for operational and capi-

tal projects of institutions of higher education and post-secondary vocational-technical training and career education shall be made to the institutions. The appropriations shall be administered by the respective governing boards and applied to the internal operations of the institutions under their control.

F. All powers over public institutions of higher education and post-secondary vocational-technical training and career education not specifically vested in the Board of Regents by this Article are reserved to the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College and the State Board of Education as to the institutions under their respective control, or to any board which may be created by the Legislature with respect to vocational-technical training and career education at the post-secondary level.

C. The Board and its members shall also be subject to the applicable provisions of Section 4 of this Article.

#### Section 2. State Board of Education.

A. There shall be a body corporate known as the "State Board of Education" which shall be the governing body of the State Department of Education and shall have the following authority:

(1) Supervision and control of all public elementary and secondary education through twelfth grade, including vocational-technical training and career education, however the Board shall not control the business affairs of parish and municipal school boards, nor the selection or removal of their officers, parish superintendents, directors, and other employees; (2) Supervision and control of all state colleges and universities except those included in the Louisiana State University and Agricultural and Mechanical College system; and (3) Supervision and control of all public institutions of vocational-technical training and career education at post-secondary levels, unless and until the Legislature shall provide otherwise. These authorities are subject to the powers granted the Board of Regents in Section 1 of this Article.

B. The Board shall consist of fifteen members who shall be elected for six year terms from single member districts. Anything hereinabove to the contrary notwithstanding, any member of the existing State Board of Education on the effective date of this constitution shall become a member of the Board created by this Section and to serve until the expiration of the term to which he was elected.

C. The Board and its members shall also be subject to the applicable provisions of Section 4 of this Article.

D. The State Superintendent of Public Education shall be appointed by and may be removed at the pleasure of the Board, which shall fix his term of office, qualifications, duties and salary; provided, that the person who occupies the office of State Superintendent of Public Education on the effective date of this constitution shall continue to serve until the expiration of his term.

#### Section 3. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College.

A. There shall be a body corporate known as the "Board of Supervisors of Louisiana State University and Agricultural and Mechanical College" which, subject to the powers granted to the Board of Regents in Section 1 of this Article, shall govern, direct, control, supervise and manage the institutions included in the Louisiana State University and Agricultural and Mechanical College system. The institutions within that system shall comprise those which were under the control of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, as that body will have been in existence on December 31, 1973, and such other institutions as the Legislature may thereafter include within such system.

B. The Board shall consist of fifteen members to be appointed by the Governor for seven-year terms, by and with the consent of the Senate. There shall be at least one member of each congressional district, and no more than three members from any one congressional district, as such districts shall be constituted at the time of each appointment. Anything hereinabove to the contrary notwithstanding, all persons serving as appointive members of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, as that body will have been in existence on December 31, 1973, shall become members of the Board created by this Section and shall serve until the expiration of the respective terms to which they were appointed.

C. The Board and its members shall also be subject to the applicable provisions of Section 4 of this Article.

#### Section 4. Miscellaneous Provisions Applicable to Boards.

A. The Legislature shall appropriate the necessary funds for the operation and maintenance of all Boards created by or pursuant to this Article, together with their respective administrative and research staffs.

B. The members of all Boards created by or pursuant to this

Article shall serve without pay, except for such per diem and expenses as shall be fixed by the Legislature.

C. No officer, employee or faculty member of any state institution of higher education or post-secondary vocational-technical training or career education, or their spouses, shall be eligible for membership on a Board.

D. Each Board shall elect from its members a chairman, vice-chairman and secretary, and shall appoint such other officers as deemed necessary.

E. The Governor shall make an appointment to fill any vacancy on any appointive board within 60 days after such vacancy occurs, and he shall submit such appointments to the Senate for confirmation at the next session of the Legislature.

F. The Legislature shall provide for staggered terms on all Boards in this Article.

G. An appropriate number of black citizens shall be included on the appointive boards specified in this section.

H. There shall be no duplication of membership on the boards specified in this section.

#### MINUTES

Minutes of the meeting of the Subcommittee on Higher Education of the Constitutional Convention of 1973

Held pursuant to direction given by Mr. Robert Aertker, chairman of the Committee on Education and Welfare, during a joint meeting of the Subcommittees on Elementary and Secondary Education and Higher Education

East Baton Rouge Parish School Board  
Building, Baton Rouge, Louisiana  
Tuesday, April 17, 1973, 3:30 P.M.

Presiding: Mr. Matthew R. Sutherland, Chairman of the Subcommittee on Higher Education

Present: Ralph L. Cowen  
Joe E. Silverberg  
Matthew R. Sutherland, Chairman  
John R. Thistlethwaite  
Rep. Harold J. Toca  
Joe L. Smith, Senior Research Assistant

Absent: Perry Segura

Quorum present.

The Subcommittee on Higher Education met in an afternoon session at the East Baton Rouge Parish School Board Building, Tuesday, April 17, 1973. The meeting was called to order by Mr. Matthew R. Sutherland, chairman. Mr. Sutherland told the subcommittee that the purpose of the meeting was to decide on the substance of a proposed provision for higher education in light of the vote that the combined Subcommittees on Elementary and Secondary Education and Higher Education had just taken on the motion offered by Mr. Robinson.

The subcommittee discussed the effect of the adoption of Mr. Robinson's motion.

Mr. Sutherland said that the motion had the effect of creating a separate, independent board for elementary and secondary education without the requirement for any coordination and planning between elementary and secondary education and higher education. Mr. Silverberg and Mr. Thistlethwaite disagreed. Mr. Sutherland asked Mr. Silverberg to get an interpretation from the Subcommittee on Elementary and Secondary Education which was meeting in another room. Upon returning, Mr. Silverberg stated that coordination and planning as it relates to the curricula of elementary and secondary education was to be included into the overall plan.



The subcommittee then turned its attention to the discussion of what should be included in the provision on higher education. After all views were heard, Mr. Sutherland directed Mr. Joe L. Smith of the research staff to draft a proposal for higher education that would reflect the subcommittee's discussion and include the following:

1. A board of regents, sixteen members, appointed, two from each congressional district, for six-year terms, to have broad planning and coordinating functions to include budgetary responsibility.
2. A board of supervisors for LSU, sixteen members, appointed, two from each congressional district, for six-year terms, to have management responsibility for the LSU system.

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3. A board of trustees for the state colleges and universities, sixteen members, appointed, two from each congressional district, for six-year terms, to have management responsibility for the state colleges and universities.
4. Responsibility of the board of regents for a master plan to include a formula for the equitable distribution of finance.

Mr. Sutherland further directed Mr. Smith to submit the proposal to the members of the subcommittee upon completion of the draft. Mr. Sutherland stated that he would poll the members of the subcommittee after they had received the draft, to ascertain whether another subcommittee meeting should be called before the May 3, 1973 meeting of the Committee on Education and Welfare.

There being no further business to come before the subcommittee, the meeting adjourned at 5:40 P.M.

  
Chairman

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#### MINUTES

Minutes of the meeting of the Subcommittee on Higher Education of the Committee on Education and Welfare of the Constitutional Convention of 1973.

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

Louisiana Department of Education Building  
Wednesday, May 23, 1973, 10:00 a.m.

Presiding: Mr. Matthew R. Sutherland, chairman

Present: Mr. Ralph Cowen  
Mr. Perry Segura  
Mr. Joe Silverberg  
Mr. John Thistlethwaite  
Rep. Harold Toca

Absent: None

The Subcommittee on Higher Education met in a one-day session at the Louisiana Department of Education Building on May 23, 1973. The chairman called the meeting to order at 10:00 a.m., the secretary called the roll and a quorum was present. Mr. Cowen moved to dispense with the reading of the minutes of the previous meeting and the chairman ordered the minutes adopted as submitted. Rep. Toca asked that the minutes reflect the fact that he waived per diem because he is a member of the legislature.

In a review of the second draft of proposal No. CC-262, the subcommittee took the following actions:

Page 1, line 19, delete the words "At least".

Page 2, line 1, change the word "shall" to the word "may".

Page 2, paragraph (E) shall be amended to read:

(E) Vacancies; how filled. A vacancy occurring prior to the expiration of the term shall be filled for the remainder of the unexpired term by appointment by the governor, with the consent of the Senate.

Page 2, paragraph (F), subparagraph 3 shall be amended to include lines 1-4 of page three beginning with the word "branches" between lines 24 and 25 of page 2.

Page 2, line 31, delete the words "the governor, and the public".

Page 3, lines 1-4 are deleted. (These lines have been inserted in page two.)

Page 3, lines 20-22, delete beginning with the word "to" and ending with the word "session".

Page 3, line 29, delete the words "with respect" and insert "as it relates". Insert the word "the" between the words "to" and "elementary".

Page 3, lines 30 and 31, delete beginning with the word "which" and ending with the word "Education".

Page 3, line 35, delete the word "governing" and insert the word "managing".

Page 4, line 1, delete the word "governing" and insert the word "managing".

Page 4, line 12, delete the word "All" and insert the words "of management" between the words "powers" and "over".

Page 5, line 3, delete the word "shall" and insert the word "may".

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Page 5, line 9, delete the word "All" and insert the word "Management".

Page 5, lines 12-15 shall be amended to read:

The board shall have planning and coordination responsibility as it relates to the elementary and secondary educational curricula.

Page 5, line 16, delete the words "Provides that" and insert the word "Requires".

Page 5, line 18, insert the word "to" between the words "education" and "be".

Page 5, line 20, delete the words "Provides that" and insert the word "Requires". Insert the word "to" between the words "legislature" and "appropriate".

Page 5, line 30, delete the word "control" and insert the word "management".

Page 5, line 32, delete the word "control" and insert the words "supervision and management".

Page 6, line 2, delete the word "control" and insert the word "management".

Page 6, line 10, delete the words "At least".

Mr. Sutherland moved to delete page 6, lines 14-17.

The motion was unanimously adopted.

Page 6, lines 18-26 shall be amended to read:

(C) Vacancies; how filled. A vacancy occurring prior to the expiration of the term shall be filled for the remainder of the unexpired term by appointment by the governor, with the consent of the Senate.

Page 7, line 2, insert the word "of" after the word "appropriation".

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Page 7, line 11, delete the word "control" and insert the word "management".

Page 7, line 12, delete the word "including" and insert the word "included". Insert the words "and management" between the words "supervision" and "of".

Page 7, line 14, delete the word "control" and insert the word "management".

Page 7, delete lines 23 and 24.

Page 7, lines 25 and 26 shall be amended to read:

Provides that the governor fill vacancies.

Page 7, line 35, delete the words "govern, direct, control".

Page 8, line 1, delete the word "medical".

Page 8, line 7, delete the words "At least".

Page 8, delete lines 11-15.

Page 8, lines 16-24 shall be amended to read:

(C) Vacancies; how filled. A vacancy occurring prior to the expiration of the term shall be filled for the remainder of the unexpired term by appointment by the governor, with the consent of the Senate.

Page 8, line 28, delete the word "Rewords" and insert the word "Revises".

Page 8, line 35, delete the words "govern, direct, control".

Page 9, delete lines 6-8.

Page 9, lines 9-10 shall be amended to read:

Provides that the governor fill vacancies.

With the completion of the review of the proposal,

Mr. Cowen moved that the proposal, as amended, be submitted to the Committee of the Whole as the Higher Education

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proposal. With no objection, the motion carried.

The next item on the agenda was review of assigned constitutional provisions. In a discussion, the subcommittee took the following actions:

Article IV, Section 14 is deleted.

Article X, Section 7 is retained as it pertains to donations to educational and charitable institutions.

Article X-A, Section 4 is deleted if dedication of revenues are deleted from the constitution. Otherwise, it shall be retained.

Article XII, Section 2 is deleted.

Article XII, Sections 7A, 7B, and 7C are covered in the new proposal. The second paragraph of 7B is deleted as it pertains to higher education.

Article XII, Section 9 is deleted.

Article XII, Section 13 is to be deleted. The subcommittee is to check with the Committee on Revenue, Finance and Taxation on what they will do with Article IV, Section 12.

Article XII, Section 17 is deleted.

Article XII, Sections 18-20 are to be deleted and put into the statutes.

Article XII, Section 21 is to be deleted and put into the statutes.

Article XII, Section 22 is to be deleted.

Article XII, Section 23: defer action until it is discussed with the Committee of the Whole.

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Article XII, Section 24 is to be retained.

Article XII, Section 25 is to be deleted.

Article XII, Section 26 is to be deleted.

The chairman announced that there would be a joint meeting of the Subcommittee on Elementary and Secondary Education and the Subcommittee on Higher Education on Monday, May 28, 1973 at 10:00 a.m.

There being no further business to come before the subcommittee, the meeting adjourned at 1:00 p.m., Wednesday, May 23, 1973.

Matthew R. Sutherland, Chairman

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### 3. Subcommittee on the Public Welfare

COMMITTEE ON EDUCATION AND WELFARE

*Antonio*  
Subcommittee on Welfare:

Anthony M. Rachal, chairman  
Minos H. Armentor  
Kenneth Gordon Flory  
Bill Parker Grier  
F.E. Hernandez  
Eual J. Landry, Sr.  
Edward N. Lennox  
Mary E. Wisham

The subcommittee, meeting in informal session on March 9, 1973, set its first formal meeting for March 21, 1973 at 10:00 A.M. The location of the meeting was left open pending arrangements by the research staff. In preparation for the meeting, the subcommittee requested that the research staff study the Louisiana Constitution of 1921 and identify those sections relating to general welfare which are purely local in nature and those sections which could be exclusively statutory. The staff was asked to furnish a study of welfare provisions in other state constitutions. From this information an agenda is to be prepared <sup>outlining</sup> the major issues facing the Subcommittee on Welfare.

MINUTES

Subcommittee on Public Welfare of the  
Committee on Education and Welfare  
of the Constitutional Convention of 1973  
Held pursuant to a notice mailed by the  
Secretary of the Convention March 13, 1973  
Room 211, State Capitol Building  
Baton Rouge, Louisiana  
March 21, 1973, 10:00 a.m.

Presiding: Mr. Anthony Rachal, Jr., Chairman

Present: Mr. Flory  
Mr. Hernandez  
Mr. Lennox  
Mr. Landry  
Mr. Grier  
Miss Wisham  
Absent: Mr. Armentor

The chairman called the meeting to order at 10:05 a.m. and noted that there was a quorum present. The first order of business was to schedule future meetings and agenda. The committee must realize that proposals should be ready to submit to the full committee by June 1, 1973.

Mr. Lennox suggested the committee isolate the areas on which public hearings should be held and invite people from these areas to state what they feel should be left in, taken out, or added to the Constitution.

Mrs. Audrey LeBlanc, the Coordinator of Research, advised the members that people should be invited in advance in order for them to prepare a written presentation; and that they should be assigned a specified time to appear. She pointed out that the area of discussion will determine the time needed, but that those committees which have held public hearings found that none of the speakers used more than forty-five minutes. It was noted that there had been a good response to invitations which specify a time slot.

After much discussion, the members decided three main categories on which hearings would be held: Business, Industry, and Labor; Health, Welfare, and Consumer Affairs; and Civil Service.

The members set March 28, 1973, at 10:00 a.m. in the Governor's Press Room, 4th Floor, Capitol Building as the day to hear from those concerned with Business, Industry, and Labor. The tentative agenda includes: Mid-Continent Oil and Gas Association; Louisiana Chemical Association; Louisiana Manufacturers Association; Associated General Contractors of America, Inc.; Louisiana Forestry Association; State Chamber of Commerce; Construction Industry Council; Public Service Commission; Louisiana State Department of Labor; Louisiana Motor Transport Association, Inc.; Construction Industry Legislative Council; Independent Industrial Workers Union; International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local Union No. 270; Gulf States Utilities Company Division

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Manager; New Orleans Public Service; Louisiana Department of Commerce and Industry; Mr. Victor Bussie, AFL-CIO; South Central Bell.

March 29, 1973, 9:00 a.m., Governor's Press Room, 4th Floor, Capitol Building has been reserved to hear from the public on Health, Welfare, and Consumer Affairs. Among those invited are: Division of Income Maintenance; Welfare Rights Organization; LSU School of Social Welfare; Governor's Consumer Protection Division; Louisiana Consumer's League; New Orleans Office of Consumer Affairs; Consumer Protection Center of Baton Rouge; Louisiana Health and Social Rehabilitation Services Administration; State Department of Hospitals; Louisiana Regional Medical Program; Louisiana State Board of Health; Louisiana State Medical Society; Health Education Authority of Louisiana.

The Civil Service hearings will be held April 5, 1973 at 9:00 a.m. at the Louisiana Teachers Association Building, 1755 Nicholson Drive, Baton Rouge, Louisiana. Representatives of the following are being asked to appear: Louisiana Civil Service League; Louisiana State

Civil Service Commission; Fire and Police Civil Service; Mr. Roy Champagne, City and Parish of Lafayette Civil Service; Mr. Roy Stewart, Jefferson Parish Civil Service; Mr. John Runyan, Municipal Fire and Police Civil Service; Mr. Peters, President Professional Fire Fighters Association of Louisiana; Mr. Perez, New Orleans Firefighters Association; Mr. Irwin Magri, Patrolmens Association of New Orleans; Henry LeBert, Louisiana Public Employees Council 17 AFSCME-AFL-CIO; and Mr. Harold Forbes.

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Mr. Hernandez stated he felt Civil Service people will want two things; one, protection of their rights; and, two, protection of the retirement system. Mr. Hernandez pointed out that any statements in the new Constitution regarding public welfare will have to remain flexible to be able to adapt to the rules set down by the Congress of the United States. All members felt that Governor Edwin Edwards should be invited to attend one of the meetings as he is vitally interested in the aspect of Civil Service.

Two areas, Penal and Correctional Institutions and Retirement, were questioned by the members as to whether or not they fell under the subcommittee's purview. The consensus was to let the Coordinating Committee review these two areas and decide which committee they belong under for study.

After a luncheon recess, the committee resumed at 2:10 p.m. Mr. Landry raised the question as to what follows after listening to the input from the hearings scheduled. Mr. Lennox and others felt the subcommittee should then study the input, the staff reports, and try to arrive at a consensus in order to draft proposals. If the committee of the whole accepts the proposals, they will then be submitted to the Convention when it reconvenes in July. Mr. Aertker, chairman of the committee of the whole, was present and stated he hoped the subcommittee would indeed be ready to present recommendations and proposals as soon as possible. Also, the committee of the whole needs to know how many more meetings the

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subcommittee will require in order to present a budget to the Executive Committee for consideration.

Meeting dates were set for April 10, and 11, 1973 for the subcommittee to deliberate the findings from the hearings. Mr. Rachal asked the staff to prepare materials, such as outlines of each speaker's views at the hearing meetings, to be used by each member of the subcommittee during the April 10, and April 11, 1973 discussions.

Mr. Flory asked why the subcommittees cannot meet on the days the Composite Committee is traveling through the state. Mr. Rachal felt the subcommittees should not be denied the right to meet during those dates if there

is not valid reason for such a mandate. Mrs. LeBlanc will investigate this possibility and report to the subcommittee chairman.

Most of the members present expressed a preference for meetings to be held in the State Capitol Building if possible.

Mr. Aertker inquired of the chairman as to why Mr. Minos Armentor, a member of the Education and Welfare Committee and one assigned to this subcommittee, was absent. He had also missed the committee of the whole meeting in March and Mr. Aertker asked the staff secretary to please check with Mr. Armentor about this matter.

Mr. Rachal asked the research staff to send copies of the invitation being mailed to the organizations invited to the public hearings, along with a list of the organizations or individuals contacted, to each member

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of the committee. A list of the names and addresses of all members of each subcommittee of the Committee on Education and Welfare was requested.

In closing, the chairman reminded the members of the fact that the coffee at each meeting is to be paid for by the members of the subcommittee. There being no further business to discuss the meeting adjourned at 3:00 p.m.

Anthony M. Rachal, Jr. Chairman

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#### MINUTES

Subcommittee on Public Welfare of the  
Committee on Education and Welfare

Held pursuant to a notice mailed by  
the Secretary of the convention March  
22, 1973. Governor's Press Conference  
Room, Baton Rouge, Louisiana March 28, 1973

Presiding: Mr. Anthony Rachal, Jr., Chairman

Present:

Absent:

Mr. Kenneth Gordon Flory  
Mr. F. E. "Pete" Hernandez  
Mr. Edward N. Lennox  
Mr. Eual J. Landry, Sr.  
Mr. Bill Parker Grier  
Miss Mary E. Wisham

Mr. Minos H. Armentor

Meeting called to order at 10:00 a.m. Mr. Rachal asked Mrs. McGibbon to call roll and a quorum was present. Mr. Armentor was noted to be absent and Mr. Rachal explained he had received a letter stating Mr. Armentor received notice of the meetings for today and March 29, 1973 too late to preclude

previous obligations. Mr. Rachal also explained Mr. Armentor had missed the meeting of the Committee of the Whole because of a prior commitment. He had planned to spend an hour at the meeting, but, being unable to find a place to park had gone on to his meeting in New Orleans. As a result, he was unaware of the subcommittee to which he had been assigned and assumed that he was assigned to the Elementary-Secondary Education Subcommittee. He came to Baton Rouge for the meeting of the Elementary-Secondary Education Subcommittee and discovered his error. He has included in his letter his feelings on Business and Labor. Mr. Hernandez moved Mr. Armentor be excused and it was seconded by Mr. Grier. The motion was approved. Copies of the letter were given to each member, and one is attached hereto and made a part of these minutes.

The chairman voiced his feelings that all felt the witnesses should be heard and questioning allowed by members of the subcommittee. Mr. Hernandez agreed this was the concensus of the committee. The chairman advised there would be an overlap with other subcommittees which would have to be worked out with the Coordinating Committee.

Mr. Hernandez asked if the Coordinating Committee had indicated whether the subcommittee's perview included Penal and Correctional Institutions and Retirement. Mr. Rachal and Mrs. LeBlanc stated that the Coordinating Committee had been advised and would be considering the question at its next meeting.

The chairman noted that some of the speakers scheduled have had to cancel and suggested that some of those present be moved up on the agenda. Mr. Flory stated Mr. Bussie would not appear and he would speak for the AFL-CIO when the time came. Mr. Dupuy of South Central Bell could not appear. Mrs. LeBlanc advised the committee that Mr. Brookshere of Mid-Continent Oil and Gas Association cannot be in attendance and that Mr. Moysse would substitute

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for Mr. Easterly at 2:30 p.m., representing the Louisiana Bankers Association.

While awaiting the first speaker, the members studied the minutes of the March 21, 1973 meeting. Mr. Rachal called for corrections of the minutes. Mr. Lennox pointed out a technical amendment on page 2, sixth line from the bottom, which should read Construction Industry Legislative Council. Mr. Flory disagreed with the statement about meetings without per diem on page one. Mr. Grier suggested it be struck from the minutes and it was carried. Mr. Flory also pointed out that on page 3 the name is spelled LeBert with an 'e', and it is Harold Forbes, and Roy, not Ray, Stewart. Corrected minutes will be given to the members. Mr. Hernandez moved the minutes, as corrected, be approved. Miss Wisham seconded the motion, and the motion passed.

Mr. Rachal advised the committee that Miss Wisham will figure the members pro rata share of the cost of the coffee for today and at future meetings.

The chairman introduced Mr. Wolbrette, Executive Vice President of the Louisiana Chemical Association. He stated at present he did

not know of a single constitutional provision alluding to the chemical industry. However, he commented that much of the constitution is outdated and can be eliminated. Provisions the organization feels should remain are: Article X, Section 1 (a); Article III, Section 25.1; Article 4, Section 4; Article 14, Section 29.1; Article 4, Section 15; Article 6, Section 4; Article 10, Section 21; Article X, Section 4, Paragraph 10; Article 13, Section 5 and

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8; Article IV, Section 14 and R.S. 30:508. The last was held in violation of the Fourteenth Amendment Federal Constitution in Steward v. Parish School Board of St. Charles Parish, 1970, and has been challenged by the U. S. Supreme Court of California. This should be considered by the staff and convention. Mr. Landry asked for elaboration on Article 10, Section 21. Mr. Wolbrette stated there are three conditions for imposition of a severance tax; one, that it be the only tax on oil or gas; two, that the tax be paid equally by owners due the severance; and three, that the tax be on quality or quantity. He stated that Professor George Hardy of LSU has said the other alternative is ad valorem property tax, but it has many disadvantages. The other type is a license tax, for example, a sales tax. Therefore, the organization feels the provision presently in the constitution should remain as is.

Mr. Flory asked how a corporation could be identified for voting purposes. Mr. Wolbrette pointed out that all corporations have a resident agent who could be the voter for all plants in the state on assessed value of land owned. He suggested this as an approach to look at if there is a return to the system of property taxpayer bond actions. Labor limitations and corporation administration should be left in the statutes and not in the constitution. Mr. Flory also raised the question on how to register stockholders of a Louisiana corporation. Mr. Wolbrette stated they should have to report to the Secretary of State annually and this should not be in the constitution, but handled by statutes. A copy of Mr.

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Wolbrette's speech is attached hereto and made a part of these minutes.

The next speaker introduced was Mr. Lamar Walters, Executive Vice President of the Louisiana State Chamber of Commerce. He stated their organization will submit its views in writing at a later date. He did advise the following under Article 6, Section 4, he felt the Public Service Commission should not have jurisdiction over sales and production of natural gas. Article 10, Section (a) should be retained as well as Article 10, Section 4, Paragraph 10; Article 10, Section 4, Paragraph 18; Article 10, Section 4, Paragraph 19; Article 10, Section 4, Paragraph 22; Article 14, Section 29.1; Article 18, Section 7; Article 4, Section 4. The chairman reiterated the members would appreciate a written text of the speech.

After a short coffee break, the chairman introduced Mr. Ford S. Lacey, Executive Vice President of the Louisiana Manu-

facturer's Association. He suggested deletions of words "and regulate the hours" in Article 4, Section 7 as they relate to women and girls. By terms of the 1964 Civil Rights Act this section is discriminatory and unenforceable. Other Articles that should be retained are Article 6, Section 4; Article 10, Section 1 (a); Article III, Section 25.1; Article 10, Section 4, Subsection 10; Article 10, Section 22; Article 13, Section 5; Article 14, Section 29.1. Mr. Flory asked if the ten year tax exemption should be disallowed if the labor force is not increased. Mr. Lacey stated that the numbers hired is not a test of expansion of a plant or

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criteria for refusing the ten year tax exemption. Mr. Flory asked if the provision relating to assessment per value of land after the ten year exemption expires would be needed when equalization procedures come into effect. Mr. Lacey stated it would be a year after the constitution is adopted before the equalization of assessment is effective, but when it is effective there would be no need for the provisions now in the constitution. A copy of Mr. Lacey's speech is attached hereto and made a part of these minutes.

Following a luncheon break the committee reconvened at 1:15 p.m. and Mrs. McGibbon called the roll. A quorum was present and the chairman introduced Mr. Louis Quinn, Secretary of the Public Service Commission. He stated he had just received the invitation to speak on Tuesday, March 27, 1973. However, Mr. Knight did appear before the Executive Committee and a copy of the Public Service Commission's views regarding provisions relating to their functions will be mailed to the committee members. The powers, jurisdiction, etc. are in Article 6, Sections 3 through 9 and actually Section 8 and 9 are no longer applicable. Basically, the functions of the Commission are judicial or quasi-judicial. The Commission believes it should remain a constitutional agency and kept separate from the Executive and Legislative Departments. The Commission is self-supporting and operates as three elected officials of three districts. This should remain elective as it gives stability to the office. The six year terms are staggered, and this prevents any particular interest group from gaining control. He suggested one change would

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be to take any problems to the Appellate Court rather than the District Court. He stated that he felt three Commissioners were adequate and that this is the number used in most states.

In 1964 the jurisdiction over natural gas was taken from the Public Service Commission. Mr. Quinn stated that if they still had jurisdiction we might not have current problems with natural gas in Louisiana. He does not advocate the takeover of municipal utilities, as they provide revenue. An individual or the utility has judicial recourse if they feel the Public Service Commission is being unfair. There are two sources of funds; one, motor carrier fund which comes from fees charged for transportation operations in the state; two, the Supervision Inspection Fee Fund, a tax or percentage levied on gross receipts of public utilities

and common carriers with profits in excess of five million dollars a year. The Legislature appropriates from these funds the money to operate the Public Service Commission. The Commission has nothing to do with the two percent utility tax and it goes directly into the general fund. Mr. Quinn stated the Commission was not self-supporting until 1972 when it was allowed to register interstate motor carriers. Prior to that, the legislature had to appropriate funds from the general fund to supplement operational needs. Nineteen seventy-three will be the first year the legislature will not have to go to the general fund. The Public Service Commission has a dual responsibility: one, it protects the public by providing utilities at reasonable rates, while also providing a reasonable rate of return to the companies furnishing the services; two, it

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is a "court" that hears from the public and the companies regarding rates and problems and makes decisions subject to judicial review.

Mr. Landry asked what was the biggest problem facing the commission today. Mr. Quinn replied that the telephone service is presently the biggest problem in the state. Second are the problems of the natural gas shortage.

Mr. Landry inquired about the organization of the commission. Mr. Quinn stated the headquarters are in the capitol with small offices in the districts that handle mainly complaints. They have an Intra-State Division for motor transports and a division that handles normal service functions. Presently they have thirty-seven staff members and one full time lawyer to handle cases that go to court. Mr. Quinn felt the wording of the present constitution is broad and general and probably should not be disturbed. The chairman asked Mr. Quinn what his exact responsibilities are. Mr. Quinn replied that his title is Secretary, which he defined as an administrative officer. He is in charge of the day-to-day operations of the commission and of the office. Mr. Grier inquired about the present salary of the Commissioners, and Mr. Quinn answered that it was \$17,500 annually. The legislature has amended the original constitutional provision which previously stated the salary would be \$3000 per year.

The chairman next introduced Mr. Charles M. Smith, Jr., Executive Director of the Louisiana Department of Commerce and Industry. He stated the purpose for incorporating industrial development laws into the constitution is that it gives governmental

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stability to industry. He listed the articles and provisions his organization felt should be retained. They are: Article 10, Section 4, Paragraph 10; Act 529, 1964 Legislature; Article 10, Section 4, Paragraph 19 (a) and 19 (b); R.S. 47:3203-3205, amended Act 689, 1972 Legislature; Act 431, 1972 Legislature; Act 14, Section 14, Paragraph 2; R.S. 39:991-1001, 1966 Legislature; Act 531, 1964 Legislature Act 557, 1964; Act 548, 1972 Legislature; Act 103, 1972 Legislature. A copy of Mr. Smith's speech is attached hereto and made part of these minutes.

The chairman introduced the next speaker, Mr. Herman Moyses,

President of the City National Bank in Baton Rouge, representing the Louisiana Bankers Association. Mr. Moyses stated the banks are governed primarily by Title 6 of the revised statutes with a few references in Title 47 as regards taxation. The banks prefer to be governed by the statutory and Administrative law rather than the constitution as the banks are in a great state of change. At present a study is going on throughout the country as to whether Banks should have state-wide branching or rights of ownership throughout the state. The present law restricts operations to the parish in which the bank is located. The bankers want simplification and elimination of details in the new constitution with just a setting forth of basic rules. The constitution should reiterate or incorporate the language presently used to recognize the status of the state debt. Mr. Flory asked for specific examples of shortening the constitution. Mr. Moyses stated that as a voter he is tired of having to go to the polls to decide the powers of the Port of Lake

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Charles, millage in New Orleans and technical matters that require legislative study. He doesn't believe we need levee boards mentioned in the constitution but just need to insure adequate flood protection. The constitution should set out the rules of the state and all parishes should be on the same footing. The constitution should be created in such a way that it does not require excess amendments. A written presentation of his speech will be submitted in the next few days.

Following a ten minute break, Mr. Charles L. Smith, Executive Director of the Constitution Industry Legislative Council was introduced. Mr. Smith stated the council does not have a prepared statement at this time. He did submit a fact sheet of his organization and a copy is attached hereto and made a part of these minutes. The council feels the first priority of the committee is to determine the antiquated, superfluous items in the constitution and eliminate them. The council urges the committee to retain the two-thirds provision on taxes. One area of concern to the council is the dangerous idea that government can interfere with free enterprise; for example, letting the printing of the convention be handled by the state instead of by private enterprise. A written proposal will be sent later.

The next speaker was Mr. James "Red" McDowell, President of the Baton Rouge Oil and Chemical Workers Union. The Union is independent from national organizations and presently represents Exxon in Baton Rouge. His personal belief is that the constitution should not hinder the people of the state to organize for wages, hours, etc. He did recommend the constitution guarantee "That people of this

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state have the guaranteed rights to organize themselves into organizations for the purpose of free collective bargaining with their employers in all matters pertaining to wages, hours, and working conditions." Mr. McDowell then turned to the subject of welfare. His organization objects to the word "welfare" and would rather it be "Work Fair"; second, they object to an able-bodied woman with three or four illegitimate children drawing money from

the state; third, the organization objects to the husbands who refuse their responsibility to their family; and fourth, the organization objects to the present system which prevents people on welfare from working and punishes those who did work and are now on the old-age assistance plan. The solution is to change the rules. Mr. McDowell listed the solutions as viewed by his organization. The speech on labor and the views on welfare are attached hereto and made a part of these minutes. In the question and answer period, Mr. McDowell indicated that he would be satisfied if the constitution remained silent on the subject of labor and that welfare be included in the statutes.

The chairman called Mr. Curtis Luttrell, commissioner of labor, Louisiana State Department of Labor. Mr. Luttrell feels the department should remain statutory and not be in the constitution. He recommended retention of Article 3, Section 36; Article 18, Section 7, particularly Subsection (b) of the first paragraph. Mr. Landry asked if Article 18, Section 7 was adequate. Mr. Luttrell said it was not, but it was beneficial in form even though not on a par with other states. Mr. Grier asked the exact position of Mr. Luttrell. Mr. Luttrell stated his is an appointive office and under the Executive Department's administration.

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Mr. Luttrell was followed by Mr. Tom Phillips, attorney for Gulf States Utilities, who was introduced by Mr. Jack Worthy, vicepresident in charge of this area of Gulf States Utilities, originally scheduled to speak. Mr. Phillips recommended Article 6, Section 2 through 7 be retained. Mr. Lennox asked if Gulf States Utilities was regulated by other than the Public Service Commission. Mr. Phillips said the sole regulation regarding rates comes from the commission. The view of Mr. Phillips is that the Public Service Commission members should remain elective.

The chairman called for Mr. Joseph Fortetich of the Association of General Contractors of America, Inc. Mr. Fortetich stated that he was not prepared at this time, and would appreciate the opportunity to appear at a later meeting. Mr. Rachal noted the committee would welcome written comments and opinions. Mr. Lennox suggested Mr. Fortetich return at the beginning of the April 5, 1973 meeting. Mr. Fortetich agreed and will be in attendance at 8:45 a.m. on that date.

The chairman asked the staff to outline what has been said today to present to the members for discussion on the afternoon of March 29, 1973.

Mrs. LeBlanc read the tentative agenda for the meeting scheduled March 29, 1973, at 9:00 a.m.

There being no further business, the meeting was recessed until 9:00 a.m. the following morning.

Anthony M. Rachal, Jr. Chairman

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LAW OFFICES OF  
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MINOS H. ARMENTOR  
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P. O. BOX 1418

March 26, 1973

Mr. Anthony M. Rachal, Chairman  
Subcommittee on the Public Welfare  
P. O. Box 44473  
Baton Rouge, Louisiana 70804

Dear Mr. Rachal:

I regret that it is not possible for me to attend the meeting on Wednesday, March 28th. The notice of meeting was received on Saturday, March 24th.

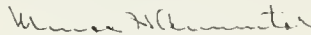
The Constitution should contain the basic provision that the Legislature shall provide for the establishment and administration of a system of public welfare and consumer affairs. I would oppose constitutional provisions including statutory material on public welfare and consumer affairs.

However, if the statutory material on Civil Service in the present Constitution is retained, we should be consistent and do the same for public welfare and consumer affairs.

I plan to attend the meeting on Wednesday, April 4th, of the Education & Welfare Committee.

I have not received any notice of my subcommittee assignment. As a result, I made one trip to Baton Rouge to attend a meeting of a subcommittee of which I am not a member. I would appreciate such information.

Very truly yours,



Minos H. Armentor

MHA:sjc

STATEMENT TO THE  
PUBLIC WELFARE SUB-COMMITTEE  
of the  
EDUCATION AND WELFARE COMMITTEE  
1973 Constitutional Convention  
By  
HENRI WOLBRETTE II  
Executive Vice President  
Louisiana Chemical Association

The organization which I am representing here today is comprised of nearly 50 chemical companies with 60 plants in Louisiana. These companies make large contributions to the economy of the state by means of payrolls of \$300 million a year to 24,600 employees; purchases of products, raw materials, and services within the state; and taxes paid to local and state taxing bodies.

This industry is constitutionally unique in Louisiana. I do not know of a single constitutional provision or reference that applies solely to the chemical industry. While we find sections applicable to aeronautics, agriculture, alcoholic beverages, bastards and bucket shops, contractors, convicts, crops, dentists, druggists, electric companies, engineers, ice factories, forests, golf links, gymnasiums, idiots, minerals, and tung oil trees . . . . no chemical industry.

This is not to say that there are not several constitutional provisions whose benefits and protection are extended to us . . . but always in some overall category. Therefore, my remarks will have to cover areas of the constitution that apply to "manufacturers" or "industry" or "property owners" or "corporations." In so doing, I hope there is not too much conflict in my views and those of representatives of other groups within this framework.

Needless to say, there is much in the present constitution that is outdated and can be eliminated; there is much in the present constitution that can be taken care of by statutory law; there is much in the present constitution that, in my opinion, should be retained. Initially, the decision will be for you to decide what stays, what goes, and what is changed. Finally, the decision will lie with the voters on whether or not they agree with your choices.

Each of us has an individual value judgement on what should go and what should stay and the reasons therefor.

In order that you might receive the widest range possible, let me list some items I think should remain and my reasons therefor.

Page 2

Article X, Section 1 (a) which provides that no state tax shall be levied nor the rate or the measure of any state tax now imposed be increased

except upon approval of two-thirds of the elected members of each House of the Legislature should remain in the constitution.

This provision is a constitutional limitation on the vested power of taxation residing in the legislature. It is a protection for the taxpaying citizen against ill-conceived, cure-alls for the crisis of the moment approach to taxation. Further, its presence in the constitution acts as a brake on state spending since lawmakers voting appropriations know it will be difficult to raise new revenues.

Yet, let me point out that this provision does not act as a complete deterrent to new or higher taxes. On occasion when the public has been convinced of the need for additional revenues, the necessary two-thirds vote has been obtained.

There is still another argument for keeping this provision intact. Industry such as the kind I represent, makes tremendous capital investments when it locates a plant or expands an existing one. Whenever you make an investment you take a degree of risk. But, at least you like to minimize the risk. In the area of business climate, these industries look to government stability. How has government treated industry in the past; what is its track record; does it seek it out and then attack it; or does it deal fairly and impartially with it as with all its citizens. The presence of this two-thirds provision does give an aura of stability to government in Louisiana and has been a positive force in the process of industrial site selection.

In connection with this provision, there is a companion to it in Article III, Section 25.1. This latter is found in the "legislative" section of the constitution and provides that when the legislature is considering tax measures that any amendment to a tax bill made by one House requires a two-thirds vote for concurrence by the other House and that adoption of a conference committee vote on such measures must also be by a two-thirds vote. The reason for this provision is obvious, and is another limitation on legislative powers for the direct benefit of the citizens.

Another present provision I would recommend be allowed to stand is Article 4, Section 4, which lists prohibited subjects for local or special laws. I will not address myself to the entire list of 20 odd subjects, but I do say that no special or local laws should be allowed "regulating labor, trade, manufacturing or agriculture."

Article 14, Section 29.1, authorizes the legislature to permit parishes to allow industrial districts in the parish under certain conditions. This is an important constitutional provision because without it, there is no such implied authority in the parish governing bodies. Let me point out that the provision is one paragraph long, but that the companion legislation which actually spells out the requirements the parishes must impose and the conditions to be met runs well over two pages in the Revised Statutes 33:130.11. I think this is what a great many advocates of constitutional brevity are urging.

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There are many other provisions of the present constitution that we hope to comment on. However, many of them are very specific and assigned to other committees.

For example, we feel strongly that Article 4, Section 15, which prohibits any ex-post facto law or any law impairing the obligations of contracts should be retained.

We feel that Article 6, Section 4, which prohibits Public Service Commission jurisdiction over direct industrial sales of gas should stay bedded in the basic doctrine of law.

We feel that Article 10, Section 21, which establishes that the severance tax shall be the only tax imposed on gas is a constitutional limitation, rather than statutory in nature.

We feel strongly that Article 10, Section 4 (10) which established the ad valorem tax exemption for new manufacturing establishments has strong reason for retention.

Article 13, Section 5, and Section 8 are the provisions that recognize that corporations can operate in Louisiana and define them. We do not feel this should be left to statute only.

Finally, let me address myself to Article IV, Section 14. As originally written, this called for ad valorem bond elections to be voted on by the "property taxpayers." RS 30:508 which restricted eligibility to voting in bond elections to property taxpayers was held to violate the equal protection clause of the federal constitution. This was in the case of Steward vs. Parish School Board of St. Charles Parish, 1970.

In the last two weeks, the U.S. Supreme Court in a California case has now held that there can be special elections limited to property taxpayers, that they can vote on the weighted vote dependent on the amount of property in the special district, and that corporate taxpayers can also vote.

I would suggest that this convention might well look to the recent Supreme Court decision and if it thinks that it would be in the best interest of the citizens of this state to have such provisions as the California law provides in these type special districts this might be the appropriate time for insertion in the constitution.



STATEMENT TO THE SUB-COMMITTEE ON PUBLIC WELFARE  
OF THE CONSTITUTIONAL CONVENTION'S COMMITTEE  
ON EDUCATION AND WELFARE

March 28, 1973 - Baton Rouge, Louisiana



BY: Ford S. Lacey, Executive Vice President  
Louisiana Manufacturers Association

Mr. Chairman and Members of the Sub-Committee:

I am Ford Lacey, Executive Vice President of the Louisiana Manufacturers Association, a state-wide industrial organization. Our membership encompasses practically every type and every size of manufacturer in the state.

I appreciate your invitation to appear here today to talk about some of the provisions of our present Constitution which affect labor and industry.

Article 4, Section 7; Price of manual labor; wages, hours, and working conditions of women.

I would suggest the deletion of the words "and regulate the hours" as they relate to women and girls, except those engaged in agricultural pursuits or domestic service.

The reason is that the 5th Circuit Court of Appeals in May, 1972, held that Louisiana State law pertaining to the limitation of hours per day or per week for women was unenforceable under the Supremacy Clause of the U. S. Constitution since the Louisiana law conflicts with Title VII of the 1964 Civil Rights Act. (LeBlanc vs. Southern Bell Telephone and Telegraph.)

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Article 6, Section 4; Public Service Commission; powers.

Public Service Commission----"shall have no power or authority to supervise, govern, regulate and control any aspect of the sales of natural gas direct to industrial consumers for fuel or utilization in any manufacturing process, whether such direct sales are made by natural gas producers, natural gas pipeline companies, natural gas distributor companies or other persons engaging in such sale of natural gas."

This section simply determines the role of the Public Service Commission in sales of natural gas to industrial users. Leaving this provision in the Constitution allows actual determination of the price of the gas sold to industry to be negotiated between the supplier and the purchaser. Without the ability to negotiate in what is already a difficult undertaking it would be even more complicated if a third party entered the picture -- that is the Public Service Commission.

Already there is regulation on natural gas and energy, and this is working to the detriment of industrial development in Louisiana. The State does not need additional regulation of this kind.

This provision should remain in the Constitution.

Article 10, Section 1a - State tax, levy or increased in rate; approval by two-thirds of legislature.

This provides that no state tax shall be levied nor shall the rate or measure of any present tax be increased by the Legislature at any regular or special session except upon the approval of two-thirds of the members to each House, evidenced by a recorded vote.

This is a most important provision of our Constitution.

Since the power to tax is truly the power to destroy, we vigorously urge retention of this provision in the new constitution.

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In this connection, I would call attention to Article 3, Section 25.1; Tax measures, amendments, conference committee reports; vote required.

This is the provision in the Constitution which provides that no amendment to any bill or measure proposing to levy new state taxes or increasing the rate of any state tax made by one house shall be concurred in by the other, nor shall reports of conference committees on any such bills be adopted in either house except by two-thirds vote of the elected members.

This is a very important provision and should also be retained.

Article 10, Section 4 - Tax Exemptions.

Subsection 10 - New Manufacturing Establishments.

This refers to the "10 year tax exemption" for new manufacturing plants or additions to existing manufacturing facilities. Actually, it is an exemption from ad valorem taxes on buildings, machinery, equipment, but not on land or inventory. The plant, of course, pays sales taxes, income taxes, corporate franchise tax, etc.

At the end of the 10 years the property shall be assessed at not more than the average assessment ratio of all other property in that parish.

We believe that this provision should remain in the Constitution.

"The purpose of subdivision 10 is to encourage the establishment and expansion of manufacturing establishments within the borders of Louisiana, and to increase expenditure of capital so that more Louisianians can find employment --- "according to the

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Attorney-Generals Opinions (1938-40, p. 74).

In short, we believe that the 10-year tax exemption program has worked well for Louisiana and has been achieving its purpose of attracting new and expanded industrial economic activity to the state, and new and expanded job opportunities for its people.

It is important to keep in mind, we believe, that the 10-year tax exemption is intended as an inducement to new or expanded industrial growth in Louisiana. It is in no sense of the word a "give-away" in a state where business and industry carry by far the heaviest portion of the tax burden, even with this exemption.

A recent study by the Advisory Commission on Inter-Governmental Relations, showed that business and industry in Louisiana paid 55% of the total state and local taxes. Louisiana led the Nation. The national average was 44%.

But when considering only property taxes that study showed Louisiana still led the nation with 77% of all state and local taxes paid by business and industry. The national average was 40%.

The importance of the 10-year exemption as an inducement to industry was pointed up in studies made by the Public Affairs Research Council of Louisiana in 1962 and 1970. In 1962, industrialists ranked the Industrial Tax Exemption as the fourth most important positive factor allowing Louisiana to compete as an industrial location, a factor of greater importance than cost of fuel, cost of transportation, cost of power and proximity to markets.

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Multistate firms--that is, companies with facilities in several states--place even greater emphasis on the importance of the industrial tax exemption than do firms doing business only in Louisiana.

Of further significance is the fact that the tax exemption increases in importance as the value added to the product increases.

Among high-value-added industries, the industrial tax exemption is second only to the availability of raw materials in their site selection criteria.

There can be no question that Louisiana's industry inducement program, including the 10-year tax exemption, has been imminently successful.

A recent editorial in a Beaumont, Texas, newspaper concedes the strength of the 10-year exemption as an attraction. The editorial, in reporting on a multi-million dollar plant which Beaumont lost to Lake Charles, comments: "Our Louisiana neighbor had some weapons in the fight for the complex which simply were not available to us.. The Pelican State's industrial tax exemption program was a big factor in the corporation's deciding to build the facility in Calcasieu Parish.

The editorial continues: "This loss of a big industrial establishment to Louisiana calls for a brand new look at the benefits that would accrue to Texas from a tax exemption program of the type that Louisiana has."

The second part of this subdivision, that at the end of the tax exemption period such property shall be assessed at no more than the average assessment ratio of all other property in the parish is also very important.

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Before passage of this constitutional amendment in 1964 industrial property coming on the tax rolls after the exemption period was assessed at appreciably higher rates than other property. A study by PAR had showed that "industrial property was assessed at a median ratio nearly twice that of other property."

Adoption of this provision has resulted in more equitable taxation of industry in relation to other property in the parish after termination of the exemption period. This provision should be retained.

Article 10, Section 22 - New industries; exemptions from municipal and parochial taxation; school tax exception.

Any parish or any municipality may exempt new industries from payment of general municipal or parochial taxes and special taxes levied by them or a sub-division, except that there can be no exemption from school taxes. Exemptions are granted only after a favorable vote by the people.

The exemption is for 10-years. This is a good provision and should be retained in the constitution.

Article 13 - Corporations.

Section 5, Creation and regulation by general laws; monopolies.

The Legislature shall enact general laws for the creation and regulation of corporations and for the prohibition of monopolies; and shall provide also for the protection of the public; and of the individual stockholders.

A good provision and should be retained in the Constitution.

Article 14, Section 29.1 - Parish industrial areas.

The Legislature is authorized to permit all parishes to create industrial areas within their boundaries in accordance

STATEMENT TO THE SUB-COMMITTEE ON PUBLIC WELFARE  
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with such procedure and subject to such regulations as the Legislature shall decide upon. Parish industrial areas shall not be subdivisions of the state. All industrial areas so

created hereafter shall include provisions for access by public road to any and all entrances to the premises of each and every plant in such area which entrances are provided for use by employees of such company, or for use by employees of independent contractors working on such premises, or for delivery of materials or supplies, other than by rail or water transportation, to such premises. Where individual plants provide police protection this protection shall be confined to the premises of each individual plant located in the area.

Industries within parish industrial areas are required to furnish and maintain many of the services usually provided by parish or local governments. These services include construction and cleaning of streets, street lighting, sewers and sewerage works, fire protection, police protection, and garbage and refuse collection and disposal.

This provision serves as an industrial inducement. Under its provisions industry is exempted from taxes levied by certain special districts for services which the industries provide and pay for themselves. It prohibits an industrial plant from being included within the boundaries of a special district for the purpose of collecting taxes for services the plant neither requires nor receives.

This Section should be retained in the Constitution.

Gentlemen, that concludes my remarks, but I would like to reserve the option of either appearing before you again or fur-

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nishing you with an additional written presentation.

Much depends on the future activities of this Sub-Committee and the full Committee and we might wish to make our views known to you at a later time.

In addition, the compilation of the provisions in the Constitution relating to Labor and Industry -- the basis of this hearing today -- was received only yesterday, although mailed to me Friday.

In my haste to prepare a written presentation for you today, it is entirely possible that I have overlooked something which I would like to bring to your attention.

Thank you.

Subcommittee on Public Welfare  
By Charles M. Smith, Jr.  
Executive Director  
La. Dept. of Commerce & Industry  
March 28, 1973

The purpose for incorporating industrial development laws into the Constitution is that it indicates governmental stability to industry. Inclusion of industrial development laws into the constitution assures industry of firm governmental commitment, of laws that can not easily be changed.

Louisiana imposes the highest percentage of property tax on business and industry in the U.S. Business and industry in Louisiana pay 76.5 percent of all property taxes. The national average paid by this same group is 39.5 percent. Business and industry also pay the highest percentage of all taxes on the local level, with the exception of the sales tax.

The high percentage of taxation imposed on business and industry, therefore, makes the tax exemption law the principal sales tool of the Department of Commerce and Industry. Because the Board of Commerce and Industry is empowered to grant tax exemptions, the state's competitive disadvantage is somewhat mitigated. Without the tax exemption law Louisiana might well be priced out of business insofar as certain industries are concerned.

Stability and a tax break at the most crucial time in business,

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the start-up, are as important to industrialists as the inducement program. It is important that Louisiana firmly commit itself to assuring industry that the state wants economic and payroll growth, but not at the expense of business.

Louisiana Tax Exemption Law - Article X, Section 4, Paragraph 10 of Constitution.

Incorporated into Constitution. This law makes it possible for new manufacturing plants to be exempted from all parish and municipal ad valorem taxes on plant and equipment for a period of five years, with provisions for an additional five-year exemption period. Land and inventories are not exempt.

Assessment Practices Law - Act 529, 1964 Legislature.

Incorporated into Constitution. Requires that when industries that have received tax exemption go on the rolls after 10 years they be assessed at not more than the assessment average ratio on all other property.

Import-Export Law - Article X, Section 4, Paragraphs 19a and 19b of Constitution.

Incorporated into Constitution. Provides that import or export cargoes are tax exempt while in original state. Includes raw materials, goods, commodities and articles, except minerals and ores mined or produced in state and manufactured articles. Law permits a manufacturer to import raw materials (in most cases) without

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having to pay a tax on the materials until after placement into the manufacturing process.

Plant Site Tax Equalization - R.S. 47:3203-3205, Amended Act 689, 1972 Legislature.

Legislative Act. Louisiana Council on New Industry Taxation is empowered to grant tax credits to equalize the total tax load of a Louisiana plant location with that of a comparable location in another state. Credits can be applied to all taxes except ad valorem taxes.

Transportation Cost Equalization Law - Act 431, 1972 Legislature.

Legislative Act. Provides for the granting of tax credits to reduce or eliminate the total transportation cost differential between a Louisiana plant location and a proposed or existing plant elsewhere. Credits equal up to 50 percent of state corporate income, franchise and sales/use taxes may be granted.

General Obligation Bonds - Article 14, Section 14, Paragraph b. 2

Incorporated in Constitution. General obligation bonds are approved in a public referendum and are issued by a political subdivision, backed by full faith and credit of the issuing agency. With the exception of pollution control projects, general obligation bonds can not exceed \$5 million or 20 percent of the total assessment value of the issuing subdivision. Funds derived from the bond

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sale are used to purchase land, machinery, equipment and fixtures, as well as construction of industrial buildings. Rental agreements usually call for a lease calculated to cover bond payments, maintenance, insurance and taxes.

Industrial Revenue Bonds - R.S. 39:991-1001, 1966 Legislature.

Legislative Act. Industrial Revenue bonds are issued by a political subdivision and are secured by a first mortgage on the industrial land, buildings, machinery and equipment purchased with bond proceeds. With the exception of pollution abatement projects, industrial revenue bonds cannot exceed \$5 million. Funds derived from bond sales and rental agreements are used in a similar manner as those of the general obligation bond contract.

Natural Gas Sales - Act 531, 1964 Legislature.

Incorporated into Constitution. Control of natural gas rates has been removed from bureaucratic controls, thus enabling industry to negotiate freely for the most favorable rates obtainable.

Special Industrial Areas - Act 557, 1964 Legislature.

Incorporated into Constitution. Special districts may be created wherein an industry or group of industries which supplies its own services such as utilities, streets, police and fire protection, are protected from taxation to support any new districts created by local authorities to provide the same services.

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Job Reserve Fund - Act 548, 1972 Legislature.

Legislative Act. Provides additional training funds to area

vocational-technical schools to teach specific skills which may be demanded by location of new or expansion of existing industry. Necessary monies are allotted over and above normal operating budgets of the school. Administered by Department of Education, with requests initiated by the Department of Commerce and Industry.

Revenue Bonds - Act 103, 1972 Legislature.

Legislative Act. Authorizes creation of local foundations to issue bonds for purchase of land, machinery, equipment and buildings for industrial development purposes. Main thrust of this type of bond issue is for pollution abatement projects, but limited to \$5 million if not used for this purpose.

STATE & LOCAL TAXES ON A HYPOTHETICAL CHEMICAL PLANT IN LOUISIANA UTILIZING NATURAL GAS AS A MAJOR RAW MATERIAL

Hypothetical Plant

Capital Investment	\$ 50,000,000
Land	500 Acres
Employment	350 Persons
Total annual payroll	\$ 3,500,000
Annual product sales value	\$ 35,000,000
Raw material purchased annually	\$ 5,000,000
(Includes \$2,500,000 for Natural Gas at \$0.25/MCF)	
Operating supplies purchased annually	\$ 850,000
Utilities purchases (electricity) per year	\$ 1,500,000
Average inventory levels	
(a) Finished goods	\$ 2,000,000
(b) Materials, supplies, etc.	\$ 1,000,000

Tax Payments

During construction of plant (per year):	
Organization fee	\$ 1,000
Payroll taxes	\$ 97,200
Sales tax @ 5%	\$ 500,000
<b>TOTAL</b>	<b>\$ 598,200</b>

Assuming a two (2) year construction period the total state and local taxes paid would be \$1,196,400.

Upon completion of the plant, the following state and local taxes would be paid for the first 10 years, assuming a 10-year tax exemption.

Ad Valorem	\$ 148,500
Payroll tax	\$ 28,350
Sales tax	\$ 25,000
Power use tax	\$ 15,000
Franchise tax	\$ 75,000
Income tax	\$ 490,000
<b>TOTAL</b>	<b>\$ 781,850</b>

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After expiration of the 10-year industrial exemption, an additional \$742,500 in taxes would be due.

In summary, the hypothetical chemical installation in Louisiana would pay the following state and local taxes on an annual basis:

During construction	\$ 598,200
During operation for first 10 years	\$ 781,850
During operation after 10 years	\$ 1,524,300

The details used in computing the taxes paid are as follows:

Annual Taxes

Ad Valorem Taxes

Investment - \$5,000,000 non exempt @ 30% @ 55/1000	\$ 82,500
\$45,000,000 exempt @ 30% @ 55/1000	\$ 742,500

Average finished goods - \$2,000,000 assessment @ 40% @ 55/1000	\$ 44,000
R/M, Supplies, etc. - \$1,000,000 assessment @ 40% @ 55/1000	\$ 22,000
<b>TOTAL</b>	<b>\$ 891,000</b>

Payroll Taxes

\$3,500,000 Payroll/Year	
350 Employees	
350 x \$3,000 (taxable amount)	
\$1,050,000 @ 2.7% (Unemployment tax)	\$ 28,350

Sales Tax

\$500,000 - Maintenance Materials and Operating Supplies	
\$500,000 @ 5%	\$ 25,000

Power Use Tax

30,000 taxable H.P. @ 50¢/h.p.	\$ 15,000
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Franchise Tax

\$50,000,000 @ \$1.50/\$1000	\$ 75,000
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Income Tax

Sales	\$ 35,000,000	
Less Cost of Sales	\$ 21,000,000	
<b>Profit</b>	<b>\$ 14,000,000</b>	
Less Selling Expense		
5% of Sales	\$ 1,750,000	
<b>Net Profit</b>	<b>\$ 12,250,000 @ 4%</b>	<b>\$ 490,000</b>

Other Taxes at Organization and Ouring Construction

Organization Fee	\$ 2,500
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Payroll Taxes

Estimated 1,200 employees	
1,200 x \$3,000	
\$3,600,000 @ 2.7%	\$97,200
Two-year payments	\$ 194,000

Sales and Use Tax

Equipment Estimated at 40% of Investment	
\$20,000,000 @ 5% spread over 2-year period	\$ 1,000,000

Prepared by Public Affairs Research Council of La., Inc.

jsl



**CONSTRUCTION INDUSTRY LEGISLATIVE COUNCIL**

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Contractors Chapters

**CONSTRUCTION INDUSTRY LEGISLATIVE COUNCIL**

Fact Sheet

The Construction Industry Legislative Council is an "Association of associations" which provides a united voice and coordinated approach to legislative relations for the Louisiana Construction Industry.

CILC's multi-phase program includes:

Development and support for legislation conducive to a healthy business and industrial climate in Louisiana.

William A. Lanier  
Treasurer  
Louisiana Council  
National Electrical  
Contractors Association  
Chapters

Opposition to legislation detrimental to the general community and to the construction industry in particular.

Education and information programs for all elements of the construction industry and the general public.

Support for programs designed to solidify the views of management in the Construction Industry, and promotion of those views to the CILC membership, the legislature and other governmental bodies, and the general public.

Increased involvement in all phases of the governmental process with active participation in programs to enhance a healthy economic climate in Louisiana.

Members of the CILC include:  
Louisiana A.G.C. Council, Inc.  
Louisiana Highway and Heavy Branch, A.G.C.  
Louisiana Council, National Electrical Contractors Association  
Louisiana Homebuilders Association  
Consulting Engineers Council of Louisiana  
Mechanical and Plumbing, Heating and Cooling Contractors Associations  
Roofing and Sheet Metal Contractors Associations  
Shell, Sand and Gravel, and Concrete Dealers Associations  
Associated Builders and Contractors of South Louisiana, Inc.  
Construction Industry Services and Associations

William A. Lanier  
Treasurer  
Louisiana Council  
National Electrical  
Contractors Association  
Chapters

Walter Bankston  
Secretary  
Louisiana Homebuilders  
Association

Howell L. Switzer  
Mechanical Plumbing  
Heating and  
Cooling Contractors

A. H. Mollowell  
Roofing and Sheet  
Metal Contractors  
Associations

Edward N. Lennox  
Shell, Gravel and  
Ready Mix Concrete  
Dealers Associations

Harvey Cooper  
Building Specialties  
Contractors

Earl V. Patterson  
Louisiana Highway and  
Heavy Construction Branch  
of Associated General  
Contractors of America

Charles L. Smith  
Executive Director

\$6500 a year. There are 4371 welfare recipients in EBR parish alone. This includes 2000 unemployed on welfare who are able to work; 7500 children disadvantaged because of need; 11,000 overall families, 13,000 overall people. Mrs. Smart said that they are asking for an increase in food stamps to deal with the increases in the cost of food. The present stamps are only worth about seventy-five percent of their value. There should be a guarantee of benefits of welfare. The federal government has threatened to cut back the aid to Louisiana by \$11 million because of fraudulent claims. These fraudulent cases generally stem from ignorance on the part of the recipient. The education program has failed, and Title 1 has not done for the children what it was supposed to do. There should be changes in the laws of the state requiring the state to match federal funds dollar for dollar. We need a better medical program. The Talmadge amendment, formerly the Women In Need program, is a failure and a bad piece of legislation. It set the starting salary at \$.97 to \$1.20 per hour; however, the training program has now been cut out. WIN replaced Title 4 and was underfunded.

#### MINUTES

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Subcommittee on Public Welfare of the  
Committee on Education and Welfare of  
the Constitutional Convention 1973.  
Held pursuant to a notice mailed by the  
Secretary of the Convention March 22, 1973  
Governor's Press Conference Room  
State Capitol Building  
March 29, 1973, 9:00 a.m.

Presiding: Mr. Anthony Rachal, Jr., Chairman

Present: Mr. Flory  
Mr. Grier  
Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Miss Wisham

Absent: Mr. Armentor

Others Present: Members of the press, invited guests,  
and visitors

The meeting was called to order at 9:00 a.m. Mrs. McGibbon, staff secretary, called the roll. A quorum was present. The chairman advised the subcommittee that a corrected copy of the minutes for the March 28, 1973 meeting was in front of each member as well as the agenda for the meeting today.

Mr. Rachal introduced Mrs. Annie Smart, president of the Baton Rouge Welfare Rights Organization. Mrs. Smart stated that the present system of welfare is designed to keep one on welfare and it becomes a trap. The present system only gives a welfare recipient fifty-six percent of need. Since this is the case, it only pays fifty-six percent of the recipient's rent and he is unable to get into the housing projects or "235 homes." When he goes to work he is supposed to get one-third and one-third. However, the state has passed a law allowing the abolishment of the maximum grant and putting a recipient on a percentage basis. This percentage means one makes no more than one did on welfare, and that is why people stay on welfare. The latest statistics show that the minimum needed for a family of four is

Although training was good, it afforded no on-the-job experience. Thus, the recipient could not get a job. One cannot get food stamps unless someone in the household is eligible. When the husband and wife go together to apply for welfare, they find Louisiana does not accept the program of aid to children of unemployed parents. They are told that the only way to get welfare is for the husband to desert the family. The wife has to sue the husband to get food for the children. As Mrs. Smart put it, "A woman can't have a lawful husband, but she can 'shack up' with anyone and still get welfare." The system could be changed by helping families help themselves. Let the husband stay in the house and help him find employment. Investigation is needed to see if aid is really required. If so, give aid where needed and help the husband find employment. The chairman stated we are led to believe that most people on welfare are there because they won't work. Mrs. Smart replied that this is not true and that most would work if it didn't cause them to lose most of the welfare granted to them. Mr. Lennox stated that welfare problems will have to be solved in the statutes and in cooperation with the federal government to which the chairman agreed. Mr. Grier pointed out that Article 18, section 7 is the only provision and speaks in broad general form. However, he suggested that the word "may" might be changed to "shall" making it mandatory for the state to provide such services.

The next to speak to the group was Mr. H. K. Sweeney,

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Director of Division of Administration and Planning of the Louisiana Health, and Social and Rehabilitation Services Administration. He announced that Dr. Mary will be delayed due

to weather and that Dr. Vidrene is attending the funeral of Justice Tate's father but has sent Mr. Screen in his place. Mr. Sweeney stated that their organization has not had time to prepare concrete proposals so he would have to speak in generalities.

The last session of the legislature created, under the provisions of Article 3, section 32 of the present constitution, the new Louisiana Health, and Social and Rehabilitation Services Administration consolidating 59 state boards and agencies. There are 22,000 classified employees with a present budget of over \$4.5 million which is roughly one-third of the state tax dollar. Some of the departments consolidated were named separately in the constitution. The largest departments absorbed were the Department of Public Health; the Department of Welfare; Department of Hospitals; Charity Hospital in New Orleans; and Confederate Memorial Hospital in Shreveport. They were granted ninety days to put the consolidation into function, but obviously this is not enough time. He went on to say that some of Mrs. Smart's statements were fact; others were not. People needing aid in the past did not know which agency to go to, and it is hoped that centralization and consolidation will help people get what they need faster. Transportation is a definite problem to the disadvantaged, and New Orleans is the

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only city that has an adequate mass transit system. The organization feels that there should be a broad, general statement in the constitution pertaining to this department and its functions. The balance of the problems should be left to the legislature and administration because so much of what is involved is intermingled with the federal program. Mr. Flory pointed out that some of the boards are constitutional, for instance, the blue ribbon boards, and he asked if they should be continued. Mr. Sweeney sees no need for additional boards being listed in the constitution other than the new consolidated one and said that often the blue ribbon boards were a hinderance to their operations. As advisory groups and boards that would set out general policies, they would be useful. He was asked if the wording of Article 18, section 7 should be changed to read "shall" instead of "may". His personal opinion is that he is fearful of the word "shall" as it becomes mandatory, and if federal funds are cut off or cut back the state would then be required to provide the funds to maintain the system mandated by the constitution. Mr. Lennox had Mr. Sweeney repeat the organization's views for the record.

The next speaker from the group represented by Mr. Sweeney was Mr. Garland Bonin, Director of the Division of Income Maintenance. He supported Mr. Sweeney and commented that Mrs. Smart's statements contained some facts but also contained misinformation and falsehood. There is a caseload of 62,000 on ADC representing 3.4 people per caseload. Of the mothers

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on welfare, 22,000 to 25,000 are working. When the welfare recipient works the first \$30.00 of earned income is exempt as well as one-third of all other income. The department encourages the recipient to work, and if they refuse fair employment, welfare is refused. The average stay on welfare rolls is only four and one-half years. The department changed from the simplified system of applying for welfare because it invited fraud. It has no way of checking or investigating unless fraud is suspected. Mr. Bonin stated that the workers may not suggest separation of families in order to gain welfare assistance. The federal laws are a great restriction, and if they don't follow them strictly the appropriations are cut off. As an example, in December, HEW came out with what they call their quality control regulations and the department must have quality control and run a scientific sample of cases, checking for ineligible recipients, errors by members, or errors by applicants, HEW requires the department have a quality control staff of eighty-seven people. Since the present staff is thirteen, seventy-four more people are needed. The department asked for funds from the legislature to hire the needed people, but they didn't have them so the department has not complied with the federal regulation. The federal government said that by January 1, 1973 there would be fiscal sanctions against the state for whatever percentage of error exists and it would lose that much money. Only twenty-two states have fully conformed to the order. The rest are taking a national average of error

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of eight percent. This means Louisiana would lose \$5 million between January 1, 1973 and July 1, 1973. All welfare administrators in the United States began protesting and asked that such a regulation be withdrawn and promised to refund the federal funds when a recipient was found ineligible. All they were able to obtain is a postponement of the date of compliance to April 1, 1973. Louisiana has joined thirty-seven other states in filing a suit to get an injunction on the deadline of April 1, 1973. The Welfare Department is operating at only seventy-five percent of staff with 4200 employees. It needs 4700 people to fully comply with all state and federal laws and regulations.

After a five minute break Mr. James P. Screen, counsel for the Louisiana Health, and Social and Rehabilitation Services Administration, addressed the members. He is preparing a brief, broad section which the organization feels should be included in the constitution. He feels that the word shall should not be used and that the details should be left to the legislature. He did state that Article 6, section 11 should be eliminated and a broad statement of the new agency inserted. Other articles that can be eliminated are: Article 16, section 7 (1) and Article 6, section 11.1. We do need the "savings" article, Article 3, section 32. As to the progress of the reorganization, Mr. Screen replied that they are now operating but certain things will take time.

The next speaker was Dr. Ashton Thomas, secretary-

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treasurer of the Louisiana State Medical Society. He reiterated Mr. Bonin's statement that the welfare department needs help. He feels that if the federal government would keep their hands off, Mr. Bonin could show them how to run a welfare department efficiently. The organization Dr. Thomas represents is satisfied with the present law pertaining to health. The group hopes that the convention will give the people a constitution that applies statewide and that home rule problems will be omitted.

A copy of Dr. Thomas's speech is attached hereto and made a part of these minutes.

A short discussion followed while awaiting the next speaker. Mr. Lennox raised the question as to whether Article 13, section 5, paragraph 5 and Article 19, section 14, paragraph 14 dealt with the same subject and perhaps one or the other could be eliminated. The committee decided to look at both and come to a decision. Mr. Lennox asked the staff to investigate both articles mentioned, compare with other states, and advise how best to state it in the new constitution.

The next speaker, Dr. Bernard J. Weist, arrived and introduced two colleagues, Mr. Bruce Hearn and Mr. Grady Hinds. Dr. Weist has solicited views from all in the School of Social Welfare and voiced the opinion that the new constitution be kept as brief as possible. Many of the provisions referring to welfare, he said, can be taken out. As an example he cited Article 18, section 1 and Article 18, section 7. He feels that

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the present constitution is severely restrictive on the state in providing a program which is related to present day conditions. The constitution should see that the rights of the needy are protected and watch for "hidden factors" in the transitory period from the old constitution to the revised one. He handed the committee members a short statement, and it is attached hereto and made a part of these minutes. Mr. Flory was concerned with the statement attached because of the ERA movement. He felt that it would prohibit the legislature from legislating in the field of protection of women workers, minors, etc. Dr. Weist stated that this was not the intention of the statement. He did not see the legislature ignoring the rights of women, minors, etc.

After a lunch break, a general discussion followed, putting together the thoughts heard in the last two days. The consensus of the committee was to retain the ten year exemption for industry and to write a short, concise, general constitution. Mr. Lennox stated that he received the definite impression that everyone representing business, labor, and industry felt three things were important:

1. The two-thirds requirement on taxes and amendments to the constitution,

2. the industrial inducement package including the ten year exemption for industry,
3. and, the less said in the constitution the better with regulations left to statutes.

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The Public Service Commission needs to be treated independently of industry or labor, and Mr. Lennox agreed virtually with all Mr. Quinn had to say on the subject.

Mr. Rachal agreed that certain things need to be retained and other things need to be changed. The question is how to evolve the changes and what to do during the transitory period. Mr. Hernandez felt that the committee's responsibility ends with the statement, "put this in the statutes." The Executive Committee will then decide the manner in which to effect the change. Mr. Landry asked for a listing from the research staff as to what each of the speakers heard March 28, 1973 and March 29, 1973 want. The committee members could then take the list and go over it point by point and arrive at a consensus as to what the staff will need to prepare to present to the Committee of the Whole.

The chairman stated that he felt the question of revenue bonds should be studied by the research staff as to the relationship between the three and whether there could be a consolidation. He referred specifically to Article 14, section 14 - General Obligation Bonds, R.S., 1966 - Revenue Bonds, and Act 103, 1972 Legislature - Revenue Bonds. He questioned whether it could all be statutory or should be left in the constitution.

The chairman asked Mr. Flory if the protection of Louisiana labor and materials in the present constitution is adequate. Mr. Flory, speaking for APL-CIO, replied he felt the provision

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is inadequate because ultimately the consumer pays the difference. He recommended a provision be inserted in the constitution denying the ten year exemption on tax unless Louisiana labor and materials are used when available. Mr. Flory suggested that Article 4, section 7 be eliminated in total, and all agreed that Article 3, section 33 should be changed to prevent the legislature from enacting laws utilizing convict labor in competition with free enterprise.

Most members felt that the problem of penal and correctional institutions falls under their jurisdiction, and they were in general agreement that penal and correctional institutions should come under their purview.

On overlapping areas, Mr. Rachal stated that as a sub-committee, recommendations would go to the chairman of the Committee of the Whole and he, in turn would go to the Coordinating Committee. Mrs. LeBlanc stated that the research staff would act as a central staff coordinating recommendations as they come in from each and every committee. Mr. Flory pointed out that all agreed that the Public Service Commission be left as is in the constitution.

The chairman asked the research staff to have the listing of the speakers recommendations and those of the committee members in the form of proposals ready for the April 11, 1973 meeting.

The first speaker of the afternoon, Dr. Charles Mary, Commissioner of the Louisiana Health, and Social and Rehabilitation

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Services Administration, was introduced. Dr. Mary said there was a great time lag in state programs and local programs in health and welfare, and social functions. HEW has some two hundred divisions that provide money for different programs in welfare alone. All the programs are basically aimed at two major thrusts: 1. those things that affect the health and welfare of all people in the broadest terms; 2. Those things that affect the health and welfare of people who have real needs and are not self-sufficient. There are sixty-one programs in the statutes dealing with health, social and welfare. The consolidation into one administration has corrected this. It is the conclusion of the group that the description of what they do should be very broad and general in the constitution and that it should state responsibilities which the state has and responsibilities which citizens have to each other. The rest should be left to the statutes. Mr. Screen and Mr. Sweeney are working on the language to present to the committee on the proposals for the constitution as viewed by the Louisiana Health, and Social and Rehabilitation Services Administration. The great advantage to statewide control is that it provides a regional approach rather than just a local or city approach, and needs can be satisfied by regional locations of special services. He was asked if the need for continuation of the blue ribbon boards is necessary since the programs have been consolidated. Dr. Mary answered that as long as the blue ribbon boards are advisory only, they are fine. But, when

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they interfere with the administrator in the operation of his job, they fail. Administrative people should be under public scrutiny and should report to someone at regular intervals as to how things are being run. When asked if the legislature should have the right to review the wages, rules, etc., of civil service, Dr. Mary stated he felt civil service as written is all right, but the system has gotten out of hand, and needs review. Dr. Mary stated that he reports to the governor and there is an advisory board to review policies and administration.

After a five minute break, Mr. Ronald Hersbergen, Assistant Professor of Law, Louisiana State University, was introduced to speak in the place of Mr. Charles Tapp, Director of the Governor's Office of Consumer Protection. Mr. Tapp's office suggested the retention of several articles, rewriting some and elimination of others. Mr. Hersbergen stirred Mr. Flory's curiosity when he seemed to advocate nullification of the right

of mechanic's lien. Mr. Hersbergen stated he felt it needs review and perhaps belongs in the statutes rather than in the constitution, and should be reworded. As it is phrased now, it does not really protect the consumer when the contractor he dealt with has subcontracted work and the subcontractor is the one who puts the mechanics lien on the consumer. The last part of his speech points out items not now in the constitution that his organization feels should be considered as possible provisions in the new constitution. The Governor's Office of Consumer Protection advocates something similar to the Montana

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State Constitution to guarantee consumer representation on all boards and commissions. One other point which he feels concerns the committee is the garnishment of wages, as the way it now reads can tend to put families on welfare after being deprived of their earnings. A copy of his speech is attached hereto and made a part of these minutes.

The next speaker was Mr. William H. Forman, President of the Louisiana Consumer's League. He stated they receive 500-600 consumer complaints a week, some legitimate, some frivolous. The league does not believe a constitutionally provided agency is needed. He advocated broad statements such as the executive branch having the authority to provide consumer protection with meaningful representation on a regulatory board. He left with the committee a copy of a letter he had written to a delegate outlining the league's views, with a copy of an investigation done by the league attached. These are attached hereto and made a part of the minutes.

The next speaker to appear was Mr. Glen Ducote, a member of the advisory board of the Baton Rouge Consumer Protection Center. The center feels we need a brief, simple constitution. They make four basic suggestions:

1. A model consumer provision could read: "The legislature shall provide for an office of consumer counsel which shall have the duty to represent consumer interests in hearings before the Public Service Commission or any other successor agency. The legislature shall provide for the funding of this office of

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consumer counsel by a special tax on the net income or gross revenues of regulated companies."

2. Numerous state boards and agencies, such as insurance, cosmetologists, etc., should have fifty-one percent of their members representing the consumers.

3. There should be no statement, and certainly no prohibition, on class actions in the constitution.

4. The center asked for favorable consideration of a clause guaranteeing equal protection in the market place in the constitution regardless of race, sex, or ethnic origin.

When it was pointed out that many state boards were formed to protect the consumer from unlicensed technicians, etc., Mr.



Ducote replied a central agency for licensing could be utilized with qualified members for each profession.

After much discussion the chairman directed the staff to obtain additional information on the Montana provision and learn if other taxes are placed on the utilities in Montana. Also, the subcommittee is interested in what other state constitutions include in the matter of consumer protection.

Mr. Flory advised that the other side of the consumer protection question has made it known that they wish to be heard, such as the Retailers' Association, the lending institutions, and small loan industry. The chairman agreed to hear from these groups and any other groups that may have been overlooked. Mr. Grier suggested that the April 11, 1973 meeting be set aside for further hearings, and that April 12,

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1973 be used for discussion by the members of the subcommittee. Mr. Flory stated that at least the morning of the eleventh be used for hearings and this was agreeable to all members.

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

Anthony M. Rachal, Chairman

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MEMBERS OF THE COMMITTEE ON EDUCATION AND WELFARE, ETC.

I am H. Ashton Thomas, M.D., Secretary-Treasurer of the Louisiana State Medical Society. We are grateful for the opportunity of being able to make a brief statement in behalf of health care. We are satisfied with the present system of law pertaining to health, and we offer no proposals that could be considered those of a "special interest" group.

Health care is not solely medical care. Medical care is part of a cooperative effort between physicians, nurses, hospital administrators, technologists, chemists, physicists and others. Health care is not merely curing the sick, but preventing sickness and the utilization of rehabilitative processes.

You people have a most complex assignment and I trust your prime interest will be in giving us a Constitution that applies state-wide and that home rule problems be omitted. Medicine will not insult your intelligence by making "special interest" proposals to your committee but would rather offer our resources for research and manpower in helping you to surmount any barriers you may encounter.

We are confident that you are a learned and dedicated group and that you will propose a basic Constitution that is not too binding on the Legislature.

Again, our sincere thanks for the privilege of meeting with you.

IN MY OPINION THE STATE CONSTITUTION SHOULD CONTAIN ONLY BROAD OBJECTIVES COMMITTING STATE GOVERNMENT TO PROVIDE THE NECESSARY HUMAN SERVICES TO MAINTAIN AND ENHANCE THE WELFARE AND HEALTH OF ALL ITS CITIZENS, IRRESPECTIVE OF AGE, SEX, RACE, OR ETHNIC ORIGIN. THE ACTUAL STRUCTURE OF THESE SERVICES SHOULD BE DETERMINED BY LEGISLATIVE STATUTES RATHER THAN BE ESTABLISHED IN THE CONSTITUTION IN ORDER THAT THE STRUCTURE

AND ORGANIZATION OF SERVICES CAN BE FLEXIBLE IN LIGHT OF CHANGING SOCIETAL NEEDS AND ADVANCES IN KNOWLEDGE.

Bernard J. Wain  
Dean  
School of Social Welfare  
Louisiana State University  
29 March 1973



March 1, 1973

Mrs. Hilda Brien  
Delegate, Louisiana Constitutional Convention  
Box 81, Durlage Route  
Bouma, Louisiana 70260

Dear Mrs. Brien:

It was a pleasure to have met you on February 20th in Baton Rouge. Also, I am looking forward to assisting you in the preparation of a new constitution for our State.

Although our meeting was called for the purpose of discussing consumer protection constitutional proposals, it is obvious that our being concerned only with consumer interests is too limited. Thus, my recommendations include other issues. Accordingly, those recommendations are listed below after the appropriate Convention substantive committee.

1. Bill of Rights -- historic liberties contained in the Federal Bill of Rights such as the prohibition against the infliction of cruel or unusual punishments should be listed. Also discrimination against any person due to race, color, creed, religion, sex, or national origin should be expressly prohibited.
2. Executive -- this governmental branch should have the responsibilities of providing consumer protection for our citizens and preserving the State's natural environment and heritage.
3. Legislative -- the power of this branch of government to pass laws on consumer and environmental protection, urban redevelopment, and historic preservation should be specifically stated. Article I of the United States Constitution lists such powers for the Congress.
4. Judiciary -- no recommendation.
5. Local Government -- or an agency for a city or a region should have the responsibilities for urban redevelopment, consumer protection, and historic preservation.
6. Revenue and Taxation -- fairness in local assessments on real property. Discrimination against some real property owners by unequal taxation should be prohibited. In other words, the same tax rate should be charged for real estate of similar value in a city.
7. Education and Welfare -- as mentioned, state and local government should have the responsibilities for urban redevelopment and consumer protection. The latter should include information, mediation, and law enforcement programs.

A STATEWIDE NONPROFIT CORPORATION

Mrs. Hilda Brien  
March 1, 1973  
Page 2

8. Environment and Natural Resources -- recognizing the interdependence of the urban environment and the rural environment, the State should have the responsibility for preserving Louisiana's natural environment. As mentioned, the above recommendations involve the broad public interest of which consumer protection is an important part. Also, the Louisiana Consumers' League is an organization for our State and its consumer citizens. In my opinion, Louisiana's unique character is a result of three factors:

1. The quality of life in our cities.
2. Our agricultural and natural environment.

3. Our heritage.

In short, without these, Louisiana would not be the State it is. Thus, the interdependence of urban redevelopment, historic preservation, and consumer and environmental protection must not be forgotten.

The above recommendations are also general in nature. It is our hope that the new Constitution contains only such general principles, and that the detailed provisions of the present Constitution become part of our statutory law.

Please send me the schedule of committee hearings when it is available.

With best regards, I am

Sincerely yours,  
*William H. Forman, Jr.*  
William H. Forman, Jr.  
President, Louisiana Consumers' League

WHF/jrf  
cc: Roberta Madden  
Charles W. Tapp

NOTES  
"Hidden Savings from a Cleaner America"  
omitted here may be found in National Wildlife, Vol. 10, No. 2 (Feb.-Mar., 1972) at pp. 14-15.

Summary of Testimony of Ronald L. Hersbergen, Associate Professor of Law, LSU, delivered March 29, 1973 on behalf of Mr. Charles Tapp, Director, Governor's Office of Consumer Protection

I. INTRODUCTION

Within the spirit and context of a condensed, short-form re-structured Constitution for the State of Louisiana, there are but a few provisions in the present Constitution which from the consumer viewpoint are of such a nature that they necessarily belong in a condensed constitution. Rather, the majority of provisions thought to be beneficial to consumers are perhaps more appropriately a matter for the Legislature. There are, however, various provisions now a part of the Constitution which, in the view of the Consumer Protection Office, definitely ought not to be in the new Constitution, or at least ought to be re-written. Further, there are provisions to be herein suggested for inclusion in the new Constitution, which are not now found in the present Constitution. Finally, there are provisions herein to be suggested which would be germane to the drafting process should the goal of a short-form Constitution fail to be realized.

In each case, the suggestion made herein is based in part on consumer complaints received by the Office of Consumer Protection, in part on knowledge of consumer complaints received by other consumer agencies, federal, state, and local, in part on consumer complaints evidenced by legal action across the United States, and in part on what the Office of Consumer Protection views as a disparity between the protection afforded consumers under the present Constitution and that which it rightfully ought to be in the proposed constitution.

II. PROVISIONS IN THE PRESENT CONSTITUTION WHICH DIRECTLY OR INDIRECTLY AFFECT CONSUMERS IN LOUISIANA.

A. Retain in new constitution

1. Art. 1, § 6, guaranteeing an open system of justice
2. Art. 3, § 36, stating the public policy of Louisiana to be in favor of arbitration as a means of resolving disputes, and directing the Legislature to implement said policy by appropriate legislative enactments.

This ought to be stressed; it is speedy, economic, as fair as the present judicial framework, would aid the alleviation of crowded dockets.

3. Art. 11, § 1, providing for the homestead exemption. If anything, this should be strengthened.
4. The so-called "bill of rights" - free speech, press, assembly, application to government for redress.

These provisions, found for the most part in Article 1 of the present Constitution, will of course be in the new Constitution, but they should be considered from the standpoint of consumer protest against unfair prices, practices and actions.

B. Retain only in re-written form; preferably relegate to Legislature

1. Art. 4, § 7, regarding minimum wage.
2. Art. 19, § 14, prohibiting restraints of trade.
3. Art. 3, § 44, and Art. 6, § 12, regarding food and drugs.
4. If any of these items stay in the Constitution, they ought to be scrutinized with a view to strengthening them from the consumer protection standpoint. With respect to Art. 3, § 44,

and Art. 6, § 12, reference should be made to suggestions made herein below.

III. PROVISIONS OF THE PRESENT CONSTITUTION WHICH OUGHT TO BE RELEGATED TO THE LEGISLATURE -- IF NOT ENTIRELY DONE AWAY WITH -- BUT WHICH, WHETHER RELEGATED OR RETAINED, OUGHT IN ANY EVENT TO BE RE-WRITTEN FROM THE CONSUMER PROTECTION VIEWPOINT.

1. Art. 7, § 44, pertaining to confession of judgment.
2. Art. 7, § 48, pertaining to justice of the Peace courts.
3. Art. 11, § 2, pertaining to mechanics' liens.
4. Art. 11, § 3, pertaining to waiver of homestead exemption.
5. Art. 6, § 7, pertaining to the public service commission.
6. Discussion: irrespective of the present majority view of the Louisiana Supreme Court, and of the Supreme Court of the United States, confession of judgment clauses ought to be subjected to the closest scrutiny, preferably the the Legislature, but against a background of principles of federal constitutional law and of the guarantee of Article 1, § 6 of the present Constitution of Louisiana regarding open courts. In general, the Office of Consumer Protection regards such clauses negatively unless safeguards -- both substantive and procedural -- are provided for the protection of the consumer.

In general, the position of the Office of Consumer Protection with respect to quasi-judicial systems such as justice of the peace courts, mayor's courts and the like, presided over by persons not necessarily trained in the law, is that such systems ought to be abolished, in that courts are not truly fair administrators of

justice, and as such are not truly "open" within the purview of Art. 1, § 6 of the present Constitution.

With respect to mechanics' liens, and all other liens or proceedings by which property of the consumer may be summarily impounded, possessory interests denied, or subjected to charges without a prior opportunity for the consumer to be heard, it is the view of the Office of Consumer Protection that such liens or proceedings not only do not belong in the Louisiana Constitution, but are in fact constitutionally infirm under federal constitutional principles.

The homestead exemption, in the view of the Office of Consumer Protection, ought to be subject to waiver only in the very narrowest of circumstances. Such circumstances might, for example, include waiver in relation to mortgage interests necessary to finance initial acquisition, remodeling, additions, or as security for indebtedness relating to the health, education and welfare of the consumer and the consumer's family. To this extent, such protection could be written into whatever future version of Sections 1 and 3 of Article 11 of the present constitution, discussed above, at 11(A)(3).

Present Art. 6, § 7, in the view of the Office of Consumer Protection, should, in the absence of adoption of certain suggested new provisions set forth below, be re-written so as to assure that the views of Louisiana consumers will be heard.

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IV.. PROVISIONS NOT NOW FOUND IN THE LOUISIANA CONSTITUTION WHICH ARE SUGGESTED FOR INCLUSION IN THE NEW CONSTITUTION.

1. A provision directing the Legislature to implement the contemplated future version of Article 1, § 6 by, or alternatively directing the Legislature as a separate matter, to establish
  - a. Additional judicial seats at the district court level;
  - b. A separate structure of courts of appeal to handle criminal appeals exclusively. This is particularly relevant to habeas corpus proceedings.
  - c. A separate original jurisdiction court system to handle exclusively all litigation arising out of consumer transactions. This court could be an alternative to a) and b), or in addition thereto.
  - d. The above suggestions relate to the quality of justice for the consumer, including speedy, efficient implementation of judicial remedies, and the "open" court system. Related thereto is the abolition of justice of the peace and other quasi-judicial bodies.
2. A provision directing the Legislature to enact laws insuring that the door of justice will not be closed to those who cannot afford to pursue their remedies and/or those having small claims, as by:
  - a. Enacting laws which encourage the consumer's cause to be taken up by lawyers, by providing for court-awarded attorneys' fees imposable upon the losing party, in the court's discretion.

- b. Enacting laws which encourage the consumer to represent himself in small claims matters, by relaxing rules of evidence, reducing filing fees, dispensing with formalistic pleadings and motions.

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- c. Permitting consumers to sue as a representative of a class of persons similarly situated, consistent with the Federal Rules of Civil Procedure.
3. A provision to guarantee meaningful consumer representation on all state commissions, boards, agencies, licensing authorities which are empowered to promulgate rules and regulations, grant licenses, set prices which directly or indirectly affect Louisiana consumers, including public service commission; bodies regulating and/or licensing consumer products such as milk; contractors; pharmacies.
4. As a possible alternative to 3, a provision to require the Legislature to provide for and fund an office of consumer counsel which shall have the express duty of representing consumer interests in hearing before such boards, commissions or agencies as public service commission.
  - Financed, perhaps, by a tax on companies so regulated.
  - Montana has this - Act. XIII, § 2.
5. A provision directing the Legislature to enact laws to guarantee the fundamental dignity of men and women as functioning heads of households by:
  - a. prohibiting the garnishment of wages and of funds the source of which is wages, pursuant to judgments arising out of consumer transactions; provided, however, that the Legislature shall prescribe the circumstances under which consensual withholding of wages for the payment of debts may be permitted;

- b. prohibiting the acquisition of liens or mortgage interests on, and attendant attachment by legal process of, property which is necessary and proper for the basic well being of Louisiana citizens generally; provided, however, that the Legislature be directed to
  - (1) prescribe the categories of property so protected;
  - (2) exempt from such provisions first lien or mortgage interests necessary for the initial acquisition of such property;
  - (3) provide for waiver of such right in emergency circumstances, defining such term;
6. A provision directing the Legislature to enact laws to guarantee the fundamental right of minor children to the basic necessities of life -- to be clothed, fed, educated -- by prohibiting any abridgment of such right by any legal process or creditor's remedy of any sort.
7. A provision directing the Legislature to enact laws to guarantee the right of individual citizens of Louisiana

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to be sued with regard to a consumer transaction only in their parish of residence. Such a provision could be waived only by voluntary appearance elsewhere.

8. A provision directing the Legislature to enact laws to guarantee the right of individual citizens to bring suit against parties in matters arising out of consumer transactions in any parish in which such parties reside, are found, have an office or agent, or in which parish such party is "doing business" as that term may be defined.

Suggestions 8 and 9 relate to prevention of "procedural" or "venue-related" oppression.

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9. A provision stating that it is the public policy of Louisiana that its courts shall not enforce or otherwise aid the enforcement of any laws or agreements between parties which are themselves unconscionable or which in their application have an unconscionable result or effect on one or more of the parties concerned.



NEW ORLEANS

MOON LANORIEU  
MAYOR

## CITY OF NEW ORLEANS

OFFICE OF THE MAYOR

March 28, 1973

The Honorable Anthony Rachal, Chairman  
State of Louisiana  
Constitutional Convention of 1973  
P.O. Box 44473  
Baton Rouge, Louisiana 70804

Dear Mr. Rachal:

Thank you for inviting me to express my views on the content of the New Constitution as it relates to consumer matters.

I recommend that you consider the following on the consumer interest.

1. That the Constitution be a short basic document.
2. That there should not be included in the Constitution any provisions protective of special interest groups as opposed to the general public interest and that where such public definition requires definition that it be specified that the interests of larger numbers be protected over the interests of small groups and the interests of future generations be duly taken into account.
3. That any Constitutional provisions relating to boards, Commissions, and Advisory Committees should require broad representation including Consumer and Public representation.

Office of Consumer Affairs / Nell Weekley, Director / Room 8E06, City Hall / New Orleans,  
La. 70112 / 529-4311 - Ext. 441

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March 28, 1973  
Mr. Rachal

4. That any Constitutional provisions relating to Chartering local governments specify elective offices only to allow local governments maximum latitude in organizing service departments to meet citizen and consumer needs within their own jurisdictions.

5. That no conflicts in lines of authority responsibility, or funding be built into the Constitution through the creation of special administrative authorities funded by, but not controlled by, local governments.

6. That the charge to provide for public education included a charge to provide for life oriented (including consumer) education as well as Career oriented and College oriented education.

Sincerely,

Nell Weekley, Director  
Office of Consumer Affairs

### MINUTES

Subcommittee on Public Welfare of the  
Committee on Education and Welfare of the  
Constitutional Convention, 1973  
Held, pursuant to a notice mailed by the  
Secretary of the Convention March 29, 1973  
Louisiana Teachers' Association Building  
1755 Nicholson Drive, Baton Rouge, Louisiana  
April 5, 1973, 9:00 a.m.

Presiding: Anthony M. Rachal, Chairman

Present:

Absent:

Mr. Flory  
Mr. Grier  
Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Miss Wisham

Mr. Armentor

The meeting was called to order at 9:00 a.m. and a quorum was noted by the chairman. He announced that Mr. Armentor had informed him he would be unable to attend. The reading and approving of the minutes was dispensed with until later in the day so that all members could peruse them.

There being no new business, the first speaker, Mr. John Stewart, Associated General Contractors, addressed the group. His organization is concerned with the practice of some governmental departments using public labor rather than contracting through private enterprise. Their organization is against any provisions being placed in the constitution that would be detrimental to the construction industry. Two provisions that should be retained, according to Mr. Stewart's organization, are the ten-year exemption for industry and the two-thirds required vote to levy additional taxes.

In the question and answer portion, Mr. Landry inquired if Mr. Stewart had researched how much the ten-year tax exemption has helped Louisiana. Mr. Hernandez stated he would like to pose the question as to how the ten-year tax exemption has increased the tax intake of the State of Louisiana. Mr. Flory pointed out that there is another side to the ten-year exemption as it puts an additional mandate on a community to provide schools and services for the people working in the industry, and often, these people are from out-of-state, rather than Louisiana.

The next speaker of the morning was Mr. Harold Forbes, Director, Civil Service Commission. He feels that Louisiana Civil Service System has built a true career service, and has proven to be a stabilizing and steady influence. Mr. Forbes stated that the question is not whether Louisiana needs a civil service system,

but whether or not it should be locked into the constitution or left to the legislature. He feels the majority of the people want it locked into the constitution. Extensive guide lines must be in the constitution. He pointed out that our present civil service provision, in the constitution, does not prevent discrimination based on race or sex; however, this has been corrected by the Civil Service Commission using the powers vested in it by the legislature. Mr. Forbes discussed the pros and cons of including or excluding civil service from the constitution. These remarks, as well as proposals to the subcommittee, are attached hereto and made a part of these minutes. Mr. Forbes stated that according to the National Civil Service League, Louisiana's system is the best in the country. Several points were advanced

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in the discussion period: "burden-of-proof" which now lies on the employee; lack of flexibility in operational policies; responsiveness of the Civil Service Commission to the wishes of the people; and tests and application. Mr. Forbes stated that to change the pay rates or grant a raise the commission has to have the approval of the governor and the legislature, and he prefers to leave it this way rather than give the legislature the right of review. It was pointed out that the commission processes 110,000 applications to fill 10,000 appointments. There are around 115 to 120 people who administer the civil service program in Louisiana. There are presently 49,000 classified state employees. The commission maintains a listing of the unclassified personnel for the Division of Administration and this list is published every quarter for the division.

The next speaker was Mr. Harry A. Johnson, Jr., president, Louisiana Civil Service Commission. He stated he was in substantial agreement with Mr. Forbes' statements. He believes that the civil service should be constitutionally protected. When asked if he would approve representation of employees on the commission, Mr. Johnson said it should be avoided as the commission should remain unbiased and an independent group. Too many different categories of workers might demand separate representation. In answer to other queries Mr. Johnson said preservation of the principles of handling the nominations for commissioners by the presidents of private institutions will remove the commission as far from politics as possible. We would be better off if we confined ourselves to the nominations coming from heads of private institutions that are not furnished with state moneys and we now have four of the five presently in that category.

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The commission is separate from the Department of Civil Service and has no staff or employees. The commission has the authority to appoint the director of the Department of Civil Service and is the supervisor of the Department of Civil Service, but has no power over the day-to-day operations. Mr. Johnson feels that commission members should be allowed to succeed themselves because their competency increases in the second term. The budget of the commission for its

members is set at \$3000 a year. Each commissioner receives twenty-five dollars per diem and actual expenses. A copy of Mr. Johnson's statement is attached hereto and made a part of these minutes.

Following Mr. Johnson, Mr. Wilson Callender, executive vice president of the Louisiana Civil Service League, along with his colleague, Mr. Daniel Sullivan, presented their organization's views. A copy of their statements is attached hereto and made a part of these minutes. The league consists of 1400 members, with fifty to sixty percent from New Orleans, of mostly professional, independent-thinking people, none of whom can be a civil service employee. Its function is to watch the civil service system and help its administrators operate it without prejudice. As to the question of a possible uniform system for all employees, Mr. Callender feels that everyone should be in the merit system as this would give us the best employee for the salary paid. Operational procedures would vary, but all could belong to the same civil service system, under their own charter.

After a luncheon break, Mr. John C. Runyon, state examiner, Municipal Fire and Police Civil Service presented his views. These are attached hereto and made a part of these minutes. Mr. Runyon stated in the discussion that followed his presentation that he suggests: lowering of the population minimum to 7000 as a prerequisite for establishing a civil service system; adding to Article

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XIV, Section 15.1 the word "or" so it reads "all fire and/or police departments"; and that an official census, rather than the national decennial census, be used to admit municipalities that have obtained a minimum population of 7000.

Mr. Henry Le Bert, director, Louisiana Public Employees Council No. 17, AFL-CIO, was the next to present his organization's feelings. His remarks will be sent later. He suggests that the following should be placed in the constitution:

1. election of one or more commissioners from the employees and by the employees;
2. burden of proof removed from the employee and placed on employer;
3. legislature and governor should be authorized to grant pay raises at any time;
4. legislature and governor should have authority to grant cost-of-living increases;
5. qualifying examinations become more job-related.

He stated that his organization represents about 21,000 employees and is affiliated with the AFL-CIO.

Following Mr. Le Bert, Mr. Clarence Perez, president, New Orleans Firefighters Association made the following points:

1. Employees are tired of the Civil Service Commission telling them what to do without allowing them representation on the commission.
2. The "rule of three" does not stand up if a department head wants a certain person for a position.
3. It is too convenient for the system to avoid holding tests when men at lower paying positions could be upgraded.

Mr. Perez stated the system as it exists today is not the best for the employees, but might be good for the administrators. A copy of the views of Mr. Perez's organization is attached hereto and made a part of these minutes.

Mr. William Konrad, director, New Orleans Civil Service

Commission was next to address the subcommittee. He made it clear that he was expressing personal views and experiences from his

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organization with full concurrence of the city Civil Service Commission. He feels that Mr. Perez's statements are very sweeping and not all factual. He pointed out that over the years people in the system have been consulted before pay raises, etc., are decided upon. Public hearings are held before any rules or pay plans go into effect. He believes that it is essential to guarantee a merit system for both the state and city civil service systems. He stated that the existing provision of twenty-four pages could be cut down to three and one-half pages. He presented his views and proposals to the subcommittee members and a copy is attached hereto and made a part of these minutes. He pointed out that his projet is patterned on that existing in New Orleans and could be adaptable statewide.

Mr. Roy Stewart, director, Jefferson Parish Civil Service presented a proposal prepared by himself and Mr. Charles P. Roth, Jr., a longtime civil service employee. They are in accord with the views previously presented by the civil service representatives. However, they do not think that the statements of the forementioned go far enough. Mr. Stewart and Mr. Roth feel the concept of a uniform merit system of employment should be extended throughout the state to all political subdivisions. He stated that at least one-half of the government employees in the State of Louisiana are not covered by any form of merit systems. He and Mr. Roth had certain basic criteria for constitutional provisions which are attached hereto and made a part of these minutes. He added that in Jefferson Parish the burden of proof for dismissal is on the employer.

Next to appear was Wellborn Jack, delegate, Constitutional Convention, 1973. He stated that he is not directly connected with any group represented by the others speaking. In 1940 he

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was the co-author of the Fire and Police Civil Service Act. He is in favor of the New Orleans Fire and Police joining the rest of the state and, in favor of lowering the minimum population eligible for civil service to 7000. He concurs with Mr. Hugh Ward's statements, which were presented later, and has signed his name to the statement.

Mr. Earl Marcelle, Jr. director of classified personnel from Southern University, presented his views. He will submit a written statement next week. He would like to see a brief, concise constitution and retain civil service statements to the degree that the state provide such and afford protection to the employees. As to the commission, he recommends expanding the membership to seven by adding and allowing black public and black private institutions the right to nominate candidates; or, as an alternative, there would be a commission appointed by the governor, but responsible to someone. At present the commission is too independent and is unresponsive to the needs of the community. It seems unreasonable to Mr. Marcelle that five members can sit down and make rules to govern 50,000 employees who have no voice in the matter. He is

unhappy with the "rule of three" in hiring and would suggest using the "pass-fail" system. He pointed out that prior to 1968 he was sent two lists from the Civil Service Commission designated white and black. That has now been changed. Mr. Rachal inquired if the commission was accountable to the governor. Mr. Marcelle stated they only answer to the governor when a pay change is involved; but not when rule changes are involved.

Mr. L. F. Peters, legislative representative of Professional Fire Fighters Association of Louisiana addressed the group and a copy of his speech is attached hereto and made a part of these

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minutes. He turned the remainder of his presentation over to Mr. Hugh Ward, attorney for the organization. His presentation is attached hereto and made a part of these minutes. He represents twenty-six local unions which include 2500 firemen who work in all municipalities and parishes, including New Orleans. He pointed out that fire insurance rates are based on the quality of the service of the firemen. The system proposed by the Professional Firefighters Association of Louisiana would benefit all residents of Louisiana by providing better qualified firefighters, thus lowering the fire insurance rates. As a group, the association can support or oppose such things as millage elections. However, they cannot support any person for a political office.

The last speaker of the day was Mr. John Bradley, personnel director, Board of Commissioners, Port of New Orleans; and chairman of the Louisiana State Personnel Council. His organization's views are attached hereto and made a part of these minutes.

The president of the Patrolmen's Association of New Orleans, Mr. Irvin Magri, arrived after Mr. Bradley had finished. Since the hour was late, the committee begged Mr. Magri's understanding and requested that he return on the morning of April 12, 1973 to present his organization's views. Mr. Magri agreed to return at that time.

The subcommittee turned to unfinished business. The minutes of the March 28, and March 29, 1973 meetings were studied and Mr. Grier asked that the word "feels" be changed to "suggested" on page three, fourth line from the bottom of the March 29, 1973 minutes. With this change, Mr. Lennox moved that the March 29, 1973 minutes be approved and the motion passed. The approval of the minutes of

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March 28, 1973 was held in abeyance until the tapes can be reviewed to ascertain the validity of a statement by one of the speakers on that day, Mr. McDowell; and the spelling of the word "levy" be corrected to read "levee".

The next meeting will be on April 11, 1973 in the Senate lounge at 10:00 a.m., and again, April 12, 1973 at 9:00 a.m. in the East Baton Rouge Parish School Board Office, Board Room, with a Committee of the Whole meeting scheduled for 1:00 p.m. that same day. There being no further business, the meeting adjourned.

Anthony Rachal, Chairman

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CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE

ROOM 7303 CITY HALL  
NEW ORLEANS, LA 70112  
339-4311 EXT. 451

CITY CIVIL SERVICE COMMISSION  
WILLIAM M. BARNETT, CHAIRMAN  
NORMAN C. FRANCIS  
MARCEL GAMBARDIA, JR.

WILLIAM R. KONRAD  
DIRECTOR OF PERSONNEL

MOON LANDRIEU  
MAYOR

April 4, 1973

Mr. Anthony Rachal, Jr.  
Chairman of the Sub-Committee on Public Welfare  
of the Louisiana Constitutional Convention  
State Capital  
Baton Rouge, Louisiana

Dear Mr. Rachal:

In the proposed revision of the Constitution, I believe it is essential to guarantee a merit system of public personnel administration, not only for the state, but also for the cities. The constitutional provision as it presently exists provides for a state civil service system and a city civil service system (the latter actually applicable only to New Orleans) and covers some twenty-four (24) pages. This, I believe, can be cut down considerably. With that in mind, I am suggesting a proposal along the lines in the attachment, which comes to only three and a half pages. This proposal, being patterned after the existing provision, is written so that it would affect only the City of New Orleans, but it could be easily altered to cover other cities and even other political subdivisions.

This proposal retains the substantive nature of the existing law, but omits much of the detail and reserves this to the rule making power of the Commission.

I believe that the existing method of selecting Civil Service Commissioners has worked extremely well and should be retained. In this area, however, I have suggested an expansion of the list of universities from which recommendations for Commissioners would come.

The Commission is given broader rule making power in order to make the system administratively effective and, at the same time, be more responsive to local conditions and situations. Virtually all aspects of personnel management must necessarily be left to the discretion of those Commissioners to whom these responsibilities are entrusted.

Member of  
Public  
Personnel  
Association

"An Equal Opportunity Employer"

Mr. Anthony Rachal, Jr.  
April 4, 1973  
Page Two

It is essential, also, that if the classified employees are to serve the public uniformly and effectively they be protected and insulated from political influence and pressures. Consequently, the provisions prohibiting political activities are retained.

I will not take up the Committee's time with a more detailed presentation of the constitutional provision being proposed. I simply want to point out briefly that it also provides for a definition of the classified and unclassified services but provides that additional exceptions to the classified service may be made and revoked by rules adopted by the Commission. It is believed that this provision overcomes certain objections as to the rigidity of the unclassified service and allows for easy assimilation of new programs.

The right of appeal by an employee is preserved to prevent arbitrary or capricious disciplinary action by appointing authorities.

A minor change provides for an increase in the honorarium from \$25.00 to \$50.00 for members of a Commission.

Respectfully submitted,

William R. Konrad  
Director

Page Three

Attachment

WRK:pb  
cc: All Sub-Committee Members

CITY CIVIL SERVICE PROPOSED  
CONSTITUTIONAL PROVISION

A. City Service or Civil Service of the city means all officials and positions of trust or employment in the office of the city or any department, independent agency or other agency, board, or commission. (Source: Section 15, Article XIV; (A) (3).

B. The classified City Civil Service shall include all officers and employees in the City Civil Service except (1) officers elected by the people and persons appointed to fill vacancies in elective offices, (2) heads of principal departments appointed by the mayor or other governing body of any city, (3) city attorneys, (4) members of city boards and commissions, (5) one principal assistant or deputy, one attorney and one person holding a confidential position to any officer, board or commission mentioned in 1, 2, and 4, except the City Civil Service Department, (6) officers and employees of the Office of the Mayor and City Attorneys, (7) commissioners of elections and watchers, custodians and deputy custodians of voting machines, (8) all persons employed and deputies selected by sheriffs, clerks of court and courts of record except those presently in the classified service. Additional exceptions may be made and revoked by rules adopted by the Commission. (Source: Section 15, Article XIV; (C).

C. There is hereby created and established in the city government of each city having a population exceeding 300,000, a Department of City Civil Service, the administrative head of which shall be the Director of Personnel to be appointed as hereinafter provided. (Source: Section 15, Article XIV; (B).

D. There is hereby created and established a City Civil Service Commission for each city having a population exceeding 300,000, to be composed of three citizens who are qualified voters of the city in which they serve. One member of the Commission shall be appointed by the governing body of the city. The other two members of the Commission shall be appointed as follows:

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The president of the six oldest colleges or universities located in or nearest to the city concerned shall each nominate one person, and two members of the Commission shall be appointed by the governing body of the city from the panel of six persons. One of the commissioners first appointed shall serve for two years, one for four years, and one for six years. The respective terms of the first appointees shall be designated by the governing body of the city. Vacancies shall be filled in the same manner as the original appointments. Each succeeding appointee shall serve for six years. Provided that appointment to fill a vacancy for an unexpired term shall be only for the unexpired term. Each commissioner shall serve until his successor has been appointed, and members of the existing Commission shall continue to serve until the first commissioners are appointed pursuant to this section. No member of the Commission shall be removed except for cause after being given a copy of the charges against him and an opportunity to be heard publicly on such charges by his appointing authority. Members of the Commission shall each be paid fifty dollars (\$50.00) for each day devoted to the work of the Commission but not more than two thousand dollars (\$2,000.00) in any year. They shall also be entitled to reimbursement for actual expenses. (Source: Section 15, Article XIV; (D) & (E) & (K).

E. The Commission shall appoint a Director of Personnel, with or without competitive examination, who shall be in the classified service. The Director shall appoint such personnel and staff and have such powers and perform such duties as are authorized and delegated to him by the Commission.

F. Permanent appointments and promotions in the classified City 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.

G. No person having gained permanent Civil Service status in the classified City 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, sex, or race. Any classified employee so discriminated against or subjected to such disciplinary action shall have the right of appeal to the City Civil Service Commission.

The burden of proof on appeal, as to the facts, shall be on the employee. (Source: Section 15, Article XIV; (A) (1) (2).

H. The Commission is vested with broad and general rule-making powers, including subpoena powers, for the administration and regulation of the classified City Civil Service including, but not limited to, regulation of employment, promotion, demotion, suspension, reduction in pay, 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.

MEMORANDUM

To: The Subcommittee on Public Welfare of the Louisiana Constitutional Convention of 1973.

From: Roy Stewart and Charles P. Roth, Jr.

I. No member of the City 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 for 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 as an 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 City Civil Service to punish or coerce the political action of such person.

J. The Commission is authorized to make investigations into violations of the provisions of this section and the rules or laws adopted pursuant hereto.

Page Four

K. The rules adopted pursuant hereto shall have the effect of law. The Commission may impose penalties for their violation in the form of demotion in, or suspension or discharge from, position with attendant loss of pay. (Source: Section 15, Article XIV; (I) (O) (4).

L. 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 by a fine of not more than \$500.00, or by imprisonment for not more than six (6) months, or both. (Source: Section 15, Article XIV; (P) (3).

M. Upon the effective date of this amendment, all officers and employees of the city who have Civil Service status in the classified service of the city 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.

March 28, 1973

MUNICIPAL GOVERNMENT EMPLOYEES CIVIL SERVICE

217 WEST MAIN STREET  
LAFAYETTE LOUISIANA 70501  
PHONE A C 318 592-4301

DIRECTOR OF PERSONNEL  
ROY J. CHAMPAGNE  
ASST. DIRECTOR OF PERSONNEL  
RAY BONNETTE  
PERSONNEL OFFICER  
DONNA PICARD

April 4, 1973

BOARD  
WARREN L. BROWN, Chairman  
ALBERT LATOUCHE, Vice-Chairman  
SERVANT JEANBAUD  
PATRICIA L. COLWAD  
PAUL J. VAN HORA

Mr. Anthony Rachal, Chairman  
Sub-Committee on Public Welfare  
Constitutional Convention of 1973  
State Capitol Building  
Baton Rouge, Louisiana 70804

Dear Mr. Rachal:

An unexpected conflict in schedule will prevent my appearance before your Committee at 3:45 p.m. Thursday, April 5.

I would appreciate your placing on record, the fact that I endorse the statement of Mr. Roy Stewart, Director of Jefferson Parish Civil Service scheduled for 3:15 p.m. April 5.

Thank you for your attention to this matter.

Yours truly,

*Roy J. Champagne*  
Roy J. Champagne

RJC:dp

cc: Mr. Roy Stewart

It is the right of every citizen in the state to receive efficient, impartial, non-partisan government service; and it is the right of every citizen to compete for public employment opportunity on the basis of personal merit, without regard to racial, religious, political, color, national origin, sex, or other considerations not directly and validly related to the services to be performed. Since these are basic rights of all citizens, it seems obvious to us that these basic rights should be guaranteed in the basic law of the State--The Constitution.

Present constitutional provisions, and some local charter provisions, provide excellent merit systems of employment for some jurisdictions and some citizens of the State. The great weakness lies in the fact that there are all too many jurisdictions with no merit systems of employment whatever. Certainly it is true that the existing merit systems are not perfect and can be improved--but the word "improved" should not be construed to mean "weakened" or "fragmented". On the contrary, the basic provisions of the best present systems should be combined, strengthened, and broadened to apply to all public employment at all levels of government throughout the State.

Anyone who believes that impartial and efficient public service can be rendered (or maintained from one regime to another) by employees who are hired on an unrestricted political basis and/or whose tenure is dependent on the outcome of political elections is either naive or foolish. We have no exact figures, but we feel safe in estimating that at least half of the government employees in Louisiana are not covered by any form of merit system of employment. It follows, therefore, that at least half of the government services rendered are not rendered on an impartial and objective basis. We believe that the delegates to the Constitutional Convention should recognize this and take advantage of a once-in-a-lifetime opportunity to provide merit system principles of employment at and throughout all levels of government in the State.

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There are certain basic requisites for a merit system of employment in the public service. Before we attempt to propose a specific constitutional provision to guarantee such a system, we believe it necessary to examine and list these basics. The essentials, we believe, are:

1. Policy supervision by impartial, non-political, self-perpetuating, citizen staffed boards selected and organized to protect the interests of the citizens served, not the interests of the hired or elected employees who render the service;
2. Administrative supervision and direction by qualified and trained personnel specialists employed by and responsible to the citizen staffed boards for the administration of merit systems of employment within the framework of the policies and rules prescribed by the boards;
3. Definition of the positions which must be placed under the merit system of employment and, more specifically, definition and/or limitation on the number and types of positions which may be exempt from the merit system;
4. Specific laws uniformly applicable to the occupants of and/or applicants for all merit system positions at or in all levels of government and jurisdictions throughout the State, designed to limit partisan political activity and participation by said persons, clearly and solely for the purpose of freeing such persons of political obligations so that they might objectively render impartial government services;
5. Specific and uniform statewide rules and procedures guaranteeing to all merit system applicants and employees the right to public hearing to test the merit and reasonableness of actions adverse to their eligibility for or tenure in merit system employment; the hearing rights, powers, and corrective authority being vested in the appropriate citizen-staffed merit system boards, the decisions of which are final and binding subject only to appeal to the courts on questions of law;
6. A statewide Public Personnel Council composed of one representative (either the board chairman or the chief administrator of the merit system) from each merit system jurisdiction of employment in the state; said Council being an advisory body obliged and responsible to study, formulate, and recommend uniform policies, procedures, and rules governing merit employment qualifying procedures, eligibility, and certification, residency requirements, veteran and other preference credits, grievance arbitration (as distinct from matters reserved to appeal to personnel boards), inter-agency transfer of personnel with retention of seniority and basic benefits, and other matters not significantly dictated by local considerations--the purpose being to foster uniformity of practice and procedure, and mutual understanding throughout the state; and said Council being further empowered to elect its own officers, organize itself, appoint its own committees, hire a Secretary-

Page 3

Manager and such other staff as it might deem necessary, and to assess its member-representatives, through their agencies, in accord with an employee per-capita formula in order to fund the

MEMBER  
EMPLOYEES ASSOCIATION



budget it may itself adopt as necessary to properly support its operations.

These basics, we believe, are all that are essential in the Constitution to guarantee merit system employment and its benefits to all citizens of the State. Within the limitations of these basics, we believe that the "home-rule" concept should apply--that is, that each individual jurisdiction should be free to develop and implement, or continue in existence, a detailed system best suited to "local" peculiarities, needs, and traditions.

With the exception of item number (6), above (our proposal to establish an advisory Personnel Council), we believe all of the basics are contained in the present Civil Service constitutional provision, Article XIV, Section 15. Essentially, we propose that the present Article XIV, Section 15 be retained in substance, but with the elimination of detailed provisions not essential to the preservation of the strong merit system of employment for public employees. More importantly and more specifically, we propose that the constitutional provisions be made mandatorily applicable not just to the State service and to municipalities of 250,000 population, but to all Parishes and other political subdivisions and public entities which serve populations of 50,000 or more and/or which employ 150 or more persons in full-time classified positions.

Our suggested draft version of a constitutional article to accomplish these objectives, follows:

#### Article Public Personnel Administration

Section 1. A basic system of public personnel administration is hereby established and shall apply to all positions financed and/or supported by public funds within the State of Louisiana and encompassed within the Classified Service as hereinafter defined; the purpose being to ensure to the greatest extent practicable a uniform merit system of employment within the public service in order to provide the citizens of the State, at all levels, with impartial, efficient essential services. Uniform merit systems of public personnel administration, conforming to all of the requirements and provisions as hereinafter set forth, shall be instituted in and shall apply to the State and to all political subdivisions and/or public entities thereof which serve populations in excess of 50,000 and/or which employ 150 or more persons in Classified Service positions on a full-time basis.

Section 2. In each public jurisdiction to which this Article is applicable, there shall be established a citizen-manned board of supervisors with full authority and responsibility for the implementation and administration of a merit system of public personnel administration as herein described and required. Each such board shall be composed of not less than three (3) nor more than seven (7) members each of whom are citizens and qualified electors of the jurisdictions served, and none of whom are candidates for or occupants of any elective office or any paid public position. The mem-

Page 4

bers of each board shall be appointed by the chief executive officer of the jurisdiction served, and shall serve overlapping terms designed to minimize the possibility of more than one vacancy occurring in any one year. One or more members of a board may be appointed by the chief executive officer without regard to nomination from other sources, but under no conditions may more than one-third (1/3) of the members be so appointed. The remaining members of a board composing not less than two-thirds (2/3) of the board membership shall be appointed by the chief executive officer from nominees, not more than three (3) in number, solicited and received from the Presidents of Universities located in, or serving, the jurisdiction involved. Members of such boards shall be removed only for cause and after having been afforded an opportunity for public hearing. Vacancies in board membership shall be filled promptly and not later than sixty (60) days of the occurrence of the vacancy, by the same method of selection applicable to the member to be replaced. A person appointed to fill an unexpired term shall serve for the duration of the unexpired term, unless removed sooner for cause. Any board may be identified by the title "Civil Service Commission". "Personnel Board", or such other title as may be selected and stipulated by applicable law. Members of Personnel Boards may be compensated for their services.

Section 3. Each board as described and defined in Section 2, above, shall have the following powers, authorities, and duties:

- (1) to select and appoint a Personnel Director who shall be in the Classified Service and shall be responsible solely to the Board for the administration of the merit system of employment within the jurisdiction of the Board, and who shall be the appointing authority for the Personnel Department with authority to hire and supervise a staff of assistants;
- (2) to delegate to the Personnel Director such of its powers and authorities as it may deem fit, including the power and authority to administer oaths, and act as a hearing examiner for the Board;
- (3) to prepare, adopt, and enforce such rules as it deems necessary and appropriate to administer the merit system of personnel administration within the context of this Article, such rules to have the force and effect of law;
- (4) to adopt a plan for the classification of positions, and such amendments thereto as may be necessary from time to time;
- (5) to recommend a pay plan for classified positions and to enforce and administer the plan as approved by the governing body of the jurisdiction;
- (6) to investigate any and all matters pertinent or related to personnel administration within its jurisdiction, and to take such action as it deems appropriate to correct problems which it determines or discovers, including disciplinary action against classified employees or applicants for classified positions and to file legal charges against persons felt to have violated the provisions of this article or any of the rules adopted under authority hereof;
- (7) to receive and hear employee appeals and, in connection therewith, to administer oaths, subpoena witnesses and/or records, and render decisions which shall be binding on all officials of the appropriate jurisdiction and shall be final as to fact, appealable only on question of law to the appropriate court of

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- (8) to elect its own officers as it shall see fit, and to establish

such rules of procedure for the conduct of its affairs as it shall see fit; and,

- (9) to perform such functions and assume such responsibilities for personnel administration in the Unclassified Service as may be delegated to it by the governing body of the appropriate jurisdiction.

Section 4. All positions within the State of Louisiana and/or any of its subdivisions, agencies, and political divisions or public entities shall be and are hereby categorized and are designated to be within one of two general categories of service; specifically: Unclassified Service and/or Classified Service.

The Unclassified Service shall encompass the following:

1. any and all elective public offices, including vacant elective offices filled temporarily by appointment;
2. heads of principal departments of government appointed by the chief executive officer and/or governing authority of each public jurisdiction within the context of this Article;
3. members of boards, commissions, and similar advisory bodies, whether compensated or not, appointed to discharge executive, administrative, quasi-judicial, or advisory functions, except such members who may otherwise and occasionally occupy positions within the Classified Service;
4. the teaching, professional, and chief administrative officers and personnel of all colleges, universities, and schools under the authority of the State or any of its political subdivisions;
5. one private secretary for the President of each college or university under the jurisdiction of the State or any of its political subdivisions; and one private secretary, one attorney, and one confidential aide to any elected or appointed official or any board or commission as enumerated in 1, 2, or 3 above;
6. officers and employees of the State Legislature and of the Governor, Lieutenant Governor, Attorney General, and elected chief executive officers of parishes and incorporated municipalities;
7. district, parish, and city attorneys, and their professional legal assistants;
8. persons and organizations, and the employees thereof, who are retained on a contractual basis for a specific period of time to perform a specific service which can not reasonably or economically be better performed by employment within the Classified Service; and,
9. officers and enlisted personnel of the National Guard of the State who are not otherwise employed in positions within the Classified Service.

Any or all of the foregoing may be placed within the Classified Service of any particular jurisdiction by action of the governing body of the jurisdiction.

The Classified Service shall encompass all other public positions not specifically allocated to the Unclassified Service herein above.

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Section 5. All systems of Civil Service and/or merit employment existing and in force at the time of the adoption of this Article may continue insofar as not in conflict herewith.

Section 6. All official meetings and all hearings held by or under the authority of any personnel board as defined herein shall be open to the public; except that any board may consider in private, executive session any materials, evidence, information, or testimony pertaining to the content and results of employment examinations or relative to information concerning the medical history, character, personality, or employment background of employees or applicants for employment which, in the opinion of the board, is best held in confidence.

Section 7. Qualifications and eligibility for employment in any position in the Classified Service shall be determined by and shall be solely within the authority of the appropriate personnel board; except that, any and all qualifications and qualifying procedures shall be merit oriented and job related and shall not in any way discriminate against or in favor of any applicant by reason of race, national origin, color, creed, religion, or politics.

Section 8. Each appropriate governing body and fiscal officer shall appropriate and allocate annually to the personnel board within its jurisdiction, funds sufficient to enable the adequate and efficient administration of the functions and duties of the Board and its staff, provided that in no case shall the funds so appropriated and allocated be, in total, less than seven-tenths (7/10) of one percent of the total personal services budgeted amount for the Classified Service positions in the jurisdiction.

Section 9. In order to ensure to the greatest extent possible the rendering of impartial and objective service to all citizens of the state, to provide for continuity of employment unaffected by results of political elections, and to free public employees from undesirable partisan political pressures and influences, participation in public political activity by persons employed in or considered for employment in any Classified Service position is hereby restricted, as follows:

1. No person who is a candidate for any public elective office shall, while actively pursuing such candidacy, be considered for, appointed to, or employed in any Classified Service position;
2. No person who is elected to any public office shall, while awaiting assumption of or while serving in such office, be appointed to or employed in any Classified Service position;
3. No Classified Service employee shall be granted any form of leave of absence with or without pay the purpose of which is directly or indirectly to permit the employee to seek or to occupy an elective public office or to accept interim appointment to such an office;
4. No Classified Service employee shall be a member of any national, state, or local committee of any political party, or a member or an officer of any factional political club or organization, or a candidate for nomination or election to any public office, or shall actively take part in any campaign for the nomination or election of any public officer, or shall take part in the management or affairs of any political faction or party or organization;
5. No Classified Service employee shall contribute money, materials, property, personal services, or any other valuable consideration to or on behalf of any candidate for public office or on behalf of any

[167]

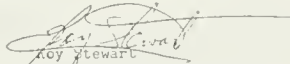
- partisan political cause or organization;
- 6. No Classified Service employee shall display or permit to be displayed on his person or on any property owned by him in whole or in part any signs, posters, emblems, decals, literature, pictures, banners, badges, or other materials or paraphernalia intended directly or indirectly to advocate, espouse, or further the cause of any candidate for public office or any political cause or endeavor;
- 7. No Classified Service employee shall make any public speech or public statement, verbal, written or otherwise, in behalf of any candidate for public office or any political faction, party, organization, cause, or endeavor;
- 8. No person shall be appointed to, promoted to, dismissed from, or disciplined in any position in the Classified Service or in any way favored or discriminated against with respect to Classified Service employment because of political opinions, affiliations, or considerations, or lack of same;
- 9. No employee in a Classified Service position shall, directly or indirectly, pay or promise to pay or permit to be deducted from his pay any assessment, subscription, or contribution to further the cause of any candidate for office or for any political purpose whatever, and no Classified Service employee shall solicit or take part in soliciting any such assessment, subscription, or contribution from any Classified Service employee or any other person or source;
- 10. No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment to, proposed appointment to, promotion to, proposed promotion to, dismissal from, disciplinary action in, or any advantage in a position in the Classified Service;
- 11. No appointing authority, or agent or deputy thereof, or supervisor, or other public official shall, directly or indirectly, demote, suspend, discharge, or otherwise discipline or coerce any Classified Service employee for the purpose of influencing his vote, support, or other activity with regard to any political cause, election, candidate, nominee, or endeavor whatever.


Every employee in Classified Service positions shall have the unrestricted right to express his opinions privately, to attend political meetings and gatherings as a spectator, to read political literature, to listen to political speeches and broadcasts, to serve as a commissioner or an official watcher at the polls in any election, to cast his vote for the candidate or issue of his choosing, and to register to vote or refrain therefrom under any party designation or lack of designation as he may choose.

Any Classified Service employee who, after investigation and public hearing by any appropriate personnel board, is found to have violated any provision of this Section shall be subjected to any disciplinary action ordered by the Board in its discretion, up to and including dismissal from the Classified Service and prohibition against future Classified Service employment in the State.

Section 10. In order to foster uniformity of practices and procedure and mutual understanding of public personnel administration in and among all

levels of government in the State, and to encourage the exchange and interchange of public personnel between and among the various jurisdictions, there is hereby established a Public Personnel Council, the membership of which shall be made up of one representative (either the Board chairman or the Personnel Director) from each Classified Service jurisdiction in the State. The Public Personnel Council shall be an advisory body obliged and responsible to study, formulate, and recommend uniform policies, procedures, and rules for public personnel administration in the State, and, upon request, to consult with and assist individual jurisdictions in the development and implementation of programs and procedures. The Public Personnel Council shall have the right to organize itself as it sees fit, to elect its own officers, to designate its own committees as it deems appropriate, and to employ a Secretary-Manager and such other staff as it deems necessary and feasible. In support of its operations, the Council shall have the authority to assess the various Classified Service jurisdictions, in accord with an employe per-capita formula devised and approved by majority vote of the Council membership at large.

  
Roy Stewart

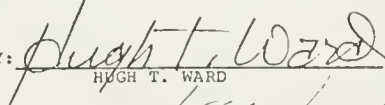
  
Charles P. Roth, Jr.

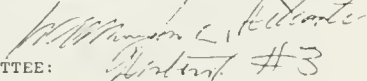
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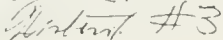
FIRE AND POLICE CIVIL SERVICE

TO: Public Welfare Subcommittee of  
the Committee on Education and  
Welfare  
Louisiana Constitutional Convention

Submitted by: Peters & Ward  
Attorneys at Law  
518 Johnson Building  
Shreveport, Louisiana 71101  
Attorneys for Professional  
Firefighters Association of  
Louisiana, AFL-CIO

BY:   
HUGH T. WARD

  
W. W. Anderson



MAY IT PLEASE THE SUBCOMMITTEE:

The purpose of this summary presented to this committee is to outline the position of the Professional Firefighters Association of Louisiana, AFL-CIO, to the effect that constitutional status for fire and police civil service in the State of Louisiana should be maintained, made uniform and that related laws should be consolidated therein:

Fire and police civil service in the State of Louisiana, generally speaking, is now comprised of the following:

- (1) Louisiana Constitution, Article 14, Section 15.1 provides for fire and police civil service for any municipality which operates a regularly paid fire and police department and which has a population of not less than 13,000 nor more than 250,000 persons. This constitutional provision was adopted in 1952.
- (2) Louisiana Revised Statutes 33:2471 through 33:2508 (taking up some 50 pages of West's Revised Statutes) also applies to municipalities which operate a regularly paid fire and police department and which have a population of not less than 13,000 nor more than 250,000 persons. (This act was first adopted in 1944.)
- (3) Louisiana Revised Statutes 33:2531 through 33:2568 (taking up some 34 pages in West's Revised Statutes) provides for a system of fire and police civil service in municipalities having a population of not less than 7,000 and not more than 13,000 persons AND for all parishes and fire protection districts. (This Act was adopted in 1964).
- (4) Louisiana Constitution Article 14, Section 15, is the general state civil service law applying to state employees, and municipalities having a population of over 250,000 persons. Obviously, this general state civil service provision would apply to the fire and police employees of the City of New Orleans only.

The proposal is here advanced that the new Louisiana Constitution should afford civil service status for all firemen and policemen in one provision. This provision should be patterned after the present Louisiana Constitution, Article 14, Section 15.1 and should provide a system for civil service for all municipalities having a population of 7,000 persons or more and for all parishes and fire protection districts. Such a provision would, of course, include the City of New Orleans and would provide in one place for a uniform system of civil service for virtually all fire and police employees in the State of Louisiana.

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The first question which might be raised is why should the Louisiana Constitution provide for a separate civil service law for firemen and policemen only, as opposed to other municipal and parish employees. Briefly stated, the reasons are as follows:

- (1) Firemen and policemen engage in the two most hazardous occupations known to man. These employees protect our very lives and property. Because of the uniqueness of their duties, they need separate and different classifications, expertise in administering their system of civil service, and employment plans which adequately set up, define and administer their duties.
- (2) Because of the fact that firemen and policemen perform a unique service, not akin to other municipal or parish employees, a uniform system is needed with one central state examining office (such as is now provided in Louisiana Constitution, Article 14, Section 15.1), which office is skilled in testing and devising classification plans and description of duties for firemen and policemen.
- (3) A standardized testing and qualifying system all over the state will assure the highest possible standards in

public safety. Prospective investors in Louisiana and employers seeking Louisiana locations for their plants and industries will have prior knowledge that fire and police protection is of a high caliber and largely standardized within the state.

- (4) All citizens of the state will benefit from a standardized system of fire and police service. Insurance rates are actually set based upon the qualities of fire service available in a given community. If such services are standardized and maintained at a high proficiency level, the reduced insurance rates will benefit all our people.

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The next question which might be advanced is why should fire and police civil service be placed in the Constitution at all. Briefly stated, the reasons are as follows:

- (1) An introductory remark to the subject of civil service found in 15 Am.Jur. 2d at page 464 is as follows:

"The unlimited authority of the chief executive in public office to appoint and remove subordinate officials, which prevailed throughout this country during the first century of its existence, resulted in the general adoption of the 'spoils system,' under which public office was made the reward for political work, with the resulting evils of inefficiency, extravagance, interruption of public business by place hunters, corruption of the electoral franchise, and political assessments."

Constitutional protection for civil service is essential in the State of Louisiana.

- (2) Should constitutional status for civil service for firemen and policemen not be maintained by this Constitutional Convention, such status would be left to the whim of the legislature to provide for by general laws, which they may well

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see fit to change during each administration. Unless a man or woman who is seeking civil service employment can be secure in his or her belief that the system will largely remain static, you simply cannot attract the caliber of person which the citizens of Louisiana deserve to protect life and property.

(3) A number of municipalities and parishes in the State of Louisiana now have certain degrees of "home rule." Should the civil service status for firemen and policemen in the State of Louisiana be relegated to the general laws as adopted and as may be changed from time to time by the legislature, then it is entirely possible that certain "home rule" provisions in certain municipalities or parishes might well override such provisions of the general laws and the state would wind up with a disparity in standards of qualifications and service in the areas of fire and police.

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The people of this state have heretofore spoken as is exemplified by the provisions of Louisiana Constitution, Article 14, Section 15.1, as to their desire for a civil service system for firemen and policemen. Such provisions are now in effect but do badly need to be consolidated and placed in one particular section of the Constitution. It is submitted that the proposal made herein and as advanced at the beginning of this report is the proper answer to this problem and would well serve all citizens of the State of Louisiana.

Respectfully submitted,

PETERS & WARD  
518 JOHNSON BUILDING  
SHREVEPORT, LOUISIANA 71101  
ATTORNEYS FOR PROFESSIONAL  
FIREFIGHTERS ASSOCIATION OF  
LOUISIANA, AFL-CIO

BY:

*Hugh T. Ward*  
HUGH T. WARD  
*J. M. ...*  
*District #3*

To: Public Welfare Subcommittee of  
the Committee on Education and  
Welfare  
Louisiana Constitutional Convention

Submitted by: L. F. Peters  
Legislative Representative  
Professional Fire Fighters Association  
of Louisiana

Many years ago Louisiana statesmen, realizing that municipal firemen and policemen were engaged in professions directly connected with the public safety and which when properly performed placed the lives of these employees in constant jeopardy, felt that a person so employed, willing to take extreme risks for his fellowman, should not have to worry about the security of his position provided he performed his work satisfactorily.

The Municipal Fire and Police Civil Service Law was enacted to provide for equitable enlistment standards, fair and impartial written examinations, proper promotions through seniority, performance and examination, and reasonable disciplinary procedures.

The law was voted into the State Constitution in a general election in 1932 to offer additional security from any sudden changes.

Civil Service has worked very well throughout the 20 years it has been in the constitution. It has helped all cities throughout the State to organize, administrate, train, and discipline their Fire and Police departments, creating a high level of equal employment practice, protecting the public interest and instilling public confidence.

It has removed oppressive political influence in appointments, transfers and promotions. It has excluded all political activities for persons covered thereunder. Any political activity is mandatory cause for removal from the respective service.

It should be understood that the Civil Service Law was designed and has been so administered to secure an employee's position only during good tenure of service.

Adequate provisions are incorporated to effectively discipline employees, including their removal for reasonable cause.

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Administered on a city level by a board of five members, one chosen by the governing body on its own nomination, two appointed by the governing body from a list of four submitted by the executive head of an institution of higher education and one elected from each of the respective departments, it gives fair representation to the city and the employees, insuring the protection of the public interest, the appointing authorities interest and the employee's interest.

The plan is now being followed in cities throughout this state. Employees of these professions are treated equally under equal law, thus creating a high degree of morale which is leading to true professionalism. Louisiana citizens have thereby reaped many safety rewards from the better trained, disciplined and enthusiastic Fire Fighters and Police Officers.

The State Civil Service Examiners office, in cooperation with the Louisiana State University Firemen and Police Training Program, is encouraging and accomplishing higher skill levels for these men, indicating a continuing program of employee improvement.

Leaving the Municipal Fire and Police Civil Service Law in our new constitution will maintain an established system already proven by the test of time, protecting it from change except by the consent of a majority of those whose lives and property are protected by these employees.

You are respectfully requested to consider the accomplishments of Constitutional Municipal Civil Service, the protection of these dedicated employees, and the continued assurances of progressive Municipal Fire and Police Departments as you decide upon the desirability for inclusion into the New State Constitution. We ask that it be included and expanded to include cities of 7,000 to 13,000 population and all parish and fire protection districts as already provided in the general statutes and that the upper population limit of 250,000 be removed so that the City of New Orleans would be included. This would bring all Fire and Police Departments under the same Civil Service. Thank you for your time and attention and thank you for serving your state as a delegate to the Constitutional Convention.

Respectfully submitted,

L. F. Peters  
Legislative Representative  
Professional Fire Fighters  
Association of Louisiana

BY:

L. F. Peters

LFP:b1



# LOUISIANA STATE PERSONNEL COUNCIL

P. O. Box 44111, CAPITOL STATION  
BATON ROUGE, LA. 70804

April 4, 1973

To: The Honorable Members Of The Subcommittee  
On Public Welfare To CC/73

Mr. Chairman, committee members, my name is John Bradley. I am Personnel Director for the Board of Commissioners of the Port of New Orleans and Chairman of the Louisiana State Personnel Council. As chairman of the Louisiana State Personnel Council, I would like to make known to you the personnel council's position and views on the urgent need to provide the necessary safeguards and protection for our Louisiana State Civil Service System in the new constitution. But before I do so, I would like to tell you about the organization that I represent, its membership and its objectives.

The L.S.P.C. is made up of mostly professional personnel officers, technicians and administrative personnel who are responsible for the administration, management and operation of the personnel functions in our state agencies under our civil service system. The personnel council was organized in 1953 when our present civil service system was put into effect. There are some 150 state agencies represented on the Louisiana State Personnel Council, and these agencies employ approximately 48,000 state civil service employees.

As to the objectives of the Louisiana State Personnel Council, they are as follows:

- 1.) To serve as a forum or clearing house for the development and exchange of information for the mutual benefit of its members.
- 2.) To develop common views as a basis for action within the framework of existing policies and procedures.
- 3.) To make recommendations and foster policies for improved personnel administration in the State government.
- 4.) And, to create a better understanding and application of the principles of management as applied to personnel administration.

Mr. Chairman, committee members, in order to insure that we maintain a continuing effective civil service system that will be capable of providing the necessary government services and to insure the perpetuation of the desired and necessary concept of merit in our civil service system, The Board of Governors and the Membership of the Louisiana State Personnel

AN ORGANIZATION FOR THE ADVANCEMENT OF PERSONNEL ADMINISTRATION

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Council feel strongly that the provisions which provide for the foundation and continuance of our civil service system must be incorporated in the State's Constitution. The provisions that we feel should definitely be incorporated in the new constitution are:

- the creation and establishment of the system and the commission
- the non-political appointment of commissioners who do not serve strictly at the pleasure of the appointing authority
- the protection of commissioners from arbitrary removal from office
- the powers of the commission and the director
- the definition of classified and unclassified positions
- the requirements concerning recruitment, examination placement and pay
- the appeals procedure
- the guarantee of appropriations to fund the operation of the system

I cannot overemphasize how important we feel it is to have the provisions mentioned above protected and safeguarded in our State's Constitution to insure the continuance of a viable system of public personnel management for our state. We do not have to go too far back in our state's history to find conclusive proof that civil service must be protected in our constitution. Because in 1947 the civil service system that was in existence in our state at that time was voted out of existence by the legislature

I have already pointed out that the L.S.P.C. is composed of some 150 state agencies which employ some 48,000 state civil service employees. I would like to point out that the vast majority of these 48,000 state civil service employees sought and accepted employment in the state classified service on a career opportunity basis and not with the expectation or feeling that they might, could or would probably be replaced or have their job security jeopardized with changes in the State's political administration. These employees have received

appointments in the state classified service because they have qualified under and met the standards of a sound civil service system based upon the concept of merit. These employees and future state employees have the right to expect that their career employment with the state will be protected by a sound civil service system.

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I would like to close by saying that the Louisiana State Personnel Council is most grateful for the opportunity and time you gave us to make our position known to you on this most important issue, and we stand ready to assist you in any way we can by supplying you with any additional information that you may need or by discussing our views with you further. We certainly realize the very difficult and responsible task with which you are confronted and we commend you for the manner in which you are approaching this task.

Thank You Very Much,

*John W. Bradley*  
John W. Bradley  
Chairman  
L.S.P.C.

CLARENCE J. PEREZ  
PRESIDENT

WALLACE BAILEY  
RECORDING SECRETARY

AFFILIATIONS  
Louisiana AFL-CIO  
Greater New Orleans AFL-CIO  
Greater New Orleans And Greater Metairie Fire Department AFL-CIO  
Professional Fire Fighters of Louisiana



JESSE VILLEMARETTE  
VICE PRESIDENT

JOHN BENFATTI  
SECRETARY-Treasurer

OF LOUISIANA  
LOCAL 632

201 P. O. BOX 57  
NEW ORLEANS, LA. 70117

TELEPHONE: XXXXXX-XXXX-3331 -588-9065  
March 16, 1973

TO: All members, Education and Welfare Committee, CC-73,  
All delegates, Metropolitan New Orleans and vicinity, CC-73

FROM: Clarence J. Perez, President, New Orleans Fire Fighters Assn.

Dear Delegates:

We would appreciate your consideration of our request to exclude New Orleans Fire Fighters from our present coverage, entitled "City Civil Service" (Article 14, Section 15), and include the members of the New Orleans Fire Department in the system entitled "Municipal Fire and Police Civil Service", (Article 14, Section 15.1).

Our Association represents virtually 100 per cent of the members of the New Orleans Fire Department. At two recent special meetings, our membership voted 98 per cent favorably to change from our present system to the "Fire and Police" system. The overwhelming sentiment in favor of change stems from our long standing disenchantment with the inadequacies of our present system.

Perhaps our present Civil Service Commission and staff, has too great a workload to cope with the pressing and complex problems of the Fire and Police Departments. (Incidentally, the Patrolman's Association of New Orleans has requested that the members of the New Orleans Police Department be included in this proposed change). Rather than limit our remarks to being critical of our present system, we'll attempt to outline some of the more important differences between both systems. For the purpose of clarity, we shall refer to these two systems respectively as A. the "Present System" and B. the "Fire and Police System."

A. The "Present System" includes, under the same coverage, all classified employees of the City of New Orleans.

B. The "Fire and Police System" includes all municipal Fire Fighters and Policemen in the State of Louisiana, except those employed by the City of New Orleans.

Note: We feel very strongly that we should be identified with all other Fire Fighters rather than employees whose duties are completely foreign to our profession. The "Fire and Police System" is designed to cope with the specific problems of municipal Fire and Police Departments.

A. The "Present System" is governed by a three member Commission, functioning on a part time basis, who cannot possibly cope with their constant workload. This system does not provide the opportunity for change and improvement needed in the Fire and Police Departments.

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B. The "Fire and Police System" creates a separate Civil Service Board for each municipality. Each Board consists of five members, three being appointed by the Mayor, one elected from the ranks of the Fire Department, and one elected from the ranks of the Police Department. The Fire Department member must be of a

rank no higher than Captain and must be a resident of that municipality. This system allows for a significant input of ideas from the people it governs. It is more attuned to the trends of today.

A. The "Present System" allows the Civil Service Commission to assume almost complete control over all job related work conditions and other aspects of employment. This whole concept is outmoded. Employee organizations are commonplace in these enlightened times. Employees demand the right to participate in the bargaining process. Civil Service was never meant to be a barrier to good employee relations, but this system has accomplished just that.

B. The "Fire and Police System" provides only that which a Civil Service System should provide. The system offers job protection in the public interest. It protects the career employee from the political spoils system. It provides promotional advancement on the basis of merit and senior. It provides rules to protect the integrity of the fire service. It organizes employee relations by allowing employees to participate in the bargaining process.

A. The "Present System" allows the Civil Service Commission to interpret the ban on political activities to include a ban on classified employees publicly advocating or announcing positions on Constitutional Amendments, Bond Issues, Referendums, or proposing any proposition which may be before the people on a public ballot. This may or may not have been in the public interest circa 1946, but it is certainly not in the public interest today. Consequently, there could be a proposition on the ballot in a local referendum election concerning the very existence of our Fire Department, as we know it to be. Our Association, representing the views of our membership, would not be allowed to publicly announce our position on such a matter, or even inform the public of vital information which could give them some insight on the proposition to be decided by them. I submit to you that decisions of this type take away our basic liberties as members of a free society.

It is extremely inconsistent that we are allowed the right to lobby before this Convention or before the Legislature for the passage or defeat of a Constitutional Amendment, but are denied the right to lobby before the people when that same proposition is finally on the ballot. We don't expect that inconsistency to be resolved by the Civil Service Commission in our favor. If anything, we may further be denied the right to address our elected officials. That probability is not as far fetched as it may seem. We have already been denied the right to negotiate any economic matters with our elected local officials. This appeal to you could very well be our last opportunity to appeal to anyone to right the wrongs which have been heaped upon us.

B. The "Fire and Police System" has not, as yet, provided the means for Civil Service to become an all powerful barrier, prohibiting the exercise of those few liberties still enjoyed by public working people. This system does not prevent public employees the right to become candidates for public office, nor do we seek that right. But we must, of necessity, have the freedom to participate in the political process of a free government. If our jobs as at stake, or if our own or our family's welfare is endangered by a certain proposition in a public referendum, then we want to be able to publicly advocate the defeat of that proposition. To be allowed to do less, would be a denial of everything this Country stands for. When we ask for liberty and justice for all, let's not begin by excluding public employees from the "all".

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A. The "Present System" empowers the Civil Service Commission to make rules which have the effect of law. It does not state that these rules shall not be in conflict with other laws, and many of them are. We live in a constant state of confusion trying to determine which laws have precedence. Our present Civil Service Commission takes a firm stand that their law making powers exceed the governing powers of our City Council and State Legislature. Certainly, the authority of our elected officials was never meant to be inferior to the authority vested in an appointed, part time, three member Commission.

B. The "Fire and Police System" empowers the various Civil Service Boards to make rules which have the effect of law. It further provides that those rules shall not be in conflict with any other general laws. There is no room for confusion when the intent is clearly spelled out.

A. The "Present System" allows a wide latitude for promotions on a political basis. There is no "Merit" in the top candidate on a promotional list being by-passed because of his political convictions, or otherwise.

B. The "Fire and Police System" does not allow the top candidate to be by-passed without at least having the opportunity to prove his worth during a working test period.

A. The "Present System" allows the appointing authority to designate a lower paid Fire Fighter to serve in the capacity of a Fire Captain or other rank for indefinite periods of time, without making adjustments in the pay of the member serving out of his capacity. This is grossly inequitable and is a convenient way to avoid making necessary promotions. This common maneuver has bred contempt among fellow employees, and drastically lowers the morale of employees awaiting hard earned promotions.

B. The "Fire and Police System" does not provide or allow for any of the above inequities.

A. The "Present System" provides no guidelines or time limits for promotional examinations to be conducted. We have at times waited some four or five years for the mere opportunity to take an examination for promotion to the next higher rank.

B. The "Fire and Police System" provides that promotional lists must be in effect a minimum of 12 months and a maximum of 18 months. Examinations for each promotional rank must be conducted at least every 18 months.

A. The "Present System" allows the Civil Service Commission to take the position that neither the City Council or the State Legislature can grant benefits to city employees unless the Commission approves of and recommends those benefits. If the people voted in a public referendum to grant a pay raise or other benefits to Fire Fighters and Policemen, the Commission presumably would not recognize the legality of that decision. Theoretically and in actual practice, we are being told that these three appointed people supersede the authority of the entire electorate and all elected officials within the City of New Orleans and the State of Louisiana. We are not only being denied the right to bargain for the people we represent, we are being deprived of the inherent right to appeal to the people by public referendum. In addition to all of that, we are not even provided with a forum to converse with the Commission on matters of importance to our members. Tell us if you can, where do we go for help, if not to you?

B. The "Fire and Police System" recognizes the rights of working people to bargain collectively with their employees. It recognizes the rights of public employees to appeal to the public via referendum. It recognizes the fact that public employees are people, and people are entitled to due process of government.

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A. The "Present System" requires an employee appealing to the Commission on a disciplinary matter, to prove his innocence. An employee is assumed guilty until proven innocent.

B. The "Fire and Police System" allows both sides to present the facts of their case, and then the Board decides justice from injustice.

A. The "Present System" prohibits employees from engaging in political activities. Now that doesn't sound bad, but it's a pretty broad and vague statement. We have visited the offices of our Civil Service Department and asked specific questions on whether or not we could legally engage in particular activities which we did not consider to be in violation of the law. We were told that there were no answers to our questions, and that to be safe we should not do anything. We were told that any questionable activities on our part, would be interpreted by the Commission depending upon the Commission's mood on any given day. There are many unanswered questions as to how these vague restrictions apply to our wives and children. There are many unanswered questions as to the difference between private and public expressions of opinion. There are many unanswered questions as to our right to belong to an organization which expresses political preferences. There are unanswered questions as to what extent we can participate in the decision making process of our affiliated organizations in reaching political decisions. The present system provides no answers, it only provides the problems.

B. The "Fire and Police System", we hope will provide the answers to some of the chaos which exists as the result of an outmoded system which simply does not work.

Trusting your consideration will end in the approval of our request, I remain,

Sincerely,  
*Clarence J. Perez*  
Clarence J. Perez, President  
New Orleans Fire Fighters Association

CJP/1b

cc: Ladies Auxiliary, N.O. Fire Fighter Assn.  
Veterans Fire Fighters Assn. of N.O.  
Jefferson Parish Fire Fighter Assn.  
St. Bernard Fire Fighter Assn.  
Greater New Orleans AFL-CIO  
Louisiana AFL-CIO  
Professional Fire Fighters of Louisiana  
Louisiana State Fireman's Assn.  
Petrolman's Assn. of New Orleans  
Fraternal Order of Police

Daniel E. Sullivan  
Associate Director  
LOUISIANA CIVIL SERVICE LEAGUE

April 5, 1973

I honestly believe governmental nit-picking is still a way of life in Louisiana.

I have been a close observer of state operations for fifty-six years since I first covered the Legislative session in 1917 for the New Orleans States.

Over a long span of years - I, in sane and sober mind, say unhesitatingly that we who sit in observation posts no longer need to be ashamed of the multitude of our public officials and of their performance.

Perhaps I am being justly biased if I echo today the claim that Louisiana has a corps of career public workers who may well outrank those of any other state.

We've been told publically by more than one nationally respected agency that Louisiana's Merit System of Public Employment, its civil service, is the only such system in the U.S. operated on a basis entirely free of "spoils," on a basis of impartial recruiting, testing and obtaining the best available persons for public employ; and of retaining them as long as their services are needed, and for the duration of merit performance. Uniform pay plans are being designed and advocated at all times, with equitable merit pay for merit performers, and with working conditions increasingly attractive through fringe benefits.

Let me pause here and say that our Merit System is not today limited to the state system covering close to 50,000 tested workers, but includes New Orleans with 10,000, Baton Rouge City-Parish with over 1,000, Jefferson Parish 2,000, city of Lafayette 800, Alexandria 700, St. Charles Parish close to 200, St. Martin Parish 100, and others; and 42 jurisdictions with fire and police union civil service based on regrettable seniority, all entitled to our joint regard.

It may well be that you good men who constitute this CC 73 with your careful decisions are going to dedicate here a marker that will seal the status of Louisiana and of the people of Louisiana as leaders among the state of this 200 year old union.

Where and when Louisiana's abundance of God-given resources will be matched by the human happiness and well-being, derived from those amazing natural treasures with our state no longer lagging at the bottom of the union in per capita income.

I'm sure you will pardon my bubbling pride when I say - without prejudice - that one of the keys to this changing picture down here at the Mississippi's mouth is Louisiana's unique, impregnable university-oriented Merit System of Civil Service.

Moise Dennery, your esteemed secretary, and I - along with many others - were busy at our typewriters when this system was delivered from the brain of Charles E. Dunbar, Jr. in 1940 -

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along with this watchdog, Louisiana Civil Service League - perhaps we may be called its godfathers.

For twenty-five years I have sat in on a majority of the Civil Service Commission hearings and meetings. And when you listen to these hours of sworn testimony you get a good idea of what's going on in Louisiana official business - on the surface and under the surface. You see much good and a little bad.

But I can say with conviction that at least three of Louisiana's larger departments are today operating on a basis of 100% merit from the chief administrator down to the lowest hand. I won't name the three, because there are probably many others worthy of utmost respect. Merit breeds merit - and more are in the offing.

Much depends upon the extent that you delegates to this

important convention preserve the essential principles of our superior civil service system - preserve and enhance its assignment to instill the utmost in quality into the assembly line of our government.

Our job - your job - is to develop and nurture this high performance and to let the people of Louisiana and the investors outside of Louisiana know what is being done.

Our biggest responsibility together is to create in the minds of our Louisiana voters and taxpayers greater faith in the integrity of our public payrolls.

It is our job to make it come true - and to get others to see that here it is possible for the tax sums invested in these

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hundreds of millions of public payrolls - seventy cents out of every tax dollar - is capable of yielding a gratifying profit in tangible returns to all our people.

I'm going to spare you from examining unhappily the dreadful alternative those of us who were active before 1940 experienced in the heyday of spoilsmen. For any one who needs it, our league has the story in writing, and we'll gladly mail a copy to you.

We feel that our special constitution revision committee - with Dean Cecil Morgan as chairman, and with Moise Dennery, Charles E. Dunbar, III, Representative Sam A. LeBlanc, III and others, and with the help of most of our directors of personnel - has given you what you wanted most - brevity. This tentative draft, which you have before you, is only two pages.

Our committee feels that herein we have framed succinctly those ideas that are essential to the preservation of our Louisiana Merit System of Civil Service - which has become very popular in twenty-five years of operation - and which allows for logical development.

You'll find - if you do not already know it - that virtually all of the public workers in our smaller cities and communities, in our parishes, including those working for sheriffs, assessors, coroners, parish attorneys, and for the courts are eager to become first class - to get into the tested and protected merit category. We hopefully provide the opportunity, and once in, they cannot be kicked out after unfavorable election outcome.

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They stay for the duration of "need and merit."

In the framework we here suggest we have included only basic needs - all other details - which might be regarded as statutory or legislative have been eliminated.

We ask, however, that the various commissions or personnel boards be given absolute rule-making rights - so as to be able to administer the myriad details of their merit Systems fully and without fear of political or spoils interference or manipulation. These rules - as now - would have the force of law

as long as they stay within the basic legal frame. The rules must be free of any semblance of discrimination - to make sure that all workers, and aspirant workers are treated fairly and impartially with sole emphasis being laid on the probable value of their services to the public.

All of our area technicians or civil service managers, who sat in with us are in full accord with our proposals as to the civil service aspect of the constitution. However, they have ideas with reference to further achievements and improvements within their jurisdictions, which they are bringing to you on their own.

I now turn it back over to Mr. Callender who will give a brief synopsis of our tentative proposal.

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COMMENTS by WSC. 4/5/73

on

LOUISIANA CIVIL SERVICE LEAGUE PROPOSAL  
as the New Constitutional Provisions for Civil Service

- Comment (a) This unique arrangement -- original in our Louisiana basic law -- has worked effectively in the state system and in smaller jurisdictions. Our committee could see no good reason for any change.
- Comment (b) Civil service nearly everywhere is divided into the UNCLASSIFIED (or uncovered) positions and the CLASSIFIED of (covered) section.
- Comment (c) UNIFORMITY IN PAY RANGES, with no conflict or maladjustments between the 1500 state classifications in their relation to each other -- so that everybody is as nearly satisfied as possible is a most important and difficult requisite. Only a person specially trained and with long experience can do it, especially when, as often happens, his "ideal" pay plan must be warped to meet arbitrary fiscal situations.
- Comment (d) These are usually called "The Hatch Act Clauses", designed to give the public workers full freedom of choice in the exercise of their franchise; without political coercion and without political pay deducts. More details as required can be established by the rule making power of the commission.
- Comment (e) THIS QUASI-JUDICIAL system of public hearings simplifies the essential process of getting rid of undesirable workers, while at the same time protecting all workers from undue discrimination or abuse. In order to enable the involved worker to carry the burden of proof in a hearing he must be given at the time of discipline a letter with time and place specifics as to "why".
- Comment (f) Seven-tenths of one percent of the state civil service payroll as of March 1 before a legislative session -- is specified in the present basic law as a mandatory appropriation for the civil service operations. This amount has never been required.

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The value of the civil service has been so widely recognized that the various commissions have had little trouble in getting adequate operating funds.

- Comment (g) These last lines express our hope for action that will broaden the overall basis for an all-inclusive merit system, so that there will be no "second class" among public workers.
- Finally: We hear occasional talk to the effect that the chief executives ought to have more freedom in the assignment and management of their personnel. We must emphasize here the truth that the civil service job is to find the best available workers (upon requisition); to test them; to certify the best to the appointing authority; with job descriptions usually agreed upon; with top and bottom pay ranges carefully worked out, with 10 intermediate steps of annual advance for merit. The hiring, the firing, the assignment, the

promotion being almost entirely the responsibility of the administration, many of whom have their own staff personnel directors to simplify the task.

THE RULE OF THREE is an indispensable and much maligned feature of any good merit system. It is portrayed as a big bug-a-bear. Its application is varied, reasonable and absolutely essential to merit. It means workers are picked for lifetimes of rewarding public service from the top down impartially, instead of from the bottom up.

AND THAT'S MOSTLY IT.

Thank you,

ANY QUESTIONS?

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INITIAL PROPOSAL IN RE CIVIL SERVICE IN THE NEW LOUISIANA CONSTITUTION  
(SECOND TENTATIVE DRAFT)

The Department of Civil Service is established to operate the Merit System of Public Employment under a director of personnel appointed by a civil service commission, with authority granted him under the rules of the commission. The domicile of the commission is Baton Rouge.

The State Civil Service Commission is composed of five (5) members who are electors of this state. Their term of office is six (6) years. Interim appointments may be made only to fill unexpired terms.

The commissioners are appointed as follows: The presidents of Louisiana State University and Agricultural and Mechanical College at Baton Rouge, 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 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 (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.

The persons who are presently serving as members of the State Civil Service Commission as constituted under the former Section 15 of Article XIV of the constitution of 1921 as amended shall continue in such position for the remainder of the term to which they were originally appointed.

The positions presently in the unclassified service of the state remain unclassified. All other positions in the state service presently or hereafter created shall be in the classified service. The Legislature may classify positions which are unclassified, but may not unclassify positions which are classified.

The commission adopts rules that have the full force and effect of law, and the legislative and the executive branch shall not interfere or limit the power of the commission to establish its own rules in the implementation of its administration of civil service. The commission has full and exclusive rule making powers in regard to the administration of the department and the maintenance of an impartial, non-discriminatory Merit System of Public Employment including, but not limited to classifications, pay scales, inclusion or exclusion of employees of all state departments, agencies and independent boards, commissions and offices.

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

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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.

The commission has the power to hear all complaints from any source with regard to the administration of the Civil Service System, and the employees covered thereby, and of department heads supervising state employees. The commission has full power of subpoena and contempt when exercising its quasi-judicial functions.

No person having gained permanent civil service status in the classified State Civil Service shall be subjected to disciplinary action except for cause. Any classified employee alleging undue discrimination or subjection to undue disciplinary action shall have the opportunity to be heard before the State Civil Service Commission upon compliance with the commission's rules; the burden of proof, as to the facts, is on the employee.

The Legislature is required to provide necessary funds for the adequate and efficient maintenance of the Civil Service Commission and Department. The Legislature shall enact such penal legislation as may be required to enforce the rules of the commission without impinging upon sanctions which may be imposed by it.

A uniform pay plan shall be approved by the governor after approval of the State Civil Service Commission.



All municipalities, all local governments, all parish governments, and governments operating under home rule charters, shall incorporate into their respective Merit Systems of Public Employment all employees of the parochial offices within their geographical jurisdictions.

Presented to the Subcommittee on Public Welfare, CC 73, in Baton Rouge by: Wilson S. Callender and Daniel E. Sullivan representing the Louisiana Civil Service League.

April 5, 1973

OFFICE OF  
STATE EXAMINER  
MUNICIPAL FIRE AND POLICE CIVIL SERVICE

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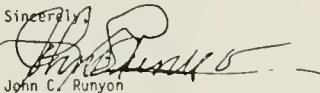
April 5, 1973

Mr. Anthony Rachal, Chairman  
Subcommittee on Public Welfare  
Constitutional Convention of 1973  
State Capitol  
Baton Rouge, Louisiana 70804

Dear Mr. Rachal:

Relative to the Municipal Fire and Police Civil Service Law as it appears in Section 15.1 of Article XIV of the current Constitution, I am attaching a historical background of the law, a brief summary of how the law operates at present and a recommendation for consideration by your Committee.

I would be happy to furnish any additional information which you or your Committee may need in your deliberations on this matter.

Sincerely,  
  
John C. Runyon  
State Examiner

JCR/hp  
encl.

MUNICIPAL FIRE AND POLICE CIVIL SERVICE  
Article XIV, Section 15.1  
Louisiana Constitution

HISTORICAL BACKGROUND

Civil Service for firemen and policemen in Louisiana had its origins in the State Civil Service Law of 1934 which provided for approval by the Commission of all appointments to and dismissals from municipal fire and police departments. The dismissal of a police chief covered by the system pointed out the weakness of the law as drafted in 1934, and, as a result, statewide fire and police organizations were formed throughout the state. Largely through the efforts of these organizations, Act 253 of the 1940 Legislature gave more definition and purpose to the Civil Service system. Applying to municipalities of 16,000 to 100,000, it included Alexandria, Baton Rouge, Lafayette, Lake Charles, Monroe and Shreveport. Each municipality had its own civil service commission of five members. The act provided for a state civil service examiner who was to serve as the chief examiner and secretary to the city commissions, but at the discretion of the governor the duties could be turned over to the State Civil Service Director or any other executive officer or assistant in any civil service system that might be established in the state. A State Examiner was appointed and served until 1942 when the Governor

issued an executive order designating the Director of Personnel as the State Examiner. Legislation in 1942 lowered the population to 13,000, and Bogalusa and New Iberia came under the system.

Several months prior to the 1944 legislative session, representatives of the employees, the State Civil Service Commission and the Director of Personnel (who had been administering the program for two years) decided

Page 2 Historical Background

that the fire and police civil service system was so different in principle that it would be better to have a separate state agency to operate the system. Act 102 of 1944 officially established Municipal Fire and Police Civil Service and the two agencies were separated on July 27, 1944. In 1948, the upper population limit was changed to 250,000.

In 1952, the provisions of Act 102 of 1944 were incorporated into the Louisiana Constitution, becoming Section 15.1 of Article XIV. The system then applied to nine municipalities. With the publication of the 1960 Federal Census, that figure doubled and eighteen municipalities were covered.

Act 282 of 1964 extended the civil service law to municipalities of 7,000 to 13,000 population and to parishes and fire protection districts. This served to incorporate into the system an additional fifteen municipalities and seven parish or district departments. In 1966 an additional fire district was created and at that time the total number of jurisdictions covered was forty-one. The 1970 Census resulted in another six municipalities being included. These, along with two additional fire districts, brought the total jurisdictions presently covered to forty-nine. (See Appendix A for complete listing).

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OPERATION

The Municipal Fire and Police Civil Service Laws presently cover approximately 5,000 employees in forty-nine jurisdictions within the state. In each of these jurisdictions there is a local Fire and Police Civil Service board composed of either three or five local residents (three members when only one department is included, as in fire districts) who serve to oversee the overall operation of the system within the jurisdiction. To accomplish this, the local board adopts rules of operation, including classification plans, represents the public interest in matters of personnel administration, advises and assists employees and the governing bodies, conducts hearings and investigations on matters brought before it by the public, the governing bodies or employees including appeals from corrective and disciplinary actions, provides for examinations through the State Examiner and maintains employment lists, and in general considers and acts on any other matters which may be indicated by law.

The classified service embraces all the positions of employment, the officers, and employees of the fire and police services in municipalities, parishes and districts. Permanent appointments and promotions for paid, full-time employees in the classified service shall be made only after certification of eligibles pursuant to a general system based on merit, efficiency and fitness. The certificates shall be based on examinations

which, so far as practical, shall be competitive, and all employees in the classified service shall be employed from those eligible under such

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certification. The civil service system is mandatory.

The overall system within the state is supervised by the State Examiner of Municipal Fire and Police Civil Service, which office is provided by law with Baton Rouge as the domicile of the operation. The State Examiner and the Deputy State Examiner are appointed by the State Civil Service Commission after proper examination and certification. The State Department of Civil Service exercises no administrative control over the State Examiner and Deputy State Examiner; however, both offices are bound under and amenable to the classified service of the state. The State Examiner and Deputy State Examiner are subject to removal only by the State Civil Service Commission and only for a good and sufficient cause.

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RECOMMENDATION

Recommend that the revised Constitution contain a section similar to Section 15.1 of Article XIV with the following change:

Paragraph 1. Applicability

This Section applies to all paid employees of fire and police departments in municipalities having populations of more than seven thousand inhabitants according to the last preceding federal census or any other enumeration of population officially recognized by the State of Louisiana and in all parish fire departments and fire protection districts.

This change would serve the following purposes:

1. By changing from the present "This Section applies to any municipality which operates a regularly paid fire and police department..." to the proposed "This Section applies to all employees of fire and police departments in municipalities having..." the Section would apply to either the fire department or the police department in municipalities having but one department (as with a paid police department but a

volunteer or contractual fire department). Under the present construction, the municipality must operate both paid departments-to qualify. The proposal tracks the wording of Act 282 of 1964 which

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has been construed to include both the fire and the police department or any department singularly where but one department is operated and paid by the municipality.

2. By lowering the minimum population to 7,000, all firemen and policemen would be incorporated into one Civil Service system, including those presently included in the Civil Service System for Small Municipalities (Act 282 of 1964), now covering municipalities of 7,000 to 13,000 population as well as parish fire departments and fire protection district.
3. Removing the maximum population limit would further allow all firemen and policemen to come under the same system without the necessity of future changes when an official census may show that some municipalities may have exceeded the present 250,000 maximum.
4. By including "or any other enumeration of population officially recognized by the State of Louisiana," those municipalities showing population exceeding 7,000 as a result of a special count taken pursuant to the federal decennial census would be allowed to participate in the system without having to wait for the next federal census. Provisions for a special Census are included in the Louisiana Revised Statutes, and the practice is widely used to revise eligibility for rebate of tobacco

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taxes.

If the above change is adopted, several "housekeeping" changes would be necessary, such as a change in the provision governing board composition for boards of parish fire departments or fire protection districts or any other jurisdiction where only department would be covered (such as a police department where there is no paid fire department).

APPENDIX A

<u>CITY</u>	<u>FIRE</u>	<u>POLICE</u>	<u>CITY</u>	<u>FIRE</u>	<u>POLICE</u>
ABBEVILLE	X		LEESVILLE	X	X
ALEXANDRIA	X	X	MINDEN	X	X
BAKER	X	X	MONROE	X	X
BASTROP	X	X	MORGAN CITY	X	X
BATON ROUGE	X	X	NATCHITOCHE	X	X
BOGALUSA	X	X	NEW IBERIA	X	X
BOSSIER CITY	X	X	OAKDALE	X	X
COVINGTON	X	X	OPELOUSAS	X	X
CROWLEY	X	X	PINEVILLE	X	X
DERIDDER	X	X	PLAQUEMINE	X	X
DONALDSONVILLE	X	X	RAYNE		X
EUNICE	X	X	RUSTON	X	X
FRANKLIN	X	X	ST. MARTINVILLE		X
HAMMOND	X	X	SHREVEPORT	X	X
HARAHAN		X	SULPHUR	X	X
HOUMA	X	X	VILLE PLATTE	X	X
JENNINGS	X	X	WEST MONROE	X	X
KENNER	X	X	WESTWEGO	X	X
LAFAYETTE	X	X	WINNFIELD	X	X
LAKE CHARLES	X	X			
			TOTALS	36	39

FIRE PROTECTION DISTRICTS

LAFAYETTE F. D. #1		ST. LANDRY #2
OUACHITA F. D. #1		ST. LANDRY F.O. #3
RAPIDES F.D. #2		TANGIPAHOA F.D. #1
ST. BERNARD PARISH F. D.		ST. TAMMANY F.D. #1
ST. LANDRY F. D. #1		ST. TAMMANY F.D. #4
TOTALS--FIRE DEPARTMENTS	46	
POLICE DEPARTMENTS	39	
JURISDICTIONS	49	

It is a pleasure for me to be permitted to appear here today to comment on the Civil Service System and its relation to the Constitution.

Except that my age is such that I cannot make a personal observation on what it was like to be an adult worker in the 1920's and 1930's, I am in substantial agreement with what has been said to you by Harold Forbes.

Our Civil Service System would not enjoy its present effectiveness were it not constitutionally protected from the ups and downs of political life. My fervent hope is that you will not recommend to the Convention, and that the Convention will not propose to the people, the removal of this constitutional protection.

As recently as 1970 it was clearly demonstrated that constitutional protection is essential to the preservation of a system of merit employment. In that year the Legislature enacted, and the Governor signed it into law, a statute, which raised the fees to be paid for drivers' licenses, permits for moving overweight or oversized loads on the highways, and the like; dedicated these funds to augment the pay of the State Police; and then proceeded to fix pay scales for various classes of employees of the State Police. The law was believed to be a clear violation of the Constitution which assigns to the Civil Service Commission the responsibility for maintaining a uniform classification and pay plan for all classified employees of the state.

Court proceedings resulted in a declaration that the law was unconstitutional, and the uniform pay plan was protected. Absent the constitutional provision relative to the classification and pay plan, we would have been faced with the fact that one group of employees had been singled out for special treatment by the Legislature, and the principle of uniform pay would have suffered a severe blow.

(2)

Certainly no one can fault any person, or any group, for wanting higher compensation for work performed. I believe the State Police took a short-sighted view, however, in taking their case for higher pay to the political arena of the Legislature. If the Legislature could legitimately act to raise their pay, it follows logically that it could also legitimately act to lower their pay. If the changing of the pay scales of one group of classified employees is to be left to the actions of the Legislature, then the pay scales of all classes would become the legitimate concern, and burden, of the Legislature.

The Legislature is not equipped to establish, maintain and administer a uniform classification and pay plan. This is a task which requires constant attention and study.

I am firmly of the opinion that the Civil Service system must remain in the Constitution, and I do not share the view of one of the delegates to the Convention who is reported to have suggested that Civil Service be put in Part 2 of a three part Constitution where it might be subject to change by a 2/3 vote of the Legislature. This delegate recognizes that there are some things which should be in a Part 1, changeable only by a vote of the people; Part 2 would be changeable only by a 2/3 vote of the Legislature; and Part 3 would be changeable by a majority vote of the Legislature. If the Constitution is to separate things into categories such as this, then I urge you to assign Civil Service to the highest of the categories and permit it to be altered only by a vote of the people.

I know that there is much pressure being exerted from many sources to have this Convention come up with a brief and concise document for a proposed Constitution. Certainly, the present Constitution is much longer than it needs to be, but I am not convinced that brevity

should be achieved for the sheer sake of brevity or at the expense of preservation of that which is good.

I am not suggesting to you that the present provisions on Civil Service may not

(3)

be shortened, for I certainly believe that they can be shortened without destroying or materially affecting the integrity of the system. The project presented to you by Mr. Forbes appears to be a reasonable approach to the matter. In whatever words you choose to propose a change, I suggest to you that these principles must be preserved if we are to maintain a viable merit system of employment:

1. The nomination of members of the Civil Service Commission by the presidents of educational institutions, in a manner substantially similar to what is now being done, has provided us an independent Commission free from political influences.
2. The power of the Commission to make rules, having the effect of law, to sustain and operate the Civil Service System, and to conduct needed investigations.
3. The maintenance of the status of the Director of Personnel as a classified employee to be appointed by the Commission.
4. The maintenance of a uniform classification and pay plan.
5. The Legislature should not have the authority to exempt State employees from the Civil Service System.
6. The Commission should be preserved as the trial forum for all appeals of employees and applicants who believe themselves aggrieved by disciplinary or discriminatory actions imposed upon them.
7. There must be a mandate to the Legislature to provide adequate funding for the program. The denial of funds to maintain the system would be fatal to it.

These are the things which are at the heart of the system, and these are the things that I believe you must act to protect.

April 5, 1973



PRELIMINARY DRAFT OF COMMENTS TO SUB-COMMITTEE OF CCTC ON APRIL 5,

I WILL ATTEMPT TO CATEGORIZE MY REMARKS FOR EASIER APPLICATION TO ANY QUESTIONS OR PROBLEMS WITH WHICH THE COMMITTEE MAY FIND ITSELF CONCERNED.

FIRST, I DOUBT IF I NEED DWELL TOO LONG ON THE QUESTION OF WHETHER OR NOT LOUISIANA NEEDS A CIVIL SERVICE SYSTEM, BECAUSE I BELIEVE THE ANSWER IS SELF-EVIDENT.

THE FEDERAL GOVERNMENT HAS HAD SUCH A SYSTEM FOR 90 YEARS; MOST OF THE STATES AND MANY OF THE LARGER CITIES THROUGHOUT THE NATION HAVE CIVIL SERVICE SYSTEMS; AND SO DO MANY COUNTIES, PARISHES, AND LOCAL GOVERNMENTS. LOUISIANA IS GENERALLY RECOGNIZED AS HAVING ONE OF THE BEST.

THE NATIONAL TREND TODAY IS TO INCREASE THE NUMBER OF CIVIL SERVICE SYSTEMS AND TO STRENGTHEN THOSE WHICH ARE ALREADY IN EXISTENCE.

IN LOUISIANA WE HAVE OVER 60,000 EMPLOYEES WHO NEED THE SECURITY AND EQUAL TREATMENT OF CIVIL SERVICE; AND WE HAVE A PAYROLL RUNNING INTO HUNDREDS OF MILLIONS OF DOLLARS, FOR WHICH THE TAXPAYERS WANT VALUE RECEIVED.

THOSE OF US WHO WERE ADULT WORKERS IN THE 1920'S, THE 1930'S, AND THE 1940'S, CAN REMEMBER THE RESULTS OF PERMITTING THOSE WITH SPECIAL INTERESTS IN MIND TO HAVE A FREE HAND IN GOVERNMENT.

THOSE OF US WHO ARE YOUNGER AND WHO HAVE STUDIED THE HISTORY OF LOUISIANA GOVERNMENT, NEED NO EDUCATING HERE TODAY TO INFORM THEM OF THE SAME THING.

LOUISIANA GOVERNMENT HAS HAD TURBULENT AND DISCOURAGING TIMES; BUT OVER THE PAST 20 YEARS, CIVIL SERVICE HAS BUILT A TRUE CAREER SERVICE FOR THE EMPLOYEES AND HAS PROVEN TO BE A STABILIZING AND STEADYING INFLUENCE.

THERE IS NO QUESTION IN MY MIND, AND IN THE MINDS OF THOUSANDS OF CAREER EMPLOYEES AND OTHER TAXPAYERS, THAT WE

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NEED THE CIVIL SERVICE SYSTEM TODAY AND WILL CONTINUE TO NEED IT FOR MANY DECADES TO COME.

ACCEPTING, THEN, THAT WE DO NEED THE SYSTEM, THE QUESTION ARISES AS TO WHETHER IT SHOULD BE LODGED IN AND HAVE THE SAFEGUARDS OF THE CONSTITUTION, OR WHETHER IT SHOULD BE PERMITTED TO EXIST BY VIRTUE OF LEGISLATIVE ACT.

THERE ARE ARGUMENTS TO SUPPORT BOTH VIEWPOINTS, OF COURSE, BUT I THINK THE MOST COMPELLING ONES HEAVILY SUPPORT THE CONSTITUTIONAL APPROACH. LET ME TOUCH JUST BRIEFLY ON TWO OR THREE OF THESE PRO AND CON ARGUMENTS.

ONE OF THE CON ARGUMENTS IS THAT THE NEW CONSTITUTION SHOULD BE EXTREMELY BRIEF, SHOULD CONTAIN ONLY HIGH POLICY, AND SHOULD LEAVE EVERYTHING ELSE TO THE LEGISLATURE.

THE FUNDAMENTAL PURPOSE OF A CONSTITUTION, OF COURSE, IS TO PROTECT THE EQUALITY OF THE CITIZENS AND THEIR LIFE, LIBERTY AND PURSUIT OF HAPPINESS. IN ORDER TO GUARANTEE THIS PURPOSE, I AM CONVINCED THAT SOMEWHAT EXTENSIVE GUIDELINES MUST BE INCLUDED IN THE CONSTITUTION.

CERTAINLY ALL OF US WILL AGREE THAT THE CONSTITUTION OF THE UNITED STATES IS A MAGNIFICENT DOCUMENT. BUT LET ME SUGGEST TO YOU THAT WE HAD TO WAIT ALMOST 200 YEARS BEFORE CONGRESS ENACTED THE CIVIL RIGHTS ACT OF 1964 OR THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972.

AND LET ME SUGGEST, TOO, THAT OUR PRESENT CONSTITUTIONAL CIVIL SERVICE LAW, WHICH HAS BEEN IN EFFECT FOR 20 YEARS, DOES NOT PROHIBIT DISCRIMINATION BASED ON RACE OR SEX. DURING THOSE 20 YEARS, THE LEGISLATURES DID NOT ACT TO CURE THIS DEFECT. BUT THE STATE CIVIL SERVICE COMMISSION WAS ABLE TO CURE IT THROUGH THE EXERCISE OF THE RULE-MAKING POWERS GRANTED IT BY THE CONSTITUTION.

WHAT I AM SAYING IS THAT, WHEN YOU COME TO DRAFT A NEW CONSTITUTION, BREVITY FOR BREVITY'S SAKE ALONE SHOULD NOT BE THE CRITERION.

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WHATEVER IS NECESSARY TO BE INCLUDED IN THE DRAFT IN ORDER TO PROTECT THE BEST INTERESTS OF THE CITIZENS, THE

TAXPAYERS, AND THE EMPLOYEES WHO RENDER SERVICES TO THE PEOPLE, SHOULD BE INCLUDED IN THE DRAFT.

OTHERWISE, I PREDICT THAT EITHER THE VOTERS WILL VOTE DOWN THE PROPOSAL, OR THEY WILL IMMEDIATELY BEGIN ADDING THE PROTECTIONS THEY FEEL THEY NEED THROUGH THE PROCESS OF CONSTITUTIONAL AMENDMENTS; AND VERY SHORTLY WE WILL BE BACK TO WHERE WE ARE TODAY WITH OUR CONSTITUTION.

ANOTHER CON ARGUMENT TO THE QUESTION OF WHETHER OR NOT CIVIL SERVICE SHOULD BE LODGED IN THE CONSTITUTION, IS THE ONE WHICH MAINTAINS THAT THE LEGISLATURE CAN KEEP BETTER STEP WITH THE CHANGING TIMES THAN CAN THE CIVIL SERVICE COMMISSION.

I DON'T THINK THIS ARGUMENT HAS A GREAT DEAL OF VALIDITY. FOR ONE THING, THE LEGISLATURE MEETS ABOUT ONCE A YEAR. THE CIVIL SERVICE COMMISSION MEETS ABOUT 12 TIMES A YEAR; AND IT CAN AMEND ITS RULES WITH GREAT SPEED AND OBJECTIVITY.

FOR ANOTHER THING, THE CIVIL SERVICE COMMISSION, THROUGH THE DEPARTMENT OF CIVIL SERVICE, RECEIVES SEVERAL TIMES AS MUCH FEEDBACK FROM THE EMPLOYEES, THE APPLICANTS, THE RESPONSIBLE OPERATING OFFICIALS OF THE GOVERNMENT, AND FROM NUMEROUS ONGOING STUDIES, THAN DOES THE LEGISLATURE.

ADDITIONALLY, I SUGGEST THAT WE SHOULD BE VERY CAREFUL OF THE REAL MEANING OF THIS PHRASE "CHANGING TIMES". OFTENTIMES IT MEANS NOTHING MORE NOR LESS THAN THE PERSONAL DESIRES OF A SPECIAL INTEREST INDIVIDUAL OR GROUP.

VERY OFTEN, WHEN A LEGISLATOR IS APPROACHED WITH THE "CHANGING TIMES" ARGUMENT, HE IS HARD PUT TO EVALUATE IT. WHEN YOU COME TO THINK OF IT, HOW OFTEN DO WE SEEK OUT OUR SENATOR OR REPRESENTATIVE AND URGE HIM TO DO SOMETHING WHEN WE ARE PERFECTLY SATISFIED WITH THE WAY THINGS ARE GOING FOR US? THE

-4-

TRUTH OF THE MATTER IS THAT WE USUALLY GET AFTER OUR ELECTED REPRESENTATIVES WHEN WE WANT SOMETHING FOR OURSELVES OR FOR OUR FRIENDS OR RELATIVES.

-5-

AND SO WHEN WE SPEAK OF RESPONSIVENESS TO THE NEEDS OF CHANGING TIMES, WE MUST BE CAREFUL THAT WE ARE BEING RESPONSIVE TO THE WISHES OF THE PEOPLE AND NOT TO THE WISHES OF A SQUEAKING WHEEL.

WE RECOGNIZE, OF COURSE, THAT REASONS CAN BE ADVANCED URGING THAT CIVIL SERVICE SHOULD BE FOUNDATIONED IN STATUTE. BUT ON THE OTHER HAND, THERE ARE ARGUMENTS - AND I THINK COMPELLING ONES - WHY OUR CIVIL SERVICE SYSTEM DESERVES AND NEEDS FULL CONSTITUTIONAL STATUS.

ONE IS THE FACT THAT WITHOUT SUCH PROTECTION, THE SYSTEM WOULD LIE AT THE MERCY OF HURRIED ACTIONS BY A TEMPORARY MAJORITY OR UNINFORMED MAJORITY OF THE LEGISLATURE.

WE MUST KEEP IN MIND THAT POPULAR CAUSES OFTEN APPEAR EXCEEDINGLY ATTRACTIVE ON THEIR FACE, BUT AS OFTEN AS NOT THEY WILL NOT STAND UP TO OBJECTIVE SCRUTINY ON THE LONG-HAUL BASIS. A LEGISLATURE WHICH COULD BE PERSUADED TO ACCEPT THE

GLITTER OF A FUNDAMENTALLY UNSOUND PROPOSITION, COULD CREATE HAVOC WITH THE SYSTEM AND ITS THOUSANDS OF EMPLOYEES.

I AM CONVINCED THAT THE LEGISLATURES OF OUR CURRENT TIMES ARE THE MOST SOPHISTICATED IN THE HISTORY OF THE STATE. BUT REMEMBER, THAT WHEN THEY ARE MEETING IN SESSION, THEY ARE FACED WITH HUNDREDS AND THOUSANDS OF BILLS REQUIRING STUDY AND DECISION. THEY ARE LITERALLY UNABLE TO FULLY DIGEST THE IMPORT OF ALL THOSE BILLS; AND THEY COULD VERY EASILY AND VERY INNOCENTLY INJURE OR DESTROY THE SYSTEM AGAINST THE WISHES OF THE PEOPLE AND, INDEED, EVEN AGAINST THEIR OWN WISHES. THE CIVIL SERVICE SYSTEM SHOULD NOT BE EXPOSED TO SUCH DANGERS.

ANOTHER ARGUMENT FOR CONSTITUTIONAL STATUS FOR OUR CIVIL SERVICE SYSTEM, IS THE FACT THAT THERE IS ALWAYS A FUNDAMENTAL CONFLICT BETWEEN MERIT PRINCIPLES OF EMPLOYMENT

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ON THE ONE HAND AND SPECIAL INTEREST POLITICS ON THE OTHER. UNLESS THE SYSTEM IS CONSTITUTIONALLY BASED, THERE WILL BE CONFLICT AND STRUGGLE AT VIRTUALLY EVERY SESSION OF THE LEGISLATURE; AND A GRADUAL EROSION OF THE SYSTEM WILL BE THE INEVITABLE RESULT.

THERE WOULD BE ANOTHER DANGER IN REMOVING THE CIVIL SERVICE SYSTEM FROM THE CONSTITUTION; AND THIS WOULD COME INTO PLAY WHENEVER A NEW STATE AGENCY WAS CREATED BY THE LEGISLATURE. SPECIAL INTEREST GROUPS COULD CONCEIVABLY WORD THE CREATING ACT SO AS TO EXEMPT THE EMPLOYEES OF THE NEW AGENCY FROM THE CIVIL SERVICE ACT. THIS WOULD RESULT IN MAKING THE NEW AGENCY A PATRONAGE AGENCY, A STEP WHICH WOULD WEAKEN THE ENTIRE MERIT SYSTEM, PARTICULARLY IF IT WAS REPEATED FROM TIME TO TIME. SUCH A WAVE ACTION WOULD EVENTUALLY DESTROY THE SYSTEM IN ITS ENTIRETY.

IN CONSIDERING THE QUESTION OF WHETHER OR NOT THE CIVIL SERVICE SYSTEM SHOULD REMAIN IN THE CONSTITUTION, WE MUST NOT OVERLOOK THE EMPLOYEES WHO ARE NOW A PART OF THE SYSTEM AND WHO ENJOY THE JOB PROTECTIONS OF THE CLASSIFIED SERVICE.

THERE ARE ABOUT 60,000 OF THEM; AND THEY HAVE UPWARDS OF 20 OR MORE YEARS OF THEIR WORKING CAREERS INVESTED IN STATE SERVICE.

ABOUT 55% OF THEM ARE 40 YEARS OLD OR OLDER; AND THEY ARE WELL AWARE THAT LIFE DOES NOT BEGIN AT 40 WHEN YOU'RE OUT OF A JOB AND LOOKING FOR WORK. I DOUBT THAT THEY WOULD LOOK KINDLY ON ANYTHING THAT WOULD ENDANGER THEIR CAREER INVESTMENTS.

ABOVE ALL, WE MUST NOT OVERLOOK THE OTHER CITIZENS AND TAXPAYERS OF THE STATE, THOSE WHO STAND TO LOSE THE MOST

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AS A GROUP, IF THE PRINCIPLES OF MERIT EMPLOYMENT AND MERIT STABILITY ARE WEAKENED OR DESTROYED. PATRONAGE EMPLOYMENT ALWAYS LOWERS THE EFFICIENCY OF GOVERNMENT, IF ONLY BECAUSE IT IS TRANSIENT AND CHARGES WITH CHANGING ADMINISTRATIONS.

THERE IS NOTHING WRONG WITH POLITICALLY DESIGNATED LEADERS WHO SHAPE BROAD POLICY, BECAUSE THAT IS THEIR FUNCTION IN GOVERNMENT. BUT WHEN YOU MOVE DOWN INTO THAT VAST MACHINERY OF GOVERNMENT, WHERE THE POLICIES ARE IMPLEMENTED AND THE DAY TO DAY DETAILS ARE HANDLED, PATRONAGE EMPLOYMENT RESULTS IN LESSER QUALIFIED PERSONNEL, LOWERED EFFICIENCY, AND HIGHER COSTS IN ALMOST ALL CASES. THE TAXPAYERS ARE ALREADY PAYING A LOT TO RUN THEIR GOVERNMENT; AND I DON'T THINK THEY WANT TO PAY FOR A CADILLAC AND HAVE SOMEONE DELIVER THEM A CHEVROLET. I DON'T THINK THEY CAN AFFORD TO GET LESS THAN THE MOST - OR AT LEAST A FAIR RETURN - FOR THEIR MONEY.

AND SO I CAN SEE MANY REASONS WHY THE CIVIL SERVICE SYSTEM SHOULD REMAIN IN THE CONSTITUTION; AND I BELIEVE THE GREAT MAJORITY OF THE PEOPLE OF LOUISIANA AGREE WITH THAT CONCLUSION.

THIS IS NOT TO SAY THAT THE CIVIL SERVICE LAW, AS IT WOULD APPEAR IN THE CONSTITUTION, COULD NOT BE CONDENSED AND SHORTENED. WE BELIEVE IT COULD BE, WITHOUT WEAKENING IT IN ANY WAY.

AT THE SAME TIME, WE BELIEVE IT IMPERATIVE TO INCLUDE SOME CONSTANTS IN THE LAW TO SERVE AS GUIDES IN THE NATURE OF HIGH POLICY. WE HAVE DRAFTED A PROJECT WHICH INCLUDES THESE CONSTANTS AND WHICH WE WILL FURNISH TO THE COMMITTEE. I WILL TOUCH BRIEFLY ON SOME OF THEM; AND I ASSUME OTHER WITNESSES WILL ELABORATE ON MY COMMENTS AND ADD THEIR VIEWS ON OTHER AREAS.

ONE OF THE CONSTANTS WOULD BE THE METHOD OF APPOINTING THE CIVIL SERVICE COMMISSIONERS. WE BELIEVE THE PRESENT METHOD

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THAT IS, SELECTION FROM NOMINATIONS SUBMITTED BY COLLEGE PRESIDENTS, IS THE MOST IMPARTIAL AND NON-POLITICAL METHOD EVER DEvised FOR THE APPOINTMENT OF SUCH A BODY.

AT PRESENT, OUR COMMISSION IS MADE UP OF FIVE MEMBERS, SELECTED FROM NOMINATIONS SUBMITTED BY THE PRESIDENTS OF LSU, TULANE, LOYOLA, CENTENARY, AND LOUISIANA COLLEGE. THE COMMISSION HAS ALWAYS BEEN INDEPENDENT, TOTALLY OBJECTIVE, RELATIVELY INEXPENSIVE, NOT UNWIELDY, AND LARGE ENOUGH TO DISCHARGE ITS DUTIES WITH REASONABLE DISPATCH.

THE CRITERION FOR THE APPOINTMENT OF THE COMMISSIONERS HAS BEEN THAT EACH OF THEM IS INTENDED TO REPRESENT ALL OF THE PEOPLE IN ALL THE AREAS OF THE STATE IN AN IMPARTIAL, OBJECTIVE, NON-POLITICAL MANNER. WE BELIEVE THERE SHOULD BE CONTINUED ADHERENCE TO THAT CRITERION. WE DO NOT BELIEVE THAT THE COMMISSION'S INDIVIDUAL MEMBERS SHOULD BE APPOINTED TO REPRESENT SPECIFIC CATEGORIES OF PEOPLE, SUCH AS MEN, WOMEN, CATHOLICS, PROTESTANTS, ETHNIC GROUPS, UNIONS, STATE EMPLOYEES, STATE AGENCIES, ETC.

WE ARE SATISFIED WITH THE PRESENT SIZE AND MAKE-UP OF THE COMMISSION. NEVERTHELESS, WE WOULD NOT ARGUE STRONGLY AGAINST ITS MEMBERSHIP BEING INCREASED TO SEVEN IN ORDER TO EXTEND PARTICIPATION TO OTHER COLLEGES AND UNIVERSITIES, SUCH

AS SOUTHERN, CRAMBLING, SOUTHWESTERN, XAVIER, DILLARD, ETC. ALTERNATIVELY, WE WOULD NOT ARGUE AGAINST RETAINING A 5-MEMBER COMMISSION, BUT SUBSTITUTING COLLEGE FOR COLLEGE, SUCH AS SUBSTITUTING SOUTHERN, XAVIER, OR DILLARD FOR LSU, TULANE, OR LOYOLA, FOR EXAMPLE.

BUT WE WOULD ARGUE FOR THE PRESENT METHOD OF APPOINTMENT OF THE COMMISSIONERS; AND WE WOULD ARGUE THAT THE METHOD BE CONTINUED IN THE CONSTITUTION.

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ANOTHER CONSTAT WHICH SHOULD BE LODGED IN THE CONSTITUTION IS THE REQUIREMENT THAT THE DIRECTOR OF PERSONNEL BE A CLASSIFIED EMPLOYEE. HE IS TODAY; AND THIS IS ONE OF THE REASONS WHY LOUISIANA IS RECOGNIZED AS HAVING ONE OF THE BEST CIVIL SERVICE SYSTEMS IN THE NATION.

THE DIRECTOR OF PERSONNEL, WITH HIS EXTENSIVE POWERS, MUST BE INSULATED FROM PARTISAN POLITICS. HE MUST BE FREE TO INTERPRET AND ADMINISTER NOT ONLY THE LETTER, BUT ALSO THE SPIRIT, OF THE CIVIL SERVICE LAW AND THE PRINCIPLES OF MERIT EMPLOYMENT. HE MUST NOT BE REQUIRED TO SERVE TWO MASTERS, ELSE THE PEOPLE WILL LOSE CONFIDENCE IN HIS IMPARTIALITY.

THE CIVIL SERVICE COMMISSION'S RULE-MAKING POWERS SHOULD ALSO BE CONTAINED IN THE CONSTITUTION; AND THESE POWERS SHOULD BE ABSOLUTE AND EXCLUSIVE, SO THAT THERE WILL DEVELOP NO CONFLICT OF UNDERSTANDING AS TO THE POWERS OF THE LEGISLATURE ON THE ONE HAND AND THE POWERS OF THE COMMISSION ON THE OTHER HAND. THE RULE-MAKING POWER PROVIDES THE FLEXIBILITY NEEDED TO KEEP STEP WITH CHANGING TIMES. AS OUR PROJET WILL REFLECT, AN EXTENSION OF THIS RULE-MAKING POWER WILL PERMIT THE CIVIL SERVICE SECTION OF THE CONSTITUTION TO BE SHORTENED SUBSTANTIALLY.

ANOTHER PROVISION WHICH SHOULD BE CONTAINED IN THE CONSTITUTION IS THE ONE WHICH CONFERS INVESTIGATORY POWERS ON THE COMMISSION. THIS PROVISION PREVENTS VIOLATIONS OF THE CIVIL SERVICE LAW AND RULES WITH IMPUNITY.

ANOTHER PROVISION OF OUR PRESENT LAW WHICH SHOULD REMAIN IN THE CONSTITUTION IS THE ONE WHICH PROVIDES FOR UNIFORM CLASSIFICATION AND PAY PLANS. EXPERIENCE HAS AMPLY DEMONSTRATED TO US THAT, ABSENT THIS PROVISION, SERIOUS PAY INEQUITIES WILL RAPIDLY ENTER THE SYSTEM.

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SOME OF OUR STATE AGENCIES ARE AFFLUENT IN TERMS OF OPERATING CAPITAL BECAUSE THEIR INCOMES ARE BOLSTERED BY FEDERAL FUNDS, FEES, LICENSES, DEDICATED FUNDS, ETC. OTHER AGENCIES MUST DEPEND UPON MONIES APPROPRIATED FROM THE TREASURY FOR THEIR INCOMES, AND USUALLY THEY ARE NOT AS AFFLUENT IN TERMS OF OPERATING CAPITAL.

AS A RESULT, IF WE DO NOT HAVE AN ABSOLUTE GUARANTEE OF UNIFORMITY IN FIXING PAY RATES, SOME AGENCIES WOULD SOON BE PAYING SUBSTANTIALLY HIGHER SALARIES TO THEIR EMPLOYEES THAN COULD OTHER AGENCIES PAY THEIR PERSONNEL FOR DOING THE SAME WORK. THIS, OF COURSE, WOULD BE UNFAIR TO LARGE GROUPS OF OUR EMPLOYEES AND WOULD CREATE SERIOUS MORALE PROBLEMS.

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BUT IT WOULD ALSO LEAD TO ANOTHER AND PERHAPS EVEN MORE INSIDIOUS EFFECT. OUR BEST CANDIDATES AND EMPLOYEES WOULD NATURALLY GRAVITATE TOWARDS THE MORE AFFLUENT AGENCIES; WHILE THE LESSER QUALIFIED AND LESS COMPETENT EMPLOYEES WOULD PREDOMINATE IN THOSE AGENCIES WHICH ARE LESS WELL-TO-DO.

THIS WOULD DIRECTLY AFFECT THE PUBLIC, BECAUSE THE PUBLIC HAS NO CHOICE AS TO THE AGENCY IT MUST CONTACT IN ORDER TO DO BUSINESS WITH ITS GOVERNMENT. IF A CITIZEN WANTS TO DISCUSS HIS STATE INCOME TAX, HE MUST DISCUSS IT WITH THE DEPARTMENT OF REVENUE. HE CANNOT CHOOSE TO DISCUSS IT WITH THE DEPARTMENT OF AGRICULTURE. IF HE WANTS TO LICENSE HIS AUTOMOBILE, HE CAN'T BUY HIS LICENSE FROM THE DEPARTMENT OF EMPLOYMENT SECURITY.

ALL OF OUR STATE AGENCIES SHOULD FURNISH UNIFORMLY EFFICIENT SERVICES TO THE PUBLIC; AND UNIFORMITY OF PAY PRACTICES IS ONE OF THE MOST IMPORTANT FACTORS IN PROVIDING A BALANCED QUALITY OF SERVICES.

STILL ANOTHER PROVISION OF OUR PRESENT LAW WHICH WE THINK SHOULD REMAIN IN THE CONSTITUTION, IS THE ONE WHICH GRANTS APPELATE RIGHTS TO AGGRIEVED APPLICANTS AND DISCIPLINED EMPLOYEES. THIS PROVISION IS NECESSARY TO PREVENT APPLICANTS FROM BEING DENIED EMPLOYMENT AND TO PREVENT EMPLOYEES FROM BEING REMOVED FROM THEIR JOBS FOR POLITICAL, CAPRICIOUS, OR DISCRIMINATORY REASONS OF AN ILLEGAL NATURE.

OVER THE PAST TWENTY YEARS, THE CIVIL SERVICE COMMISSION HAS DEVELOPED A LONG LINE OF CLEAR LEGAL PRECEDENTS, EXTENDING UP THROUGH THE CIVIL COURTS OF THE STATE, WHICH GUIDE AND PROTECT BOTH THE STATE AND ITS EMPLOYEES. WE DO NOT THINK IT WOULD BE IN THE BEST INTEREST OF EITHER THE STATE, THE EMPLOYEES OR THE PUBLIC TO ABANDON THESE PRECEDENTS AND START OVER ON THE DEVELOPMENT OF A NEW LINE OF JURISPRUDENCE.

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ANOTHER PROVISION WHICH WE STRONGLY FEEL SHOULD BE INCLUDED IN THE CONSTITUTION, IS THE ONE DESIGNED TO GUARANTEE THAT THE LEGISLATURE WILL APPROPRIATE ADEQUATE FUNDS TO SUPPORT THE MERIT SYSTEM.

OUR PRESENT CONSTITUTIONAL PROVISION DEDICATES SEVENTENTHS OF ONE PERCENT OF THE AGGREGATE CLASSIFIED PAYROLL FOR THE TWELVE MONTH PERIOD ENDING ON THE FIRST DAY OF MARCH PRECEDING A REGULAR SESSION OF THE LEGISLATURE. WE THINK THIS PROVISION SHOULD BE RETAINED.

THE PURPOSE OF THE PROVISION, OF COURSE, IS TO PREVENT THE LEGISLATURE FROM EFFECTIVELY KILLING OFF THE MERIT SYSTEM BY CHOKING OFF ITS MONEY. THIS COULD BE DONE VERY EASILY IF THE CIVIL SERVICE SYSTEM IS NOT PROTECTED BY CONSTITUTIONAL MANDATE.

ON ANOTHER POINT, OUR PRESENT CIVIL SERVICE LAW PROVIDES THAT NO PERSON IN THE CLASSIFIED SERVICE MAY BE DISCRIMINATED AGAINST OR SUBJECTED TO ANY DISCIPLINARY ACTION FOR POLITICAL OR RELIGIOUS REASONS. IT DOES NOT MENTION RACE, COLOR, SEX OR NATIONAL ORIGIN.

ALL OF THESE PARAMETERS SHOULD BE INCLUDED IN THE LAW AND WE THINK SHOULD BE IN THE CONSTITUTION. OTHERWISE, THERE IS THE POSSIBILITY AND DANGER THAT A PERSUADED LEGISLATURE WILL CREATE CONFUSION AND PROBLEMS BY ENACTING STATUTES WHICH WILL FLY IN THE FACE OF FEDERAL COURT RULINGS AND PUBLIC POLICIES SUCH AS ARE EXPRESSED IN THE CIVIL RIGHTS ACT OF 1964 AND THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972.

FINALLY, LET ME TOUCH BRIEFLY ON THE POLITICAL ACTIVITY RESTRICTIONS WHICH ARE CONTAINED IN OUR PRESENT LAW AND WHICH WE BELIEVE SHOULD BE INCLUDED IN THE NEW CONSTITUTION.

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THERE HAS BEEN SOME AGITATION AGAINST THESE RESTRICTIONS IN RECENT YEARS, THE CONTENTION BEING THAT THEY DENY GOVERNMENT EMPLOYEES THEIR RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES AND REDUCE THEM TO THE STATUS OF SECOND CLASS CITIZENS.

SIGNIFICANTLY ENOUGH, WE SELDOM IF EVER HEAR THESE ARGUMENTS FROM THE OLDER PEOPLE WHO LIVED AND WORKED AND PAID TAXES DURING THE YEARS OF THE OLD TIME SPOILS SYSTEM. FROM MY OBSERVATION, IT IS SAFE TO SAY THAT THESE OLDER PEOPLE, WITH THEIR LONG MEMORIES--AND PARTICULARLY THE OLDER EMPLOYEES--WANT NO PART OF ANY RETURN TO THE GOOD OLD DAYS OF DEDUCTS, FORCED POLITICAL CONTRIBUTIONS, ENVELOPE ADDRESSING, REPRISALS, ETC. THEY ARE CONTENTED WITH THE WAY THINGS ARE NOW.

AND WE DON'T BELIEVE THE PUBLIC WANTS ITS GOVERNMENT WORKERS ENGAGED IN POLITICS, EITHER BY REASON OF THEIR OWN WISHES, OR BY REASON OF COMPULSION. WE BELIEVE THE PEOPLE FEEL THAT IF THE POLITICAL ACTIVITIES RESTRICTIONS ARE REMOVED, A POLITICAL MACHINE MADE UP OF FIFTY OR SIXTY THOUSAND EMPLOYEES WILL BE TURNED OVER TO WHATEVER POLITICAL LEADERS MIGHT BE IN POWER AT THE MOMENT.

FROM THE PUBLIC'S STANDPOINT, A POLITICAL MACHINE OF THAT MAGNITUDE, PAID FOR BY THE TAXPAYERS, SHOULD BE AN EXCEEDINGLY FRIGHTFUL PROSPECT.

AND FROM THE EMPLOYEE'S STANDPOINT, THE REMOVAL OF THE POLITICAL ACTIVITIES RESTRICTIONS WOULD FORCE THEM TO SERVE TWO MASTERS; WOULD FORCE THEM TO CONTRIBUTE MONEY WHICH THEY

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MIGHT NOT WANT OR COULD NOT AFFORD TO CONTRIBUTE; WOULD REQUIRE THEM TO PERFORM POLITICAL TASKS ON GOVERNMENT TIME OR ON THEIR OWN TIME; WOULD MAKE THEM GO HAT IN HAND SEEKING JOBS AND PROMOTIONS; AND WOULD FACE THEM WITH THE CONSTANT SPECTRE OF REPRISALS.

OUR POLITICAL ACTIVITY RESTRICTIONS ARE VITAL TO BOTH THE PUBLIC AND THE EMPLOYEES; AND WE THINK THEY SHOULD BE RETAINED IN THE CONSTITUTION.

AND WITH THAT, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I WILL BRING MY PRESENTATION TO A CLOSE.

CONSTITUTIONAL PROVISION FOR THE STATE CIVIL SERVICE SYSTEM AS PROVIDED 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 offices 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 offices 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

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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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I. 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 promulgate rules of procedure to be followed in taking and lodging such appeals.

J. Beginning with the regular session that convenes in the year 1974, the legislature of the state shall then, and at each regular session and fiscal session, thereafter, 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.

MINUTES

Minutes of the meeting of the Subcommittee on Public Welfare and the Committee on Education and Welfare of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on April 2, 1973

Senate Lounge, State Capitol Building  
Baton Rouge, Louisiana

April 11, 1973, 10:00 a.m.

Presiding: Anthony M. Rachal, Jr., Chairman

Present: Mr. Flory  
Mr. Grier  
Mr. Hernandez  
Mr. Lennox  
Mr. Landry  
Miss Wisham

Absent: Mr. Armentor

The chairman called the meeting to order at 10:15 a.m. The roll was called and a quorum was present. The chairman asked if anyone had any commitments that would put a limitation on the time to hear invited guests. Mr. Hernandez advised the members that his wife's brother had passed away and he would have to leave in time to be at the funeral at 3:00 p.m.

The members listened to the tape recording of Mr. McDowell's answers in the question portion of the March 28, 1973 meeting. Corrections were made to the minutes for that date and Mr. Flory moved the minutes be adopted as corrected and Miss Wisham seconded the motion which passed unanimously. The minutes of the April 5, 1973 meeting were questioned as to statements made by Mr. Harry A. Johnson, Jr. and the members suggested approval be tabled until the tape recording of his presentation was reviewed.

The first speaker of the morning was Mr. Herb Ruff, director of personnel, Department of Corrections, representing the Society of Louisiana Public Employees. He stated the civil service system is, in his opinion, very good as it has provided:

- 1. Career employment opportunities for some 40,000 people;
- 2. Uniform application procedure;
- 3. Uniform pay plan assuring employees of comparable wages when in similar jobs.

Mr. Ruff believes the examining system has provided a uniform means of appointment and has provided consideration of each separate individual interested in state employment. He stated that his department now has 27% minority employees. His department is governed by federal law in the hiring of an employee as well as state law. Mr. Ruff pointed out that Article 14, Section 15, Paragraph 1a provides for certification of eligibility and says "not less than three" which means more could be certified.

Mr. Ruff feels the single most important item in the Louisiana civil service system is the commission itself. He indicated that the commission could be enlarged, but preferred that the method of appointment be retained. He stated that when all facts are presented to the commission, it makes fair and just decisions which are never based on politics. He suggested it may be feasible to provide representation for

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minority groups by perhaps adding to the list of schools which presently provide the nominees for the commission. Mr. Ruff asked that the members please retain the primary facets of civil service in the constitution, and most especially the

method of appointing the commission. Mr. Hernandez asked if Mr. Ruff considered the testing and examining procedures and "Rule of Three" fair. Mr. Ruff replied he considers it the fairest method for guaranteeing all who are interested in the job a chance for it. He assured the members that if two people were applying for a position, one white and one black, and the scores of the tests showed 95.5 for the white and 98 for the black, the black would be hired.

Mr. Landry asked Mr. Ruff what group the Society of Louisiana Public Employees represents, its purpose, and membership. The society is a group of public employees, of which 25 are in noncompetitive jobs, whose primary aim is to encourage employee development, by employees themselves, securing higher classifications in their relative careers. Membership includes only state employees, except teachers, classified or unclassified and the dues are fifty cents a month.

In answer to further questions, Mr. Ruff stated there could be some improvement in the method used for certification and better examinations. He would prefer not to have the "Rule of Three" imbedded in the constitution. As to the pass-fail method, Mr. Ruff stated that all who pass are not of equal background and he does not consider this method better than the "Rule of Three". Mr. Lennox asked if Mr. Ruff thinks blacks have become more competitive in the last

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five years and he replied that in the past 100 years the black schools have not been equal to the white schools and as a result the earlier graduates did not have the background of the whites. He agreed with Mr. Lennox that minority groups are better able to compete for civil service status today than they were five years ago.

The discussion disclosed that Mr. Ruff is the personnel officer for the Department of Corrections and that he has represented the department, not the employee before the Civil Service Commission. He is not in favor of representation on the committee of a civil service employee elected by all the present employees. However, he has personally assisted two employees before the commission.

Mr. Grier asked Mr. Ruff to explain just how a person becomes certified for a job. Mr. Ruff listed the steps as follows:

1. Fill out application for position desired
2. Registered voters are considered over nonvoters
3. Tests are given and a rating is received

On higher level jobs the department head rechecks the application. Veterans get five points and disabled veterans get ten points. On promotions, veterans get three points.

On noncompetitive jobs the applicant comes to the office, fills out an application, has his experience checked for the position desired and it is determined whether he is a voter

or nonvoter. Mr. Flory suggested these positions are extremely subject to politics.

In answer to queries about validation of tests, it was indicated that to validate a test, the test results are com-

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pared with the job success. To improve examining a better validation of tests is needed and a revision of the certification standards.

The next speaker was Dr. George Whitfield, representing Representative Richard Turnley, who was unable to attend. Dr. Whitfield stated Representative Turnley believes the Civil Service Commission is prejudicial. A copy of Representative Turnley's remarks is attached hereto and made a part of these minutes. In response to questions, Dr. Whitfield stated that whatever the makeup of the Civil Service Commission, the members should be responsible to the citizenry. One possibility of achieving this goal would be to make the members of the commission elective. He also stated that the ones who think the civil service system of Louisiana is the best, are the ones who are in charge of the system.

On return from lunch, Mr. Rachal mentioned that future meeting dates must be set up. Mr. Hernandez made a motion that no meetings be held the week of April 16-21, 1973. There was no objection and the chairman so ordered the motion. The chairman submitted to each member a copy of the letter received from the Secretary of State, Wade O. Martin, stating his position on civil service. A copy is attached hereto and made a part of these minutes.

A letter from Mrs. Leila M. Smith, president of the Louisiana Chapter of International Personnel Management Association, stating their views on civil service is attached hereto and made a part of these minutes. Mr. Rachal pointed out the organization's views follow very closely those of Mr. Forbes, director of Civil Service.

-5-

The chairman suggested that out of the presentations up-to-date on civil service the following are pertinent issues:

1. Nomination of commission members
2. Autonomy of the commission
3. Testing and certification
4. "Rule of Three"
5. Appellate concept (burden of proof)
6. Funding

Mr. Lennox suggested that only the first three demand mention in the constitution. After considerable discussion among the members of the subcommittee the consensus was to keep the civil service system in the constitution with needed changes. Mr. Flory made a call to his Washington office and reported that Louisiana is the only state civil service system

that places the burden of proof on the employee. Mr. Flory suggested that the "Rule of Three" might be improved by adding the phrase "and length of service".

Several members felt this could only be used for promotions and not for beginning level jobs. Another suggestion was that the hiring agency be required to make a written report each time either the first or the first two names were passed over on the list for the position open. Several members felt this would not be an adequate safeguard, as the hiring agency could find many excuses if he really wanted number three. Another member suggested he would be in favor of only private colleges nominating the candidates for the commission and adding Dillard and Xavier to the list.

Mr. J. K. Haynes, CC/73 delegate, arrived and asked to present the views of the Louisiana Education Association. A copy of these views is attached hereto and made a part of these minutes. Mr. Haynes pointed out that most of the suggestions made by his organization are legislative, not constitutional. Mr. Lennox mentioned the suggestion that only nonpublic institutions submit names for candidates to the board as a means of assuring black representation. Mr. Haynes stated he preferred nominations from each of the state universities throughout the state. Two members felt that to require black representation in the constitution would defeat the whole civil service system. Mr. Haynes stated he would be willing to compromise and have his statement read "nine members, eight appointed by the governor which reflects the ethnic composition of the state and one elected from and by the employees"

After the presentation by Mr. Haynes, the chairman proposed that each member study the proposed provisions given to them by the research staff. The members continued their discussions relevant to the presentations heard thus far and expect to reach a consensus on the following: 1. that the burden of proof be put on the employer; 2. that the legislature have the right to review the rulings of the commission; 3. change the wording for dismissal to "just cause". Mr. Landry raised the question as to how the presidents of the universities select the nominees. No one seemed to know, but the chairman stated it was interesting that most of them are lawyers. Mr. Flory suggested the commission members come from the nominees of LSU, Centenary, Southern, Xavier, and

-7-

Loyola and two elected from the employees by the employees.

There being no further business, the meeting was adjourned by the chairman at 5:10 p.m.

  
Anthony M. Rachal, Jr., Chairman

# CIVIL SERVICE MUST BE PROTECTED

March 30, 1973

To The Honorable Delegates  
To The 1973 Louisiana Constitutional Convention

The combined memberships of the Louisiana State Personnel Council and The Louisiana Chapter of the International Personnel Management Association sincerely hope that each of you will find the time to read the contents of this letter, which is being directed to you, not as a selfish petition for prejudicial action on your part, but as a convenient and, hopefully, convincing means of conveying to you some of the thoughts that we believe you might like to know and want to consider concerning the continued maintenance of a sound, fair and practical merit system in the public service of our state.

The need for a sound and effective merit system in the organizational structure of the government of the State of Louisiana is as important today as it ever was! If we expect to maintain an effective continuity of the essential services of state government, uninterrupted by the changing of political administrations, then we must persevere in our efforts toward the achievement of the preservation of an honest, viable system of public personnel administration based on merit principles.

It is obvious that the delegates to the 1973 Constitutional Convention also believe this and that they, too, are strongly conscious of the necessity for keeping and strengthening the state's civil service system.

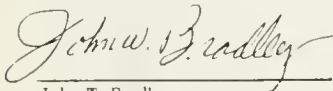
The greatest safeguard for the preservation of the merit system is, of course, its perpetuation through embodiment in the state's constitution. Experience has bitterly demonstrated that where a merit system is established in the form of a legislative act it continuously deteriorates from weakening amendments which are often adopted during times of political tensions and for reasons not clearly logical or pertinent to the achievement of good government. On the other hand, a system whose basic and vital provisions are firmly entrenched in the constitution will survive the periodic attempts to frustrate the principle of merit in public employment through the hurried adoption of unsound and ill fostered disabling and crippling legislative amendments. Likewise, when the civil service system is provided for in the Constitution, it can be better defended and protected by the courts and, of course,

by the people themselves, for it is the people who decide whether or not they want such a system in the first place.

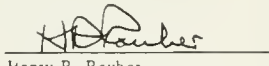
The delegates to the Constitutional Convention do, indeed, have a mandate from the people to study the Constitution with at least one view in mind of attempting to shorten the document, without, of course, destroying or weakening its effectiveness as the state's fundamental organic law. Priorities must be established, however, to insure that the basic rights of the people and the provisions for the continuity of government and its services to the people are protected. While all of the minute administrative procedures of a civil service system may not be required to be embodied in the Constitution, nevertheless, those provisions which do provide the foundation for the establishment, maintenance and preservation of the system are of vital concern to the people and should be included; such as,

- the creation and establishment of the system and the commission
- the non-political appointment of commissioners who do not serve strictly at the pleasure of the appointing authority
- the protection of commissioners from arbitrary removal from office
- the powers of the commission and the director
- the definition of classified and unclassified positions
- the requirements concerning recruitment, examination placement and pay
- the appeals procedure
- the guarantee of appropriations to fund the operation of the system

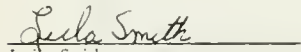
There can be no doubt of the dedication of the delegates who have been selected for the important task of revising the Constitution, and no doubt of their application to the work before them. This brief reminder is just a simple way of again presenting to the delegates some of those logical reasons which appear appropriate for insuring for the people of this state the best possible service from the state government by providing for an effective, unamperable civil service system through embodiment in the Constitution.



John W. Bradley  
Chairman  
Louisiana State Personnel Council



Henry R. Rauber  
Chairman  
Civil Service Liaison Committee



Leila Smith  
President  
Louisiana Chapter of the  
International Personnel  
Management Association

[Statement of Dr. George Whitfield]

The Louisiana Constitution, Article XV, Section 15 provides the legal citation for the State Civil Service Commission, an agency which has existed on appropriations from the state for years without change. The commission is stymied by rules which contradict performance and has continuously practiced discriminatory hiring practices.

The very structure of the commission alone, reflects an obvious ill-concern for Blacks or any minority. The five (5) members of the commission are appointed by the governor from a list coming from presidents of Louisiana State University, Loyola University, Tulane University, Centenary College and Louisiana College. The governor appoints one member from each of these five lists. All of the members serve staggered 6 year terms. With this type of composition and appointment qualifications being as provided for in the constitution, it is unthinkable that such a format provides for upward mobility of people who might have the qualification and whose chances of being selected on a list coming from all-white or predominantly white universities or colleges being pre-minimized, if not given no chance.

Among the few states providing for the existence of a Civil Service Commission, Louisiana perhaps maintains the most inflexible, narrow-erect-habit type of non-growth commission in the United States, while rigorously conforming only to represent poor management practices. It has never been amended to adjust with changing times and if a change comes about, it comes through the "thoughtless-faultless" commission members and not through the 40,000 plus people who are under its rigid policies.

The governor recognizes the inanity of the Civil Service Commission; having issued Executive Order No. 13 in an admission effort, while at the same time suggesting strongly that LSU submit the name of a black among its nominees. The governor's

effort is deeply appreciated and he has time after time asserted the powers of his office on this dilemma. The fact remains that the existence of this body is provided for in Louisiana's constitution. With the historical Constitutional Convention underway, I hope that we can move to get the Commissions many problems ironed-out.

Approximately 35% of the employees under Civil Service are Black and 90% of that percentage are in service categories at the lowest level. Blacks continually receive most of the Blue Collar jobs in both state and federally funded programs while the professional jobs go to whites. The excuse of test results is no longer acceptable because tests are not checked for racial bias and not good indicators for job performance. The weight assigned to written tests and interview procedures further insures unfairness. In more instances than none, the examinations given are non-job related and few, if any are validated in accordance with the Equal Employment Job Opportunity Act. The Commission's so-called "Top" 3 score effort is questioned for when blacks do get into the "Top" 3 and still aren't hired, certainly an explanation is due and the people need to know what type of examination is administered.

The people need to know the rationale behind an applicant filing for a chauffeur's job having to take an examination, while an applicant filing for a job driving heavy equipment (such as a street sweeper) takes no examination. What is the rationale of assigning scores to certain people in lieu of an examination? And why is it that a person with a chauffeur's license having not passed a civil service examination is deemed unqualified to drive for the state of Louisiana, in spite of his previous job being that of a cab driver? It appears that its okay for a member of the Commission to be picked up by this cab driver at the airport and driven down town, but yet this same driver cannot drive a state-owned vehicle because of a test score.

It is too vividly apparent that Civil Service is a farce for us to maintain it as an agency receiving state appropriations without some alterations. With the background and make-up of the membership, I question their ability to fairly and non-discriminantly (1) administer the state civil service system; (2) appoint the director of personnel; (3) adopt rules providing for a classification plan for positions in the classified service and rates of compensation; (4) hold competitive examinations for all appointments in the classified service; determine the subject matter, nature, content and experience ratings of competitive examinations; (5) adopt rules providing for the method of certification of eligibles for appointment or promotion; (6) adopt, amend, repeal and enforce rules having the force of law regulating employment, transfers, promotion, removal, qualifications, employment conditions, disbursements to employees and other personnel matters and transactions; and (7) investigate violations of the civil service statutes; hear and decide all appeals of all removals and disciplinary cases.

I request that this august body consider changing the Civil Service System so that it can be made accountable to the Louisiana State Legislature, rather than an independent structure with free wielding power over a large segment of our people in this state. The people of the state need to be involved in their selection. I would like to see the Commission remain, but with this needed change status.



STATE OF LOUISIANA  
SECRETARY OF STATE

WADE O. MARTIN, JR.  
SECRETARY OF STATE

April 3, 1973

389-0181  
P. O. Box 44125  
BATON ROUGE, LA  
70804

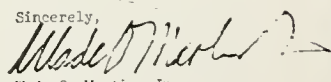
Constitutional Convention of 1973  
P. O. Box 44473, Capitol Station  
Baton Rouge, Louisiana 70804

Ladies and Gentlemen:

Without knowing specifically which committee considers the Civil Service system, I am taking the liberty of addressing this letter to all members for possible consideration by the Convention.

The Civil Service system directly affects the operation of my office, and for that reason, it is my pleasure to answer inquiries which I have had regarding the system. I have operated my office and observed the operations of state government both under statutory "merit systems" and under a system provided by the State Constitution. Having had this background of experience, it is my considered opinion that the best interest of the State of Louisiana will be served through a well designed and reasonably administered Civil Service system. Furthermore, without reflecting in any way on either the present or previous members of the State Legislature or individuals in the executive branch of the government, I feel that the system itself and brief guidelines assuring the intention and operation should be incorporated in the Constitution to guarantee its preservation and effectiveness.

With best regards, I am

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

WQMjr/cr

STATEMENT

By

LOUISIANA EDUCATION ASSOCIATION  
Constitutional Convention Committee on  
Education and Welfare  
Subcommittee on Public Welfare  
April 11, 1973

I am J. K. Haynes, Executive Secretary of the Louisiana Education Association. The officers and members of the LEA are deeply grateful to you, Mr. Chairman and the members of your Committee for the opportunity which you are accorded us to present our views on some aspects of Civil Service as it is administered in Louisiana.

While we do not wish to question the merits nor the sincerity of this program during the past twenty years, the bold and salient fact is that there is considerable evidence that Civil Service is used or misused to discriminate against a large segment of our population in the employment opportunities of this State.

However, we would like to make it implicitly clear that we support Civil Service. Nevertheless, we believe that certain reforms are absolutely necessary if it is to serve the purpose for which it was designed. With this background, the LEA presents three important points for your consideration.

- The Selection of The Commission  
We propose that the Commission be composed of nine members, three of whom must be black, eight to be appointed by the Governor from recommendations from each of the four year degree granting institutions of higher education and the ninth member to be elected by the employees of the Civil Service System.
- The Test and Other Evaluative Criteria for Employment  
We recommend the continued use of the test as one of several evaluative criteria for the screening of applicants for employment. This proposal calls for the "weighting" of such criteria as the Test, Personal References, Academic Qualifications, Interview and other measurable characteristics. Further, we propose that the Test would be highly "job" related.
- The Employing Agencies  
We believe that it should be written into law or provided by Executive Order that each employing agency be required to recruit its staff from the black and white constituency in proportion to their population ratio in the State.

Again, Mr. Chairman, we indeed appreciate the opportunity of appearing before your Committee on this important question. We shall be glad to answer any questions at this time.

Thank you.

TO: Sub-committee on Public Welfare  
FROM: Earl A. Marcelle, Jr., Director of Classified Personnel  
Southern University  
SUBJECT: Civil Service in the Constitution  
DATE: April 11, 1973

My first proposal is that civil service remain in the constitution, but not in its present detailed form. I am recommending a brief provision specifying that there be a state civil service system.

The second brief proposal that should remain in the constitution is

the selection method for commission members. Here, we are recommending two alternatives. The first provides that two, predominately black colleges be added to the list of colleges submitting commission nominees to the governor, with the commission being made "accountable" to the governor or the legislature. The second alternative advocates the current system be abolished in favor of direct appointments by the governor.

It is my opinion that the commission should be "accountable" to somebody. Their "independence" renders them presently non-responsive to meet the challenges of our present social transition. During a time when industry and other civil jurisdictions are finding ways to accelerate the upward mobility of disadvantaged persons. On the other hand, our civil service commission is making new hurdles (see civil service rules 8.16(d) and 7.9(e). Further, they have shown no sensitivity or empathy for the request from two governors to be less stringent in the application of the "rule of three." This rule has served as a tool for everyone to hide behind in appointing blacks to state jobs. I am proposing the rule be abolished in favor of a pass-fail designation provision in the civil service rules. It is my opinion that a pass-fail provision will serve the state as efficiently as the present "rule of three."

Following is a summary of the ~~EX-77~~ proposals to be included in the state constitution:

- I. There is hereby created and established in the State Government a Department of State Civil Service, the administrative head of which shall be a Director of Personnel appointed by the State Civil Service Commission.
- II. No person in the State Service or Classified Service having acquired permanent civil service status shall be demoted, dismissed, or discriminated against, except for cause expressed in writing by the appointing authority.
- III.(A) There is hereby created and established a State Civil Service Commission to be composed of seven members who are citizens and qualified voters of the State of Louisiana. The commission will be appointed by the Governor for a term of six years from nominees submitted by the Presidents of the following colleges: Centenary College, Dillard University, Louisiana College, Louisiana State University, Loyola University, Southern University, and Tulane University. The commission members will be accountable to the governor or the legislature.
- III.(B) There is hereby created and established a Civil Service Commission of five members who are citizens and qualified voters of the State of Louisiana. The five commission members will be direct appointments of the Governor.

MINUTES

Minutes of the meeting of the Subcommittee on Public Welfare of the Committee on Education and Welfare of the Constitutional Convention 1973  
Held pursuant to notice mailed by the Secretary of the Convention on April 4, 1973  
East Baton Rouge Parish School Board Office  
1050 South Foster, Baton Rouge, Louisiana  
April 12, 1973, 9:00 a.m.

Presiding: Anthony M. Rachel, Jr., Chairman of the Committee on Public Welfare

Present:  
Mr. Flory  
Mr. Grier  
Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Miss Wisham

Absent:  
Mr. Armentor

The chairman called the meeting to order at 9:10 a.m. and the roll call indicated a quorum was present. The reading of the minutes was dispensed with since the secretary had not had sufficient time to prepare them from the meeting held April 11, 1973.

Mr. Rachal informed the members that the first speaker, Mr. Magri, had phoned and was on the way. Mrs. LeBlanc indicated that Mr. Raymond Beck of the campus security police at LSUNO had requested time to be heard and would speak after Mr. Magri.

The chairman suggested that as a general rule, after today, that testimony should cease. However, Miss Wisham and Mr. Lennox requested that testimony be allowed to continue if there were requests.

The chairman turned to the April 5, 1973 minutes which had been tabled awaiting review of the tapes concerning Mr. Johnson's statements on the institutions to be used to nominate candidates for the Civil Service Commission. The secretary read the remarks made by Mr. Harry Johnson and the members asked that the secretary include Mr. Johnson's verbatim remarks about private institutions in the minutes of April 5, 1973. Mr. Lennox moved the corrected minutes be adopted; Mr. Grier seconded the motion. There being no objections the chairman so ordered.

Mr. Rachal introduced Mr. Irvin Magri, Jr., president, Patrolman's Association of New Orleans, a member of the AFL-CIO. He informed the members that he had tried to run as a delegate for the Constitutional Convention of 1973 but was denied this basic civil right by the New Orleans Civil Service. The main request of his organization is that they be removed from the New Orleans Civil Service system and be included under the state system, along with the rest of the state.

Mr. Magri informed the members that the New Orleans Civil Service Commission has never asked for input from the employees. Only four times, to his knowledge, has the commission had the courtesy to answer letters received from employees offering suggestions. His

-2-

organization prefers a five-member commission, which would include one fireman and one policeman.

Mr. Magri suggested another key area the delegates should address themselves to is the question of the "burden-of-proof." The Patrolmen's Association of New Orleans believes the burden should be on the employer and not on the employee.

Mr. Magri feels the New Orleans Civil Service system

has become more and more administrative. Employees are not allowed to negotiate for wages or hours. The attitude of the New Orleans system is that they are not bound by the legislature, civil courts, federal courts, etc.

Mr. Magri's association suggests that the "rule of three" is political and allows the appointing authority to skip over number one or two on the list and hire number three. The appointing authority can do this type of skipping twice before giving a written reason. In questioning, Mr. Magri suggested the "rule of three" be abolished and allow man's final examination score to be the basis of his promotion.

Another point of contention is that in the New Orleans system many employees are kept in lower paying jobs while actually performing higher paying positions because the commission withholds the testing for promotions. Mr. Magri hopes that this can be corrected by placing the policemen and firemen under the Municipal

-3-

Police and Fire Civil Service Provision, Article XIV, Section 15:1.

Mr. Lennox pointed out that even had Mr. Magri been a part of the State Civil Service system, he would have been prohibited from running for office. However, Mr. Magri felt he would have had a better chance for appeal with the state commission, since he contends the Constitutional Convention is not a political body.

Mr. Lennox suggested that if the firemen and policemen of New Orleans are placed under the state system it would remove them from home rule. Mr. Magri stated it would not because the state law specifies that each board will be set up in the community and the mayor still makes appointments to the commission. Mr. Lennox asked if Mr. Magri would agree to let the council of the city of New Orleans determine whether or not the firemen and policemen be placed under the city or state civil service system. Mr. Magri emphatically replied no and that he would place this decision in the hands of the electors of the city of New Orleans by referendum. He stated history proves that once a politician has his hands on something, he hates to give it up.

Mr. Lennox pursued the point of curing the New Orleans Civil Service system by a revision of the present system, perhaps by taking the best of the state system and tracking it into the city system. Mr. Magri stated this has already been tried but the New Orleans system

-4-

had refused to listen or act upon any such suggestions. Therefore, the only solution is to be placed under the state system for firemen and policemen. Mr. Flory sug-

gested tracking of the state system into the New Orleans systems defeats the purpose of the Constitutional Convention which is to strive for consolidation and briefness.

Mr. Rachal inquired if, under the state system, there would be two commissions, one for fire and police and one for all other civil service employees. Mr. Magri replied yes, just as it is now in all other municipalities. He pointed out the city of New Orleans has lost many officers to federal agencies because the overload of cases of the New Orleans City Civil Service Commission has caused a lack of promotional exams. The state act demands that promotional exams be held.

Mr. Lennox pointed out that he was one of those that initiated the criminology courses at Loyola and has been active in pleading the case of the policemen in New Orleans; however, he would be reluctant, if not absolutely adverse, to vote on anything that prevents any parish, including Orleans, from governing its own internal affairs. Mr. Magri stated that unfortunately, citizens often agree that "internal affairs" need a change, but many are reluctant to act.

Mr. Flory pointed out that by putting the New Orleans fire and police under the state system he will accomplish

-5-

the changes needed. The only difference in the systems is that under the state system the constitution would dictate the makeup of the board.

Mr. Rachal suggested that if the fire and police should have representation on their commission, then the rest of the employees should have representation on their commission. Mr. Magri agreed and hopes the convention will correct the inequities.

Mr. Magri discussed the Hatch Act and the unfairness of it, and stated that the legality of the act is now being reviewed by the Supreme Court of the United States. He feels it will rule the act illegal and that it will be changed to allow civil service employees to run for office, or campaign for others, with certain safeguards. Mr. Magri is in favor of the abolishment of the Hatch Act.

Mr. Grier asked how the members of the New Orleans Civil Service Commission are selected. One is appointed by the governing body of the parish and two are appointed from nominees submitted by the presidents of Tulane and Loyola, all with staggered six-year terms. These are part-time positions with a budget for the commission members of \$2000 plus per diem. Mr. Magri stated these members sometimes put in 2000 hours and are good, civic-minded people.

Some discussion followed regarding the probationary periods. In the New Orleans Civil Service system the probationary period is twelve months whereas in the state

-6-

system the probationary period is only six months. An employee can be demoted during a probationary period, without appeal. After probationary period you can be demoted, but have the right to appeal.

In the matter of exams, if you are taking the examination for sergeant, for example, the grade is based on sixty percent on the written part of the examination, and forty percent on tenure. Mr. Landry asked how often one receives an evaluation of performance. Mr. Magri stated that once a year a platoon supervisor is given a chart to evaluate the officers. In 1969, everyone received a satisfactory rating except 20; these 20 got an excellent rating and they were the ones in the office of the superintendent of police. Unsatisfactory or outstanding ratings require written reports and the authorities don't like to bother with reports. Mr. Landry believes that if a system does not provide a continuous evaluation then it cannot be fair to the employee. This makes the system bureaucratic and it needs safeguards. Mr. Landry thinks the civil service system as it now exists is to perpetuate those who administer the program rather than those who live under it.

Mr. Hernandez inquired as to the starting salary of a police patrolman. Mr. Magri said it is \$556 more or less with a state supplement of \$100 from the state after the first three years of service, with graduated increases up to \$150 as a supplement.

After Mr. Magri's presentation, he introduced the

-7-

lawyer for the Patrolman's Association of New Orleans, Mr. Irwin Sanders. He stated that just for the record, Mr. Forbes had filed to run for the Constitutional Convention of 1973 here in Baton Rouge and the commission had accepted the service, but neglected to act on it until it was too late to qualify as a candidate. Mr. Sanders then explained investigations of officers are held by the authorities of the police force and are not explained to the officer. The officer can not have a lawyer at this time. He is required to take lie detector tests, stand in line-ups, and give any number of statements. These interdepartmental investigations often lead to dismissals which are upheld in the commission hearings. The lawyer who represents the officer on appeal to the Civil Service Commission cannot subpoena the investigative file of the department for review.

The Court of Appeals cannot review facts found by the commission and can only review the question of law. Therefore, if the commission has stated a fact, you have no right to appeal.

Following the attorney, Mr. Raymond Beck, director of campus security at LSUNO, spoke to the group. Present with him were Major Pass of Southern University campus

Security and a member of the Capitol Building Police Force. His group was there to request inclusion of the Campus Security Police Officers, Capitol Building Police Officers, and Hospital Security Officers in Article XIV, Paragraph 15.2

-8-

which provides benefits for the survivors of certain officers if killed on duty. In the discussion period Mr. Lennox asked if Mr. Hitt agrees to this inclusion and Mr. Beck replied he had not talked with Mr. Hitt, but that vice Chancellor Burke does agree. Mr. Beck has communicated with congressmen of the United States to request these same groups be placed under the national survivorship benefits laws.

When asked if including the security officers as a division of the State Police would help, Mr. Beck stated they do not wish to be a division of the State Police as their training and duties differ widely. Major Pass said their relationship to the administration of the college is good and that referrals go through normal channels and the recommendations are generally received favorably. The chairman asked for a written recommendation from Mr. Beck concerning their wishes.

There being no further business, the meeting adjourned for lunch. The next meeting of the subcommittee will be held Wednesday, April 25, 1973. After lunch, the subcommittee met with the Committee of the Whole at 1:00 p.m.

*Anthony M. Rachal, Jr.*  
Anthony M. Rachal, Chairman



**Patrolman's Association of New Orleans**

LOCAL 641 NUPO.  
AFL-CIO

226 CARONDELET STREET  
ROOM 1001 CARONDELET BUILDING  
NEW ORLEANS LOUISIANA 70130

April 4, 1973



NATIONAL UNION OF POLICE  
OFFICERS AFL-CIO  
MEMBER  
GREATER NEW ORLEANS AFL-CIO  
LOUISIANA STATE AFL-CIO

TO: All members Education & Welfare Committee, Constitutional Convention, 1973

Dear Delegates:

This will serve to officially notify you, as members of the Education & Welfare Committee, that our police union, which represents the interest of over 700 law enforcement officers, along with the Supervisor's Association of New Orleans, Local 642, NUPO, AFL-CIO, which represents the interest of over 100 supervisory personnel, fully endorse and encourage the 1973 La. Constitutional Convention to place the New Orleans police officers under the "Municipal Police and Fire Civil Service Law". This law is also known as the Municipal Police and Fire Civil Service Act under Section 15:1, of Article 14, of the Louisiana Constitution voted on at the general election, November 4, 1952.

At the March Executive Board meeting of the Board of Representatives for our police union, the entire Board of Representatives voted unanimously to support this change in the Louisiana Constitution.

It should also be noted that the New Orleans Firefighters Union, Local 632, also voted by an overwhelming percentage (98%) to support this constitutional change. Basically, my reasons for placing the New Orleans Police Department under the Municipal Police and Fire Civil Service Law correspond with those of President Clarence Perez. I would respectfully refer each member of this committee to his letter of March 16, 1973.

In closing, please allow me to basically set forth our reasons why this constitutional change should take place:

A. The present City Civil Service system, under Article 14, Section 15, of the La. State Constitution, only provides for three civil service members instead of five civil service members as provided for by the Municipal Police and Fire Civil Service Law. The addition of these two additional commissioned members, with one being elected by the Police Department and one being elected by the Fire Department, assures the average police officer and firefighter that individuals who have job related experience and who know the problems of each department serve on the commission itself.

B. That presently under the New Orleans City Civil Service system, our police and fire union can not negotiate directly with the City of New Orleans, but must instead, go through the Civil Service Commission. In general, the Civil Service Department, which should be the city employees union, per say, has never represented our classifications to the satisfaction of its members. With the adoption of the Municipal

Page 2 - continued

Police and Fire Civil Service Law for the New Orleans police and fire departments, it would assure us of the right to negotiate directly with the City of New Orleans instead of allowing the scapegoat to become the Civil Service System itself.

C. That we are of the belief that we should be identified with all other police officers rather than employees whose duties are completely foreign to our profession. The fire and police system is designed to cope with the specific problems of municipal fire and police departments. Presently, under our system, the Civil Service Commission for the City of New Orleans, reviews all cases including sanitation workers, garage former, motor mechanics, radio technicians, mechanic helpers, research analysis, etc. We believe that the Municipal Police and Fire Civil Service Law would be of a beneficial nature to both departments as it would specifically deal with the problems in the two areas of firefighting and law enforcement.

Thanking you in advance for your consideration in this matter and assuring you of my continued cooperation in all matters of mutual concern, I respectfully remain,

Yours in better law enforcement  
*Irwin L. Magill, Jr.*  
Irwin L. Magill, Jr.  
Chairman of the Board  
Patrolman's Association of New Orleans  
Local 641, NUPO, AFL-CIO

ILMjr:dw

cc: Irwin R. Sanders  
James R. Sutterfield  
Fred Westenberger

**LOUISIANA CAMPUS SECURITY and POLICE ASSOCIATION**

(LCSPA)

April 18, 1973

Mr. Anthony Rachal, Chairman  
Subcommittee on Public Welfare  
Constitutional Convention  
P.O. Box 11473, Capital Street  
Baton Rouge, La. 70804

Re: Article 14, Para. 15.2, Item B;  
Louisiana Constitution--Suggested  
amendment concerning Law Enforcement  
Officers' Survivors' Benefits

Dear Mr. Rachal:

This letter is for the purpose of making a matter of record my appearance before the Subcommittee on Public Welfare on April 12, 1973 in connection with the above matter.

As president of the Louisiana Campus Security and Police Association (LCSPA), and representing the membership of that organization, I recommend an amendment to Article 14, Para. 15.2 of the Louisiana State Constitution, which deals with financial security for surviving spouses and dependent children of Law Enforcement Officers who lose their lives from physical violence, while engaged in the direct apprehension of a person, during the course of the performance of their duties.

Item B of that Paragraph lists the Law Enforcement Officers covered by the article. I recommended that, in addition to the listed officers, the following officers, who are not now included, and who are officers of state supported institutions, be added to Article 14, Paragraph 15.2. Item B, viz, Campus Security Police Officers, state Capitol Building Police, and Hospital Security Officers.

You will recall that representatives from Southern University in Baton Rouge and State Capitol Building Police also attended the hearing to support the above recommendation. Crime statistics reflecting problems at Charity Hospital in New Orleans were also presented in behalf of the amendment.

Your courtesy and cooperation in hearing the suggested amendment, which was presented at the above Subcommittee meeting, is indeed appreciated both by myself and the LCSPA. It is hoped that you will consider the amendment favorably for inclusion in the new Louisiana Constitution.

With best personal regards, I am,

Yours truly,

*Raymond L. Beck*  
Raymond L. Beck  
Director, Campus Security-LSUNO  
President-LCSPA

MINUTES

Minutes of the meeting of the Subcommittee on  
Public Welfare of the Committee on Education  
and Welfare of the Constitutional Convention  
of 1973



Held pursuant to notice mailed by the Secretary  
of the Convention on April 18, 1973

State Capitol Building, Room 205  
Baton Rouge, Louisiana  
April 25, 1973, 10:00 a.m.

Presiding: Mr. Anthony M. Rachal, Jr., Chairman of the  
Subcommittee on Public Welfare

Present: Mr. Flory                      Absent: Mr. Armentor  
         Mr. Grier  
         Mr. Hernandez  
         Mr. Landry  
         Mr. Lennox  
         Miss Wisham

The Subcommittee on Public Welfare met in a one day  
session at the State Capitol Building on Wednesday, April  
25, 1973.

The chairman called the meeting to order at 10:00 a.m.,  
the secretary called the roll, and a quorum was present.

The subcommittee reviewed the minutes of the meetings  
of April 11, 1973, and April 12, 1973. Mr. Lennox offered  
a motion that the minutes of April 11, 1973, be approved as  
written, and the chairman so ordered.

There was one correction in the minutes of April 12,  
1973. Mr. Lennox moved that these minutes be approved as  
amended, Miss Wisham seconded the motion, and the chairman  
so ordered.

Turning his attention to the agenda, the chairman  
suggested that the subcommittee discuss the presentations  
made during the past several weeks.

Mr. Lennox presented a proposal on amendments to civil  
service provisions, a copy of which is attached hereto and  
made a part of these minutes. After a discussion of this  
proposal, Mr. Flory offered a motion that the Louisiana  
Civil Service Commission be composed of seven members, one  
of the members being appointed by the governor and con-  
firmed by the Senate, and that this appointee be a member  
of the classified service of state employment. The chair-  
man called for a roll call vote.

Mr. Lennox (nay)  
Mr. Flory (yea)  
Mr. Landry (yea)  
Miss Wisham (yea)  
Mr. Hernandez (nay)  
Mr. Grier (nay)  
Chairman Rachal (yea)

The motion carried by a vote of four to three.

Mr. Lennox then offered a motion that the remaining  
six members of the Louisiana Civil Service Commission be  
appointed from lists of three nominees, submitted at alter-  
nate years, from the presidents of the following institutions:

Loyola University of the South, New Orleans  
Centenary College at Shreveport  
Tulane University of Louisiana at New Orleans  
Louisiana College at Pineville  
Xavier University at New Orleans  
Louisiana State University at Baton Rouge

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Mr. Hernandez seconded the motion and the chairman called  
for a roll call vote:

Mr. Lennox (yea)  
Mr. Flory (nay)

Mr. Landry (yea)  
Miss Wisham (nay)  
Mr. Hernandez (yea)  
Mr. Grier (yea)

The motion carried by a vote of four to two.

Mr. Lennox offered a motion to the effect that  
paragraph B of the projet of the Louisiana Civil Service  
Commission should be amended so as to eliminate the words  
"one attorney" in line five; further that paragraph B  
be amended to eliminate the words "State Tax Collector  
for the City of New Orleans" appearing in lines 16 and  
17 therein; further, that the final full paragraph of  
page two of the projet be amended to insert the word  
"just" before the word "cause" on line two therein; and  
further that the final full paragraph of page three should  
be amended to read:

"The burden of proof on appeal as to the facts,  
shall be on the employer."

After a lengthy discussion on the motion, Mr. Lennox  
withdrew his motion.

Mr. Lennox offered another motion to the effect that  
the City Civil Service Commission for the City of New  
Orleans, as it is now embedded in the constitution, be  
continued and further that the City Civil Service Commis-  
sion be comprised of four members to be named from groups  
of three nominees submitted at alternate years from the  
presidents of the following institutions:

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Dillard University at New Orleans  
Tulane University of Louisiana at New Orleans  
Loyola University of the South at New Orleans,

and the chancellor of Louisiana State University at New  
Orleans.

Mr. Flory offered an amendment to Mr. Lennox's motion  
to the effect that the mayor or chief executive of the city  
of New Orleans, or the governing authority, appoint one  
member to be confirmed by the governing authority and that  
this appointee be a member of the classified service of  
city employment.

After a general discussion, Mr. Lennox withdrew his  
motion and Mr. Flory withdrew his amendment.

As a result of the discussion on placing the burden  
of proof and disciplinary actions against city service  
employees, the subcommittee, by a consensus, adopted  
the language that the burden of proof shall be placed  
on the employer and that no person having gained perman-  
ent civil service status in the classified state civil  
service shall be subjected to disciplinary action except  
for just cause.

Following more discussion on civil service, Mr. Flory  
moved that the "Little Hatch Act" provisions be retained  
in the constitution. After discussion of this motion, Mr.  
Grier moved that the subcommittee delay the consideration  
of the "Little Hatch Act" until the next meeting. With no  
objections, the chairman so ordered.

After discussion of the agenda for the next meeting,  
the meeting adjourned at 4:15 p.m., Wednesday, April 25,  
1973.

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Anthony M. Rachal, Jr.

Mr. Landry  
Mr. Lennox  
Miss Wisham

Absent: Mr. Armentor

**AMENDMENTS TO CIVIL SERVICE PROVISIONS  
LOUISIANA CONSTITUTIONAL CONVENTION -- 1973**

The project for Constitutional Convention provisions for the State Civil Service System as proposed by the Louisiana Department of State Civil Service for the Louisiana Civil Service Commission appears to accomplish the objective of brevity while including the Merit System with a basis in the new Constitution.

However, some additions, deletions and revisions are recommended to the project offered by the Louisiana Civil Service Commission:

An addition should be made similar in fashion but updated to current needs comparable to Article 14, Section 15, Paragraph D.

This simply embeds City Civil Service for each city having a population of 250,000 (New Orleans) in the State Constitution.

Here, it should be interesting to note that the Home Rule Charter of the City of New Orleans contains the provision which would require the City to continue its Civil Service Commission and its functions if Civil Service on a statewide basis should ever be abolished.

In embedding City Civil Service for the City of New Orleans in the Constitution, it is further recommended that Article 14, Section 15, Paragraph D be amended to provide for five (5) Members, three (3) of whom would constitute a quorum. The mechanics for nominating members to the City Civil Service Commission should also be amended to include all of the following nominating institutions:

Louisiana State University in New Orleans  
Loyola University of the South  
Tulane University of Louisiana  
Xavier University  
Dillard University

In order to accomplish the above, the one Member of the Commission now appointed by the governing body of the city would be eliminated.

It is further recommended that the project of the Louisiana Civil Service Commission be additionally amended as follows:

Paragraph B -- eliminate the words "one attorney" in Item 5 therein.

Paragraph B -- eliminate the words "State Tax Collector for the City of New Orleans" appearing on Lines 16 and 17 therein.

Revise Paragraph C to provide for 7 Members; and further, to provide that the

- 2 -

Presidents of the following Institutions of higher learning shall make nominations for Members of the Commission as follows:

Loyola University of the South at New Orleans  
Catholic College at Shreveport  
Tulane University of Louisiana at New Orleans  
Louisiana College at Pineville  
Xavier University at New Orleans  
Dillard University at New Orleans  
Louisiana State University at Baton Rouge

The final paragraph on page 2 should be revised to insert the word "just" before the word "cause" on Line 2 therein.

The first full paragraph on Page 3 should be revised to read as follows:

"The burden of proof on appeal as to the facts shall be on the employer."

MINUTES

Minutes of the meeting of the Subcommittee on  
Public Welfare of the Committee on Education and  
Welfare of the Constitutional Convention of 1973.  
Held pursuant to notice mailed by the Secretary  
of the Convention on April 25, 1973  
State Capitol Building, Room 206, Baton Rouge,  
Louisiana, Wednesday, May 2, 1973.

Presiding: Mr. Anthony Rachal, Jr., chairman of the  
Subcommittee on Public Welfare.

Present: Mr. Flory  
Mr. Grier  
Mr. Hernandez

The Subcommittee on Public Welfare met in a one day session at the State Capitol Building on Wednesday, May 2, 1973.

The chairman called the meeting to order at 10:00 a.m., the secretary called the roll and a quorum was present.

The subcommittee reviewed the minutes of the previous meeting. Mr. Flory moved that the minutes be approved as written and Miss Wisham seconded the motion.

The chairman submitted to each member of the subcommittee a copy of a letter which he received from Mr. Kenneth Plaisance at Angola Penitentiary. A copy of this letter is attached hereto and made a part of these minutes.

The chairman introduced Mrs. Elayn Hunt, director of the Department of Corrections. Mrs. Hunt said that she feels that there is no need for the Department to be in the constitution, and that leaving it out would give it more flexibility to make changes as they are needed in dealing with correctional problems.

Mrs. Hunt gave a brief summary of how the Department of Corrections is set up. She said that the Department has a director appointed by the governor, directly responsible to the governor, and an advisory board with staggered terms, the Board of Corrections. The director has full administrative responsibility for all of the adult and juvenile institutions as well as the adult probation and parole systems in the state. The juvenile probation and parole system is still under the jurisdiction of the Department of Welfare. She said that an adult offender who is committed to the Department of Corrections is classified and transferred to whichever institution is most appropriate for treatment.

When asked about the first offender, Mrs. Hunt said that when he goes to Angola, he goes through a classification procedure which takes from 30 days to six weeks. He receives psychological testing, and questionnaires are sent to his employer or teacher. After all information is obtained on the individual, a summary is drawn up and he goes before the DeQuincy Transfer Board where he is considered to be placed in the First Offender Institute at DeQuincy.

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Mrs. Hunt pointed out that the greatest problem is the location of Angola. The Courts are directing that adequate medical care must be provided. She said that money will not be able to cure the problem of getting a medical staff willing to live at such a location. If anyone confined complains of not having received medical attention, if this complaint is not investigated, and if an attempt is not made to correct this problem, there

will be personal liability placed on the part of the director.

Mrs. Hunt has no objection to a provision in the constitution prohibiting the leasing of inmates and use of prison labor for public works. As to sufferage for inmates, she feels that a great deal of consideration should be given to this problem because, as Mr. Lennox pointed out, if an inmate has a legal right to vote while he is serving his time, he may file suit to maintain sufferage, and the Court would probably rule in his favor.

With the completion of Mrs. Hunt's presentation, the chairman introduced Mr. Mark Carleton, assistant professor of history, Louisiana State University, Baton Rouge, Louisiana. Mr. Carleton prepared a written statement, a copy of which is attached hereto and made a part of these minutes. He said that penal reform and the Department of Corrections should be left out of the constitution because constitutional guidelines and restraints, however reasonable and wellmeaning they may be at the present time, may well impede rather than further penal reform in Louisiana

-3-

Next on the agenda was Mr. Edwin O. Ware, president of the District Attorney's Association. Mr. Ware said that the constitution should contain as little as possible. The simpler we can keep it, the better chance we have to pass it.

On the subject of convict sufferage, Mr. Ware feels that persons who have committed offences involving a great deal of moral turpitude should not be permitted to vote. As an example, a man who has committed murder because he lost his temper and did not control himself should be allowed to vote after he has paid his debt to society; but a hired assassin should never again be allowed to vote

With the completion of his presentation, Mr. Ware told the chairman that he would submit a written statement to the subcommittee.

Mr. Lennox gave a brief summary as to the three presentations heard. He said that all three witnesses recommended that the leasing and hiring of prison labor and use of prison labor for public works should be a matter of constitutional consideration. He said that all three witnesses recommended that the matter of prison sufferage should be a matter of consideration in the constitution. All three witnesses feel that there should be a redefinition of the term "juvenile"; and, all three witnesses feel that corrections and prisons should be left out of the constitution.

After Mr. Lennox's statement, the subcommittee adjourned for lunch.

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In the afternoon session, the subcommittee reviewed the proposals submitted by the research staff. The first

proposal considered by the subcommittee was proposal No. 8, "Industrial Tax Exemptions." In a discussion of this proposal, it was decided that the sentence beginning at line 10 and continuing through line 11 shall be amended to read as follows:

"Exemptions shall be contingent upon said industry utilizing Louisiana suppliers, contractors, and labor where possible to do so without substantial added expense, inconvenience, or sacrifice in operational efficiency."

After discussion, Mr. Lennox moved that the Subcommittee on Public Welfare approve proposal No. 8 as amended and recommend said proposal to the Committee on Education and Welfare, and further that said proposal be forwarded to the Committee on Revenue, Finance and Taxation with strong recommendation for adoption. Mr. Hernandez seconded the motion and moved that the previous question be called. The motion for the previous question failed for a lack of majority, by a vote of three to three.

Mr. Lennox suggested that the subcommittee establish the procedure in the case of a tie vote. It was decided that in the event of a tie vote, the chairman will vote to break the tie.

After more discussion of Mr. Lennox's motion, Mr. Landry offered a substitute motion that the subcommittee delay making a decision regarding proposal No. 8 for two weeks, in order that more input on the subject may be

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obtained. Miss Wisham seconded the motion. The substitute motion carried by a vote of four to two.

The next proposal considered by the subcommittee was proposal No. 1, "Definition of Corporation." After a discussion of the proposal, Mr. Hernandez moved that the subcommittee delay a decision on the proposal for one week, in order that more input may be obtained on the subject. Mr. Landry seconded the motion. The chairman called for the previous question and the motion was unanimously adopted.

The subcommittee next considered proposal No. 2, "Perpetual franchises or privileges." After a lengthy discussion, it was decided that proposal No. 2 be remanded to the research staff for further study.

After an examination of proposals No. 1-5, it was decided that the subcommittee would delay action on said proposals pending testimony of Honorable Wade D. Martin, Jr., secretary of state.

Mr. Flory asked that the research staff prepare a memo pointing out the feasibility of requiring corporations doing business within the State of Louisiana to reveal the names of stockholders, such names to be submitted annually.

The next proposals discussed were proposals No. 6, "State tax levy or increase in rate; approval by two-thirds of legislature," and proposal No. 7, "Tax measures,

amendments; conference committee reports; vote required." Mr. Landry moved that the subcommittee adopt proposals No. 6 and 7 and recommend to the Committee on Education and Welfare that said proposals be forwarded to the Committee on Revenue, Finance and Taxation with strong recommendation

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for adoption. The motion was unanimously adopted.

The subcommittee turned its attention to proposal No. 29 dealing with civil service, entitled "State Commission." Mrs. LeBlanc read the proposal, after which Mr. Flory pointed out one matter which should be clarified. He said that if the classified employee representative leaves the classified service, then his position on the commission shall be declared vacant and the governor shall reappoint an employee to fill the vacancy. After more discussion of the proposal, it was decided that lines 10-13 on page two of the proposal would be deleted and that the language in the present constitution regarding the removal of a member of the state civil service commission be retained, with the exception that the word "just" shall be inserted before the word "cause".

The subcommittee noted that proposals No. 9-15 were all related to proposal No. 8. Since it was decided to delay action on proposal No. 8, the same would be done for proposals No. 9-15.

With regard to proposal No. 16, "Parish Industrial Taxes", Mr. Hernandez moved that said proposal be submitted to the Committee on Education and Welfare as written, and that it be forwarded to the Committee on Local and Parochial Government with strong recommendations for adoption. Mr. Lennox seconded the motion, and the motion was unanimously adopted.

Mr. Hernandez also moved that proposal No. 17, "Encouragement of industrial enterprises; bonds to acquire plant sites", be submitted to the Committee on Education

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and Welfare as written, and that it be forwarded to the Committee on Local and Parochial Government with strong recommendations for adoption. The motion was unanimously adopted.

Mr. Flory moved that proposal No. 18, "Limitations on the legislature" be approved. Mr. Lennox seconded the motion and Mr. Hernandez called for the previous question. The motion was unanimously adopted.

Mr. Hernandez moved that proposal No. 19, "Arbitration laws" be approved and recommended to the Committee on Education and Welfare. Mr. Landry seconded the motion and the motion was unanimously adopted.

After discussion of proposal No. 20, "Regulations of hours and conditions of employment", and proposal No. 21, "Collective bargaining", it was decided that the subcommittee would delay action on said proposals until the next meeting on May 7, 1973.

Mr. Hernandez moved that proposal No. 22, "Unemployment compensation" be approved. Mr. Lennox offered an amendment to the effect that said proposal No. 22, proposal No. 23, also entitled "Unemployment compensation", and proposal No. 28, "Public health and welfare" be consolidated into one proposal. The chairman called for the previous question and the motion, as amended, was unanimously adopted. Therefore, in accordance with rules of procedure, Mr. Hernandez moved that proposals No. 23 and 28 be deleted. With no opposition, the motion was unanimously adopted.

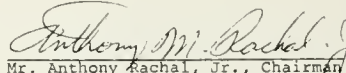
After a discussion of proposal No. 27, "Administration

-8-

of health, social and welfare programs", it was the common consensus of the subcommittee to delay action on said proposal until the next meeting.

After an examination of proposals No. 24, 25 and 26, Mr. Hernandez moved that proposals No. 24 and 25, both entitled "Convict labor" be rejected, and that proposal No. 26, also entitled "Convict labor" be incorporated. Mr. Lennox seconded the motion and the motion was unanimously adopted.

With the completion of the discussion of the proposals submitted by the staff, Mr. Grier moved that the meeting adjourn. With no objection, the chairman so ordered and the meeting adjourned at 7:15 p.m., Wednesday, May 2, 1973.

  
Mr. Anthony Rachal, Jr., Chairman

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April 28, 1973

Mr. Anthony Rachal, Jr.  
Chairman of the Subcommittee  
On Public Welfare  
1435 N. Johnson Street  
New Orleans, La.

Dear Mr. Rachal:

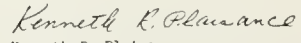
A delegate of the Constitutional Convention's Subcommittee on Public Welfare concerning Louisiana's Penal Institutions has invited me to speak at the public hearings on May 2 and May 25.

Such a speaking engagement will have to be approved by the director of the Department of Corrections, Mrs. Elayn Hunt. Although I have been approved for many speaking trips throughout Louisiana on the abuse of drugs and alcohol, prison reform and prison life in general, this particular engagement should be cleared with her specifically since she is directly involved in this subject area.

During my past ten years of confinement (four in the Parish Prison in New Orleans, two at the criminal colony at the East Louisiana State Hospital and more than four at the Louisiana State Penitentiary) I have experienced the first hand neglect of society's apathy and disinterest toward the convicted felon; and I have seen hundreds of men return to this penal environment because of the public's attitude.

Mrs. Mary Wisham is the delegate that has invited me to testify. I would certainly appreciate the opportunity to express myself on the subject of penal reform from both an objective and a personal standpoint. I am sure that I can bring to light some of the problems that your subcommittee is not aware of, and others that they may not fully understand.

Sincerely,

  
Kenneth R. Plaisance  
PHB 67874 Mag-4  
Angola, Louisiana 70712

Correctional institutions and penological methods in the United States have been subjected in recent years to an intense public and official scrutiny. Prison riots, exposes of brutality against inmates and guards alike, a rapidly expanding criminal population, and various court rulings demanding improved procedures have combined to re-awaken widespread support for real and immediate prison reform.

The correctional institutions and methods of Louisiana have not been ignored during this period of re-evaluation and pressure for change. As far back as 1952 the legislature, at the request of Governor Robert F. Kennon, authorized a \$9 million construction and modernization program for the state penitentiary at Angola, an institution which had been recently, and justifiably labeled as "America's Worst Prison" in a nationally-read magazine. Since then a professional staff has been gradually recruited and trained, educational programs have been established and expanded, and convict guards --the bane of any sound correctional apparatus--have finally begun to disappear. After over half a century of advocacy by reformers, a first-offender institution was opened at DeQuincy in 1958. Female offenders were moved from Angola to St. Gabriel in 1961 and a new and much improved facility for these people is nearing completion. An incentive pay program for inmates, improved supervision of parolees, and a greater effort toward job placement of former inmates could also be added to the list of reforms implemented in recent years.

The job is far from finished. A great deal remains to be done. None of our correctional institutions has yet become a "model" worthy of imitation elsewhere. But a virtual revolution has taken place in Louisiana penology since the early fifties. To deny this or even to soft-pedal its magnitude is to indulge in blind fantasy.

The problem today in Louisiana is how to keep the momentum of penal reform going; how best to insure that Louisiana's correctional institutions and methods continue to be improved, as indeed they must be. I respectfully submit to this committee that two highly desirable prerequisites for continuation of penal reform in Louisiana are as follows: (1) that no definition or discussion of, nor any particular mandate for, penal reform be written into the proposed state constitution and (2) that the Department of Corrections be left in the Louisiana Revised Statutes, where it has been since 1968 when the legislature and the people wisely put it there.

All too often in Louisiana history, especially since 1879, the constitution has become the dwelling place of ideas, objectives or agencies which someone wanted to protect, guarantee or hide. In some cases this motivation was commendable and its beneficiary a worthy one, the Bill of Rights serving as a prime example. But while the rights of a citizen in a democracy are fundamental and basic, policy of any kind is not, whether one speaks of fiscal policy, foreign policy or penal policy. Policy must often change. Sometimes it must change suddenly or drastically. What works well today may not work well tomorrow. Thus it is best not to write policy of any kind into statements of fundamental or basic law. Rather leave policy to the policy-makers, in the case of corrections to the governor, the legislature, and most importantly, to the penologists. For if it is unwise to write finite definitions of policy into constitutions, it is hardly any wiser to put the policy-makers themselves into a constitution, unless it is your desire to check and circumscribe their actions beyond reasonable limits.

Corrections is a tough, frustrating and often thankless profession. But it is a profession, and one, moreover, in the process of transition and

increased specialization. Constitutional guidelines and restraints, however apparently reasonable and well-meaning at present, may well impede rather than further penal reform in Louisiana, and for this reason I again urge that penal reform generally and the Department of Corrections in particular be left out of the Constitution.

*Respectfully,  
Walter J. Colleton  
L-SUBB, Dept. of History*

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To provide a constitutional definition for the term "corp-  
6 oration".  
7 PROPOSED SECTION:  
8 Article \_\_\_\_\_, Section \_\_\_\_\_. Definition of corporation  
9 The term "corporation," as used in this constitution,  
10 shall include all joint stock companies or associations  
11 having any power or privilege not possessed by individuals  
12 or partnerships.  
13  
14 Source: La. Const., Art. XIII, § 8 (1921).  
15  
16 Comment: Defines "corporation" as a joint stock association  
17 having powers or privileges not possessed by individuals or  
18 partnerships.

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To prohibit perpetual franchises or privileges.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_\_, Section \_\_\_\_\_. Perpetual franchises or  
8 privileges  
9 Perpetual franchises or privileges shall not be granted  
10 to any person or corporation by the state, or by any politi-  
11 cal subdivision thereof. The legislature may, by general  
12 law, authorize the organization of corporations for per-  
13 petual or indefinite duration; provided that every corpora-  
14 tion shall be subject to dissolution or forfeiture of its  
15 charter or franchise, as may be prescribed by law.  
16  
17 Source: La. Const., Art. XIII, § 7 (1921).  
18  
19 Comment: Prohibits the grant of perpetual franchises or  
20 privileges to any person or corporation.

3

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by  
 4 A PROPOSAL  
 5 For the creation and regulation of corporations by general  
 6 laws and for the prohibition of monopolies.  
 7 PROPOSED SECTION:  
 8 Article \_\_\_\_, Section \_\_\_\_\_. Creation and regulation of  
 9 corporations; monopolies  
 10 The legislature shall enact general laws for the crea-  
 11 tion and regulation of corporations and for the prohibition  
 12 of monopolies; and shall provide also for the protection of  
 13 the public; and of the individual stockholders.  
 14  
 15 Source: La. Const., Art. XIII, § 5 (1921).  
 16  
 17 Comment: Directs the legislature to enact general laws for  
 18 the creation and regulation of corporations and the  
 19 prohibition of monopolies.

4

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by  
 4 A PROPOSAL  
 5 To prohibit monopolies, trusts, and conspiracies  
 6 in restraint of trade.  
 7 PROPOSED SECTION:  
 8 Article \_\_\_\_, Section \_\_\_\_\_. Monopolies, trusts,  
 9 combinations or conspiracies in trade  
 10 It shall be unlawful for persons or corpora-  
 11 tions, or their legal representatives, to combine  
 12 or conspire together, or to unite or pool their  
 13 interests for the purpose of forcing up or down  
 14 the price of any agricultural or manufactured pro-  
 15 duct or article of necessity, for speculative pur-  
 16 poses, and all combinations, trusts, or conspiracies  
 17 in restraint of trade, commerce or business, as well  
 18 as all monopolies or combinations to monopolize  
 19 trade, commerce or business, are hereby prohibited  
 20 in the State of Louisiana, and it shall be the duty  
 21 of the attorney general, of his own motion, or any  
 22 district attorney of the state, when so directed  
 23 by the governor or the attorney general, to enforce  
 24 this provision, by the injunction or other legal  
 25 proceedings, in the name of the State of Louisiana,  
 26 and particularly by suits for the forfeiture of the  
 27 charters of offending corporations, incorporated  
 28 under the laws of the State of Louisiana, and for the  
 29 ouster from the state of foreign corporations. Pro-  
 30 vided, however, that nothing herein contained shall  
 31 prevent the legislature from providing additional

32 remedies for the enforcement of this Section.  
 33  
 34 Source: La. Const., Art. XIV, § 14 (1921).  
 35  
 36 Comment: Prohibits monopolies, trusts, and conspiracies  
 37 in restraint of trade and authorizes the attorney  
 38 general and district attorneys to enforce through  
 39 legal proceedings.

5

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by  
 4 A PROPOSAL  
 5 To prohibit ex-post facto laws, and laws impairing  
 6 contracts and divesting vested interests.  
 7 PROPOSED SECTION:  
 8 Article \_\_\_\_, Section \_\_\_\_\_. Ex-post facto laws;  
 9 impairment of contracts; vested rights; just  
 10 compensation  
 11 No ex-post facto law, nor any law impairing  
 12 the obligation of contracts, shall be passed; nor  
 13 shall vested rights be divested, unless for purposes  
 14 of public utility and for just and adequate com-  
 15 pensation previously paid.  
 16  
 17 Source: La. Const., Art. IV, § 15 (1921).  
 18  
 19 Comment: Prohibits ex-post facto laws, laws im-  
 20 pairing contracts, and laws divesting vested  
 21 interests except for purposes of public utility  
 22 and with just compensation.

6

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by  
 4 A PROPOSAL  
 5 To require the approval of two-thirds of the membership  
 6 of both houses of the legislature to levy a state  
 7 tax or increase an existing tax.  
 8 PROPOSED SECTIONS:  
 9 Article \_\_\_\_, Section \_\_\_\_\_. State tax, levy or increase  
 10 in rate; approval by two-thirds of legislature.  
 11 Notwithstanding any provisions elsewhere contained in  
 12 this constitution to the contrary, and in connection with  
 13 the authority granted the Legislature in Section 1 of this  
 14 Article, no state tax shall hereafter be levied nor shall  
 15 the rate or the measure of any state tax now imposed be  
 16 hereafter increased by the Legislature at any regular or  
 17 special session of the legislature except upon the  
 18 approval thereof by two-thirds of the members elected to  
 19 each house of the legislature, evidenced by a recorded

20 vote.  
21  
22 Source: La. Const., Art. X, § 1a (1921).  
23  
24 Comment: Requires a two-thirds vote of the membership  
25 of both houses of the legislature to levy a state  
26 tax or increase an existing tax.

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 For the adoption of conference reports and amendments  
6 on new or increased tax levies.  
7 PROPOSED SECTION:  
8 Article \_\_\_\_\_, Section \_\_\_\_\_. Tax measures; amendments;  
9 conference committee reports; vote required  
10 Notwithstanding any provisions elsewhere contained  
11 in this constitution to the contrary, no amendment to  
12 any bill or measure levying or proposing to levy new  
13 state taxes or increasing the rate of any state tax now  
14 or hereafter imposed, made by one house shall be concurred  
15 in by the other, nor shall reports of committees of con-  
16 ference on any such bills or measures be adopted in  
17 either house, except by two-thirds of the members elected  
18 thereto, the vote to be taken by yeas and nays and the  
19 names of those voting for or against to be recorded in  
20 the journal.

22 Source: La. Const., Art. III, § 25.1 (1921).  
23  
24 Comment: Requires a two-thirds vote of the membership  
25 on one house of the legislature to concur in  
26 amendments of the other house which levy or increase  
27 state taxes; requires a two-thirds vote in both  
28 houses of the legislature to adopt a conference  
29 report levying or increasing a state tax.

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To provide industrial tax exemptions for new or expanding  
6 industries and to require that those industries use  
7 Louisiana suppliers, contractors, and labor where  
8 possible.  
9 PROPOSED SECTION:  
10 Article \_\_\_\_\_, Section \_\_\_\_\_. Industrial tax exemptions  
11 The State Board of Commerce and Industry, with the  
12 approval of the governor, may enter into contracts for the  
13 exemption of any new manufacturing establishment or an addi-

14 tion or additions to any manufacturing establishment already  
15 existing in the state upon such terms and conditions as the  
16 board, with the approval of the governor, may deem to be to  
17 the best interest of the state. The terms "manufacturing  
18 establishment" and "addition or additions" as used in this  
19 paragraph mean a new plant or establishment or an addition  
20 or additions to any existing plant or establishment which  
21 engages in the business of working raw materials into wares  
22 suitable for use or which gives new shapes, new qualities  
23 or new combinations to matter which already has gone through  
24 some artificial process. No exemption shall be contracted  
25 for any new manufacturing establishment in any locality where  
26 there is a manufacturing establishment actually engaged in  
27 the manufacture of the same or closely competitive articles  
28 without the written consent of the owner of such existing  
29 manufacturing establishment to be attached to and identified  
30 with the contract of exemption. Exemptions shall be contingent  
31 upon said industry utilizing Louisiana suppliers, contractors,  
32 and labor where possible to do so without <sup>substantial</sup> added expense ~~or~~ <sup>or</sup>  
33 ~~substantial~~ inconvenience or sacrifice in operational efficiency.  
34 No exemption from taxes shall be granted under the authority  
35 of this paragraph for a longer initial period than five cal-  
36 endar years from the date of the execution of the contract of  
37 exemption or five calendar years from the date of the comple-  
1 tion of the construction as described in the contract for tax  
2 exemption, the commencement of the exemption upon either of  
3 such dates to be specified in the contract at the discretion  
4 of the State Board of Commerce and Industry and subject to  
5 approval by the governor. Upon application within ninety  
6 (90) days before the expiration of the initial period of  
7 five (5) years, and upon proper showing of a full compliance  
8 with the contract of exemption by the contractee, any exemp-  
9 tion granted under the authority of this subsection shall be  
10 renewed for an additional period of five (5) calendar years.  
11 Any such exemption shall ipso facto cease upon violation of  
12 the terms and conditions of the contract which granted the  
13 same. All property exempted, in accordance with the pro-  
14 visions of the paragraph shall be listed on the assessment  
15 rolls and submitted to the Louisiana Tax Commission, but no  
16 taxes shall be collected thereon during the period of exemp-  
17 tion. On January first following the expiration of any con-  
18 tract of exemption entered into under this paragraph, and for  
19 each year thereafter, all property exempted by any such con-  
20 tract shall be listed on the assessment rolls and shall be  
21 assessed at the end of the tax exemption period at not more  
22 than the average assessment ratio on all other property assessed  
23 by the assessor in the parish in which the property is located.  
24 To determine the assessment ratio of locally assessed prop-  
25 erty, the Louisiana Tax Commission shall annually determine  
26 in each parish the assessed value of all locally assessed  
27 property in relation to actual value. All taxes imposed upon  
28 such property shall be collected in the manner provided by law.  
29

30 Source: ~~New~~.  
31  
32 Comment: Authorizes industrial tax exemptions to new and ex-  
33 panding industries providing those industries use Louisiana  
34 suppliers, contractors, and labor where possible. See  
35 La. Const., Art. X, § 4, Para. 10 (1921).

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For municipal and parochial industrial tax exemptions.

6 PROPOSED SECTION:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. New industries; exemption  
8 from municipal and parochial taxation; school tax  
9 exemption

10 Any municipality and any parish, respectively, may  
11 exempt a new industry or industries hereafter established  
12 therein, or an addition hereafter established to any industry  
13 or industries already existing therein, from the payment of  
14 any or all general municipal, and any or all general parochial  
15 taxes and any or all special taxes levied by such municipality  
16 or by such parish, or by any political taxing authority or  
17 subdivision in either such municipality or parish; provided,  
18 that no exemption whatever shall be granted from school taxes;  
19 provided, further, the question of granting such exemption to  
20 each such new industry or to each such addition or additions  
21 to any industry already established, and the length of time  
22 such exemption shall continue, be previously submitted to the  
23 resident property taxpayer qualified to vote in the municipal-  
24 ity or in the parish, wherein such exemption is sought to be  
25 granted, at any election called for that purpose, and a  
26 majority of those voting, in number and amount, do vote in  
27 favor thereof; provided, further, before such election may  
28 be called, any existing similar and directly competing in-  
29 dustry situated within such municipality or parish shall  
30 have first filed a written consent to such exemption, with  
31 the governing authority of such municipality or parish;  
32 provided, further, no exemption from such taxes shall be  
33 granted hereunder for a period longer than ten (10) years  
34 from the date on which the property so affected would be  
35 placed on the assessment rolls for the year when such ex-  
36 emption is first exercised and enjoyed; provided, further,  
37 in a municipality, such election shall be called and held by  
1 the governing authority and in a parish, such election shall  
2 be called and held by the police jury or the governing author-  
3 ity and in a parish, such election shall be called and held by  
4 the police jury or the governing authority, if there be no  
5 police jury. Such elections shall be called and held under  
6 existing laws providing for the calling and holding of elections  
7 to decide the question of incurring debt, issuing bonds, and  
8 levying special taxes. Any exemption granted, as herein author-  
9 ized, shall not apply to any property assessed at the time the

10 exemption is granted, and no such new industry or addition to  
11 existing industry shall be granted an exemption more than one  
12 time, except as hereafter provided. Notwithstanding anything  
13 hereinabove contained, any exemption heretofore granted to any  
14 industry or addition to industry pursuant to the provisions of  
15 this section prior to the amendment thereof as embodied herein,  
16 which exemption has not been exercised and enjoyed for a period  
17 of five years, to be established by the fact that the property  
18 covered by said exemption has not been theretofore placed on  
19 the assessment rolls at the date of the adoption of this amend-  
20 ment, may be extended by the municipality or parish which granted  
21 the exemption, provided, said extension of said exemption be  
22 first approved at an election, called and held in the same  
23 manner as hereinabove prescribed for the granting of the origin-  
24 al exemption, but the total exemption period shall not exceed a  
25 period of ten (10) years from the date on which the property so  
26 affected would have been placed on the assessment rolls for the  
27 year when the original exemption was first exercised and enjoyed.  
28 This section shall be self-operative, without any enabling act.  
29 The legislature may by special law provide for the calling and  
30 holding of elections authorized under this section.

31  
32 Source: La. Const., Art. X, § 22 (1921)

33  
34 Comment: Authorizes municipal and parochial governments to grant  
35 tax exemptions to new or expanding industries provided that  
36 no exemption be allowed from the payment of school taxes and  
37 no exemption be awarded without the approval of resident  
38 taxpayers.

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide tax exemptions to exports held in public storage  
6 awaiting shipment.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Raw materials, goods, commod-  
9 ities, and other articles held in public storage for  
10 export outside the continental United States

11 The following property shall be exempt from taxation:  
12 All raw materials, goods, commodities and other articles  
13 being held upon the public property of a port authority or  
14 docks of any common carrier or in a warehouse, grain ele-  
15 vator, dock, wharf or public storage facility in this state  
16 for export to a point outside the continental United States.  
17 All such property entitled to exemption shall be re-  
18 ported to the proper taxing authority on the forms required  
19 by law.

20  
21 Source: La. Const., Art. X, § 4, para. 19(b) (1921).



23 Comment: Provides property tax exemptions for articles in  
24 public storage awaiting export from the continental  
25 United States.

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide property tax exemptions to imports in transit  
6 or in storage.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Imports

9 The following property shall be exempt from taxation:

10 All raw materials, goods, commodities and articles imported  
11 into this state from outside of the continental United States:

12 (1) so long as such imports remain upon the public prop-  
13 erty of the port authority or docks of any common carrier  
14 where such imports first entered this state, or

15 (2) so long as any such imports (other than minerals  
16 and ores of the same kind as any mined or produced in this  
17 state and manufactured articles) are held in this state in  
18 the original form in bales, sacks, barrels, boxes, cartons,  
19 containers or other original packages, and raw materials held  
20 in bulk as all or a part of the new material inventory of  
21 manufacturers or processors, solely for manufacturing or  
22 processing, or

23 (3) so long as any such imports are held by an importer  
24 in any public or private storage in the original form in bales,  
25 sacks, barrels, boxes, cartons, containers or other original  
26 packages and agricultural products in bulk. This shall not  
27 apply to a retail merchant holding such imports as part of his  
28 stock in trade for sale at retail.

29 All such property whether entitled to exemption or not  
30 shall be reported to the proper taxing authority on the forms  
31 required by law.

32  
33 Source: La. Const., Art. X, § 4, Para. 19(a) (1921).

34  
35 Comment: Provides property tax exemptions to imports so long  
36 as they remain in transit or in storage in original form.

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1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide property tax exemptions to goods in public or  
6 private storage awaiting interstate shipment.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Goods, commodities, and personal  
9 property in interstate transit

10 The following property shall be exempt from taxation:

11 All goods, commodities and personal property in public or  
12 private storage while in transit through this state which  
13 is (i) moving in interstate commerce through or over the  
14 territory of the State of Louisiana, or (ii) which is in  
15 public or private storage within the State of Louisiana  
16 having been shipped thereto from outside of the State of  
17 Louisiana for storage in transit to a final destination  
18 outside of the State of Louisiana, whether such destination  
19 was specified when transportation begins or afterward. All  
20 such property whether entitled to exemption or not shall be  
21 reported to the proper taxing authority on the forms required  
22 by law.

23  
24 Source: La. Const., Art. X, § 4, para. 19(c) (1921).

25  
26 Comment: Provides property tax exemptions for goods in  
27 interstate transit.

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide property tax exemptions for nonprofit corpora-  
6 tions devoted to the promotion of trade, travel, and  
7 commerce.

8 PROPOSED SECTION:

9 Article \_\_\_\_\_, Section \_\_\_\_\_. Property of nonprofit corp-  
10 oration devoted to promotion of trade, travel and  
11 commerce

12 The following property shall be exempt from taxation:  
13 All property devoted to the development and promotion of  
14 trade, travel, commerce and understanding between the peo-  
15 ples of the United States of America, and particularly of  
16 the Mississippi Valley Section, with the peoples of the  
17 other countries of the world, particularly the other  
18 American Republics, and owned by nonprofit corporations  
19 organized under the laws of the State of Louisiana for such  
20 purposes and having assets devoted to such purposes of not  
21 less than \$250,000.00.

22  
23 Source: La. Const., Art. X, §4, para. 18 (1921)

24  
25 Comment: Provides property tax exemptions for nonprofit  
26 corporations devoted to the promotion of trade, travel,  
27 and commerce.

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide tax relief for manufacturing establishments  
6 using gas.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Tax relief for manufacturing  
9 establishments

10 (a) It is recognized as essential to the continued  
11 growth and development of the state of Louisiana and to the  
12 continued prosperity and welfare of its people that a pro-  
13 gram of tax relief for certain manufacturing industries be  
14 enacted and promoted. It is in recognition of this vital  
15 need that this Section is adopted as part of the Constitu-  
16 tion of this state.

17 (b) The legislature shall have authority to enact legis-  
18 lation allowing to every person who operates a manufacturing  
19 establishment, as defined by the legislature, in the state  
20 of Louisiana, a direct credit against any tax or combination  
21 of taxes owed by such person to the state of Louisiana, or  
22 any parish, municipality, political subdivision or any other  
23 taxing authority of the state, the amount of which credit  
24 shall be proportioned to the amount of gas used in Louisiana  
25 by such person, in the operation and maintenance of the manu-  
26 facturing establishment and which shall be at such rates and  
27 during such periods of time as the legislature shall determine.  
28 The laws enacted pursuant hereto may embrace all or any part  
29 of the authority granted herein and may provide, at the dis-  
30 cretion of the legislature, that a manufacturing establishment  
31 shall use a minimum amount of gas before being entitled to the  
32 credit.

33 (c) Legislation adopted pursuant to this Section may pro-  
34 vide for issuance of tax credit warrants executed by the col-  
35 lector of revenue or other state official designated by the  
36 legislature, which warrants shall be payable out of a special  
37 fund designated by the legislature for that purpose, to be

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1 known as the Industrial Development Fund. The tax credit  
2 warrants issued pursuant hereto and to laws enacted under  
3 this authority shall be obligations of the state of Louisiana.

4 (d) The legislature may dedicate a portion of any tax  
5 or taxes for the purpose of establishing and maintaining the  
6 Industrial Development Fund, provided that no such dedication  
7 shall infringe on any dedications allowed by other Sections  
8 of this Constitution.

9 (e) If any provision or item of this Section or the  
10 application thereof is held invalid, such invalidity shall  
11 not affect other provisions, items or applications of this  
12 Section which can be given effect without the invalid provi-  
13 sions, items or applications, and to this end the provisions  
14 of this Section are hereby declared severable.

15 Source: La. Const., Art. X, § 24 (1921).

16 Comment: Authorizes the legislature to provide tax relief  
17  
18 to manufacturing establishments in proportion to the  
19 amount of gas used by those establishments.  
20

15

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For severance taxes on natural resources.

6 PROPOSED SECTIONS:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. Severance tax on natural re-  
8 sources; levy; rate; allocation to parishes

9 Taxes may be levied on natural resources severed from  
10 the soil or water, to be paid proportionately by the owners  
11 thereof at the time of severance; but such tax on sulphur,  
12 shall not exceed One Dollar and Three Cents (\$1.03) per  
13 long ton of 2,240 pounds, provided that the present sever-  
14 ance tax on sulphur shall be, and is, hereby fixed at One  
15 Dollar and Three Cents (\$1.03) per long ton of 2,240 pounds,  
16 effective as of the twentieth day after the present legisla-  
17 ture shall have adjourned, and shall be collected and expended  
18 in accordance with existing laws for the collection of  
19 severance taxes on natural resources. Such natural resources  
20 may be classified for the purpose of taxation and such taxes  
21 may be predicated upon either the quantity or value of the  
22 products at the time and place of severance. No severance  
23 tax shall be levied by any parish or other local subdivision  
24 of the state.

25 No further or additional tax or license shall be levied  
26 or imposed upon oil, gas or sulphur leases or right, nor shall  
27 any additional value be added to the assessment of land, by  
28 reason of the presence of oil, gas or sulphur therein or  
29 their production therefrom. Provided, that until the legis-  
30 lature shall have enacted laws carrying into effect the pro-  
31 visions of this section, all existing laws relating to  
32 severance taxes or licenses, and to the assessment and tax-  
33 ation of land producing oil or gas, shall be and remain in  
34 full force and effect. Provided, that sulphur in place shall  
35 be assessed for ad valorem taxation to the person, firm or  
36 corporation having the right to mine or produce the same  
37 in the parish where located, at no more than twice the total

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1 assessed value of the physical property subject to taxation  
2 excluding the assessed value of sulphur above ground, in  
3 such parish as is used in sulphur operations. Notwithstand-  
4 ing any legislative appropriation heretofore made, or any  
5 allocation in the constitution made, the legislature shall  
6 allocate to the parish from within which such tax is col-  
7 lected, not less than one-third of the amount of severance  
8 tax collected on sulphur not to exceed One Hundred Thousand  
9 (\$100,000.00) Dollars to any parish in any one year and not  
10 less than one-fifth of the amount of the severance tax on  
11 oil, gas or other minerals or any natural resources severed  
12 from the soil or water, collected therein; provided that  
13 the total aggregate amount thus allocated shall not exceed

14 Two Hundred Thousand (\$200,000.00) Dollars to any parish  
15 for any one year.

16 The legislature shall provide for the distribution of  
17 the funds allocated to the parishes under this provision  
18 among the governing authorities of such parishes as have  
19 jurisdiction over the territory from within which such re-  
20 sources are severed and the tax collected.

21 Nothing hereinabove contained shall alter or change  
22 any other existing laws now in force, fixing and regulating  
23 taxes on natural resources.

24  
25 Article \_\_\_\_\_, Section \_\_\_\_\_. Forestry Commission Allocation

26 Notwithstanding any provision of the first paragraph of  
27 this section, as amended, there is hereby dedicated and allo-  
28 cated to the Louisiana Forestry Commission, for use by it in  
29 the interests of reforestation and scientific forestry re-  
30 search in the State of Louisiana, all severance taxes on all  
31 forms of timber (including pulp wood), turpentine and other  
32 forest products; and no part of the amount of the severance  
33 taxes on timber (including pulp wood), turpentine and other  
34 forest products shall be allocated to any parish from within  
35 which such tax on timber (including pulp wood), turpentine  
36 and other forest products is collected. Any provision of  
37 this constitution, and particularly of the first paragraph

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1 of Section 21 of Article X, as amended, and of any law of  
2 this state insofar as they are in conflict with this para-  
3 graph is hereby repealed. This paragraph shall be self-  
4 operative and shall be given full force and effect without  
5 further legislation. Nothing contained in this paragraph  
6 shall be held to repeal the provisions of any law levying  
7 taxes on natural resources severed from the soil or water  
8 except in such respects as the same conflicts with the  
9 provisions of this paragraph. The provisions of this para-  
10 graph shall take effect on

11  
12 Source: La. Const., Art. 10, § 21 (1921)

13  
14 Comment: Provides formula for levying and distributing  
15 taxes on natural resources severed from the soil or  
16 water and dictates that no additional tax or increased  
17 assessment shall be placed on oil, gas, and sulphur  
18 leases; dedicates severance tax on forest products to  
19 Louisiana Forestry Commission.

16  
1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To permit parishes to create industrial areas.

6 PROPOSED SECTION:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. Parish industrial areas

8 The legislature is authorized to permit all parishes  
9 to create industrial areas within their boundaries in ac-  
10 cordance with such procedure and subject to such regula-  
11 tions as the legislature shall decide upon. Parish in-  
12 dustrial areas shall not be subdivisions of the state. All  
13 industrial areas so created hereafter shall include pro-  
14 visions for access by public road to any and all entrances  
15 to the premises of each and every plant in such area which  
16 entrances are provided for use by employees of such company,  
17 or for use by employees of independent contractors working  
18 on such premises, or for delivery of materials or supplies,  
19 other than by rail or water transportation, to such premises.  
20 Where individual plants provide police protection this pro-  
21 tection shall be confined to the premises of each individual  
22 plant located in the area.

23  
24 Source: La. Const., Art. XIV, § 29.1 (1921).

25  
26 Comment: Authorizes legislature to permit parishes to create  
27 industrial areas within their boundaries provided the  
28 areas include public road access and limit police pro-  
29 tection to the confines of the industrial plant.

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To permit local governing bodies to issue bonds to acquire  
6 industrial plants or plant sites.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Encouragement of industrial  
9 enterprises; bonds to acquire plant sites

10 Any parish, ward or municipality of this state, in order  
11 to encourage the location of or addition to industrial enter-  
12 prises therein may incur debt and issue negotiable bonds under  
13 the provisions of paragraph (a) of this section of the consti-  
14 tution and in accordance with the provisions of the existing  
15 laws relating to incurring debt and issuing bonds, and use  
16 such funds derived from sale of such bonds, which shall not  
17 be sold for less than par, or bear a greater rate of interest  
18 than six per centum per annum payable annually or semiannually  
19 to acquire industrial plant sites and other necessary property  
20 or appurtenances for and to acquire or construct industrial  
21 plant buildings located within such parish, ward or municipality,  
22 as the case may be, and may sell, lease, or otherwise dispose  
23 of, by suitable and appropriate contract, to any enterprise  
24 locating or existing within such parish, ward or municipality,  
25 a plant site, appurtenances and plant building, or buildings, either  
26 both or severally; provided that bonds so issued shall not  
27 exceed in the aggregate twenty per centum of the assessed  
28 evaluation of the taxable property of such parish, ward, or

29 municipality to be ascertained by the last assessment for the  
30 parish, ward, or municipality of local purposes previous to  
31 incurring such indebtedness, nor shall such bonds run for a  
32 longer period than twenty-five years from date thereof; pro-  
33 vided further that any income or revenue accruing to such parish,  
34 ward, or municipality from such contracts shall be deposited in  
35 the sinking fund dedicated to the payment of any debt incurred  
36 herein; provided further, that before the calling and holding  
37 of an election to incur debt and issue bonds for such purpose,

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1 any existing similar and directly competing industry situated  
2 within such parish, ward or municipality, as the case may be,  
3 shall have first filed with the governing authority calling  
4 such election a written consent to the incurring of debt and  
5 issuing of bonds for such purpose of encouraging the location  
6 therein of such industrial enterprise; provided further, that  
7 before calling an election to vote on incurring debt and  
8 issuing bonds to carry out any plan to encourage the location  
9 of or additions to industrial enterprise, the State Bond and  
10 Tax Board and Board of Commerce and Industry or their succes-  
11 sors in function, shall certify their approval of any proposed  
12 contract between such parish, ward or municipality and indust-  
13 rial enterprise to be aided, encouraged or benefited; provided  
14 further, that a municipality may incur debt, issue negotiable  
15 bonds and use such funds derived from the sale of such bonds  
16 under the provisions of this paragraph to encourage the loca-  
17 tion of or addition to industrial enterprises in an adjoin-  
18 ing area or area outside the corporate limits of such munici-  
19 pality but within the parish in which such municipality is  
20 located; provided further, that the authority conferred here-  
21 in on parishes, wards and municipalities shall apply with the  
22 same provisions to legally constituted industrial districts  
23 hereafter created which are hereby authorized to be created  
24 by the governing authorities of the parishes of the state.  
25 Such districts may comprise an entire ward, a combination of  
26 or parts of parishes, wards, or municipalities, either, both  
27 or severally; provided, however, that no municipality may be  
28 included in any industrial district without the consent of the  
29 governing body of such municipality to be evidenced by a resol-  
30 ution duly and properly adopted by such governing body. Said  
31 industrial districts shall be political and legal subdivisions  
32 of the State of Louisiana, with full power to sue and be sued  
33 in their corporate names, to incur debt and to contract obli-  
34 gations, to have a corporate seal, and to do and perform all  
35 acts in their corporate capacity and in their corporate names  
36 necessary and proper to carry out the purposes of this paragraph.  
37 Each such industrial district shall be given a name at the time

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1 of its creation which shall include the words "industrial  
2 district" and shall have as its governing authority the

3 governing authority of the parish creating it and the parish  
4 treasurer shall be the treasurer of the district.

5 For the purposes set forth in this section and para-  
6 graph, and particularly but not exclusively for the purpose  
7 of issuing bonds hereunder, the governing authorities of  
8 wards shall be the governing bodies of the parishes in which  
9 the wards are located.

10 Said bonds shall be sold to the highest bidder, at a  
11 public sale, for not less than par and interest, after ad-  
12 vertisement at least once a week, for not less than thirty  
13 days by said Public Body, reserving to said Public Body  
14 the right to reject any and all bids.

15 In the event the Public Body rejects all bids, it shall  
16 have the right to readvertise for new bids or to negotiate  
17 publicly with the bidding groups, and to sell the bonds on  
18 terms more advantageous than the best bid submitted.

19 In the event that no bids are submitted, the Public  
20 Body shall have the right to sell the bonds on the best terms  
21 it can publicly negotiate, or to readvertise for new bids  
22 as provided herein.

23 This entire paragraph shall be self-operative, without  
24 any enabling Act.

25  
26 Source: La. Const., Art. 14, § 14(b.2) (1921).

27  
28 Comment: Permits local governing bodies, with the approval  
29 of resident taxpayers, to issue bonds or incur debts to  
30 acquire industrial plants or plant sites for sale or  
31 lease to any enterprise locating in their parish.

18  
1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To prohibit local or special laws regulating labor,  
6 trade, manufacturing, or agriculture.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Limitations on the  
9 legislature

10 The legislature shall not pass any local or  
11 special laws on the following specified subjects:

12 Regulating labor, trade, manufac-  
13 turing, or agriculture, or *commerce*.

14  
15 Source: La. Const., Art. IV, § 4 (1921).

16  
17 Comment: Prohibits local or special laws regulating  
18 labor, trade, manufacturing, or agriculture.

19  
1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by  
4 A PROPOSAL  
5 To provide for the settlement of disagreements through  
6 arbitration.  
7 PROPOSED SECTION:  
8 Article \_\_\_\_, Section \_\_\_\_\_. Arbitration laws  
9 The legislature shall pass such laws as may be proper  
10 and necessary to decide differences, with the consent of  
11 the parties, by arbitration.  
12  
13 Source: La. Const., Art. III, § 36 (1921).  
14  
15 Comment: Directs the legislature to pass laws to provide  
16 for the settlement of disagreements by arbitration.

20

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To regulate hours and conditions of employment.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_, Section \_\_\_\_\_. Regulation of hours and con-  
8 ditions of employment  
9 The legislature may enact laws relative to the hours  
10 and conditions of employment.  
11  
12 Source: New.  
13  
14 Comment: Authorizes the legislature to regulate hours and  
15 conditions of employment. See La. Const., Art. IV, § 7  
16 (1921).

21

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To guarantee the right to organize and engage in collective  
6 bargaining.  
7 PROPOSED SECTION:  
8 Article \_\_\_\_, Section \_\_\_\_\_. Collective Bargaining  
9 Employees shall have the right to organize and to bar-  
10 gain collectively through representatives of their own choosing.  
11  
12 Source: New.  
13  
14 Comment: Guarantees employees the right to organize and to  
15 bargain collectively.

22

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER

3 Introduced by  
4 A PROPOSAL  
5 To provide a system of unemployment compensation.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_, Section \_\_\_\_\_. Unemployment Compensation  
8 The legislature may establish a system <sup>of</sup> economic  
9 security, <sup>to</sup> social welfare, <sup>to</sup> which may provide for the <sup>to</sup> ~~the~~  
10 following: ~~A system of unemployment compensation.~~  
11  
12 Source: La. Const., Art. XVIII, § 7 (1921).  
13  
14 Comment: Authorizes the legislature to establish a system  
15 of economic security and social welfare, including a  
16 system of unemployment compensation.

23

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To provide a system of unemployment compensation.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_, Section \_\_\_\_\_. Unemployment compensation  
8 The legislature may establish a system of unemployment  
9 compensation.  
10  
11 Source: New.  
12  
13 Comment: Authorizes the legislature to establish a system  
14 of unemployment compensation. See La. Const., Art.  
15 XVIII, § 7 (1921).

24

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To prohibit the leasing of convicts except on public projects  
6 as authorized by the legislature.  
7 PROPOSED SECTION:  
8 Article \_\_\_\_, Section \_\_\_\_\_. Convict labor  
9 The Legislature may authorize the employment under State  
10 supervision and the proper officers and employees of the State,  
11 of convicts on public roads or other public works, or convict  
12 farms, or in manufactories owned or controlled by the State,  
13 under such provisions and restrictions as may be imposed by  
14 law, and shall enact laws necessary to carry these provisions  
15 into effect; and no convict sentenced to the State penitentiary  
16 shall ever be leased, or hired to any person or persons, or  
17 corporation, private or public, or quasi-public, or board,  
18 save as herein authorized.  
19

20 Source: La. Const., Art. IV, § 33 (1921).  
21  
22 Comment: Prohibits the leasing of convicts except on public  
23 projects as authorized by the legislature.

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To prohibit the leasing of convicts except on public pro-  
6 jects as authorized by the legislature.  
7 PROPOSED SECTION:  
8 Article \_\_\_\_\_, Section \_\_\_\_\_. Convict labor  
9 A convict sentenced to the state penitentiary shall  
10 not be leased or hired, except as herein authorized. The  
11 legislature may authorize the employment of convicts on  
12 public roads or other public works or convict farms or in  
13 manufactories owned or controlled by the state under super-  
14 vision of the proper officers and employees of the state and  
15 under such other provisions and restrictions as may be im-  
16 posed by law.  
17  
18 Source: Projet of a Constitution for the State of Louisiana,  
19 Art. IV, § 22.  
20  
21 Comment: Prohibits the leasing of convicts except on public  
22 projects as authorized by the legislature.

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To prohibit the leasing of convicts and the employment of  
6 convicts in competition with private enterprise.  
7 PROPOSED SECTION:  
8 Article \_\_\_\_\_, Section \_\_\_\_\_. Convict labor  
9 No convict sentenced to the state penitentiary shall  
10 ever be leased, or hired to any person or persons, or corp-  
11 oration, private or public, or quasi-public. No convict  
12 sentenced to the state penitentiary shall ever be employed  
13 in any enterprise in competition with private enterprise.  
14  
15 Source: New.  
16  
17 Comment: Prohibits the leasing of convicts and the employment  
18 of convicts in competition with private enterprise. See  
19 La. Const., Art. IV, § 33 (1921).

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1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER

3 Introduced by  
4 A PROPOSAL  
5 For the administration of health, social, and welfare programs.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_\_, Section \_\_\_\_\_. Administration of health, social,  
8 and welfare programs  
9 An agency in the executive branch of state government  
10 is hereby created, to be administered by a commissioner  
11 appointed by the governor, exclusively charged with the  
12 operation of the public institutions and with the adminis-  
13 tration and implementation of laws and regulations pertaining  
14 to public health, health units, sanitation, occupational  
15 health, environment and pollution, public health education,  
16 mental health, mental retardation, rehabilitation, public  
17 welfare and financial assistance, food and drugs, vital and  
18 medical statistics and records, geriatrics, aging and hospitals.  
19 The governor shall appoint a deputy and the heads of the various  
20 departments upon recommendation of the commissioner. The head  
21 of the department administering public health shall be a  
22 physician known as the state health officer.  
23  
24 Source: New  
25  
26 Comment: Provides for the administration of health, social,  
27 and welfare programs by a commissioner appointed by the  
28 governor; provides that the state health officer shall  
29 be a physician. See La. RS 46:1751.

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 To provide for public health and welfare.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_\_, Section \_\_\_\_\_. Public health and welfare  
8 The legislature may provide for the public health and  
9 general welfare of the people.  
10  
11 Source: New.  
12  
13 Comment: Authorizes the legislature to provide for the  
14 public health and general welfare of the people.

1 Constitutional Convention of Louisiana of 1973  
2 Committee Proposal Number  
3 Introduced by  
4 A PROPOSAL  
5 To establish a State Civil Service System.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_\_, Section \_\_\_\_\_. State Commission  
8 There is hereby created a State Civil Service Commission  
9 to be composed of seven members, with terms of six years, who are

10 electors of this state, four of whom shall constitute a quorum.  
11 The members of the commission shall be appointed by the  
12 governor. One member shall be appointed by the governor with the  
13 consent of the Senate and shall be an employee of the classified  
14 service of state employment; the other six members shall be appoint-  
15 ed in accordance with the following procedure.

16 The presidents of Loyola University of New Orleans,  
17 Centenary College, Tulane University of Louisiana, Louisiana  
18 College, Louisiana State University of Baton Rouge, and Xavier  
19 University of New Orleans shall each nominate three persons, in  
20 the order of preference, and of each three persons so nominated the  
21 governor shall appoint one as a member of the commission.

22 Vacancies, by expiration of the term of office or other-  
23 wise, shall be filled by appointment in accordance with the procedure  
24 governing the original appointment, and from the same source. Upon  
25 the occurrence of a vacancy it shall be the duty of the president  
26 concerned to submit the required nominations within thirty days  
27 thereafter. The governor shall have thirty days after nominations  
28 have been submitted to make his appointments. Should the governor  
29 fail to appoint within the thirty days, the nominee whose name is  
30 first on the list of nominees shall automatically become a member  
31 of the commission.

32 The governor, within 30 days of the effective date of  
33 this section, shall appoint an employee of the classified service  
34 of state employment and shall request that the president of Xavier  
35 University of New Orleans nominate three persons in accordance with

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1 the procedure as established in Section \_\_\_\_ of this article and  
2 the governor shall appoint a member to the commission from the  
3 three nominees.

4 If for any reason nominations are not submitted to the  
5 governor by any of the college presidents herein named within the  
6 time herein designated, the vacancy on the commission for the  
7 term or the unexpired term resulting from such failure to nominate  
8 shall be filled by a majority vote of the other members of the  
9 Civil Service Commission.

10 No member of the State Civil Service Commission shall  
11 be removed except for just cause, after being served with written  
12 specifications of the charges against and after public hearing on  
13 such charges in the Nineteenth Judicial District Court.

14 Each person who on the effective date of this provision  
15 is a member of the State Civil Service Commission as constituted  
16 under the former Section 15 of Article XIV of <sup>the 1921</sup> ~~this~~ constitution  
17 shall continue in such position for the remainder of the term to  
18 which he was appointed.

19 Source: La. Const. Article XIV, § 15 (1921).

20 Comment: Provides for a commission of seven members, appointment  
21 by the governor of six members nominated by presidents of  
22 six colleges within the state, including the addition of  
23 Xavier University, and the appointment by the governor with  
24 the consent of the Senate of an employee from state employ-  
25 ment service.

3 Introduced by

4 A PROPOSAL

5 To provide permanent employment; certification and removal.

6 Article \_\_\_\_\_, Section \_\_\_\_\_. Permanent employment;  
7 certification; removal

8 Permanent appointments and promotions in the state  
9 classified civil service shall be made only after certification  
10 by the appropriate Civil Service Department under a general  
11 system based upon merit, efficiency, and fitness as ascertained  
12 by examinations which, so far as practical, shall be competitive,  
13 and all employees in the classified service shall be employed  
14 from those eligible under such certification. The commission  
15 shall adopt rules for the method of certification of persons  
16 eligible for appointment and promotion and shall provide for  
17 appointments defined as emergency and temporary appointments  
18 where certification is not required.

19 No person having gained permanent civil service status  
20 in the classified State Civil Service shall be subjected to  
21 disciplinary action except for just cause; nor shall any classi-  
22 fied employee be discriminated against by reason of his political  
23 or religious beliefs or by reason of race, sex, national origin,  
24 or any other non-merit factor. Any classified employee so dis-  
25 criminated against or subjected to such disciplinary action shall  
26 have the right of appeal to the State Civil Service Commission.  
27 The burden of proof on appeal, as to the facts, shall be on the  
28 employer.

29 Source: La. Const. Art XIV, § 15 (1921).

30 Comment: Provides for permanent employment status after certi-  
31 fication, under a system based upon merit, efficiency, and  
32 fitness determined by competitive examination where practical;  
33 provides for the commission to determine the method of certi-  
34 fication to be used and allows emergency and temporary  
35 appointment to be made without certification; prohibits  
removal as a disciplinary action except for just cause;  
and prohibits discrimination because of race, sex, national  
origin, political or religious beliefs; guarantees the right  
of appeal and places the burden of proof on the employer.

-2-

1 fication to be used and allows emergency and temporary  
2 appointment to be made without certification; prohibits  
3 removal as a disciplinary action except for just cause;  
4 and prohibits discrimination because of race, sex, national  
5 origin, political or religious beliefs; guarantees the right  
6 of appeal and places the burden of proof on the employer.

MINUTES

Subcommittee on Public Welfare of the  
Committee on Education and Welfare of  
the Constitutional Convention, 1973.  
Held pursuant to a notice mailed by  
the Secretary of the Convention.

Committee Room 205, State Capitol

May 7, 1973, 10:00 a.m.

Presiding: Anthony M. Rachal, Chairman

Present

Mr. Flory

Absent

Mr. Armentor

1 Constitutional Convention of Louisiana of 1973

2 Committee Proposal Number

30

Mr. Grier  
Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Miss Wisham

The meeting was called to order at 10:00 a.m. and a quorum was noted by the chairman.

The committee agreed to delay action on Article XIII, Sections 5, 7, and 8, and Article XIX, Section 14, until Mr. Martin, secretary of state, could give his observations as well as recommendations. It was pointed out that the Coordinating Committee recommended that the Committee on Legislative Powers and Functions review these provisions. At the May 4th and May 5th meetings, that committee recommended that Sections 2, 3, 5, and 8, of Article XIII be deleted. Article XIII, Section 7, is to be retained. Article XIX, Section 14 was deleted with the suggestion that much of the information pertaining to corporations is of a statutory nature. It is the committee's feeling that only the provision pertaining to "perpetual franchises" should be retained in the constitution.

The chairman, in reviewing the action of the previous meeting, noted that study proposals no. 6, 7, 16, and 17 were approved by the full committee including a recommendation that they be referred to the committees having jurisdiction by virtue of the Coordinating Committee's recommendation. The subcommittee's recommendations on the following proposals were approved: study proposal 18, Article IV, Section 4 and study proposal 19, Article III, Section 36, are to be retained. New proposals are to replace study proposal 22, Article XVIII, Section 7, and study proposal 26, Article III, Section 33.

Study proposal no. 8, Article X, Section 4, was deferred for two weeks to allow the Department of Commerce and Industry to compile information showing the impact of industrial tax exemptions.

Mr. Landry pointed out some of the problems associated with industries being tax exempt for ten years. A discussion followed. The chairman reminded the subcommittee members that action had been delayed on this subject.

Mr. Flory moved that when the subcommittee makes a report to the committee of the whole, we furnish a copy of each proposal we are asking them to reject or approve. The recommendation passed unanimously.

Mr. Lennox obtained a document from a representative of the Baton Rouge Chamber of Commerce quoting statistics on jobs provided by industry. A copy is attached hereto and made a part hereof.

2

Mr. Rachal brought up discussion of civil service, but Mr. Lennox pointed out that Mr. Flory had to leave at 1:00 p.m. and suggested delaying discussion until Mr. Flory could attend. Mr. Lennox also suggested adjourning at 1:00 p.m.

Discussion followed on study proposals no. 10, 11, and 12.

Mr. Lennox proposed that study proposal no. 12 be referred to the Revenue, Finance and Taxation Committee.

Mr. Flory made a motion to refer study proposals 10, 11, 12, and 13 to the Committee on Revenue, Finance, and Taxation indicating that representatives of business and industry appearing before the subcommittee requested that these provisions be reviewed and retained.

Mr. Hernandez moved that the subcommittee refer study proposal no. 15 to Revenue, Finance, and Taxation without recommendations.

The subcommittee decided to refer study proposal 17, Article XIV, Section 29.1, Parish Industrial Areas, and study proposal 17, Article XIV, Section 14 (b.2), Encouragement of Industrial Enterprises, to the Committee on Local and Parochial Government. The subcommittee recommends that that they be included in the proposed constitution.

There was a discussion on study proposal no. 20, Article IV, Section 7, concerning the elimination of the terms women and girls. Mr. Flory made a motion to insert the word "wages" after the second "the" on line nine and to strike the period on line 10 and add "for employees not engaged in interstate commerce." The new proposal would read: "The legislature may

3

enact laws relative to the wages, hours, and conditions of employment for employees not engaged in interstate commerce."

A roll call vote was requested by Mr. Hernandez.

<u>Yeas</u>	<u>Nays</u>
Mr. Flory	Mr. Hernandez
Mr. Landry	Mr. Lennox
Miss Wisham	Mr. Grier
Mr. Rachal	

Mr. Rachal had to vote to break the tie.

Mr. Hernandez indicated that he will submit a minority proposal on civil service with Mr. Lennox and Mr. Grier co-sponsoring the proposal.

The minutes from the last meeting will be acted upon at the next meeting.

The motion was made to adjourn at 1:15 p.m.

*Anthony M. Rachal*  
Chairman



1000 MARKET ST  
SUITE 201  
PATON ROUGE LA  
PHONE 344 2637

INDUSTRIAL INVESTMENT & COMMERCE & INDUSTRY EXPENDITURES 1963-1972

YEAR	C & I BUDGET	INVESTMENT	NEW JOBS	EST. AVE. NEW PAYROLLS FOR 10 YEARS**	EST. NEW CONST. PAYROLL***	EST STATE SALES & USE TAXES ON NEW IND. INV.
1963 (64)	\$ 411,196	\$ 246,216,750	3,080	\$ 256,594,800	\$ 98,486,700	\$ 2,954,601
1964 (65)	\$ 423,160	\$ 311,661,268	5,469	\$ 455,622,390	\$ 124,664,504	\$ 3,739,935
1965 (66)	\$ 483,620	\$ 489,628,257	6,699	\$ 557,893,690	\$ 195,851,300	\$ 5,875,539
1966 (67)	\$ 718,182	\$ 501,771,551	11,735	\$ 977,642,850	\$ 200,708,620	\$ 6,021,258
1967 (68)	\$ 747,288	\$ 718,483,706	10,580	\$ 881,419,800	\$ 287,393,480	\$ 8,621,804
1968 (69)	\$ 745,225	\$ 624,252,625	8,464	\$ 705,135,584	\$ 249,701,048	\$ 7,491,031
1969 (70)	\$ 690,539	\$ 579,263,687	10,748	\$ 895,415,880	\$ 231,705,472	\$ 8,688,955*****
1970 (71)	\$ 795,149*	\$ 410,825,223	10,356	\$ 862,758,360	\$ 164,330,088	\$ 7,394,854
1971 (72)	\$ 837,322*	\$ 670,437,687	8,044	\$ 670,145,640	\$ 268,174,072	\$ 12,067,908
1972 (73)	\$ 780,948*	\$ 1,882,112,672	7,697	\$ 641,237,070	\$ 752,845,068	\$ 33,878,028
TOTALS	\$ 6,632,629	\$ 6,434,653,426	82,872	\$ 6,903,866,064	\$ 2,573,860,352	\$ 96,733,913

\* Actual operating funds (does not include E.D.D. grants)

\*\* Based on November, 1972 average wage of \$160.21 per week (\$8,331 a year)

\*\*\* Based on 40 percent of total investment

\*\*\*\* Sales tax increased to 3% in mid-year

MINUTES

Subcommittee on Public Welfare of the  
Committee on Education and Welfare of  
the Constitutional Convention, 1973

Held pursuant to a notice mailed by  
the Secretary of the Convention

Louisiana Department of Education Building

9th floor Conference Room

May 18, 1973, 9:30 a.m.

Presiding: Anthony M. Rachal, Chairman

Present

Mr. Armentor  
Mr. Flory  
Mr. Grier  
Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Miss Washam

Absent

NONE

The meeting was called to order at 9:40 a.m. and a quorum was noted by the chairman.

The chairman asked the subcommittee members to review the agenda. Mr. Rachal explained that an outline should be made of what should be covered and try to set a sequence. It was agreed to leave the agenda as printed.

Mr. Flory suggested that Article XIV, Section 15.2, a part of the civil service provision, could be disposed of since there seemed to be a consensus to include campus security police, capitol police, and hospital guards.

The chairman then asked if the subcommittee agreed to amend the present section to include capitol guards, campus police of the state colleges and universities. Mr. Hernandez moved that capitol guards, campus police, and hospital guards be included in Article XIV, Section 15.2. After a lengthy discussion by the subcommittee, Mr. Hernandez withdrew his motion. The staff was to draft a proposal to include language that would take care of individuals whose lives are endangered and who are charged with the responsibility of protecting state property or are assigned to protect the citizens and state property.

Mr. Lennox suggested that Article XIV, Section 15.2 be passed until the next meeting, at which time the staff would present the written draft.

The minutes of May 2, 1973 meeting were reviewed. Mr. Flory asked the staff to prepare a proposal requiring corporations, doing business within the state and not covered by the Securities Exchange Commission, to file annually a list of all stockholders. Mr. Flory moved for the adoption of the minutes with the noted corrections.

The chairman indicated that he had received a written statement from Mr. Edwin O. Ware, president of Louisiana District Attorneys' Association, who appeared before the subcommittee at the meeting of May 2, 1973. A copy of this presentation is attached hereto and made a part of these minutes.

The minutes of the meeting of May 7, 1973, were reviewed.

Mr. Flory moved that the minutes of May 7, 1973, be adopted. The motion was unanimously carried.

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The subcommittee reviewed and discussed Memorandum No. 9, dealing with civil service. It was decided to table the discussion until the afternoon session. The meeting was recessed for lunch.

The meeting reconvened at 12:30 p.m. The chairman briefly reviewed the discussion of the morning session. He suggested that the members follow the pertinent issues of civil service as determined in a previous meeting. Mr. Rachal then listed the issues. They are as follows:

1. Hearing-Burden of Proof
2. Nomination of Commissioner
3. Autonomy of the Commission
4. Rule of Three
5. Testing and Certification
6. Civil Service Hearing-Relating to the Appeal
7. Separation of Fire and Municipal Police

After a brief discussion, Mr. Lennox suggested that each member review the projet and determine what should be included in the proposed constitution.

After a discussion, it was decided that state, city, and fire and police civil service would be discussed at the May 25, 1973 meeting, at which time the subcommittee would make final decisions of what would be included in the proposed constitution.

Mr. Hernandez suggested that the research staff obtain, if possible, an impartial person to discuss the advantages and disadvantages of including New Orleans fire and police in the New Orleans City Civil Service system.

The subcommittee returned to the agenda for the day. Article VIII, Section 6 was discussed and it was decided that it be referred to the Committee on Bill of Rights and Elections.

-3-

It was also decided that Study Proposal 22 would cover Article VI, Section 11, and Article VI, Section 12 concerning the boards of health and public health.

It was agreed by the subcommittee that Article XIV, Section 17 be retained in reference to state penal institutions.

Article XX, Section 1 was deferred to a later date. The research staff will check with the Committee on Revenue, Finance and Taxation.

The subcommittee asked for additional information on Article XIII, Section 6 - Canal and hydro-electric development.

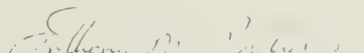
Article X, Section 4, §10 and Article X, Section 22 concerning new industries; exemption from taxation, was delayed for two weeks.

Study Proposal 27 - Administration of health, social, and welfare programs, it was decided that no provision would be included in the constitution for the new health agency created by recent statutes.

It was the consensus of the subcommittee that Study Proposal 22 reads that the legislature "shall establish a system of economic security, social welfare, unemployment compensation, and public health."

The time for the next meeting was discussed and the subcommittee members agreed that 9:30 a.m. would be the time the next meeting would begin.

The meeting was adjourned at 3:00 p.m.

  
Mr. Anthony M. Rachal, Jr., Chairman

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#### NOTES

Statement by Edwin O. Ware cited as attached to the minutes is not found in the committee files.

#### MINUTES

Subcommittee on Public Welfare of the  
Committee on Education and Welfare of  
the Constitutional Convention, 1973

Held pursuant to a notice mailed by  
the Secretary of the Convention

Louisiana Department of Education Building

9th Floor Conference Room

May 25, 1973, 9:30 a.m.

Presiding: Anthony M. Rachal, Chairman

#### Present

Mr. Armentor  
Mr. Flory  
Mr. Grier  
Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Miss Wisham

#### Absent

NONE

The meeting was called to order at 9:35 a.m. and a quorum was noted by the chairman.

The minutes of May 18, 1973, were read by the secretary, after which Mr. Rachal noted that points of importance of the last meeting had been omitted. The chairman then suggested that the acceptance of the May 18, 1973 minutes be deferred until the June 8, 1973 meeting. The subcommittee was in agreement.

Mr. Rachal asked the subcommittee members if they would agree to hear the visitors before discussing the agenda. Mr. Hernandez felt that before hearing the presentations on civil service, a decision to include or not to include New Orleans in the state civil service system should be acted upon. It was the consensus of the subcommittee to hear the speakers. Seven minutes were allotted for each speaker.

The first speaker was Mr. Wilson Callender, executive vice president, Louisiana Civil Service League. Mr. Callender made the following points (1) that it would be difficult to get approval of the constitution if the convention proposed

to impair the rule-making power of commission, which must be absolute, within the law and the constitution; (2) the league opposes any enlargement of the commission to deliberately inject racial bias into the setup, thus destroying the prevailing fair balance; (3) they feel that even more destructive will be the political shenanigans of requiring the governor to appoint a merit system employee to the commission; (4) any move to exempt any category of public employees from this constitutional law will be totally and ultimately destructive. Police and firemen are public employees like all the others; (5) the league also could see no reason why the committee should bow to a union by raising the sill for application to cities of 300,000 people, instead of 250,000. In answer to a question raised, Mr. Callender said that the rule of three should not be in the constitution. He stated it is a rule not a law. A copy of Mr. Callender's presentation is attached hereto and made a part of these minutes.

Second speaker was Mr. Dean Hunter, assistant administration officer, New Orleans, La., representing Mayor Moon

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Landrieu. He read a letter from Mayor Landrieu, who favors the merit principle for hiring and promotions of governmental employees. He also believes that any parish or municipality having a population exceeding 50,000 according to the last preceding decennial census should be allowed to establish, by a vote of the people of that parish or municipality, a civil service system. A copy of this presentation is attached hereto and made a part of these minutes.

Next to speak was Mr. W.R. Konrad, director of personnel for the City Civil Service of New Orleans. In a previous subcommittee meeting, Mr. Konrad had presented a project to the members suggesting what should be included in the constitution. He stated in his presentation that the removal of employees of the New Orleans Police Department and the New Orleans Fire Department from City Civil Service to State Municipal Fire and Police Civil Service should be resisted. He also urged that civil service for the city of New Orleans should be retained in the constitution in an abbreviated form. A copy of this presentation is attached hereto and made a part of these minutes.

Mr. Roy Stewart, director of personnel for Jefferson Parish, stated that his purpose was to reaffirm and reurge the committee to consider the presentation that he and Mr. Roth previously submitted to the subcommittee. He strongly felt that there should be retained in the constitution all of the basic provisions for a merit system of employment that are now contained in Article XIV, Section 15, of the present constitution has effectively preserved the State Civil Service

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system for the last 20 years. He also stated that the present structure of civil service commissions should be retained and, if altered at all, should be strengthened to provide even greater nonpartisan objectivity. In his closing statement, Mr. Stewart stated that he respectfully urges the committee to retain civil service in the constitution in its present basic form, and to expand it to serve equally all citizens of our state.

Mr. Roland C. Dart III, chief of police, Lafayette, Louisiana, made the next presentation. A copy of his presentation was given to members of the committee. In Mr. Dart's opening statement, he suggested that the burden of proof be eliminated. As a substitute, the civil service commission should establish an administrative hearing board to gather facts and make judgments. He further suggested that it should not be looked upon as a court of law. Mr. Dart believes that the civil service system concept is a good and necessary thing, however, there are certain undesirable aspects of civil service which exist in Louisiana. Mr. Dart then focused his statements on promotional testing for civil service employees. He stated that seniority in policy agencies and other public agencies is important, but should not receive overriding consideration. The testing procedure, to the State Civil Service Commission and the Testing Authority, is to determine if the applicant has knowledge of the position he seeks, however, the passing score and the nature of the tests often are not conclusive. Mr. Dart

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mentioned that he had taken a look at other civil service systems around the United States and with few exceptions, Louisiana gives a lot of weight to seniority rather than written scores from testing. He suggested that more emphasis should be given to test scores than seniority when promotions are considered.

Following Mr. Dart's presentation, the subcommittee recessed for lunch.

The subcommittee reconvened at 1:30 p.m. The presentations to the group continued, with Mr. Louis Turner, deputy chief, New Orleans Police Department. He is desirous of having New Orleans fire and police remain under city civil service because he feels that taking police and fireman out would be detrimental to the management prerogatives of the police department. He admitted that there were some problems with civil service on promotional exams, but they have been solved because yearly promotional exams are given. Mr. Turner commented that problems like these could be better solved in-house rather than with some separate board.

Next to appear before the subcommittee was Mr. William J. McCrossen, superintendent of the New Orleans Fire Department. In his opening statement he indicated that he liked civil service in the manner in which it presently operates. He mentioned that there are problems but felt that they could

be solved in-house. Promotions based on seniority pose a problem in that one can "sit around and wait to move up", and thus destroy initiative and the system. He indicated

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that there are presently 115 firemen enrolled in Delgado Junior College to better educate themselves and to prepare to pass the test. In answer to questions proposed, Mr. McCrossen said that the three top jobs in the New Orleans Fire Department are not under civil service, thus his present position was not obtained by competitive examination. However, in his 31 years of service, he had received promotions through civil service examinations.

Mr. Clarence J. Perez, president of the New Orleans Fire Fighters Association, stated that he understood why those persons representing management wanted to keep the civil service as it is, but he did not agree. He mentioned that he was representing 100% of the members of the New Orleans Fire Department and some retired members. Mr. Perez mentioned the letter that he had presented to the subcommittee on March 16, 1973, giving reasons why they wanted to transfer from the present system. He stated that if the committee found it impossible to take New Orleans Fire Fighters out of the present system and put them into a new system, he would hope that they would lend some weight to the remarks made in the presentation about some of the flaws in the present system. He hoped some of the flaws could be changed to make the present system a little more livable than it is now.

The last speaker to appear before the committee was Mr. L.F. Peters, legislative representative, Professional Fire Fighters Association. Mr. Peter personally believes it would be better to have all fire fighters and police officers under the same civil service. The system has

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worked well since 1940. He noticed that some of the speakers have been critical of the seniority system. He stated that in the system there is more protection built into the law for the public interest than exists for the employees.

After all presentations, the subcommittee returned to the agenda. Mr. Lennox moved that the final recommendations of this subcommittee to the Committee on Education and Welfare be drafted in such a manner as to retain the police and fire departments of the city of New Orleans under the City Civil Service system of that city in a manner yet to be decided by the subcommittee. Mr. Landry asked Mr. Lennox to give some reasoning behind his motion. Mr. Lennox replied that he thinks that the fire and police departments of the city of New Orleans should be under the complete and exclusive control of that political subdivision and he was in agreement with Mr. Flory that every other town and city should have that same prerogative; that every town and city that has a merit

system of civil service should have the right to regulate their fire and police and any other employees.

Mr. Flory made a substitute motion that the fire and police in New Orleans be placed under the State Fire and Police Civil Service and that all fire and police civil service in the state be under one system, whatever that system may be.

The subcommittee voted on the substitute motion.

Mr. Armentor	no
Mr. Grier	no
Mr. Flory	yes
Mr. Hernandez	no
Mr. Landry	yes
Mr. Lennox	no
Miss Wisham	yes

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The motion was defeated 4-3.

There was a roll call vote on the original motion by

Mr. Lennox.

Mr. Armentor	yes
Mr. Flory	no
Mr. Grier	yes
Mr. Hernandez	yes
Mr. Landry	no
Mr. Lennox	yes
Miss Wisham	no

The motion was adopted by a vote of 4-3.

Mr. Lennox made a motion that the staff be directed to prepare a proposal for incorporation of the projet of the City Civil Service Commission of the City of New Orleans dated May 28, 1973, providing for a civil service system in ail cities in the state having a population exceeding 300,000 and with the further proviso that that section of page three therein, which deals with the burden of proof be amended to read, that the burden of proof on appeal as to the facts shall be on the employer. All other aspects of that projet shall be included into the recommendations of this subcommittee into the proposed constitution.

It was the suggestion of the chairman to go through the city civil service proposed constitutional provision paragraph by paragraph. The subcommittee reviewed the proposed constitutional provision of the city civil service recommended by Mr. Konrad, director of personnel of civil service, New Orleans. Mr. Lennox read the provisions. They were adopted as follows:

Section A was adopted as written.

Section B was adopted to read: The classified city

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civil service shall include all officers and employees in the city civil service except (1) officers elected by the people and persons appointed to fill vacancies in elective offices, (2) heads of principal departments appointed by the mayor or other governing body of any city, (3) the city attorneys, (4) members of city boards and commissions, (5) one principal assistant or deputy to any officer, board, or commission mentioned in 1,2, and 4 except the City Civil Service Commission, (6) officers and employees of the office of the mayor, (7) commissioners of elections and watchers, (8) a chief deputy

selected by sheriffs, clerks of court, and courts of record except those presently in the classified service.

Section C was adopted with the following changes, population exceeding 300,000 to 400,000 and the director of personnel was changed to the director of civil service.

In the discussion of Section D, Mr. Armentor moved that the paragraph read as follows: There is hereby created and established a City Civil Service Commission for each city having a population of 400,000, to be composed of five citizens who are qualified voters of the city in which they serve. One member of the commission shall be appointed by the governing body of the city and one member elected by the classified employees. The other three members of the commission shall be appointed as follows. There was a roll call vote on the motion. The motion was carried by a vote of 4-3. Mr. Lennox stated that he proposed to file a minority report on the amendment of Section D.

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The second paragraph of Section D was adopted with amendments to read:

The presidents of Tulane, Loyola, and Dillard shall each nominate three persons. From the three persons so nominated by each, the governing body of the city shall appoint one as a member of the commission. One member shall be appointed by the governing body of the city. One member shall be an employee within the classified service of the city, elected by classified city employees. No member of the commission shall be removed except for just cause after being given a copy of the charges against him and an opportunity to be heard publicly on such charges by his appointing authority. Members of the commission shall each be paid fifty dollars (\$50.00) for each day devoted to the work of the commission, but not more than four thousand dollars (\$4,000.00) in any year.

Section E was adopted to read as follows:

The commission shall appoint a director of civil service, from a list of eligibles who have successfully taken a competitive examination, and who shall be in the classified service. The director shall appoint such personnel and staff and have such powers and perform such duties as are authorized and delegated to him by the commission.

Section F was delayed until a later date.

In concluding the discussion of the provision, Section G was adopted to read:

No person having gained permanent civil service status in the classified city civil service shall be subjected to disciplinary action except for just cause after being given a copy of the charges against him and an opportunity to be heard publicly on such charges by his appointing authority.

The burden of proof on appeal, as to the facts, shall be on the employers.

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There was a lengthy discussion on veterans' preferences in hiring and promotions under civil service. The present constitutional provision was read. After discussion, Mr. Flory suggested that Mr. Hernandez be appointed as a committee

of one to contact the veterans organization to get their views as far as promotions are concerned. The subcommittee was in agreement with Mr. Flory's suggestion.

The proposal prepared by the staff relative to survivors' benefits for law enforcement officers was discussed. Mr. Flory wanted to include firemen in the proposal. It was the consensus of the group to include firemen and the language would be left to the research staff.

The next meeting was set for June 8, 1973, 10:00 a.m.

The meeting was adjourned at 6:00 p.m.

Mr. Anthony M. Rachal, Chairman

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Statement by the LOUISIANA CIVIL SERVICE LEAGUE  
To the Welfare, Education and Civil Service Subcommittee  
Of the 1973 Constitutional Convention  
In Baton Rouge, Friday, May 25  
By: Wilson S. Callender, Executive Vice-President, by authority.

In the matter of obtaining support for the new Louisiana constitution from the friends of our superior Merit System of Civil Service, who are active in every Louisiana parish in cooperation with our League, we are going to be in difficulty when - and:

1. If you propose to impair the rule making powers of the commissions, which must be absolute, within the law and the constitution, if these respected officials are to continue to maintain their trust for our people with impartial, and non-partisan merit civil service, free from bias and from political spoils contamination.

For example, the "Rule of Three":

It is a prime "merit system" key because it is the only means whereby the best qualified applicants - by scientific measurement - are certified as being eligible for public employment in Louisiana - and placed on a "register."

Actually, the application of this "Rule of Three" varies widely.

1. It is limited to the three top scorers only when one job is to be filled initially. Certification is always two more than are to be employed. If 12 policemen are to be hired - 14 names are certified.

2. Frequently by the time the appointing authority gets ready to act one or more of the original three will have gotten other jobs, or for some reason will not accept appointment. In such cases additional names are listed as eligible from the top down.

3. Labor categories - highway labor, sanitation workers, food service people, janitorial help - are not affected in the "Rule of Three" because their tests have mainly to do with health and nearly all who can qualify are put to work on a non-competitive basis - there are always openings.

4. The same status is true when job related examinations are used, as in the case of typists and steno-typists where there are almost always vacancies. In these categories the measure is really "How well can the applicant use a typewriter?" "How many words accurately per minute?" "How well does she know English, punctuation, etc.?"

5. This is relatively true for those who seek jobs requiring use of heavy equipment, trucks, earth-moving machines, mowers, etc. - "Can they read a book of instruction?"

6. A big group of medical and para-medical or related technicians are employed on the basis of credentials, certificates of training and experience.

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7. This is pretty much the same with virtually all top-pay technical and administrative jobs; engineers, accountants, etc. It is often hard to find three who can qualify.

Often the political status of the top three are examined by the "political appointing authority" before appointments are made. How much would "spoils" rule if the whole register, often with scores of names, were opened to precinct and ward boss study and approval.

II. Your researchists will tell you that the size of our commissions - three or five - are standard all over the world. A commission of five is fundamentally practical, because a quorum of three can be had with little difficulty and meetings are regularly scheduled for that reason.

We must vigorously oppose any enlargement of the commission to deliberately inject racial bias into the setup - destroying the prevailing fair balance.

Oillard and Xavier Universities are highly rated and there could be no objection to including their presidents, as such, among the nominating authorities - especially if a way can be found to do so without enlarging the commissions. It is most unwise to bring "black" university presidents as such into the nominating group; such universities are legally nonexistent anyway.

III. Even more destructive will be the political shenanigan of requiring the Governor to appoint a merit system employee to the commission. There is little doubt that my friend, the AFL-CIO president who has pledged that labor will go all the way to keep the good civil service we now have, will make the choice - and whoever is chosen is sure to occupy a political partisan position contrary to the law limiting political activity of merit system employees. He will be there for only one purpose - to be biased in favor of the appellant employee.

Politics and merit just won't mix, and we ask you not to try it - it can only destroy.

IV. Any move to exempt any category of public employees from this constitutional law will be totally and ultimately destructive. Police and firemen are public merit employees, like all the others - whatever special consideration they are entitled to because of the hazardous nature of work they are getting and will continue to get. If you sincerely want to improve the merit system you'll eliminate exemptions and refrain from adding any more.

V. The "Burden of Proof" provision is being attacked only because the union doesn't like the sound of the words.

Actually, you definitely harm the employee appellant when you try to take this protection away from him.

Change it and the boss is no longer required to tell the victim why he is being disciplined with time and place specifics.

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V. (Cont'd.) The appellant employee no longer has the first word to say at the hearing - to make his case - and to be followed by the employer in answer. Only the employee has the opportunity for rebuttal. Change this rule and you reverse the proceedings to the distinct detriment of the employee. In most cases he wants his job back, and he is entitled to have the "judges" listen first to his claim that he has been accused unjustly or otherwise unfairly treated.

VI. With reference to the provisions that covers New Orleans in the new constitution, we are very gratified to feel that your commission is giving the merit system friends exactly what they ask for. However, we can see no reason why you should bow down to a selfish union by raising the sill for application to cities of 300,000 people, instead of 250,000 as per the original agreement between Mr. Dunbar and Victor Bussie. We cannot understand why in good faith the unions are afraid to allow the full merit system benefits to go to Baton Rouge and Shreveport.

Ladies and Gentlemen:

We have spoken plainly. We don't want to be misunderstood. We are much encouraged by the stands you have taken to guarantee to Louisiana continued distinction in the field of personnel management - by upholding the basic integrity of our merit system principles in the new constitution. We can hardly blame any of you for trying to advance the interest of those you represent. But we ask you to remind yourselves that this vital means of building full integrity into our public payrolls - and building public faith in these payrolls - would fail entirely if we tried to give a multitude of interest representation on the control commission. All we need and want are men (and women) standing high in public respect - for their wisdom, their fairness, their integrity and their diligence - such as we have now

CITY OF NEW ORLEANS  
OFFICE OF THE MAYOR

May 23, 1973

Mr. Edward N. Lennox  
Suite 1710  
1010 Common Street  
New Orleans, La. 70112

Dear Mr. Lennox:

I very much regret being unable to meet with your committee in person today. I hope that this letter will answer your questions.

I favor the merit principle of hiring and promotion for governmental employees. I believe that any parish or municipality having a population exceeding 50,000 according to the last preceding decennial census should be allowed to establish, by a vote of the people of that parish or municipality, a civil service system. That system should be required to provide for:

1. Hiring on merit.
2. Promotion according to performance.
3. Prohibition of classified employees campaigning on behalf of a candidate or contribution to a partisan campaign.
4. Prohibition of discrimination against an employee on the basis of political or religious beliefs, on the basis of race or on the basis of any other factor not related to his or her job.
5. Appointment of a commission with rule making powers.
6. Right of appeal by employees to this commission.
7. Unclassified service for elected officers and certain policy making positions.

"An Equal Opportunity Employer"

Page Two.

May 23, 1973

Mr. Edward N. Lennox:

Fire and police employees in parishes and municipalities establishing a local government civil service system should be governed by it, as all other employees of the parish or municipality will be. In parishes or municipalities not establishing a local government civil service system, municipal fire and police civil service will be needed.

Civil service has worked well in New Orleans and we seek no major changes. We have managed the delicate task of combining collective bargaining with a civil service system. I can see no reason to treat New Orleans civil service specifically in the new constitution. There is a ten page section on Civil Service in our Home Rule Charter which will become operative in the absence of applicable state law. The people of New Orleans and of Louisiana believe so deeply in the Civil Service system that much of the detail now in the Constitution could be moved to the statutes with very little risk.

Thank you for letting me present my views. Good luck in your endeavors.

Sincerely,

*Moon Landrieu*  
Moon Landrieu

ML/rbg

The removal of employees of the New Orleans Police Department and the New Orleans Fire Department from City Civil Service to State Municipal Fire and Police Civil Service should be resisted.

1. Such an action would fragment government in that it would weaken the authority of the elected officials of the City over two vital functions. (Part of the employees of the City would be under one system & Fire and Police under another.)
2. This could again burden the City financially in meeting pay requests forced upon it by a body not responsive to the City. (Could go directly to Legislature for pay increases.)
3. There has been lots of talk about the "rule of three" being a barrier to the employment of minorities. A move such as proposed would give the Fire and Police, in effect, a rule of one, and since selection is made on the basis of seniority, this would be an extremely strong barrier to the promotion of minorities.

Civil Service for the City of New Orleans should be retained in the Constitution in an abbreviated form as submitted to the Committee at an earlier meeting. It should be strongly urged, however, that the base for the selection of the Commissioners be expanded to include other local universities. (In New Orleans this could include Dillard, Xavier, LSUNO and SUNO.) Labor should not be specifically represented on the Civil Service Commission any more than any other interest group. The procedure proposed for the appointment of the Commissioners would not exclude the appointment of anyone or any interest group, but neither would it make mandatory the appointment of any representative of any special interest group.

COMMENTS AND RECOMMENDATIONS  
PRESENTED TO THE COMMITTEES  
OF THE CONSTITUTIONAL CONVENTION,  
STATE OF LOUISIANA, 1973

BY:

ROLAND C. DART III, AND OTHERS  
CHIEF OF POLICE  
LAFAYETTE, LOUISIANA

CHIEF LEE FOURNET, NEW IBERIA, LA

CHIEF DANIEL NOEL, ABBEVILLE, LA

## BIOGRAPHIC SKETCH

Roland C. Dart III  
Chief of Police  
Lafayette, Louisiana  
(October, 1972 - Present)  
A Department of 100 Officers and 30 Civilians

### EDUCATION

Associate in Arts with Honor - Police Science  
Sacramento City College, California (1965)

Bachelor of Arts with Honors,  
Police Administration - California  
State University at Sacramento (1967)

Master of Arts, Social Science  
California State University at Sacramento

### PRIOR EXPERIENCE

Sacramento County Police (1961 - 1969)  
A County Police Agency of 600 Police Officers.  
Served as Patrolman, Detective, Patrol Sergeant,  
and Tactical Unit Commander

International Association of Chiefs of Police (1969 - 1972)  
Assistant Director of the Field Operation Division.  
Conducted and supervised Police Management and Operational  
surveys of Municipal, County/Parish, State and Federal Police  
Agencies in the United States, Canada, and other Free World  
Countries.

### COMMITTEE MEMBERSHIPS

National Crime Prevention Committee  
Executive Committee, Boy Scouts of America

### INTRODUCTION

My presentation here is in regard to the Municipal Fire and Police Civil Service Law (Section 15:1 of Article 14 of the Louisiana Constitution). Further, my comments here are made on behalf of myself, as Chief of Police in Lafayette, Louisiana, and represent the members of my department and our Mayor rather than any other organization beyond the City of Lafayette.

### BACKGROUND INFORMATION

Early this year, Louisiana Chiefs of Police Association met to discuss several aspects of the Constitutional Convention as it would effect the police service. Several members of the association voiced their opinions relative to the Municipal Fire and Police Civil Service law and as a result the Committee was established to examine and perhaps submit recommendations relative to the Municipal Fire and Police Civil Service law. I was assigned to be a member of the Committee and the Committee has met on two separate occasions. The Committee, after its first meeting, stated to the President of the Association that there are several areas of concern in the law; however, the major area concerned employee promotions. However, due to a number of different opinions concerning the law, no formal presentation from the Association to the Constitutional Convention has yet been drafted. Consequently, I am taking upon myself to present to the Committee several areas of the law in question that I feel inhibits the professionalization of the law enforcement in the State of Louisiana. Again, my comments here are made on behalf of myself and not any organized group.

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### PROMOTIONAL SYSTEM

The promotional system for Police officers is detailed in the State of Louisiana Municipal Fire and Police Civil Service law,

Section 15:1 of Article 14 of the Louisiana Constitution. There has been no change in this law, in terms of upgrading and improving its goals and objectives, since its original inception. Law enforcement, however, has changes substantially in terms of personnel administration and the law no longer meets ones needs in certain areas.

PRESENT PROMOTIONAL SYSTEM The law provides that in competitive positions (ie:Patrolman to Sergeant, Sergeant to Lieutenant, etc.) that the applicant take a State administered examination to test the applicant's knowledge of the position he is seeking. A score of 75% is considered passing. Thereafter, the person with the most seniority is appointed first to any vacancies that exist.

In other words, a Patrolman First Class taking the test for Sergeant who has five years in the Police Department and attains a score of 76% would have preference for the job over another Patrolman First Class who attains a 99% score on the test but only has four years and 364 days on the department. There is absolutely no weight given to the score the applicant attains on the Civil Service examination. The only criteria is that he attains the score of 75% or better and thereafter it is a matter of pure seniority.

3.

PHILOSOPHY OF PROMOTION One of the most important aspects of Civil Service is to provide employees with an equal opportunity to attain promotion. Further, the Civil Service law is designed to protect employees from capricious or arbitrary acts against them by management or the city administration and to reduce as best as possible political interference in the administration of the police agency. To this extent, the Municipal Fire and Police Civil Service Law is a sound instrument and must be protected in the best interest of our state's Municipal police officers.

However, according to the State Examiner, Mr. Runyon, the philosophy of the promotional system, in terms of conducting a written examination, is to test the applicant's ability and knowledge for the position which he seeks. It is my opinion, based upon this logic, that it is natural that a person who attains a higher score on the examination than another person is more likely to succeed in the job being sought since the test has shown that his knowledge for the position is broader than that of the person who attains a lower score.

Seniority has no controlling influence over the success or likelihood for success of an applicant who is promoted to a higher position. Seniority at best, is a controlling feature when ties occur in the promotional process. Secondly, seniority is important as a secondary source of determining the position the applicant obtains on the list.



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The present promotional system gives no weight or attention to the officer who studies diligently and prepares himself for an examination for promotion and who exerts himself to learn as much as he can about the position which he seeks. Obtaining a score of 75 on the promotional test administered by the State is a relatively easy accomplishment.

A third feature of the seniority issue in promotions as provided presently by the law concerns the number of years in the department as being the sole consideration. As an example, a person taking the Lieutenant's test who has been a Sergeant for 1 year and a patrol officer for ten years has seniority over an applicant who has 5 years of service as a Sergeant but only four years as a patrolman. In other words, seniority, in the promotional process, is measured on the basis of the total years a man has served in the department. If seniority were to be given any weight at all, it should be on a basis of qualification. For instance, before taking the test for Lieutenant, an applicant must have successfully completed a minimum of two years of service as a Sergeant. Continuing with this philosophy, before an applicant can apply to take a promotional test for Captain, he should have served in good standing as a Lieutenant for two years .

RECOMMENDATION AND QUALIFICATIONS It is recommended that the existing law be modified to provide that primary and major consideration be given the score attained on the promotional examination by the applicant and that seniority be regulated to a secondary criteria

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for promotion. As an example, the number of points attained on the examination by an applicant should be given to that applicant in addition to perhaps one point for each year of service in the department to a maximum of ten points. A second method applying seniority would be to add on to the score attained in the examination one point for each three months of service in the grade the applicant is presently holding. In both of the forgoing examples, the score attained by applicant one is given primary and major weight at the same time seniority is given consideration as well.

As a matter of example, two Sergeants are competing for a position of Lieutenant. One applicant takes the examination and attains a score of 80. The other applicant also attains a score of 80. However, one point for each year of service in the department is given. Assuming the first applicant has four years of service in the department and the second applicant has five years of service in the department, the applicant with five years of service would be placed higher on the promotional test since he would have received a combined score of 85 while the first applicant would have a combined score of 84. In this matter, an applicant for a promotional position is given the incentive to study and prepare himself for promotion.

At present, when seniority is given the only controlling factor over promotion, applicants do not seriously attempt to prepare themselves for the position for which they are seeking since they know they need only attain a score of 75 or better to pass the examination. The

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controlling factor is how long they have been on the department regardless of their previous performance.

#### ARGUMENTS AGAINST THE RECOMMENDATIONS

The major argument against my recommendation here is that the promotional process provides for a six month testing period in which an applicant promoted to a higher position must successfully perform the job and be evaluated on a basis of his performance during the probationary period. If the applicant does not successfully perform during his six months probationary period, the appointing authority has the option of reducing the man, based upon cause, to his former position.

However, the major deficiency in this argument against a proposed or recommended promotional system, is that the Civil Service Law is designed to select the best qualified person for the position to which he is being promoted. Reducing a man, once he has been promoted into the position under a probationary status, is at best difficult and creates serious legal and morale issues within the police department. In fact, few police agencies, if any, have ever taken the option to reduce a man during his probationary period unless it has been based upon political interference. The promotional system of the Civil Service Law should be designed to select those persons that would be most likely to succeed in the position to which they are being promoted. It follows, then, that a person who attains a high score on the promotional examination

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would be more likely to succeed in the position to which he is being promoted. Success in the position is not predicated upon seniority.

#### ORGANIZATIONAL STRUCTURE OF THE LOCAL CIVIL SERVICE COMMISSIONS

The State Municipal Fire and Police Civil Service Law includes both the police and the fire service. The Civil Service Commission, which is organized at the local level, consists of three members of the community appointed by a local college and the Mayor in addition to two other members. The remaining two members are appointed one each from the police department and the fire department. They are appointed from both of these departments by a popular election held separately among the men of both services. This organizational scheme presents two very serious problems. The first problem concerns the joining of the fire service and the police service under the same Civil Service structure and the second problem concerns the appointment of

members of both departments to the Civil Service Board which is responsible for all aspects of the Civil Service law including review of disciplinary actions.

THE JOINT POLICE AND FIRE CIVIL SERVICE ORGANIZATION There is a broad difference between the responsibilities performed by the fire service and the police service. There is no connection between the two services in terms of the physical functions they perform within a community. Further, the criteria established for employment in the fire service is substantially different from the criteria required

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by a police agency. Police agencies deal with people and situations and must be trained both in crime prevention and public service on a face to face basis. The police service deals primarily with human interaction in the areas of crime prevention, police community relations, criminal investigation, etc. The fire service, which is an integral part of the public safety system, concerns itself primarily with material issues. Their men are trained and developed in areas of engineering and fire prevention services. The best description of both services is that the police service deals with human issues and the interaction between persons involved with other persons while the fire service is basically an engineering and material oriented service. Police officers are trained to be knowledgeable regarding juvenile delinquency, physiological factors of abnormal behavior, technical aspects of criminal investigation and criminalistics, Supreme Court decisions, and other areas of a social significance. Fire personnel are trained predominately in the areas of physics as it applies to the combating of fire. Water pressures, electrical systems, and the use of specialized tools in fire fighting are the primary areas of concern in the fire service.

It follows then, that the criteria for organizing, hiring, promoting, and administering a police agency differs substantially from that of the fire department. Accordingly, the management systems employed by a police agency are markedly different than those employed by our fire department. It would seem apparant then, that the law and the system governing employees and their

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interactions with the administration of municipality should be designed different and separate from those of the fire service.

#### MEMBERSHIP ON THE CIVIL SERVICE COMMISSION

At present, the members of the police department and the fire department each elect a member of their respective departments to sit upon the Civil Service Commission. These elections are accomplished through campaigning and other types of activities similar to any political endeavor. Secondly, the member of the police department or fire department, then sits with three other

civilian members to review various actions and procedures of management. The purpose of the commission is to review the administrative aspects of the police and fire service. However, it has been my experience that this cannot be accomplished when a disciplinary action is taken against a member of a department when a member of the Civil Service Board is an allied or a working partner of the person being disciplined. By natural and human instinct, the member of the police department, especially if he is from the patrolman rank, suffers from being divided in two directions. If he supports the action of the management, he is then disassociated from his peers in the police department, and if he decides against management, he is held in high esteem by his peers but naturally in low esteem by management. The same condition exists in the fire service with its member who is appointed to the Commission. The

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Civil Service law is intended to isolate and exclude political interference. However, the law in fact contradicts itself in this regard by having a member of both services sit on the Civil Service Commission and provides for a built-in system of political interference.

RECOMMENDATIONS AND QUALIFICATIONS It is recommended that the Municipal Fire and Police Civil Service law be examined and perhaps modified to provide for two separate Civil Service systems for police and fire. Failing in this however, the organizational structure of the Civil Service Commission should be modified to provide that the commission consists of members of the community who are not employed by the respective services. Appointment or membership on the Board can be either through the system presently employed by the law to select three of the five members of the commission. Either the local university could make the appointments or the appointing authority of the Municipality. In this fashion the civil service commission would be in fact an impartial and unbiased body which examines issues that effect both management and the employees.

#### SUMMARY

My comments and recommendations here are directed to improve and strengthen the Municipal Civil Service law that effects the police service. The State of Louisiana is striving to improve the level of service provided by police agencies to the communities of the State. To accomplish our objective the police service needs to

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become professional in its manner and method of operation. Formal educational systems to provide a broader base of knowledge are essential to the professionalization of law enforcement. Paralleling this interest, the State of Louisiana should adopt minimum standards, under a State commission, for police training and per-

sonnel administration similar to other states who have adopted similar programs many years ago.

Mr. Hernandez  
Mr. Landry  
Mr. Lennox  
Miss Wisham

My personal experience involves three and one-half years of consulting services to Federal, State, County or Parish, and Municipal governments in law enforcement. Prior to becoming a Police Chief in Louisiana I served as an Assistant Director of Field Operations with the International Association of Chiefs of Police. Prior to that, I was a Police Officer in California for nine years, serving in positions as Patrolman, Field Training Officer, Investigator, Patrol Sergeant, and Tactical Unit Commander. In my three and one-half years of experience in consulting with police agencies in almost every state of the United States, I have yet to see a Civil Service law that is as restrictive with regard to promotion that exist in Louisiana. In all instances where I have examined Civil Service laws concerning promotion in other states, the score attained by an applicant on an examination is given primary weight since it is logical to assume that a man who prepares himself for the position and attains a high score in examination is more likely to succeed in the position being sought than a person who attains a lower score. Examples of Civil Service laws that provide for competitive prepara-

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ration for the position are California, Illinois, Michigan, Mississippi, and Georgia. In some cases, as California, an officer must serve a minimum of one or two years in grade prior to taking the examination for the next highest grade. In other states, such as Mississippi, seniority is given weight much the same as I have outlined previously. However, Mississippi also gives weight to training programs and educational institutions attended by the officer during his service with the police department.

I want to thank you for the opportunity of appearing before you and presenting my thoughts and recommendations concerning this very vital aspect in the State's overall effort to improve and upgrade law enforcement.

MINUTES

Subcommittee on Public Welfare of the  
Committee on Education and Welfare of  
the Constitutional Convention, 1973

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Held pursuant to a notice mailed by  
the Secretary of the Convention  
Louisiana Department of Education Building  
9th Floor Conference Room  
June 8, 1973, 10:00 a.m.

Presiding: Anthony M. Rachal, Chairman

<u>Present</u>	<u>Absent</u>
Mr. Armentor	NONE
Mr. Flory	
Mr. Grier	

The meeting was called to order at 10:10 a.m. and a quorum was noted by the chairman.

Mr. Lennox requested that he be excused from the meeting to attend a meeting. He also asked if the discussion of civil service for the city of New Orleans could be delayed until his return. Both requests were granted.

The minutes of May 18, 1973 were read. Mr. Hernandez moved that the minutes of May 18, 1973, be approved as presented. Without any objections, the motion was so ordered. The minutes of May 25, 1973 were read, with noted corrections of Section D, ¶2, after which Mr. Hernandez asked that the formal acceptance of these minutes be delayed until Mr. Lennox returned. It was the consensus of the subcommittee to do so.

Mr. Kenneth Matlock, member of the Municipal Fire and Police Civil Service Board of the City of Shreveport, asked that he be granted time to speak to the subcommittee. Mr. Matlock made the following points (1) the basic responsibility of the fire services is the protection of lives and property from fire; (2) in order to provide reasonable protection, it is necessary for fire departments to have competent leadership, that they be well-manned and equipped and properly trained so that the duties be effectively preformed; (3) the department shall be organized on a sound and permanent basis under state and/or local laws, and shall include one person responsible, usually the fire chief. He further stated that the record of the Louisiana Rating Bureau shows that all major cities of Louisiana rate in the higher classification according to fire preventions. The average is three, on a scale of one through ten. This indicates that the fire services, being a major factor in this rating system are helping cities obtain a better classification. In his closing statement, Mr. Matlock put much emphasis on the statement that the National Fire Protection Association made, "that fire administrators should work closely with the civil service authority to get the type men needed." The organization further stated that "a majority of the complaints against fire departments and civil service procedures result from the failure of fire department officers to work with the personnel agencies to establish proper job standards and

qualifications.

After hearing the presentation, Mr. Hernandez gave his report from the veterans' organizations. In the last meeting, the subcommittee requested that Mr. Hernandez contact the veterans' organization for their views on veterans' preference in promotion. Mr. Hernandez submitted four letters which are all hereto and made part hereof. The letters from Veterans of Foreign Wars; Veterans of World War I; American Veterans of World War II-Korea and Viet Nam; and The American

Legion, indicate that they favor the retention of veterans' preferences as it is in the present constitution.

Following the acceptance of Mr. Hernandez's report, veterans' preference for promotion was discussed. After the discussion of veterans' preference, Mr. Hernandez offered a motion that the veterans' preference provision in the constitution be retained for both state and city civil service. Mr. Lennox then asked that the provision be read. He was referred to memorandum 18 which included a summary of the provision.

Mr. Lennox moved to amend the motion to delete the preference for promotions in any respect. He stated that he was in favor of preferences granted in hiring, but not promotions. Mr. Hernandez rejected the amendment. The vote was as follows:

Mr. Armentor	yes
Mr. Flory	yes
Mr. Grier	no
Mr. Hernandez	no
Mr. Landry	no
Mr. Lennox	yes
Miss Wisham	yes

The amendment was passed by a vote of 4-3.

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Mr. Hernandez moved that the previous question on the original motion as amended. The motion was carried by a unanimous vote.

At this point, the chairman informed Mr. Lennox that the acceptance of the May 25, 1973 minutes were being delayed until he had a chance to read them. Mr. Lennox stated that he would read them during the lunch break. At this time, it was decided that 4:00 p.m. would be the time for adjournment.

At this time the subcommittee turned its attention to discussion of the "rule of three". After a discussion of the provision, Mr. Flory moved that rule of three be extended to be no less than five. There was a roll call vote.

Mr. Armentor	no
Mr. Flory	yes
Mr. Grier	no
Mr. Hernandez	no
Mr. Landry	yes
Mr. Lennox	no
Miss Wisham	yes

The motion was defeated by a vote of 4-3.

The subcommittee will recommend retention of the "rule of three."

The subcommittee recessed for lunch at 12:30 p.m.

The subcommittee reconvened at 1:30 p.m. Mr. Rachal read Section F of the Konrad proposal. It was the consensus of the subcommittee that the section be amended to read:

Permanent appointments and promotions in the classified city civil service shall be made only after certification by the Department of Civil Service under a general system based upon merit, efficiency, fitness, and length of service as ascertained by examinations which, so far as practical, shall be competitive, and employees and officers in the classified service shall be employed

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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.

In the discussion relative to salaries for temporary appointments, it was decided that civil service employees, temporarily appointed, be paid the time of temporary appointment; for whatever the length of time of the temporary appointment; that where temporary appointments are made to fill vacancies, the vacancies should be filled within 60 days. It was the consensus of the committee that the staff draft the language and it would be presented among the proposals.

Mr. Flory suggested the inclusion "just cause" in the paragraph on disciplinary actions. At this point, copies of provisions suggested by New Orleans Fire Fighters were presented to the members of the subcommittee. Mr. Flory moved that Section G, disciplinary actions, include a provision for a public hearing. Thus, the section should read:

No person having gained permanent civil service status in the classified city civil service shall be subjected to disciplinary action except for just cause after being given a copy of the charges against him and an opportunity to be heard publicly on such charges by his appointing authority, nor shall any classified employee be discriminated against by reason of his political or religious beliefs, sex, or race. Any classified employee so discriminated against or subjected to such disciplinary action shall have the right to appeal to the city civil service commission. Only one penalty may be assessed for the same offense. The appeal to the city civil service commission shall be a suspensive appeal unless otherwise determined by the commission. These rulings of the commission are subject to review in the Court of Appeal

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wherein each commission is located.

There was a roll call vote of Mr. Flory's motion. The motion was carried by a unanimous vote.

The committee focused its attention on Section H. Mr. Flory read Section H of the proposed constitutional provision of the New Orleans Fire Fighters. After discussing the language and the connotation of Section H, Mr. Flory offered a motion to adopt the following paragraph:

Permanent employees in the classified service of the cities shall have the right to form and join labor organizations and shall have the right to bargain collectively with the respective governing bodies of the cities subject to this amendment and such governing bodies are authorized and empowered to enter into collective bargaining agreement.

The votes went as follows:

Mr. Armentor	no
Mr. Flory	yes
Mr. Grier	yes
Mr. Hernandez	no
Mr. Landry	yes
Mr. Lennox	no
Miss Wisham	yes

The motion was carried by a vote of 4-3.

After the voting, the committee compared Section H of Konrad's project and I of the New Orleans Fire Fighters project.

There was a lengthy discussion of Section I in reference to pay plans and hours of employment. It was by a unanimous vote that Section I of the New Orleans Fire Fighters Provision be adopted to read:

The commission is vested with general rule-making powers. These powers include subpoena powers, for the administration of the

rules and regulations of the classified city civil service including, but not limited to the recommendation of rules

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and regulations of employment, promotion, demotions, suspension, reduction in pay, removal, certification, uniform pay plans, classification plans, employment conditions, compensation disbursements to employees and generally to carry out and effectuate the objectives and purposes of the merit system of civil service as herein established. Any matters affecting wages and hours of work shall become effective and shall have the force of law after approval of the governing body of the city.

Mr. Lennox read Section J. Mr. Flory suggested that Section E of the present constitution and J of the New Orleans Fire Fighters provision be combined.

Mr. Lennox moved that Sections J,K,L,M,N with amendments to J as previous noted, be accepted. He read Sections J-N. By consensus, the subcommittee accepted the motion.

Mr. Lennox offered a motion to incorporate in state civil service, principles which they agreed to include for city civil service. The motion was carried by a unanimous vote.

Mr. Flory then moved that the subcommittee recommend to the committee of the whole, that Municipal Fire and Police Civil Service be retained verbatim in the new constitution. The motion was carried by a unanimous vote.

Mr. Lennox asked that the records show that Mr. Mike Doyle of New Orleans City Civil Service was present.

At this point in the meeting, it was decided that the subcommittee would meet at 9:00 a.m. Wednesday, June 13, 1973 before the meeting of the committee of the whole and after the committee adjourns.

The minutes of May 25, 1973 were accepted with the noted correction to change Section D, #2.

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The meeting was adjourned at 4:15 p.m.

Mr. Anthony M. Rachal, Chairman

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DEPARTMENT OF LOUISIANA  
VETERANS OF WORLD WAR I OF THE U.S.A., INC.

OFFICE OF  
Department Commander  
404 Third St.  
Alexandria, La. 71301



ORGANIZED JANUARY 19 1960

May 30, 1973

CC/73 Committee on Public Welfare  
Baton Rouge, Louisiana

Gentlemen:

This is to advise you that the Louisiana Department of Veterans of World War I of the U.S.A., Inc. fully supports the retention of the present Veterans provisions in the State Civil Service procedure in any newly proposed new constitution. This includes Veterans Preference, etc.

Sincerely,

*Perry H. Byer*  
Perry H. Byer, Commander  
VETERANS OF WORLD WAR I OF THE U.S.A.

Attest: *Wm. W. Lovette*  
Wm. W. Lovette,  
Adjutant.



AMVETS

AMERICAN VETERANS OF WORLD WAR II-KOREA-VIET NAM  
DEPARTMENT OF LOUISIANA



May 3, 1973

Constitution Convention  
Committee on Public Welfare

Gentlemen:

This is to advise you that the Louisiana Department of the American Veterans of World War II-Korea-Viet Nam fully supports the retention of present Veterans provisions in the State Civil Service procedure, in any newly proposed new constitution.

This includes Veterans Preference, etc.

Sincerely,  
*Anthony Gillin*  
Anthony Gillin, Chairman  
Committee on Public Welfare  
710 Westbank Drive  
Baton Rouge, LA 70803

THE AMERICAN LEGION  
THE LOUISIANA DEPARTMENT

OFFICE OF  
DEPARTMENT HEADQUARTERS  
P O BOX 1431  
BATON ROUGE LA 70821

June 6, 1973

CC/73 Committee on Public Welfare  
Baton Rouge, Louisiana

Gentlemen:

This is to advise you that the Louisiana Department of The American Legion fully supports the retention of the present Veterans provisions in the State Civil Service procedure in any newly proposed new constitution.

This includes Veterans Preference in employment, retention, and promotional, etc.

Sincerely,

*John A. Guirovich, Jr.*  
JOHN A. GUIROVICH, JR.  
Department Commander

JAG/pe



*Veterans of Foreign Wars*

OF THE UNITED STATES  
HEADQUARTERS  
DEPARTMENT OF LOUISIANA  
OLD STATE CAPITOL  
BATON ROUGE LOUISIANA 70801

OFFICE OF  
LESTER J. BOUDREAU  
COMMANDER  
421 AVENUE D  
WESTBEO, LA. 70084

May 28, 1973

Committee on Public Welfare  
Constitutional Convention-73  
Baton Rouge, Louisiana

Gentlemen:

The Louisiana Department, Veterans of Foreign Wars of the U. S., strongly supports retention of the present veterans' preference provisions of state civil service procedures in the proposed Constitution of Louisiana. This includes veterans preference in employment, promotion and retention of employment as presently provided.

This organization, at both the national and the state level, has repeatedly expressed official support of veterans preference in employment practices at all levels of government. We strongly urge you to retain the present provisions and protect them with constitutional status.

Very truly yours,

Lester J. Boudreaux  
DEPARTMENT COMMANDER

LJB:TH:r

MINUTES

Minutes of the meeting of the Subcommittee on Public Welfare of the Committee on Education and Welfare of the Constitutional Convention of 1973.

Held pursuant to notice given by the chairman of the Subcommittee on Public Welfare at a meeting of the subcommittee on June 8, 1973.

East Baton Rouge Parish Instructional  
Resource Center, Veranda Room  
Wednesday, June 13, 1973, 9:00 a.m.

Presiding: Mr. Anthony M. Rachal, Jr., chairman

Present: Mr. Gordon Flory  
Mr. Bill Grier  
Mr. F. E. Hernandez  
Mr. Eual Landry  
Mr. Edward Lennox  
Miss Mary Wisham

Absent: Mr. Minos Armentor

The Subcommittee on Public Welfare met at the East Baton Rouge Parish Instructional Resource Center on Wednesday, June 13, 1973. The chairman called the meeting to order at 9:00 a.m., the secretary called the roll and a quorum was present.

In the discussion of Staff Memorandum No. 9, the chairman noted that proposal No. CC-214 had already been discussed and approved by the subcommittee.

In the discussion of proposal No. CC-201-A, it was the consensus of the subcommittee to include in the proposal any state employee or person whose primary responsibility is the full-time protection of state property and/or the buildings thereon, which would include the levee and dock board police and guards at Angola. The words "guards at the State Capitol" would be deleted from line 29 of the proposal and the words "Capitol security police" would be inserted in its stead. The word "guards" on line 30 would be deleted and the word "officers" would be inserted in its place.

Proposals No. CC-213, CC-215, and CC-216 had already been discussed and approved by the subcommittee.

In the discussion of proposal No. CC-315, Mr. Flory moved to delete the words "two hundred fifty" in line 14 of page 1 of the proposal and insert the words "four hundred" in its stead. With no objections, the motion carried.

There being no further business to come before the subcommittee, the meeting adjourned at 10:00 a.m., Wednesday, June 13, 1973.

Anthony M. Rachal, Jr., Chairman

## II. Staff Memoranda

### A. Committee Memoranda

#### NOTES

Staff Memo No. 1, consisting of a list of names, addresses and telephone numbers of committee members, is omitted.

November 2, 1972

Re: Whether Act No. 2 of 1972 can validly restrict the content of the Constitution to be recommended by the convention (established by the act) and subsequently ratified by the people?

A Constitution being superior to legislative acts, it would seem that once validly adopted, a constitution prevails over any past or future legislative acts as well as over prior constitutional provisions—including any limitations that might have been placed on its content by a prior Constitution or legislative act. Such was the experience with the Constitution of the United States, whose drafters violated both the Articles of Confederation and the Congressional call for the convention.<sup>1/</sup> Such is also the position of many states.<sup>2/</sup>

Authority for the contrary position exists, however, and a number of states allow the legislative act calling a constitutional convention to restrict the convention document.<sup>3/</sup> This position confines the example of the U. S. Constitution to revolutionary times and holds it inapplicable in times of stability. Louisiana is cited as being of this latter view, although the cases are not that clear.<sup>4/</sup>

The leading case is State v. Am. Sugar Ref. Co., 137 La. 407, 68 So. 742 (1915). Act 1 of 1913 (Extra Sess.) called the convention which produced the Constitution of 1913, the act having been ratified by the voters and providing that the Constitution adopted by the convention would become effective without approval by the people. Act 1 purported to prohibit the convention from changing

"the term of office, duties or compensation of any existing officer." Under the prior law, the Orleans District attorney had no power to represent the state in civil matters. Art. 190 of the 1913 Constitution, a provision regulating monopolies, did grant such power to the Orleans district attorney, and he invoked it to bring the instant suit. The action was dismissed on an exception to the capacity of the district attorney to prosecute the litigation for the state. The Court held that Act 1 of 1913 controlled the subjects which the convention might provide for, and that the Constitutional provision enlarging the Orleans district attorney's powers was invalid for exceeding the mandate of the convention.<sup>5/</sup>

The court cites no authority for its position and devoted most of the opinion to an analysis of whether this was an additional duty of the district

attorney. Justice O'Neill dissented, arguing that the constitution adopted should prevail.

To the same effect, as to the Constitution of 1913, are Foley v. Dem. Pty. Onte., 138 La. 220, 79 So. 104 (1915); Hayne v. Assessor, 143 La. \_\_\_\_, 79 So. 280 (1917); Treant Lhr. Co. v. Police Jury, 144 La. 678, 81 So. 249 (1918); F. B. Williams Cypress Co. v. Martin, 144 La. 767, 81 So. 307 (1919); Wanderlich v. N. O. Ry. & Lt. Co., 145 La. 21, 81 So. 741 (1919); Sheridan v. Police Jury, 145 La. 403, 82 So. 386 (1919).

The Constitution of 1921 also resulted from a convention whose call was ratified by the people, but whose final document was not submitted to the people for approval. In Pender v. Gray, 149 La. \_\_\_\_, 88 So. 786 (1921), the Court seemed to be consistent with the earlier cases dealing with the 1913 Constitution. There, the Court denied effect to a resolution of the convention requiring continuances in actions being pursued by attorneys who were members of the convention, reasoning that the mandate of the convention was to draft a constitution and not to enact legislation by resolution. However, State v. Jones, 151 La. \_\_\_\_, 92 So. 310 (1922), seemed to depart slightly from the earlier trend. There, the Court recognized the power of the convention to adopt a constitutional provision

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which called for a special session of the legislature. This, even though the mandate was to frame and adopt a Constitution, which might have been interpreted to exclude providing for the calling of a special session.

In any event, the American Sugar Refining case remains without having been overruled, and it has been quoted approvingly in dictum as late as 1941 and 1956.<sup>6/</sup>

However, there is some doubt as to whether the principle adopted in the cases discussed applies to the 1973 constitutional convention. Both the 1913 and 1921 constitutions went into effect upon adoption by a convention, without submission to the people for approval. And both had been called by means of a legislative act approved by the voters. The legislation limiting the scope of the convention was ratified by the people and was thus given higher status; the people's authority stood behind the limitations and they were more than legislative acts. They emanated from the source of sovereignty.

Under the procedure for the 1973 convention, the situation is reversed. The people have not ratified the call for a convention and have not imposed limitations on it. Rather, the people will be expected to ratify the product of the convention before it becomes effective. Once that occurs, the source of sovereignty will have spoken, and it would then seem on basic principle that a mere legislative act will have to give way to the higher source of authority.

In any event, the prior cases do not appear clearly dispositive of the question, and it seems there exists substantial doubt that the limitations established by Act 2 of 1972 will be given effect at all.

#### Footnotes

1. See Constitution of the United States, Library of Congress Edition,

pp. 25-31. Once several states seemed inclined to do so, the Continental Congress approved a call for a convention and instructed it to convene "for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the States render the Federal Constitution adequate to the exigencies of Government and the preservation of the Union."

The convention defied the instructions and drafted a new Constitution. The Continental Congress never approved the changes.

The Articles of Confederation required unanimous approval of the states for revision, but the delegates to the Constitutional Convention provided the document would be effective upon adoption by 3/4 of the States. When 11 states ratified, the Continental Congress resolved to put the new Constitution into operation, and the procedure for electing a president was begun. It wasn't until November 1789 that North Carolina ratified the Constitution and until May 1790 that Rhode Island ratified.

2. 16 C.J.S. -- Const. Law, §8, p. 47; 12 C.J. -- Const. Law, §20, p. 685.

3. Id.

4. Id., p. 47, note 59.

5. "The Legislature in enacting Act No. 1, Extra Session of 1913, paid no attention to the alleged restriction in the call of the Governor, and that official signed the act, and the people approved all the restrictions therein set forth."

"When the people, acting under a proper resolution of the Legislature, vote in favor of calling a convention, they are presumed to ratify the terms of the call, which thereby become the basis of the authority delegated to the convention. 6 R.C.L. 718, p. 27."

6. *Graham v. Jones*, 198 La. 507, 3 So.2d 761 (1941); *State v. Stroughan*, 229 La. 1036, 87 So.2d 523 (1956).

2/ Assuming Act 2 of 1972 can validly limit the powers of the Constitutional Convention, does §4(2) of the act prohibit the convention from reducing the term or abolishing the position of members of the LSU Board of Supervisors and of the State Board of Education?

#### A. Length of Protection

Section 4(2) of Act 2 of 1972 prohibits a constitutional provision whereby:

The terms of office of the members of the legislature or of any other elected or of any appointed official of the state or of any political subdivision thereof shall be reduced or shortened prior to the expiration of the term of office being held at the time of the adoption of the new constitution, or the salaries of any such official reduced prior to the expiration of the term of office being held at the time of the adoption of a new constitution; however, retention in office beyond the date of the general state election for state officials who will take office in 1976 shall depend upon the provisions of such constitution or upon provisions of law enacted pursuant thereto.

Even if §4(2) were construed to apply to the LSU Board and the State Board of Education, the provisions of the first phrase (terms not reduced or shortened prior to the expiration of the term of office being held at the time of the adoption of the new constitution) are modified by the final clause:

however, retention in office beyond the date of the general state election for state officials who will take office in 1976 shall depend upon the provisions of such constitution. . . .

and the protection of tenure in office would expire in 1976 and would not protect tenure in office beyond that date. The final proviso refers to all officials protected by §4(2) and not just to "state officials" since the phrase "general state election for state officials who . . ." modifies the noun "date" and serves to establish the date at which the protection expires, rather than being the subject of a phrase indicating that it is state officials elected at that election that are protected.

#### B. Scope of Protection

No clear authority exists whether members of the LSU Board of Supervisors and the State Board of Education are "officials of the state" or of a "political subdivision of the state" within the meaning of §4(2). The terms are not terms of art with technical legal definitions; their meaning varies according to the context used, and their meaning in Act 2 of 1972 will have to come out of that context.

##### 1. Protection of officers rather than boards

Section 4(2) protects the terms of office and salary of legislators and "any other elected or of any appointed official of the state or of any political subdivision thereof" from reduction. It protects the officeholder and his salary, rather than protecting the existence of a board or agency.

The protection being personal, it is consistent with this section to allow changes in the powers and functions of boards and agencies so long as the personal interests of the office holders are not infringed---mainly their tenure and their salary. It would seem permissible to transfer the duties of any board or agency to another state organ without violating §4(2).

With respect to the LSU Board, whose members receive no salary, the protection provided here would be minimal---tenure in office until 1976, but no guarantee that existing powers and duties would be maintained. And if this is the only protection---it would seem that recognizing this tenure in a discarded position would be a useless act, and it would be more logical to recognize no protection at all.

##### 2. Legislative Intent

As a matter of policy, it appears that Act 2 of 1972's prohibitions should not be construed to unduly limit the convention's power to reorganize state government. It is clear that the impetus behind the convention call was a

need to broadly reorganize state government. Following years of lobbying and publications by PAR and other groups as well as of rejection of needed amendments by voters, a sizeable element in the state was objecting to the present governmental structure with its many state agencies. The need for consolidation was one of the main issues in the campaign for the governorship in 1972, with all the leading candidates advocating streamlining state government through consolidation of agencies. This was a legislative policy, also, as evidenced by the reorganization plans adopted by the 1972 Legislature which did reorganize many agencies which could be realigned without constitutional change. It is inconsistent that the Legislative and Executive branches which advocated and produced those changes would have hampered a constitutional convention that was called largely to reorganize and streamline state government. Consolidation and even abolition of some agencies---and necessarily the terms of the members of governing boards of those agencies---was a main goal, and it is unlikely that the intent in enacting Act 2 of 1972 was to work contrary to those goals. Accordingly, Act 2 should be construed in that light, construing the prohibitions narrowly rather than broadly.

This is especially so in regards to the agencies charged with administering the state's higher education program. In this field, the Legislative and Executive branches have already acted to consolidate existing boards and to



reorganize. It might be argued that the legislature did adopt a plan that did not remove existing officers and position holders, but rather transferred them to a new body. At the least, the legislative scheme displays an intent to abolish the old bodies, even if the particular officials must be kept in some capacity. It would follow that even if LSU Board members cannot be removed, they can be transferred and their duties changed. And this being the legislative intent to the extent determinable from the acts put into law, it would seem that

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Act 2 of 1972 should be construed in that light, since it was adopted by the same legislature which enacted the other education reorganization programs.

### 3. Comparison of subsections 1 and 2

A reason for eliminating most of the state's boards and agencies from being within the terms "the state" and "political subdivisions of the state" comes from comparison of the language used in subsections 1 and 2 of section 4.

Subsection 1 prohibits provisions whereby:

The bonded or other indebtedness of the state or of any parish, municipality, district or other political subdivision or authority of the state shall be impaired.

The term "other political subdivision" being used after parish, municipality or district indicates that the "other political subdivisions" are of the same type as the enumerated governing powers---for example, they have taxing power and bond issuing power, as well as being geographically limited governing bodies. They are not, for example, statewide boards and agencies without political governing powers.

The statute continues after the language just discussed and includes "authority of the state." Here, the breadth of the provision is shown---protecting all bondholders, as would be expected. And the word used to give this breadth is "authority," which would include state agencies (other than the state itself or its subdivisions) authorized to issue bonds, including LSU and the State Board of Education. Neither has taxing authority, as do most parishes, municipalities, and districts, so they would probably be considered as an "authority" rather than the state or a political subdivision of the state, as the terms are used here.

Compared to subsection 1, subsection 2 is more restricted. In subsection 2, "authority" is not used. Rather, the reference is to "any other elected or of any appointed official of the state or of any political subdivision thereof."

5

The narrower expression political subdivision is used, showing an intent to exclude "authorities" as used in subsection 1.

### 4. Other statutes

The narrowness of the language used in Act 2 of 1972 can be compared with the breadth of language used in other statutes when referring to certain state boards. Art. 19, §26 of the Constitution, adopted in 1956, withdrew permission of the state to sue certain of its agencies. The statute began with a statement that the following "commissions, boards, bodies or municipal corporations are and shall be considered special agencies of the state of Louisiana." Then were enumerated several agencies, including the State Board of Education and the Board of Supervisors of LSU. Here, the reference is such as not to consider them political subdivisions or the state itself---the reference is to "special agencies" of the state.

In 1960, Art. 3, §35 empowered the legislature to waive immunity from suit against the "state, and of parishes, municipalities, political subdivisions, public boards, institutions, departments, commissions, districts, corporations, agencies and authorities and other public or governmental bodies. . . ." The broad enumeration here indicates the legislature does use terms of breadth when it desires to have that breadth. The more limited language in Act 2 of 1972 indicates a much narrower ambit.

Article 12 of the Constitution regulates public education. Nothing there refers to LSU or to the Board of Education as political subdivisions of the state. The reference is to "a State Board of Education" in §4 and to "a body corporate to be known as the 'Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, . . ." in §7. The reference is to a corporation, an independent body, not a state agency, not to state officials, not to a subdivision of the state.

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If officials of the state, board members would not be of the Legislative or Judicial Department. They would thus have to qualify as members of the Executive branch---at least according to State v. Coulon, 197 La. 1058, 3 So.2d 241 (1941) and its interpretation of the then-existing dual office holding law which referred to "position of employment of profit in one of the three departments of government of the State of Louisiana. . . ." The opinion there refers to the Executive Department in terms of Art. 5, §1's references to the Executive as consisting of the "Governor, Lieutenant Governor, Auditor, Treasurer, Secretary of State, Register of the Land Office, Commissioner of Agriculture and Immigration, and Commissioner of Conservation." The court used this language:

While local subdivisions and boards created by the state may have some connection with one of the departments of the state government as defined by the Constitution, they are not 'departments of state government' within the intent and meaning of the act.

In the same way, "officials of the state" could be limited to those referred to in Art. 5, §1 and would not include, in the construction of Act 2 of 1972, members of state boards and agencies. The problem here, of course, is whether the definition in the Coulon context can be transferred to the context in which Act 2 was enacted. Especially since the reference in Art. 5, §1 is to elected officials, and Act 2 clearly encompasses some appointed officials, also.

### 5. Dual office holding

The laws prohibiting dual office holding have been examined, but they provide little insight into the present problem. In Const. Art. 19, §4, the reference is to "office of profit". R.S. 14:137 refers to "any office, position or employment of profit." Though a belief that these provisions might have prevented legislators from serving on the LSU Board was behind R.S. 17:1601,

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which provides:

Any other laws prohibiting dual office holding to the contrary notwithstanding, any member of the legislature of Louisiana shall be eligible, while a member of the legislature to serve as a member of the board of supervisors. . . .

an opinion of the Attorney General (Op.Atty.Gen. 1960-62 p47) pointed out the unsalaried status of board members made that office one not of profit and thus one not prohibited by the Constitutional provision. The question of whether

this was an office of the state was not in question and thus not answered.

6. Prior calls for conventions

Particularly detailed limitations were incorporated in Act 1 of 1913, Extra Session, the call for the 1913 convention. Section 3(c) of the act was quite clear in limiting changes touching on:

1. Any public board or commission of the State or of any political subdivision thereof.
2. Any Educational or Eleemosynary Institution of the State.
3. The Educational System of the State.
4. Parochial or Municipal Corporations.

That detail was missing from the call for the 1921 Convention [Act 180 of 1920] and is conspicuously absent from Act 2 of 1972. Comparing the current act with the specific and detailed language of the 1913 Act, it would seem that the present act guarantees much less to state boards and commissions. The 1913 language is directed to protecting the boards rather than the office holders. In contrast, the current statute protects office holders rather than boards and agencies, and thus would seem to be much narrower, and indicate that changes in boards and commissions certainly can be made. And those changes could not be made without affecting the members of those boards. Accordingly, a more logical interpretation of the current act would be to limit it to the few high-ranking political officers of the state or of parishes, municipalities, and districts, and not to officials of the state boards and agencies which are themselves not protected.

Section 4(2) also has its predecessors in protecting the tenure of various officials. The language in Act 52 of 1896, §3(d) was:

Whereby the terms of office of the General Assembly or any of the present State, District, Parochial or municipal officers, whether elected or appointed, shall be reduced or shortened, or the salary thereof reduced or diminished prior to the first Tuesday after the third Monday in April, 1900.

This language is strikingly similar to that used in Act 2 of 1972, but the 1896 act went further in section 3(e):

Whereby the offices of Chief Justice and Associate Justices of the Supreme Court shall be made elective, or whereby the terms of office of the then incumbents shall be shortened or their salaries diminished.

The language of 3(d) must have been seen as not to include judges of the Supreme Court in view of the addition of section 3(e). This leads to construing the language "the present State, District, Parochial or municipal officers, whether elected or appointed" in §3(d) in a narrow manner. If justices of the Supreme Court were not within the "state officers" language, then "state officers" must have been used in quite a restrictive manner. Turning to the same reference to "state officials" in the new Act of 1972, it would seem that members of state boards and commissions ought to be excluded.

In the 1921 convention call, the prohibition regarding bonds was framed this way:

The bonded or other indebtedness of the State, or of any parochial, municipal, levee district, or other political subdivisions thereof, shall be affected.

But in Act 2 of 1972, the reference is expanded to include "authority of the state" in addition to the bodies mentioned in the 1921 act. Again, this lends the 1972 act to a construction that would not consider state boards and agencies as subdivisions of the state, but rather consider them as "authorities" in view of the language of the 1972 act.

The 1921 limitations also protected certain officials from having their terms affected:

The terms of office of the General Assembly or any of the present State, district, parochial, or municipal officers, whether elected or appointed; the terms of office of the Chief Justice and Associate Justices of the Supreme Court and Judges of the Courts of Appeal the District Judges, and district attorneys throughout the State, or the municipal officers of the city of New Orleans, shall be reduced or shortened. . . .

Again, the term political subdivisions is not used, and the legislation confined the protection to officers of territorial governing bodies. Again, the narrowness of the phrase "present state, district, parochial, or municipal officers" in the first part is shown by the additional reference to judges, district attorneys, etc.

In any event, in the prior calls, the general language is nowhere clearly applicable to members of state boards and agencies. When those boards were protected, they were specifically enumerated---the 1913 statute.

7. Commander case

A possible definition of "political subdivisions of the state" comes from Art. 14, §14(a) of the 1921 Constitution, which governs the bonding and taxing authority of state subdivisions:

Municipal corporations, parishes and school, road, subroad-sewerage, drainage, subdrainage (waterworks and sub-waterworks) districts, hereinafter referred to as subdivisions of the state, may incur debt. . . .

Other enactments on the subject use the same definitional approach, with Art. 13, §30.1 empowering the legislature to create "port, harbor and terminal districts as political subdivisions of the State. . . ."; §30.3 classifying "navigation and river improvement districts as political subdivisions of the state. . . ."; and, §31 referring to "port, harbor and terminal districts as political subdivisions of the State. . . ."

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A first conclusion here might be that the absence of state boards and agencies from the enumeration would limit Act 2 of 1972 to exclude such agencies from the meaning of "political subdivisions". On a second construction, the types of agencies referred to having bond-issuing and taxing authority, one could conclude that to be a political subdivision of the state the organ in question must possess these powers.

The first construction seems to have been rejected in Commander v. Bd. of Commissioners of Buras Levee Dist., 202 La. 325, 11 So.2d 605 (1942). At issue was the power of the court to enjoin a levee district from collecting a tax in light of the prohibition of Act 330 of 1938 that "no court of this State shall issue any process whatsoever to restrain the collection of any tax imposed by the State of Louisiana, or by any political subdivision of the State of Louisiana. . . ." Plaintiffs rested partly on the absence of the mention of levee boards in the constitutional definition of subdivisions of the state; but the court ruled otherwise:

We do not attach any significance to the omission of levee districts from the classification of subdivisions of the State as contained in section 14(a) of Article XIV of the Constitution of 1921. Article 14 of the Constitution, in which the section is embraced, refers to 'parochial and municipal affairs' and has no relation whatever to levees or levee districts.

In considering the meaning of "subdivisions of the state" in this context, the court pointed out that levee boards had as much, or more, power than was given to some of the agencies defined as political subdivisions:

Considering that the powers conferred on levee districts

by constitutional and statutory authority are similar and in many respects are greater than the powers conferred by constitutional authority on school districts, road districts, sub-road districts, drainage districts, sub-drainage districts, water works and sub-water works districts, we can find no justification either in law or in logic for holding that levee districts can not be classified as political subdivisions of the state, whereas the other districts we have named must be included in that classification.

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\* \* \*

Any other construction of the statute would present a situation in which sub-drainage districts with their limited governmental powers must be considered as political subdivisions of the State whereas levee districts, with their much wider governmental powers, must be considered as mere functionaries of the State. Such a construction of the statute is inadmissible.

In light of the case holding and the court's comments, it would seem that the constitutional definition is inapplicable outside the constitutional section on parochial and municipal affairs. It would clearly be inapplicable to education affairs, which are handled in Article 12 of the Constitution.

Adopting the court analysis of comparing governmental powers, it would seem that the education boards do not have as many powers as the named districts and as levee districts---they cannot levy taxes, for instance---and should not be considered political subdivisions of the state.

In Commander, the court also relied on Corpus Juris and other-state cases:

It would therefore appear that the Buras Levee District was created by the Legislature for the purpose of constructing and maintaining the levees within its jurisdiction for the accomplishment of which it is invested with wide governmental powers. Consequently, it is a political subdivision of the State as defined in Standard Oil Company v. National Surety Company and the other cases hereinabove referred to.

\* \* \*

A political subdivision of a state is a subdivision thereof to which has been delegated certain functions of local government.

In view of the reference to local government, it would seem that a statewide board would not qualify under the Commander definition.

In any event, the case law on the subject is not complete and leaves open defining political subdivisions according to the type of case involved. Clearly here, in a question of whether a tax could be enjoined, the policy of the legislature in preventing any taxes from being enjoined was followed, and

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a flexible interpretation of the terms used.

#### 8. Conclusion

Granted there is inadequate authority to support a strong answer to this problem. But the discussion above supports the following:

1. Section 4(2) provides no protection in office to anyone beyond 1970.
2. The term "officials of the state" should be limited to those serving directly under the state in the narrow sense and not extended to officials of boards and agencies of the state.
3. "Political subdivisions of the state" should be a category which does not include agencies without limited geographic jurisdiction, and without taxing power. Perhaps agencies which pay no salaries to its board members should be excluded.
4. The language used in Act 2 of 1972 is much narrower than that used in prior calls and in other legislation when inclusion of state boards and agencies was intended.

CC/73 Research Staff  
Committee on Education and Welfare  
April 16, 1973  
Staff Memo No. 3

RE: Revenues Dedicated for Education

Any effort to explain Louisiana's system of revenue dedication is destined to be beset with many debilitating problems. Documents or sources of information that simply and clearly lay bare for public scrutiny this phenomenon are not available. This report is an attempt, not so much to fill that gap, but to pull from the many different sources available a simple overview of revenue dedication, primarily as it relates to education.

This report will be divided into two parts. Part I will deal with a general survey of revenue dedication, and Part II will specifically deal with revenues dedicated for education.

#### Part I: Revenue Dedication

The Revenue Code Commission, in commenting on the practice of dedicating revenues, stated in its 1946 report:

"As the result of the long continued and expanded system of tax dedication, the legislature, who are periodically elected representative of the people, have a voice in the allocation of only about \$25,000,000 (or 25%) of the total tax revenues of the state. The democratic process of entrusting to the elected representatives of the people the power to authorize periodically the expenditure of all public funds has been largely abandoned."

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According to the Public Affairs Research Council, tax dedications have not diminished since that report in 1946. In fact, PAR indicated that as of fiscal year 1967-68, seventy-eight and one tenth percent (78.1%) of all revenue was dedicated. Further, more recently personnel from the State Budget Office stated that approximately seventy-one percent (71%) of all revenues for fiscal year 1972-73 was dedicated. A representative of the State Treasury believed that the figure is much higher, probably in the area of eighty-two percent (82%).

These different percentages at least indicate that there is some confusion as it relates to the determination of just what revenues (and in what amounts) are dedicated.

A general perusal of the sources available suggests that there are probably several reasons for this confusion. Some revenues are dedicated constitutionally while others are dedicated statutorily. Some revenues are dedicated for bond issues while others are dedicated for nonbond issues. Further, there are dedicated revenues which are collected and retained by agencies for expenditures. There are some dedicated revenues which are designated for a specific purpose, i.e. LSU, while there are others which are designated for a specific fund, i.e. the Welfare Fund, or Public School Fund.

Another factor which has probably inadvertently added to

this confusion was the passage of Act 112 of 1960. This act provides for the establishment in the State Treasury of a special fund designated as the Bond Security and Redemption Fund. This act further provides that "subject to prior constitutional and statutory dedications . . . all moneys, receipts and funds received

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from taxes, licenses, fees, and permits...dedicated to or collected for the State's General Fund shall hereafter be paid into the Bond Security and Redemption Fund..." In addition, the act states:

"All moneys remaining from the moneys paid into the Bond Security and Redemption Fund in each fiscal year after the Treasurer of Louisiana shall have first set aside and paid over to the State Bond and Building Commission the amounts required for the payment of the principal of and the interest on outstanding bonds issued by the State Bond and Building Commission under the provisions of this act, shall be transferred to the General Fund of the state to be disbursed according to the appropriations of the legislature of Louisiana but the payment of the principal of and interests on bonds issued hereunder by the State Bond and Building Commission shall constitute the first charge on the Bond Security and Redemption Fund, and shall have priority over all other claims against the state of whatsoever nature upon the moneys paid into the Bond Security and Redemption Fund."

With these general explanations in mind, let's consider revenue dedication for fiscal year 1972-73.

According to the state budget for fiscal year 1972-73, the total state revenue is \$1,457,058,332. Ninety-eight percent (98%) or \$1,430,479,332, of this total is dedicated in some fashion if first instance Bond Security and Redemption Fund designations are included. However, if only those funds collected and retained by agencies for expenditures are considered, \$99,107,832 or six and seven tenths percent (6.7%) of the state's revenues is dedicated. On the other hand, if only those funds dedicated for specific purposes (including \$19,373,322 collected by agencies and designated for that purpose) are considered, \$162,400,755 or eleven percent (11%) of the state's revenues is dedicated. Further, if those funds dedicated for

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specific funds (minus first instance Bond Security and Redemption Fund designations but including those collected and retained by agencies) are considered, \$618,718,193 or forty-two percent (42%) of the state's revenues is dedicated. If all of the above (minus first instance Bond Security and Redemption Fund designations) are considered, \$781,118,968 or fifty-three percent (53%) of the state's revenues is dedicated. This is the better view because in a real sense, first instance Bond Security and Redemption Fund designations probably should not be considered dedicated revenue. In fact, this fund was created primarily as a residue for all revenues not constitutionally or statutorily dedicated in order to insure a stable and secure bonding position for the state.

The totals and percentages mentioned above reflect the designation of various categories of state revenues as dedicated revenue. However, constitutional dedication comprises

\$600,827,419 or only forty-one percent (41%) of the state revenues. Though this is a large amount, it does not represent nearly as much as one might conclude when they hear the various percentages used to indicate the amount of state revenue that is dedicated.

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#### Part II: Revenues Dedicated for Education

Generally, revenue dedication plays a less important role in the overall financing of education. In this regard, reference is made only to the components listed below and funds appropriated to education out of the general fund are not considered dedicated revenue for the purpose of Part II.

Based upon the State of Louisiana Financial Statement for the year ending June 30, 1971, total expenditure for education was \$662,449,340. Of this amount \$292,966,503 or forty-four percent was dedicated revenues. This total is composed of the following components:

1. Constitutional and Statutory dedications	\$255,182,613
2. Horse Racing Tax	1,952,648
3. Building Use Fee Receipts	1,864,264
4. Revenues collected and retained by agencies	33,993,978
	<u>\$292,966,503</u>

The bulk of the revenues dedicated for education comes from constitutional and statutory dedications. As a rule the public school system receive the major portion of these monies. In fact, Article 12, Section 14 requires that the receipts of 2.50 mills of the ad valorem tax and the residue of the severance tax fund be dedicated to the support of the public elementary and secondary schools. For the fiscal year ending June 30, 1971, these taxes generated a combined total of \$249,422,723 for support of the public elementary and secondary schools or eighty-five percent (85%) of the monies dedicated to education.

The amount of revenues dedicated to higher education is comparatively very small, a total of \$41,050,961 or fourteen percent (14%) of the amount dedicated to education. The major portion of these monies is the \$31,676,159 for student fees, athletics fees, library fines, etc., that are collected and

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retained by the state higher education institutions for expenditure as a part of their budgets. Constitutional and statutory dedications account for \$5,987,528 of the revenues for higher education. Of that amount, \$5,601,556 or ninety percent (90%) goes to Louisiana State University.

The state colleges and universities received the major portion of revenues dedicated for their use from the horse racing taxes, revenues collected and retained by them, and building use fee receipts. The total amount from these three sources was \$18,636,077 or six percent (6%) of those funds dedicated for education. It should be noted, however, that the building use fee receipts are used solely for servicing construction bonds and as a sinking fund for the maintenance and repair of those buildings bonded from this source.

Summary: The purpose of this report was twofold: (1) to generally survey revenue dedication, and (2) to consider the specific dedication for education.

In the first instance, consideration was given to the apparent confusion concerning what was considered dedicated revenues. In that regard, the effect of Act 112 of 1960 on the nature and amount of dedicated revenue was suggested. If the revenues that go to the Bond Security and Redemption Fund is considered to be dedicated revenue, then it is apparent that a much larger proportion of state revenues than was previously thought is dedicated. However, if another interpretation is used, then the amount and percentage of revenues dedicated will be a function of the definition given to the term dedication.

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Further, it should be noted that the source of the data used to determine the amount and percentage of dedication in Part I was the state budget for fiscal year 1972-73.

As it relates to revenues dedicated for education a different approach was used. Here the concern was more with looking at the support received by public education via revenue dedication than trying to explain the confusion concerning the nature and amount of dedication. In that regard, it was found that a relatively small percentage of support for public education is received from either constitutional or statutory revenue dedications. This is especially true as it relates to higher education.

The sources of the data used in Part II is the State of Louisiana Financial Statement for the year ending June 30, 1971.

NOTE: The three appendices attached illustrate in more detail what is presented here in overview form.

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SOURCES

1. "Dedicated Revenues for Education in Louisiana." (Unpublished report requested by State Board of Education through the Council of Presidents of State Colleges and Universities, Baton Rouge, Louisiana) December 22, 1972.
2. Division of Administration. Budget, State of Louisiana. Baton Rouge: State of Louisiana, 1972.
3. Division of Administration. Financial Statement, State of Louisiana. Baton Rouge: State of Louisiana, 1971.
4. Executive Department. Executive Budget, State of Louisiana. Baton Rouge: State of Louisiana, 1972.
5. Louisiana Constitution Article XII, (1921).
6. Louisiana Legislative Council. "Constitutional and Statutory Dedications." (Unpublished memorandum, Baton Rouge, La.) November 27, 1972.
7. Oral statement of Emil J. Maciasz, assistant state treasurer, made to a member of CC/73 research staff, April, 1973.
8. Oral statement of Dr. James Oliver, assistant state superintendent of education for management, research, and finance, made to a member of the CC/73 research staff, April, 1973.
9. Oral statement of Ralph Perlman, state director of budgets, made to a member of the CC/73 research staff, April, 1973.
10. Public Affairs Research Council. Louisiana State Tax Handbook. Baton Rouge: 1969.

NOTES

Appendices to Memo No. 3 are omitted: Appendix A contains excerpts from Budget, State of Louisiana, Fiscal Year 1972-1973, pp. 10-11; appendix B is a staff compilation in chart form of dedicated revenues for education, with source of revenue, legal citation, approximate revenue to be derived, and the nature of the dedication; appendix C is excerpts from PAR, Louisiana Tax Handbook, 1969, pp. 130-135.

CC/73 Research Staff

Committee on Education and Welfare

May 6, 1973

Staff Memorandum No. 4

RE: Recommendations of Subcommittee on Public Welfare

The Subcommittee on Public Welfare submits for consideration the following proposals to the Committee on Education and Welfare:

1. Referred to Committee on Revenue, Finance and Taxation with a ~~strong~~ recommendation for inclusion in the proposed constitution:
    - (6) Article X, Section 1a State tax, levy or increase in rate; approval by two-thirds of legislature
    - (7) Article III, Section 25.1 Tax measures; amendments; conference committee reports; vote required
  2. Referred to Committee on Local and Parochial Government with strong recommendation for inclusion in the proposed constitution:
    - (16) Article XIV, Section 29.1 Parish industrial areas
    - (17) Article XIV, Section 14(b-2) Encouragement of industrial enterprises; bonds to acquire plant sites
  3. Provisions approved by the subcommittee and recommended to the Committee on Education and Welfare for inclusion in the proposed constitution:
    - (18) Article IV, Section 4. Limitations on the legislature
    - (19) Article III, Section 36. Arbitration laws
    - (20) New. Regulation of wages, hours, and conditions of employment [See La. Const. Article IV, Section 7 (1921)]
    - (22) New. Economic security, social welfare, unemployment compensation, and public health. [See La. Const. Article XVIII, Section 7 (1921)]
    - (26) New. Convict labor [See Article III, Section 33 (1921)]
- The following provisions from the Louisiana Constitution (1921) were brought to the attention of the subcommittee by representatives of business and industry with a request that they have <sup>be</sup> reviewed and retained in the constitution. These provisions were not assigned to this subcommittee, therefore, it makes the following recommendations:
1. Refer this information to the Committee on Revenue,

Finance, and Taxation with a request that it review the provisions.

- (10) Article X, Section 4, Paragraph 19(b). Raw materials, goods, commodities... held in public storage for export outside the Continental United States
- (11) Article X, Section 4, Paragraph 19(a). Imports
- (12) Article X, Section 4, Paragraph 19(c). Goods in interstate transit
- (13) Article X, Section 4, Paragraph 18. Property of nonprofit corporation devoted to promotion of trade, travel, and commerce

2. Refer to the Committee on Revenue, Finance and Taxation with recommendation to have the provision apply only to municipally-owned utilities.

- (14) Article X, Section 24. Tax relief for manufacturing establishments.

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3. Refer to the Committee on Revenue, Finance and Taxation without a recommendation.

- (15) Article X, Section 21. Severance tax on natural resources; levy; rate; allocation to parishes. Forestry Commission allocation.

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CC-

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by  
 4 A PROPOSAL  
 5 To require the approval of two-thirds of the membership  
 6 of both houses of the legislature to levy a state  
 7 tax or increase an existing tax.

8 PROPOSED SECTIONS:  
 9 Article \_\_\_\_\_, Section \_\_\_\_\_. State tax, levy or  
 10 increase in rate; approval by two-thirds of  
 11 legislature  
 12 Section \_\_\_\_\_. Notwithstanding any provisions  
 13 elsewhere contained in this constitution to the  
 14 contrary, and in connection with the authority  
 15 granted the legislature in Section 1 of this  
 16 Article, no state tax shall hereafter be levied nor  
 17 shall the rate or the measure of any state tax now  
 18 imposed be hereafter increased by the legislature at  
 19 any regular or special session of the legislature ex-  
 20 cept upon the approval thereof by two-thirds of the  
 21 members elected to each house of the legislature,  
 22 evidenced by a recorded vote.

23  
 24 Source: La. Const. Art. X, § 1a (1921).  
 25  
 26 Comment: Requires a two-thirds vote of the membership  
 27 of both houses of the legislature to levy a state  
 28 tax or increase an existing tax.

CC-

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by  
 4 A PROPOSAL  
 5 For the adoption of conference reports and amendments  
 6 on new or increased tax levies.  
 7 PROPOSED SECTION:  
 8 Article \_\_\_\_\_, Section \_\_\_\_\_. Tax measures; amend-  
 9 ments; conference committee reports; vote required  
 10 Section \_\_\_\_\_. Notwithstanding any provisions else-  
 11 where contained in this constitution to the contrary, no  
 12 amendment to any bill or measure levying or proposing to  
 13 levy new state taxes or increasing the rate of any state  
 14 tax now or hereafter imposed, made by one house shall be  
 15 concurred in by the other, nor shall reports of committees  
 16 of conference on any such bills or measures be adopted in  
 17 either house, except by two-thirds of the members elected  
 18 thereto, the vote to be taken by yeas and nays and the  
 19 names of those voting for or against to be recorded in  
 20 the journal.

21  
 22 Source: La. Const. Art. III, § 25.1 (1921).  
 23  
 24 Comment: Requires a two-thirds vote of the membership  
 25 on one house of the legislature to concur in  
 26 amendments of the other house which levy or increase  
 27 state taxes; requires a two-thirds vote in both  
 28 houses of the legislature to adopt a conference  
 29 report levying or increasing a state tax.

CC-

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by  
 4 A PROPOSAL  
 5 To permit parishes to create industrial areas.  
 6 PROPOSED SECTION:  
 7 Article \_\_\_\_\_, Section \_\_\_\_\_. Parish industrial areas  
 8 Section \_\_\_\_\_. The legislature is authorized to  
 9 permit all parishes to create industrial areas within  
 10 their boundaries in accordance with such procedure and  
 11 subject to such regulations as the legislature shall  
 12 decide upon. Parish industrial areas shall not be sub-  
 13 divisions of the state. All industrial areas so created  
 14 hereafter shall include provisions for access by public  
 15 road to any and all entrances to the premises of each and  
 16 every plant in such area which entrances are provided for  
 17 use by employees of such company, or for use by employees  
 18 of independent contractors working on such premises, or  
 19 for delivery of materials or supplies, other than by rail  
 20 or water transportation, to such premises. Where indivi-

21 dual plants provide police protection, this protection  
22 shall be confined to the premises of each individual  
23 plant located in the area.

24  
25 Source: La. Const. Art. XIV, § 29.1 (1921).

26  
27 Comment: Authorizes legislature to permit parishes to  
28 create industrial areas within their boundaries pro-  
29 vided the areas include public road access and limit  
30 police protection to the confines of the industrial  
31 plant.

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To permit local governing bodies to issue bonds to acquire  
6 industrial plants or plant sites.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Encouragement of industrial  
9 enterprises; bonds to acquire plant sites

10 Section \_\_\_\_\_. Any parish, ward, or municipality of  
11 this state, in order to encourage the location of or  
12 addition to industrial enterprises therein may incur debt  
13 and issue negotiable bonds under the provisions of para-  
14 graph (a) of this section of the constitution and in ac-  
15 cordance with the provisions of the existing laws relating  
16 to incurring debt and issuing bonds, and use such funds  
17 derived from sale of such bonds, which shall not be sold  
18 for less than par, or bear a greater rate of interest  
19 than six per centum per annum payable annually or semi-  
20 annually to acquire industrial plant sites and other  
21 necessary property or appurtenances for and to acquire  
22 or construct industrial plant buildings located within  
23 such parish, ward, or municipality, as the case may be,  
24 and may sell, lease, or otherwise dispose of, by suitable  
25 and appropriate contract, to any enterprise locating or  
26 existing within such parish, ward, or municipality, a  
27 plant site, appurtenances, and plant building, or build-  
28 ings, either both or severally; provided that bonds so  
29 issued shall not exceed in the aggregate twenty  
30 per centum of the assessed evaluation of the taxable  
31 property of such parish, ward, or municipality to be as-  
32 certained by the last assessment for the parish, ward, or  
33 municipality of local purposes previous to incurring such  
34 indebtedness, nor shall such bonds run for a longer period  
35 than twenty-five years from date thereof; provided further

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1 that any income or revenue accruing to such parish,  
2 ward, or municipality from such contracts shall be  
3 deposited in the sinking fund dedicated to the payment

4 of any debt incurred herein; provided further, that  
5 before the calling and holding of an election to incur  
6 debt and issue bonds for such purpose, any existing  
7 similar and directly competing industry situated within  
8 such parish, ward, or municipality, as the case may be,  
9 shall have first filed with the governing authority  
10 calling such election a written consent to the incurring  
11 of debt and issuing of bonds for such purpose of en-  
12 couraging the location therein of such industrial enter-  
13 prise; provided further, that before calling an election  
14 to vote on incurring debt and issuing bonds to carry out  
15 any plan to encourage the location of or additions to  
16 industrial enterprise, the State Bond and Tax Board and  
17 Board of Commerce and Industry or their successors  
18 function, shall certify their approval of any proposed  
19 contract between such parish, ward, or municipality and  
20 industrial enterprise to be aided, encouraged, or bene-  
21 fited; provided further, that a municipality may incur  
22 debt, issue negotiable bonds, and use such funds derived  
23 from the sale of such bonds under the provisions of this  
24 paragraph to encourage the location of or addition to  
25 industrial enterprises in an adjoining area or area  
26 outside the corporate limits of such municipality but  
27 within the parish in which such municipality is located;  
28 provided further, that the authority conferred herein on  
29 parishes, wards, and municipalities shall apply with the  
30 same provisions to legally constituted industrial dis-  
31 tricts hereafter created which are hereby authorized to  
32 be created by the governing authorities of the parishes  
33 of the state. Such districts may comprise an entire ward,  
34 a combination of or parts of parishes, wards, or munici-  
35 palities, either both or severally; provided, however, that

-3-

1 no municipality may be included in any industrial  
2 district without the consent of the governing body of  
3 such municipality to be evidenced by a resolution duly  
4 and properly adopted by such governing body. Said in-  
5 dustrial districts shall be political and legal sub-  
6 divisions of the State of Louisiana, with full power  
7 to sue and be sued in their corporate names, to incur  
8 debt, and to contract obligations, to have a corporate  
9 seal, and to do and perform all acts in their corporate  
10 capacity and in their corporate names necessary and  
11 proper to carry out the purposes of this paragraph.  
12 Each such industrial district shall be given a name at  
13 the time of its creation which shall include the words  
14 "industrial district" and shall have as its governing  
15 authority the governing authority of the parish creating  
16 it and the parish treasurer shall be the treasurer of  
17 the district.

18 For the purposes set forth in this section and para-  
19 graph, and particularly but not exclusively for the pur-

20 pose of issuing bonds hereunder, the governing authorities  
21 of wards shall be the governing bodies of the parishes in  
22 which the wards are located.

23 Said bonds shall be sold to the highest bidder, at  
24 a public sale, for not less than par and interest, after  
25 advertisement at least once a week, for not less than  
26 thirty days by said public body, reserving to said public  
27 body the right to reject any and all bids.

28 In the event the public body rejects all bids, it  
29 shall have the right to readvertise for new bids or to  
30 negotiate publicly with the bidding groups, and to sell  
31 the bonds on terms more advantageous than the best bid  
32 submitted.

33 In the event that no bids are submitted, the public  
34 body shall have the right to sell the bonds on the best  
35 terms it can publicly negotiate, or to readvertise for

-4-

1 new bids as provided herein.

2 This entire paragraph shall be self-operative,  
3 without any enabling act.

4  
5 Source: La. Const. Art. XIV, §14(b.2) (1921).

6  
7 Comment: Permits local governing bodies, with the approval  
8 of resident taxpayers, to issue bonds or incur debts to  
9 acquire industrial plants or plant sites for sale or  
10 lease to any enterprise locating in their parish.

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To prohibit local or special laws regulating labor,  
6 trade, manufacturing, agriculture, or commerce.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Limitations on the  
9 Legislature

10 Section \_\_\_\_\_. The legislature shall not pass  
11 any local or special laws on the following specified  
12 subjects:

13 Regulating labor, trade, manufacturing,  
14 agriculture, or commerce.

15  
16 Source: La. Const. Art. IV, § 4 (1921).

17  
18 Comment: Prohibits local or special laws regulating  
19 labor, trade, manufacturing, agriculture, or  
20 commerce; adds the word "commerce" to the source  
21 provision.

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide for the settlement of disagreements through  
6 arbitration.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Arbitration Laws

9 Section \_\_\_\_\_. The legislature shall pass such  
10 laws as may be proper and necessary to decide diff-  
11 erences, with the consent of the parties, by arbi-  
12 tration.

13  
14 Source: La. Const. Art. III, § 36 (1921).

15  
16 Comment: Directs the legislature to pass laws, with the  
17 consent of the parties, to provide for the settle-  
18 ment of disagreements by arbitration.

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To prohibit the leasing of convicts and the employment of  
6 convicts in competition with private enterprise.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Convict labor

9 No convict sentenced to the state penitentiary shall  
10 ever be leased, or hired to any person or persons, or corp-  
11 oration, private or public, or quasi-public. No convict  
12 sentenced to the state penitentiary shall ever be employed  
13 in any enterprise in competition with private enterprise.

14  
15 Source: New.

16  
17 Comment: Prohibits the leasing of convicts and the employment  
18 of convicts in competition with private enterprise. [See  
19 La. Const. Art. III, § 33 (1921)]

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide a system of economic security, social welfare,  
6 unemployment compensation, and public health

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Economic Security,  
9 Social Welfare, Unemployment Compensation, and



10 Public Health.  
11 Section \_\_\_\_\_. The legislature may establish a  
12 system of economic security, social welfare, unemploy-  
13 ment compensation, and public health.

14  
15 Source: New

16  
17 Comment: Authorizes the legislature to establish a system  
18 of economic security, social welfare, unemployment  
19 compensation, and public health. [See La. Const.  
20 Art. XVIII, § 7 (1920)].

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To regulate hours and conditions of employment.

6 PROPOSED SECTION:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. Regulation of Wages,  
8 Hours, and Conditions of Employment

9 Section \_\_\_\_\_. The legislature may enact laws  
10 relative to the wages, hours, and conditions of  
11 employment for employees not engaged in interstate  
12 commerce.

13  
14 Source: New.

15  
16 Comment: Authorizes the legislature to regulate wages,  
17 hours, and conditions of employment for employees  
18 not engaged in interstate commerce. [See La. Const.  
19 Art. IV, § 7 (1921)]

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide tax exemptions to exports held in public storage  
6 awaiting shipment.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Raw materials, goods, commod-  
9 ities, and other articles held in public storage for  
10 export outside the continental United States

11 The following property shall be exempt from taxation:

12 All raw materials, goods, commodities and other articles  
13 being held upon the public property of a port authority or  
14 docks of any common carrier or in a warehouse, grain ele-  
15 vator, dock, wharf or public storage facility in this state  
16 for export to a point outside the continental United States.

17 All such property entitled to exemption shall be re-  
18 ported to the proper taxing authority on the forms required  
19 by law.

20  
21 Source: La. Const. Art. X, § 4, Para. 19(b) (1921).

22

23 Comment: Provides property tax exemptions for articles in  
24 public storage awaiting export from the continental  
25 United States.

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide property tax exemptions to imports in transit  
6 or in storage.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Imports

9 The following property shall be exempt from taxation:

10 All raw materials, goods, commodities and articles imported  
11 into this state from outside of the continental United States:

12 (1) so long as such imports remain upon the public prop-  
13 erty of the port authority or docks of any common carrier  
14 where such imports first entered this state, or

15 (2) so long as any such imports (other than minerals  
16 and ores of the same kind as any mined or produced in this  
17 state and manufactured articles) are held in this state in  
18 the original form in bales, sacks, barrels, boxes, cartons,  
19 containers or other original packages, and raw materials held  
20 in bulk as all or a part of the new material inventory of  
21 manufacturers or processors, solely for manufacturing or  
22 processing, or

23 (3) so long as any such imports are held by an importer  
24 in any public or private storage in the original form in bales,  
25 sacks, barrels, boxes, cartons, containers or other original  
26 packages and agricultural products in bulk. This shall not  
27 apply to a retail merchant holding such imports as part of his  
28 stock in trade for sale at retail.

29 All such property whether entitled to exemption or not  
30 shall be reported to the proper taxing authority on the forms  
31 required by law.

32  
33 Source: La. Const. Art. X, § 4, Para. 19(a) (1921).

34  
35 Comment: Provides property tax exemptions to imports so long  
36 as they remain in transit or in storage in original form.

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1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide property tax exemptions to goods in public or  
6 private storage awaiting interstate shipment.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Goods, commodities, and personal  
9 property in interstate transit

10 The following property shall be exempt from taxation:

11 All goods, commodities and personal property in public or  
12 private storage while in transit through this state which  
13 is (i) moving in interstate commerce through or over the  
14 territory of the State of Louisiana, or (ii) which is in  
15 public or private storage within the State of Louisiana  
16 having been shipped thereto from outside of the State of  
17 Louisiana for storage in transit to a final destination  
18 outside of the State of Louisiana, whether such destination  
19 was specified when transportation begins or afterward. All  
20 such property whether entitled to exemption or not shall be  
21 reported to the proper taxing authority on the forms required  
22 by law.

24 Source: La. Const. Art. X, § 4, Para. 19(c) (1921).

26 Comment: Provides property tax exemptions for goods in  
27 interstate transit.

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide property tax exemptions for nonprofit corpora-  
6 tions devoted to the promotion of trade, travel, and  
7 commerce.

8 PROPOSED SECTION:

9 Article \_\_\_\_\_, Section \_\_\_\_\_. Property of nonprofit corp-  
10 oration devoted to promotion of trade, travel and  
11 commerce

12 The following property shall be exempt from taxation:  
13 All property devoted to the development and promotion of  
14 trade, travel, commerce and understanding between the peo-  
15 ples of the United States of America, and particularly of  
16 the Mississippi Valley Section, with the peoples of the  
17 other countries of the world, particularly the other  
18 American Republics, and owned by nonprofit corporations  
19 organized under the laws of the State of Louisiana for such  
20 purposes and having assets devoted to such purposes of not  
21 less than \$250,000.00.

23 Source: La. Const., Art. X, §4, para. 18 (1921)

25 Comment: Provides property tax exemptions for nonprofit  
26 corporations devoted to the promotion of trade, travel,  
27 and commerce.

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 To provide tax relief for manufacturing establishments  
6 using gas.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Tax relief for manufacturing  
9 establishments

10 (a) It is recognized as essential to the continued  
11 growth and development of the State of Louisiana and to the  
12 continued prosperity and welfare of its people that a pro-  
13 gram of tax relief for certain manufacturing industries be  
14 enacted and promoted. It is in recognition of this vital  
15 need that this Section is adopted as part of the Constitu-  
16 tion of this state.

17 (b) The legislature shall have authority to enact legis-  
18 lation allowing to every person who operates a manufacturing  
19 establishment, as defined by the legislature, in the State  
20 of Louisiana, a direct credit against any tax or combination  
21 of taxes owed by such person to the state of Louisiana, or  
22 any parish, municipality, political subdivision or any other  
23 taxing authority of the state, the amount of which credit  
24 shall be proportioned to the amount of gas used in Louisiana  
25 by such person, in the operation and maintenance of the manu-  
26 facturing establishment and which shall be at such rates and  
27 during such periods of time as the legislature shall determine.  
28 The laws enacted pursuant hereto may embrace all or any part  
29 of the authority granted herein and may provide, at the dis-  
30 cretion of the legislature, that a manufacturing establishment  
31 shall use a minimum amount of gas before being entitled to the  
32 credit.

33 (c) Legislation adopted pursuant to this Section may pro-  
34 vide for issuance of tax credit warrants executed by the col-  
35 lector of revenue or other state official designated by the  
36 legislature, which warrants shall be payable out of a special  
37 fund designated by the legislature for that purpose, to be

Page two

1 known as the Industrial Development Fund. The tax credit  
2 warrants issued pursuant hereto and to laws enacted under  
3 this authority shall be obligations of the state of Louisiana.

4 (d) The legislature may dedicate a portion of any tax  
5 or taxes for the purpose of establishing and maintaining the  
6 Industrial Development Fund, provided that no such dedication  
7 shall infringe on any dedications allowed by other Sections  
8 of this Constitution.

9 (e) If any provision or item of this Section or the  
10 application thereof is held invalid, such invalidity shall  
11 not affect other provisions, items or applications of this  
12 Section which can be given effect without the invalid provi-  
13 sions, items or applications, and to this end the provisions  
14 of this Section are hereby declared severable.

16 Source: La. Const. Art. X, § 24 (1921).

18 Comment: Authorizes the legislature to provide tax relief  
19 to manufacturing establishments in proportion to the  
20 amount of gas used by those establishments.

CC/73 Research Staff

Committee on Education and Welfare

May 7 , 1973

Staff Memorandum No. 5

RE: Assigned constitutional provisions, Coordinating Committee's recommendations, and actions taken by the assigned Subcommittee of Education and Welfare.

<u>Constitutional Provisions Article, Section and Subject</u>	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	<u>Action Taken By Subcommittee of Education and Welfare</u>
III, 33			
Convict labor; public works; leases	Public Welfare	Education & Welfare	New proposal
IV, 4			
Local and special laws; various subjects: regulating labor	Public Welfare	Education & Welfare etc., Committees to make recommendations to Committee on Legislative Powers & Functions	Delayed consideration
Fixing interest rates; management of schools	Elementary & Secondary Education		
IV, 7			
Wages, hours, working conditions	Public Welfare	Education & Welfare	

<u>Constitutional Provisions Article, Section and Subject</u>	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	<u>Action Taken By Subcommittee of Committee on Education and Welfare</u>
IV, 8			
Public funds, prohibited expenses	Elementary & Secondary Education and Public Welfare	Revenue, Finance & Taxation	
IV, 9			
Appropriation bills	Elementary & Secondary Education, and Public Welfare	Legislative Powers & Functions	
IV, 12			
Loan or Pledge of Public Credit	Public Welfare	<u>Coordinate:</u> Revenue, Finance & Taxation and Local & Parochial Government	
IV, 12 (b)			
State Market Commission	Public Welfare	<u>Coordinate:</u> Executive Department and Natural Resources and Environment	
IV, 14			
Educational and Charitable Institutions	Education Sub-committees	Education & Welfare	
IV, 15			
Ex post facto laws	Public Welfare		Delayed consideration

Constitutional Provisions Article, Section and Subject	Subcommittee Assignments	Coordinating Committee's Recommendations	Action Taken By Subcommittee of Committee on Education and Welfare
IV,16			
Forced heirship; Charitable Institutions	Education Subcommittees	Education & Welfare	Delayed consideration
VI,3-9			
Public Service Commission	Public Welfare	Coordinate: Natural Resources & Environment and Executive Department	
VI,11			
Boards of health	Public Welfare	Education & Welfare	To be reviewed
VI,12			
Public health	Public Welfare		To be reviewed
VI,14			
Agriculture and Immigration; Public Policy	Public Welfare	Natural Resources & Environment	
VI,18			
State bank commissioner	Public Welfare		Committee on Executive
VI,19.3			
Beautification of highways	Public Welfare	Coordinate: Executive Department and Natural Resources and Environment	

CEW-3

Constitutional Provisions Article, Section and Subject	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	Action Taken By Subcommittee of Committee on Education and Welfare
VI, 30			
Board of Institutions	Public Welfare		Repealed by Acts 1968, No. 664 adopted Nov. 5, 1968
VII, 69 (2)			
Vacancies; appointments	Elementary & Secondary Education	Education & Welfare	
VIII, 13			
Office holders, residence requirements	Elementary & Secondary Education	Bill of Rights	
X, 4			
Taxing exemptions	Public Welfare	Revenue, Finance & Taxation	Delayed consideration
X, 7			
Inheritance taxes	Education Subcommittees		
X, 10			
Special local taxes	Education Subcommittees	<u>Coordinate:</u> Local & Parochial Government and Revenue, Finance & Taxation	

<u>Constitutional Provisions Article, Section and Subject</u>	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	<u>Action Taken By Subcommittee of Committee on Education and Welfare</u>
X-A, 3,4			
Ad valorem property taxes repealed	Education & Welfare	<u>Coordinate:</u> Local & Parochial Government and Revenue, Finance & Taxation	
X,21			
Severance tax on Natural Resources		Revenue, Finance & Taxation	Public Welfare Delayed consideration
X,22			
Tax exemption for new industries	Public Welfare	Revenue, Finance & Taxation	Delayed consideration
X,24			
Tax relief, Manufacturing establishments	Public Welfare	Revenue, Finance & Taxation	Delayed consideration
XII,1			
Educational system	Elementary & Secondary Education		New proposal
XII,2			
Coordination of schools	Education Subcommittees		Deleted
XII,3			
Elementary schools; courses of study	Elementary & Secondary Education		New proposal

CEW-5

<u>Constitutional Provisions Article, Section and Subject</u>	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	<u>Action Taken By Subcommittee of Committee on Education and Welfare</u>
XII,4			
State Board of Education	Elementary & Secondary Education		New proposal
XII,5			
State Superintendent of Education	Elementary & Secondary Education		New proposal
XII,6			
State Board of Education, control	Elementary & Secondary Education		Incorporated in Sec. 1
XII,7			
Colleges and universities, supervision	Higher Education		New proposal
XII,7			
State Board of Education; certification	Elementary & Secondary Education		New proposal
XII,8			
Administrative departments	Elementary & Secondary Education		New proposal
XII,9			
Higher Education, Appropriations	Higher Education	Coordinate: <u>Education &amp; Welfare and Revenue, Finance &amp; Taxation</u>	New proposal



<u>Constitutional Provisions Article, Section and Subject</u>	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	<u>Action Taken By Subcommittee Of Committee on Education and Welfare</u>
XII,10	Parish School Boards		New proposal
XII,11	Elementary & Secondary Education		
Recognition of existing boards	Elementary & Secondary Education		
XII,12	Elementary & Secondary Education		Deleted
English language	Elementary & Secondary Education		
XII,13	Elementary & Secondary Education		New proposal
Public funds to private schools	Elementary & Secondary Education		
XII,14-16	Elementary & Secondary Education		
Funds for Parish Schools	Elementary & Secondary Education	Coordinate: <u>Education &amp; Welfare and Revenue, Finance &amp; Taxation</u>	New proposal
XII,17	Higher Education	Coordinate: <u>Education &amp; Welfare and Revenue, Finance &amp; Taxation</u>	
LSU			

Constitutional Provisions Article, Section and Subject	Subcommittee Assignments	Coordinating Committee's Recommendations	Action Taken By Subcommittee of Committee on Education and Welfare
XII, 18-20	Sixteenth Section Lands, Seminary and Free School Fund	Education Subcommittee	Coordinate: Education & Welfare and Revenue, Finance & Taxation
XII, 21	Agricultural and mechanical college fund	Higher Education Subcommittee	Coordinate: Education & Welfare and Revenue, Finance & Taxation
XII, 22	Segregation of funds	Higher Education Subcommittee	Coordinate: Education & Welfare and Revenue, Finance & Taxation
XII, 23	Retirement funds, teachers, school employees	Education & Welfare	
XII, 24	Tulane University	Higher Education	

<u>Constitutional Provisions Article, Section and Subject</u>	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	<u>Action Taken By Subcommittee of Committee on Education and Welfare</u>
XII, 25			
LSUNO	Higher Education		
XII, 26			
SUNO	Higher Education		
XIII, 1			
Real estate holdings	Public Welfare		Repealed by Acts 1968 No. 677
XIII, 2-3			
Corporations	Public Welfare	Legislative Powers & Functions	
XIII, 4			
Corporations, books	Public Welfare	Legislative Powers & Functions	
XIII, 5			
Corporations creation	Public Welfare	Legislative Powers & Functions	Delayed
XIII, 6			
Canal and hydro-electric development	Public Welfare	<u>Coordinate: Education &amp; Welfare and Natural Resources and Environment</u>	

CEW-9

<u>Constitutional Provisions Article, Section and Subject</u>	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	<u>Action Taken By Subcommittee of Committee on Education and Welfare</u>
XIII, 7			
Perpetual franchises or privileges	Public Welfare	Legislative Powers & Functions	Delayed
XIII, 8 *			
Corporation; definitions	Public Welfare	Legislative Powers & Functions	Delayed
XIV, 14 (b-1, b-2)			
Purposes of parish municipal and school district bonds, industrial enterprises	Elementary & Secondary Education and Public Welfare	<u>Coordinate:</u> Local & Parochial Government and Revenue, Finance & Taxation	Public Welfare recommends adoption by Local & Parochial Government
XIV, 15-15.2			
Civil Service	Public Welfare		New proposal
XIV, 17			
State penal institutions, reimbursement for expenses	Public Welfare	Education & Welfare	
XIV, 29			
Zoning ordinances	Public Welfare	Local & Parochial Government	

\* The Committee on Legislative Powers and Functions has taken the following actions; Article XIII, Sections 2, 3, 5 & 8 - deleted; Section 7 retained.

<u>Constitutional Provisions Article, Section and Subject</u>	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	<u>Action Taken By Subcommittee of Committee on Education and Welfare</u>
XIV,29.1			
Parish industrial areas	Public Welfare	Local & Parochial Government	Referred to Committee on Local & Parochial Government with recommendation for adoption
XVI,7(c)			
Levees; parks, playgrounds	Public Welfare	Local & Parochial Government	
XVIII,1			
Soldiers' Home	Public Welfare		
XVIII, 2,3,&5			
Confederate Veterans	Public Welfare	Executive Department	Obsolete
XVIII,4			
Civil War Memorials	Public Welfare	Executive Department	Obsolete
XVIII,6			
Confederate Veterans benefits for widows	Public Welfare	Executive Department	Obsolete
XVIII,7			
Social Security & Public Welfare	Public Welfare		Obsolete in part, See R.S. 23:1471 New proposal

CEW-11

Constitutional Provisions Article, Section and Subject	<u>Subcommittee Assignments</u>	<u>Coordinating Committee's Recommendations</u>	<u>Action Taken By Subcommittee of Committee on Education and Welfare</u>
XVIII,8			
Confederate Memorial Medical Center	Public Welfare	Legislative Powers & Functions	
XVIII,9			
Retirement Fund, state employees	Education & Welfare		See (R.S. 42:541)
XVIII,9.1			
Retirement Fund, Political subdivision employees	Education & Welfare		
XVIII,10-12			
Bonus for service men	Public Welfare		Obsolete
XVIII,13			
Bonus for Viet Nam Veterans		Revenue, Finance & Taxation	
XIX,14 *			
Monopolies	Public Welfare	Legislative Powers & Functions	Delayed
XIX,25			
Retirement option, notice	Education & Welfare		

\* The Committee on Legislative Powers and Functions is proposing that Article XIX, Section 14 be deleted.

<p>Constitutional Provisions Article, Section and Subject</p>	<p><u>Subcommittee Assignments</u></p>	<p>Coordinating Committee's Recommendations</p>	<p>Action Taken By Subcommittee of Committee on Education and Welfare</p>
<p>XIX, 26</p>	<p>Education Sub-committees</p>	<p>Legislative Powers &amp; Functions</p>	
<p>Special agencies of the state, withdrawal of consent to suits</p>			
<p>XX, 1</p>			
<p>Bond issue Angola Plantation</p>	<p>Public Welfare</p>		

RE: Whether the equal protection clause of the United States Constitution permits state laws requiring a certain quota of minority group members on education governing boards

No authoritative Supreme Court decision has clearly settled the issue of whether minority quotas can be required by state law for governing boards. It is still an open question, the difficulty of which is demonstrated by the Supreme Court's position in the Swann school desegregation decision.<sup>1</sup> The district judge there had required "that efforts should be made to reach a 71-29 ratio in the various schools so that there will be no basis for contending that one school is racially different from the others..." The Supreme Court said:

The District Judge went on to acknowledge that variation "from that norm may be unavoidable." This contains intimations that the "norm" is a fixed mathematical racial balance reflecting the pupil constituency of the system. If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse. The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole.<sup>2</sup>

The court seems to say that a quota as a "norm" is permissible, but not as an absolute requirement; until this rather confusing dictum is clarified by the court, the question will remain open. This memorandum discusses some of the current authorities on the subject and the arguments they present.

#### I - Establishing Discrimination

The attack on a quota requirement would center on alleged discrimination against whites, discrimination in that whites are prevented from more than a certain participation on the governing board. Supporting this argument would be innumerable statements in many decisions that states must be "color-blind" and cannot discriminate against persons because of race.<sup>3</sup> But it may be difficult for a white litigant here to prove he was discriminated against so long as the governing board is representative of the racial makeup of the state. Only if limited to a quota smaller than the proportion of the whites in the population might the white plaintiff successfully show he has been discriminated against. Perhaps if a particular individual can show he would have been appointed to the board, but was denied it because the position had to be filled by a black, he would thus establish discrimination. But, on a more general level, if the percentage makeup is proportional to the white population, it may be difficult to show discrimination.<sup>4</sup> In the past, blacks have been able to establish proof of discrimination by demonstrating lack of proportional representation, and it might be expected that a similar showing would be necessary for whites to show discrimination.

#### II - Equal Protection Analysis

Assuming discrimination against whites is shown, one next moves to the standard equal protection analysis. Under it, abso-

lute equality is required; what is prohibited is invidious dis-

crimination-- in the case of race, discrimination that is not justified by a compelling state interest. If a compelling state interest is shown, the discrimination will be allowed.<sup>5</sup> In the instant problem, it can be argued that the state has a compelling state interest supporting the discrimination -- rectifying the effects of past discrimination in education against blacks by having blacks on governing boards to counteract that past discrimination.<sup>6</sup> In light of the extent of the court decisions prohibiting discrimination against blacks, it is not inconceivable that guaranteeing equality to blacks is sufficient interest to sustain the classification.

#### III - Protective Classifications

Related to this argument is the line of cases allowing protective classifications for certain groups. Laws regulating hours of work for women<sup>7</sup>(with different hours for men) and prohibiting sales of liquor to Indians<sup>8</sup>(but allowing sales to others) have been allowed, though they treat persons differently because of race or sex, on the theory that these groups need special protection or solicitude from government. Equally apparent is the discrimination against the wealthy, resulting from government benefits to the poor and underprivileged; yet, the authority to do this has never been doubted and has, in fact, been required by court decision in some instances.<sup>9</sup>

As one commentator put it:

If the approach of the Indian laws is generally applied to racial classifications, it enables the law to meet the claim that society make "compensation" for the inequalities under which discriminated-against members of the community have had to live. Laws that give effect to that claim would not be contrary to the Equal Protection Clause, though based on racial classification. Their purpose would be to redress the inequality that

has prevented a particular racial minority from enjoying the real benefits of the equality guaranteed by the constitution. They could be upheld under the principle that sustains laws enacted for the protection of women.<sup>10</sup>

#### IV - Quotas as Remedies for Past Discrimination

A rationale used by several lower courts to support imposition of quotas is that they are a means of correcting the effects of past discrimination. As a remedy to eliminate the effects of past discrimination, quotas have been widely used in the school desegregation cases, and this has been held not to violate the equal protection clause.<sup>11</sup> This rationale has also been extended to support legislation requiring preferential hiring of minority groups by government contractors and establishing quotas for members of the minority group.<sup>12</sup> One court said:

Discriminatory practices have taken place, and something must be done in order to rectify the situation. Such practices must be eliminated by responsible and responsive governmental agencies acting pursuant to the best interests of the community. Basic self-interests of the individual must be balanced with social interests, and in circumstances where blacks have been discriminated against for years, there is no alternative but to require that certain minorities be taken into consideration with respect to the specific minority percentage of the population in a given area in order to provide a starting point for equal employment opportunities. In this regard, it is the feeling of this Court that minimum ratios, where, de jure or de facto, based upon race are constitutional and valid when adopted for the purpose of imple-



menting affirmative action to achieve equal employment opportunities.<sup>13</sup>

Along similar lines, it is permissible to have systematic inclusion of blacks or Indians on grand jury venires to assure lack of systematic racial exclusion.<sup>14</sup>

But, some courts have refused to go so far with this rationale, holding that an absolute preference in governmental employment to minority applicants over white applicants with superior qualifications discriminates against whites.<sup>15</sup>

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If the remedial action analysis is used, it has the inherent limitations of allowing the quotas to exist only until the effects of past discrimination are eradicated. At some point in time, it will be necessary to abandon the quotas and return to a completely color-blind approach. This may be a difficult mechanism to implement in a constitution.

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#### Footnotes

1. Swann v. Charlotte-Mecklenburg Bd. of Education, 402 US 1 (1971). Faced with 42 U.S.C. 2000c et seq. and its attempt to limit court-ordered busing, the court nevertheless allowed the busing order, saying, "There is no suggestion of an intention to restrict those powers or withdraw from courts their historic equitable remedial powers."

2. Id. p. 23,24.

3. E.g.: Griffin v. Maryland, 378 US 130 (1964); New Orleans City Park Improvement Ass'n v. Detiege, 358 US 54 (1958); and cases cited in Schwartz, Constitutional Law (1972) p 315.

4. One can probably distinguish the discrimination against whites in the case of denial of a civil service position in preference to a black and the denial of a political appointment to a white in preference to a black. In the former case, the qualified individual has a greater right (or expectation) that the latter's possible political appointment. Cf.: Carter v. Gallagher, 452 F.2d 315 (8th Cir. 1971).

5. One of the best developments of the "new equal protection" and its requirement of states showing a "compelling state interest" rather than a mere "rational basis" is in Shapiro v. Thompson, 394 US 618 (1969).

6. E.g.: Contractor's Ass'n. v. Secretary of Labor, 442 F.2d 159 (3d Cir. 1971).

7. Muller v. Oregon, 208 US 412 (1908).

8. United States v. Kagame, 118 US 375 (1886).

9. E.g.: Gideon v. Wainwright, 372 US 335 (1963) requires that the state grant counsel to indigents in criminal proceedings. Under Griffin v. Illinois, 351 US 12 (1956), indigents have a right to a free transcript on appeal.

10. Schwartz, Constitutional Law (1972) p296.

11. Green v. School Bd., 291 US 430 (1968); Offermann v. Norkowski, 378 F.2d 920 (2d Cir. 1968); See also Swann v. Charlotte-Mecklenburg Bd. of Edu., 402 US 1 (1971).

12. Contractor's Ass'n. v. Sec. of Labor, 442 F.2d 159 (3d Cir. 1971) (involving the so-called "Philadelphia Plan". Southern Ill. Builders Ass'n. v. Ogilvie, 327 F.Supp. 1154 (Ill. 1971).

12. cont'd: See also: Quarles v. Phillip Morris Inc., 279 F. Supp. 505 (E.D. Va. 1968); Porcelli v. Titus, 431 F.2d 1254 (3d Cir. 1970).

13. Southern Ill. Builders Ass'n. v. Ogilvie, 327 F. Supp 1154 (Ill. 1971).

14. Brooks v. Beto, 366 F.2d 1 (5th Cir. 1966); Note, 16 S.Dak. L. Rev. 214 (1971).

15. Carter v. Gallagher, 452 F.2d 315 (8th Cir. 1971).

CC/73 Research Staff  
Committee on Education  
and Welfare  
May 21, 1973  
Staff Memorandum No. 7

RE: Sixteenth Section or Indemnity Lands, Free School Fund, Seminary Fund, and Agricultural and Mechanical College Fund.

#### PART I: Sixteenth Sections or Indemnity Lands

A plan for subdividing the public lands of the states of the United States was adopted by an Act of Congress of May 18, 1796. In accordance with that act, townships were created. Each township was required to be six miles square and subdivided into thirty-six sections with each of the thirty-six sections being one mile square. The thirty-six sections were numbered respectively, beginning with number one in the northeast corner and proceeding west and east alternately through the township with progressive numbers until thirty-six sections were surveyed in rectangular form. Each sixteenth section and, in some cases, each thirty-sixth section was set aside by the act for public school purposes.

In some cases, as in Louisiana, some of such land was not available for school use either because the land was located in inaccessible areas (located on marshes or other lands of no value), or there were deficiencies in the grants to the states by reason of settlements (preemption or homestead) on the designated sections. By Act 48 of 1842, the Louisiana Legislature asked the Louisiana Congressional delegation to request Congress to give the state the right to select alternate sections of land of the same quantity to be used for the benefit of education. To rectify such situations, Congress provided that other lands of equal acreage be "appropriated and granted" to the states as indemnity for lands so lost (Title 43, Sections 851-852, USCA).

Under Act 68 of Congress of February 15, 1843, the sale of sixteenth section lands or school lands is forbidden "without the consent of the inhabitants of such township or district to be obtained in such a manner as the legislature shall by law direct." Pursuant to that act, the Louisiana Legislature enacted laws to provide for the disposition or sale of sixteenth section lands (See L.R.S. 41:711-965). Act 68 of Congress of February 15, 1843, and the Louisiana Revised Statutes, Title 41, Section 711, both vest in a majority of the inhabitants the right to determine whether the sixteenth section lands shall be sold.

In those cases where the sixteenth sections or indemnity lands have been erroneously sold by the state or paid by the state as fees for service rendered, Section 18 of Article XII of the Constitution of 1921 provides that such deficiencies "shall be properly adjusted,..." The adjustment is to be made as provided for by Article 233 of the Constitution of 1879, Section 19 of Article XII of the Constitution of 1921, Act 265 of 1855, and Act 96 of 1886. These provisions require that the proceeds of such sales shall be credited to the township or parish school board in which such township is located and that the same may remain a

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perpetual loan to the state on which it shall pay interest at the rate of four percent per annum so long as the funds remain on deposit in the state treasury. These funds are to be deposited in the free school fund.

PART II: Free School Fund

Act 265 of 1855 provided for the creation, in the treasury of the state, of a permanent fund "which shall be called the 'Free School Accumulating Fund'." Section 31 of Act 321 of 1855, entitled "An Act to organize free public schools in the State of Louisiana" further provided for the sources from which monies for this fund were to be derived.

Article 233 of the Constitution of 1879 declared the debt due by the state to the free school fund (free school accumulating fund) to be one million, one hundred and thirty thousand, eight hundred and sixty-seven dollars and fifty-one cents (\$1,130,867.51) in principal, said principle being the proceeds of the sales of lands "heretofore granted by the United States for the use and support of free public schools."

Section 19 of Article XII of the Constitution of 1921 provides that this debt may remain a perpetual loan to the state on which it shall pay to the several townships four percent per annum interest, or the respective township may use the proceeds in the "acquisition, construction, and equipping of public school-plant facilities;..."

PART III: Seminary Fund and Agricultural and Mechanical College Fund

The United States Congress through various acts, noticeably the Act of Congress of September 4, 1841 entitled, "An Act to appropriate the proceeds of the sales of the public land, and to grant pre-emption rights" and the Act of Congress of February 15, 1843 entitled, "An Act to authorize the Legislatures of States of Illinois, Arkansas, Louisiana, and Tennessee, to sell the lands heretofore appropriated for the use of schools in those states", provided donations of land or for the sale of land previously donated to the several states for the use and support of seminaries of learning and agricultural and mechanical colleges.

Article 233 of the Constitution of 1879 created the seminary fund and the agricultural and mechanical college fund. That provision declared that the debt due the seminary fund by the state to be one hundred and thirty-six thousand dollars (\$136,000) and provided that that amount "shall be placed to the credit of said fund on the books of the Auditor and Treasurer of the State as a perpetual loan, and the State shall pay an annual interest of four percent on said amount from January 1, 1880, for the use of said seminary of learning."

Article 233 further declared the debt due the agricultural and mechanical college fund by the state to be one hundred and eighty-two thousand, three hundred and thirteen dollars and three cents (\$182,313.03) and provided that that amount "shall be placed

to the credit of said fund on the books of the Auditor and Treasurer of the State as a perpetual loan, and the State shall

pay an annual interest of five percent on said amount from January 1, 1880, for the use of said Agricultural and Mechanical College."

Louisiana State University and Agricultural and Mechanical College located at Baton Rouge is recognized in Article 230 of the Constitution of 1879. That provision does also provide that "all revenues derived and to be derived from the sales of land, or land scrip, donated by the United States to the State of Louisiana for the use of a seminary of learning, and mechanical and agricultural college, shall be appropriated exclusively to the maintenance and support of said University and Agricultural and Mechanical College,..."

In summary, Sections 20 and 21 of Article XII of the Constitution of 1921 pretty much track Article 233 of the Constitution of 1879.

- Sources:
1. Acts of State of Louisiana (1842, 1855, 1886)
  2. Louisiana Constitution (1879, 1898, 1913, 1921)
  3. United States Code Annotated, Title 43

CC/73 Research Staff  
 Committee on Education  
 and Welfare  
 June 1, 1973  
 Staff Memorandum No. 8

RE: Report of the joint Subcommittees on Elementary and Secondary Education and Higher Education.

The following constitutional provisions were assigned to the subcommittees and resulted in the following actions:

Article, Section and Subject	Action
IV, 4 Local and special laws; management of schools	Retained See: Memo to Legislative Powers and Functions
IV, 14 Educational and charitable institutions; establishment	Deleted
IV, 16 Forced heirship; charitable donations	Referred to Committee on Judiciary with recommendation for retention
VII, 69(A)(2);B Vacancies; appointments	Deleted, statutory
X, 7 Inheritance and donation taxes; exemptions	Retained See: Memo to Revenue, Finance and Taxation
X, 10 Special local taxes	Retained See: Memo to Revenue, Finance and Taxation

Article, Section and Subject	Action
X-A, 4 Annual payment to LSU	Delete if dedications are removed from constitution
XII, 1 Education systems	Proposal CC-210
XII, 2 Coordination of schools	Proposal CC-210
XII, 3 Elementary schools, courses of study	Deleted
XII, 4 State Board of Education	Proposal CC-210
XII, 5 State Superintendent of Education	Proposal CC-210
XII, 6 State Board of Education, control	Proposal CC-210
XII, 7 Colleges and Universities	Proposal CC-210 New structure for higher education
XII, 8 Administrative departments	Deleted
XII, 9 Higher education; appropriations	Proposal CC-210 Memo to Revenue, Finance and Taxation
XII, 10 Parish School Boards	Proposal CC-210
XII, 11 Recognition of existing boards	Proposal CC-210
XII, 13 Public funds to private schools	Proposal CC-210
XII, 14, 15 Funds for parish schools	Proposal CC-210

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Article, Section and Subject	Action
XII, 16 Orleans Parish school board; indebtedness	Deleted: Memo to Revenue, Finance and Taxation
XII, 17 LSU	Deleted
XII, 18-20 Sixteenth Section Lands; Seminary and Free School Fund	Deleted, statutory
XII, 21 Agricultural and Mechanical College Fund	Deleted, statutory
XII, 22 Segregation of funds	Deleted
XII, 23 Retirement funds; teachers	Proposal CC-211
XII, 24 Tulane University	Retained
XII, 25 LSUNO	Deleted
XII, 26 SUNO	Deleted
XVIII, 9 Retirement fund, state employees	To be considered June 1, 1973
XVIII, 9.1 Retirement fund, political subdivision employees	To be considered June 1, 1973
XIX, 25 Retirement option, notice	To be considered June 1, 1973

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CC/73 Research Staff
Committee on Education and Welfare
June 1, 1973
Staff Memorandum No. 9

RE: Report of Subcommittee on Public Welfare.

The Subcommittee on Public Welfare met on May 18, 1973, and May 25, 1973, to consider assigned constitutional provisions. After hearing additional testimony from representatives of the Civil Service League, New Orleans City Civil Service Department, Jefferson Parish Civil Service Department, Office of the Mayor of New Orleans, International Association of Firefighters, New Orleans Fire and Police departments, and Lafayette City Police Department, the subcommittee made a number of decisions regarding a city civil service system.

Employees of the New Orleans Fire and Police departments will remain under the jurisdictions of the City Civil Service Commission. The subcommittee voted to oppose the establishment of a separate Municipal Fire and Police Civil Service Department in New Orleans.

The subcommittee also voted to retain a constitutional provision for a city civil service system in all cities exceeding a fixed population. The present constitution establishes such a system in all cities with a population exceeding 250,000. The subcommittee's proposal raises that figure to 400,000.

Several categories of positions have been removed from the unclassified service and placed in the classified (merit) service. Among these are assistant city attorneys, and all employees and deputies of sheriffs and clerks of court, with the exception of one chief deputy for each. Employees of courts of record will also be in the classified service.

Membership of the New Orleans City Civil Service Commission has been enlarged from three to five. Dillard University will join Tulane and Loyola in nominating commissioners. One member will continue to be directly appointed by the city governing body. One member will be a classified employee of the city, elected by other classified employees.

Another change involves the selection of the director of city civil service, formerly called the director of personnel. This administrator is to be appointed by the City Civil Service Commission from a list of eligibles who have successfully taken a competitive examination.

Proposals for a civil service system will be submitted to the committee upon completion.

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The subcommittee has taken the following action on constitutional provisions assigned to it:

Article VI, §11 Boards of health; state, parochial and municipal; state health officer.	Deleted
Article VI, §12 Public health; practice of healing arts; food and drug regulations.	Deleted

<u>Article XIV, §17</u> State penal institutions; crimes in, or by inmates or employees; reimbursement of parish expense.	Retained CC-214
<u>Article VIII, §6</u> Disqualifications from voting or holding office; employment.	Committee on Bill of Rights and Elections has a satisfactory proposal
<u>Article XX, §1</u> Bond issues; Angola Plantation enlargement and improvement.	Revenue, Finance and Taxation considers this provision obsolete
<u>Article XIII, §6</u> Canal and hydro-electric developments; use of state waters; state ownership.	Committee on Natural Resources and Environment recommends that this provision be placed in the statutes
<u>Article XIV, §15</u> Civil service system; state, cities.	Under consideration
<u>Article XIV, §15.1</u> Fire and police civil service; municipalities of 13,000 to 250,000.	Under consideration
<u>Article XIV, §15.2</u> Financial security for surviving spouses and children of law enforcement officers in certain cases.	New proposal CC-201 CC-201-A

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The subcommittee previously submitted the following proposals to the Committee on Education and Welfare:

- CC 212 Convict labor.
- CC 215 Economic security, social welfare, unemployment compensation, and public health.
- CC 216 Arbitration laws.
- \_\_\_\_\_ Limitations on the legislature. (Coordinating with Committee on Legislative Powers and Functions for final proposal)

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**NOTES**

Staff Memo No. 10, setting out a final disposition chart, may be found reproduced in Volume XIV.

CC/73 Research Staff  
Committee on Education and Welfare  
June 19, 1973  
Staff Memorandum No. 11

RE: Retirement

In accordance with House Concurrent Resolution No. 213 of the 1972 Regular Session of the Louisiana Legislature, the Joint legislative Retirement Study Committee was appointed by the Honorable Edwin Edwards, governor of the State of Louisiana.

The concurrent resolution and the formation of this committee indicates the growing concern that the legislature has regarding the many annual requests for legislation in connection with improved benefits, lowering of eligibility standards and requests for increased funding to the numerous state, parish and municipal retirement systems. The indications are the legislature also felt that an in-depth study was necessary to determine and compare the various benefits being provided, investing procedures, administra-

tive procedures, and the present actuarial soundness of each system. House Concurrent Resolution No. 213 did specifically mention that "a centralized combined retirement system for all state, parish, and municipal retirement systems under the jurisdiction of the Louisiana Legislature could provide equal or better benefits to all members; eliminate duplication of budget, office space, personnel, etc., and provide a more equitable method of funding and investment of funds."

Thus far, that committee has held several meetings. A list of all state, parish, and municipal retirement systems (there are thirty-eight) that come directly or indirectly under the jurisdiction of the Louisiana Legislature, has been compiled and is attached to this memorandum.

Several areas of critical concern have been identified and made the subject for continued study by the committee:

- (1) Investment practices with the idea of generating the highest possible return on investment.
- (2) Administrative practices with the idea of achieving the lowest cost and best possible services.
- (3) Advantages and disadvantages of coordinating Social Security with the retirement systems.
- (4) What constitutes sound actuarial practices.

The committee did reach the conclusion that there should be a one-year moratorium on any change in the benefits provided by the retirement systems of the state. However, twenty-two bills on retirement passed the 1973 fiscal session of the legislature.

One of the areas of concern identified by the committee seems to be one of general concern with people working with or members of the various retirement systems. The question is "what constitutes actuarial soundness?" In conversation with officials of the Teachers' Retirement System of Louisiana, the indication was that (1) actuarial soundness is what the actuary says actuarial soundness is, (2) there is very little agreement between actuaries. An example given was that the State Employees Retirement System is generally believed to be more actuarially sound than the Teachers' Retirement System. However, an official of

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the Teachers' Retirement System believe this notion to be more a function of the actuaries used than the condition of the two systems. This type confusion suggests that an in-depth study of the kind that the Joint Legislative Retirement Study Committee indicates that it will do is vastly needed.

A problem related to actuarial soundness and with which many are concerned especially as it relates to the type of provision that should be included in the new constitution is the question of benefits, rights, and when rights vest. There is considerable jurisprudence on this question.

At 52 ALR 2d 440, the question is posed: to what extent are the rights of public officers and employees who, as such, are within the coverage of a statutory pension system vested so as to render invalid legislation repealing or modifying the provisions of the pension statute? Statutory pension or retirement systems applicable to public employees fall within two general

classes: those which require employee contribution to the pension or retirement fund, and those which do not require such contribution. As to noncontributory systems, it is well established in all jurisdictions but one, that, except for particular pension payments which have become due and payable, employees covered thereby have no such vested pension rights as will bar modification or repeal of the pension statute either before or after a particular pension has been granted. The one exception mentioned is California where there are some indications that the courts view even noncontributory pension systems as according vested rights to the employees covered thereby. To this effect see

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Kern v. Long Beach 179 P 2d 799 and Wallace v. Fresno 265 P 2d 884.

With respect to pension statutes requiring all employees to be members of the system and to make contribution thereto, it seems that the rule in the greater number of jurisdictions is that a contributing employee has no vested pension rights either before or after the pension has been granted.

But what would appear to be a growing number of courts have viewed rights in pension systems calling for contributions on a compulsory basis as being nonvested only during the period prior to an employee's fulfillment of the requirements for grant of the pension; upon fulfillment of those conditions, the pension rights are deemed to vest, thereafter being immune from abolition, if not from adverse change of any kind. Jurisdictions in which pension rights vesting upon fulfillment of the requirements for award of the pension are viewed as immune from alteration of any kind include Georgia, Indiana, Iowa, Kentucky, North Dakota, Ohio, and Wisconsin. Jurisdictions in which such rights are viewed as immune from abolition but otherwise subject to modification include Minnesota and Utah. In Florida, Louisiana, Nebraska, North Carolina, Oklahoma, and South Dakota, although the courts have established that such vested pension right may not be abolished, the applicable rule as to the extent to which the rights are subject to legislative change is not clear.

In California the rule presently applicable is that a public employee, upon rendering services under a pension statute, secures limited vested pension rights (See Dryden v. Board of Pension Comrs. 59 P 2d 104; Gibson v. San Diego 156 P 2d 737; Kern v. Long Beach

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179 P 2d 799 [in which the court indicated that the employee's right in the pension vested at the time a contractual duty to make salary payment to him arises, since a part of the compensation which the employee has at that time earned consists of his pension rights]; Packer v. Board of Retirement 217 P 2d 660; O'Dea v. Cook 169 P 366 [in which the court said that where services are rendered under a pension statute, the pension provision became a part of the contemplated compensation for those services and so in a sense are a part of the contract of employment itself]; and others.)

The employee's vested right is limited in two respects; first, it is subject to a loss upon the occurrence of certain conditions subsequent, such as lawful termination of employment before completion of the period of service designated in the pension plan, or the occurrence of conditions either expressly contained in the pension statutes at the time of his employment or reasonably added thereto subsequently; second, although the nature of the right bars the application thereto of legislation abolishing the pension, his pension rights are subject to reasonable modification. (See, Hermanson v. Board of Pension Comrs.) 28 P 2d 21; Cheney v. San Francisco Employees Retirement System 61 P 2d 754; Skaggs v. Los Angeles 275 P 2d 9 [holding that pension committee could not deprive police officer, eligible for retirement, of pension rights on grounds of conduct unbecoming an officer]; and others.)

Whether a particular modification of a pension plan is reasonable is for the courts to determine upon the facts of each case; to be sustained as reasonable, alterations of employee's pension

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rights must bear some material relation to the theory of a pension system and its successful operation, and changes in a pension plan which result in disadvantage to employees should be accompanied by comparable new advantages. (Allen v. Long Beach 287 P 2d 765).

In Louisiana, statutes providing for pensions for public employees and requiring employee contribution to the pension funds are viewed as vesting no preretirement rights in the employees.

Thus, in Bowen v. Board of Trustees of Police Pension Fund 76 So 2d 430, it was held that a policeman who, from the time of his employment, had made contributions, on a compulsory basis, to a pension fund established by a statute providing for retirement after sixteen years' service, had no such vested right under that statute as to bar a legislative increase in the minimum period of service necessary for retirement where such increase was stated in a statute which was enacted, and went into effect, prior to the policeman's eligibility for retirement under the earlier statutes.

But it appears that the Louisiana courts recognize the accruing of vested pension rights upon fulfillment of the statutory requirements for award of a pension. In point in this connection is Meyer v. Board of Trustees 6 So 2d 713, in which it was held that where a fireman had made compulsory contributions to a pension fund under a statute entitling the widow of a deceased fireman to receive a pension provided her husband's death resulted from injuries received while answering a fire alarm, the widow's statutory right to a pension became vested upon the happening of her husband's death and the fulfillment of the other requirements for its payment.

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At this time, it may be noted that in some jurisdictions the question whether public employees' statutory pension rights are vested has been put beyond the reach of the courts. The States of Alaska, New York, and Ohio provisions have this effect.

Article XII, Section 7 of the Constitution of the State of Alaska states:

Membership in employee retirement systems of the state or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

Article V, Section 7 of the New York Constitution specifies that:

After July 1, 1940, membership in any pension or retirement system of the state or of a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired.

The constitutional amendment prevents any change in rights already acquired by employees who, at the time of the amendment, were members of a pension system, but does not bar the legislature from thereafter limiting the rights of persons who might there- after become members of the system. Fisher v. New York State Employees Retirement System 279 App. Div. 315, 110 NYS 2d 16, Aff'd 304 NY 899, 110 NE 2d 733.

Modern Ohio decisions establish that the right of a member of a public employees' retirement system to disability retirement allowance is governed by the statutes in force when such member becomes eligible for and is granted such retirement, and that that right cannot be reduced or denied by subsequent legislation (See, State ex rel. McLean v. Retirement Bd. 161 Ohio St. 327, 153 Ohio Ops.224, 119 NE 2d 70.)

Based upon the summary of jurisprudence above and a consid- eration of the problems of determining actuarial soundness:

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Where it is felt that a retirement system is not actuarially sound based upon increasing benefits and the failure of the employer to make contribution as provided by law (LRS 42:632, 654) then a consideration of language similar to that in the New York and Alaska Constitutions might be merited.

However, the propriety of such action should be viewed in relation to practical political considerations. Further, the question of standing to sue and whether a particular action or nonaction on the part of the state (employer) infringes the con- tractual right granted to members of a pension system would be for the courts to decide.

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Exhibit I

STATE, PARISH & MUNICIPAL RETIREMENT SYSTEMS

REFERENCE NUMBER	RETIREMENT SYSTEM, FUND OR PLAN
1	State employees Retirement System
2	State Police Retirement Fund
3	Louisiana State University Retirement System
4	Louisiana School Employees Retirement System
5	Louisiana School Lunch Employees' Retirement System
6	Teacher's Retirement System of Louisiana
7	Assessor's Retirement Fund
8	Clerks of Court Retirement and Relief Fund
9	District Attorneys' Retirement System
10	Municipal Employees Retirement System of Louisiana
11	Parochial Employees Retirement System of Louisiana
12	Registrars of Voters Employees' Retirement System
13	Sheriffs' Pension and Relief Fund
14	Employees' Retirement System - City of Alexandria
15	City of Alexandria Firemen's Pension and Relief Fund
16	City of Bogalusa Retirement System
17	Firemen's Pension and Relief Fund for City of Bogalusa
18	Policemen's Pension Fund for City of Bogalusa

19	Firemen's Pension and Relief Fund for City of Bossier City
20	Firemen's Pen. and Rel. Fund - Cons. Fire Districts of Bastrop
21	Firemen's Pen.; Rel. Fund - E. Bank Cons. F. Dist. of Jeff. Par.
22	Firemen's Pension and Relief Fund for City of Kenner
23	Firemen's Pension and Relief Fund for City of Lafayette
24	Firemen's Pen. and Rel. Fund for City of Lake Charles
25	Firemen's Pension and Relief Fund of City of Monroe
26	The Electricians' Workers' Pen. and Rel. Fund - City of Monroe
27	Bus Drivers' Pen. and Rel. Fund of City of Monroe
28	Firefighter's Pension and Relief Fund
29	Police Pension Fund - City of New Orleans
30	Firemen's Pension Fund - City of New Iberia
31	Policemen's Pension Fund - City of New Iberia
32	Fireman's Pen.; Rel. Fund - F. Prot. Dist. No. 1 - Ouachita Par.
33	Firemen's Pension and Relief Fund - Shreveport
34	Firemen's Pension and Relief Fund - West Monroe
35	Police Pen.; Rel. Fund - Municip. between 7,500 and 250,000
36	City of Alexandria Policemen's Pension and Relief Fund
37	Employees Retirement System - Sewage and Water Board - New Orleans
38	Board of Trustees Employees Retirement System of the City of New Orleans

CC/73 Research Staff

Committee on Education and Welfare

September 4, 1973

Staff Memorandum No. 12

RE: Comparison of Committee Proposal 9 and Delegate Proposal 27.

I. OUTLINE OF MAJOR DIFFERENCES, COMMITTEE PROPOSAL 9 AND DELEGATE PROPCAL 27

	COMMITTEE PROPOSAL	DELEGATE (DENNERY) PROPOSAL
CITY CIVIL SERVICE	Creates civil service system in cities with population exceeding 400,000. [1(C)(1)]	Creates civil service system in cities with population exceeding 250,000. [1(A)(1)]
STATE COMMISSION	Five-member; nominated by Tulane, Loyola, Louisiana College, Cen-tenary, and Dillard. [1(B)(1)(2)]	Seven-member; nominated by Tulane, Loyola, Louisiana College, Centenary, Dillard, Xavier, and Dominican. [1(C)(1)(2)]
NEW ORLEANS CITY COMMISSION	Five-member; three nominated by Tulane, Loyola, and Dillard; one classified em- ployee elected by other employees; one nominated by govern- ing authority of city. [1(C)(1)(2)]	Three-member; nominated by Tulane, Loyola, and Dillard. [1(D)(1)(2)]
UNCLASSIFIED (NON-MERIT) EMPLOYEES	Ten categories of employees exempted from the classified service. [1(F)]	Same ten categories, but allows commission to in- crease exemptions from classified service. [1(B)]
APPOINTMENT AND PROMO- TION	Number certified to be not less than five.  Promotion based on merit, efficiency, length of service and fitness as as- certained by com- petitive examination. [1(G)]	Number certified to be not less than three.  Deletes length of service as consideration in pro- motion. [1(G)]
VETERANS' PREFERENCES	Retains preference points on appoint- ment and promotion. [1(G)(2)]	Deletes separate provision on veterans' preferences; relegates the matter to the commission's rule- making authority. [1(G)]
BURDEN OF PROOF ON APPEAL	On employer. [1(H)]	On employee. [1(H)]
APPEAL TO COMMISSION	Devolutive unless otherwise determined by commission. [1(H)]	Retains appeal; no mention of devolutive appeal. [1(H)]
COURT REVIEW OF COMMISS- ION RULINGS	Rulings subject to review in court of appeal. [1(H)]	Decision of commission final on facts. On appeal, sub- ject to court review on questions of law, not of fact. [1(L)]
POLITICAL ACTIVITY	Allows support of issues involving bond elections, tax referenda, and constitutional amendments and par- ticipation in organi- zations which "from	Retains present prohibition against any political activity. [1(I)]

time to time" express political opinions. [1(J)]

EXISTING LAWS Continues all existing laws not inconsistent with this Section; prohibits commissions from exercising any power inconsistent with general law. [1(N)] No comparable provision.

EXTENSION OF CITY SYSTEM Retains referendum method for a city or city-parish to adhere to this Section. [1(P)] Adds means (referendum) whereby a parish can adopt civil service as well as a city and a city-parish. [1(N)]

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Other Committee Provisions Not Included in Dennery Proposal:

1. Compensation of civil service commissioners [1(B)(6), (C)(6)].
2. Transition of present terms on commissions [1(B)(4), (C)(4)]. This material is included in a separate transition proposal.
3. Acquisition of permanent status for present employees [1(M)]. This material is included in a separate transition proposal.
4. Layoffs; preference employees for reinstatement and re-employment [1(G)(3)].

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II. ANALYSIS OF SUBSECTIONS

DEFINITION; STATE CIVIL SERVICE

Aertker, et al. Section 1(A)(1)  
Section 1(A)(1) defines state civil service as all offices and positions of trust or employment in the employ of the state, or any board, commission, department, independent agency thereof, and all joint state and federal agencies, joint state and municipal agencies, and joint state and parochial agencies, irrespective of the source of funds used to pay for such employment. Municipal boards of health are specifically excluded.

Dennery Section 1(A)(1)  
Section 1(A)(1) contains the same basic definition, but considerably shortens (by eight lines) the language itemizing joint state-federal, joint state-municipal, etc., agencies.

DEFINITION; CITY CIVIL SERVICE

Aertker, et al. Section 1(A)(2)  
Section 1(A)(2) defines city civil service as all offices and positions of trust or employment in the employ of the city and every board, commission, department, or agency thereof, except as otherwise specifically provided in this constitution.

Dennery Section 1(A)(2)  
Section 1(A)(2) defines city civil service as offices, etc., in each city with over two hundred fifty thousand population, and "every instrumentality thereof." (The committee proposal for city civil service applies to cities with a population exceeding four hundred thousand.)

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STATE CIVIL SERVICE COMMISSION

MEMBERSHIP; NOMINATIONS

Aertker, et al. Section 1(B)(1)(2)  
Section 1(B) creates the State Civil Service Commission. Paragraph (B)(1) establishes a five-member commission to be appointed by the governor. Members serve overlapping terms of six years.

Paragraph (B)(2) requires the governor to select one member from each of five lists of nominees submitted by five university presidents. Loyola, Tulane, Louisiana College, and Centenary are retained as nominating universities. Dillard replaces Louisiana State University as the fifth nominator.

Dennery Section 1(C)(1)(2)  
Section 1(C)(1) and (2) creates a seven-member State Civil Service Commission with members serving six-year overlapping terms. Incorporates the same nominating procedure, using Tulane, Loyola, Louisiana College, Centenary, and Dillard as nominators and adding Xavier and St. Mary's Dominican. Adds a provision that the college presidents shall make the nominations after giving due consideration to all groups.

STATE CIVIL SERVICE COMMISSION

VACANCIES

Aertker, et al. Section 1(B)(3)  
Paragraph (B)(3) provides that vacancies be filled in accordance with procedures and from the same sources used in the original appointment. Requires university presidents to submit nominees within thirty days after a vacancy occurs. Further provides that the

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first name appearing on the nomination list becomes a member of the commission if the governor fails to appoint within thirty days. If any university president fails to submit the required nominations, the vacancy shall be filled by a majority vote of other members of the State Civil Service Commission.

Dennery Section 1(C)(2)  
Contains same provision for filling vacancies, but omits the procedure to be followed in the event a college president fails to submit names to the governor.

STATE CIVIL SERVICE COMMISSION

TRANSITION

Aertker, et al. Section 1(B)(4)  
Paragraph (B)(4) provides that members of the commission on the effective date of this constitution shall complete their respective terms. Requires the president of Dillard to submit three nominees to the governor within thirty days after the expiration of the term of the commissioner nominated by Louisiana State University. The initial term of the Dillard nominee shall be six years.

Dennery  
The delegate proposal contains no provision on transition of membership. This material is included in a separate transition, or schedule, proposal, Delegate Proposal 28.

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STATE CIVIL SERVICE COMMISSION

REMOVAL

Aertker, et al. Section 1(B)(5)  
Paragraph (B)(5) provides that a commissioner may be removed by the governor for just cause after being given a copy of the

charges against him and an opportunity for a public hearing by the appointing authority.

Dennery

Section 1(E)

Paragraph (E) provides that a member of the commission may be removed by the governor for cause after he has been served with a written copy of the charges against him and has had an opportunity for a public hearing.

STATE CIVIL SERVICE COMMISSION  
COMPENSATION

Aertker, et al.

Section 1(B)(6)

Paragraph (B)(6) provides that members be compensated for each day of work in an amount to be determined by the legislature.

Dennery

Mr. Dennery omits the paragraph on compensation of members of the commission.

CITY CIVIL SERVICE COMMISSION

Aertker, et al.

Section 1(C)(1)

Section 1(C)(1) creates a five-member city civil service commission for each city having a population exceeding four hundred thousand. Members serve overlapping terms of six years.

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Dennery

Section 1(D)

Section 1(D) creates a three-member civil service commission in each city having a population exceeding two hundred fifty thousand. Members serve six-year overlapping terms.

CITY CIVIL SERVICE COMMISSION  
NOMINATIONS

Aertker, et al.

Section 1(C)(2)

Paragraph (C)(2) requires the governing authority of New Orleans to select one commissioner from each of three lists submitted by the presidents of Dillard, Loyola, and Tulane. In addition, the governing authority appoints one member, and classified city employees elect a classified employee to serve on the commission. If a college president fails to submit nominees, members of the city civil service commission shall elect that member.

Requires other cities subject to this provision to constitute their commissions in the same manner as New Orleans except that the three lists of university nominees may be submitted by the presidents of any three of the institutions that nominate for the state commission: Centenary, Dillard, Louisiana College, Tulane, or Loyola.

Dennery

Section 1(D)(1)(2)

Paragraph (D)(1) provides that the presidents of Dillard, Loyola, and Tulane each shall nominate three persons for membership on the civil service commission of New Orleans. The governing authority of the city shall appoint one mem-

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ber from each list. Excludes the elected classified employee and the member directly nominated by the city

governing authority. Adds the directive that university presidents give due consideration to all groups in selecting nominees.

Paragraph (D)(2) provides that in other cities subject to this provision, the presidents of any three of the universities that nominate for the state commission may submit lists of nominees to the governing authority of the city. The governing authority shall appoint one member from each list to serve on the commission. (In the Dennery proposal, institutions that nominate for the state commission are Tulane, Loyola, Centenary, Louisiana College, Dillard, Xavier, and Dominican.)

CITY CIVIL SERVICE COMMISSION

VACANCIES

Aertker, et al.

Section 1(C)(3)

Paragraph (C)(3) provides that vacancies be filled in accordance with procedures and from the same sources used in the original appointment. Requires university presidents to submit nominees within thirty days after a vacancy occurs. Further provides that the first name appearing on the nomination list becomes a member of the commission if the governing authority fails to appoint within thirty days. The city governing authority shall call and hold an election for the member representing classified city employees at least thirty days prior to the expiration of that

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term and within thirty days after a vacancy occurs in an unexpired term of the employee representative.

Dennery

Section 1(D)(3)

Contains same provision for filling vacancies, but omits the procedure to be followed in the event a college president fails to submit names to the governing authority.

CITY CIVIL SERVICE COMMISSION

TRANSITION

Aertker, et al.

Section 1(C)(4)

Paragraph (C)(4) provides for the transition of members of the New Orleans commission nominated by Tulane, Loyola, and the city governing authority. Requires the president of Dillard to submit three nominees within thirty days after the effective date of this constitution. This commissioner serves an initial term of three years. Requires an election for the member representing classified employees within the same thirty days. The initial term of the classified employee shall be five years. Other cities affected by this Section shall provide a similar transition for commission members.

Dennery

The delegate proposal contains no provision on transition of membership. This material is included in a separate transition, or schedule, proposal, Delegate Proposal 28.

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CITY CIVIL SERVICE COMMISSION

REMOVAL

Aertker, et al.

Section 1(C)(5)

Provides that a member of a city civil service commission may



be removed by the governing authority for just cause after he has received a copy of the charges against him and has had an opportunity for a public hearing.

Dennery Section 1(E)  
Same removal provision, except cites removal for "cause," not "just cause."

#### CITY CIVIL SERVICE COMMISSION COMPENSATION

Aertker, et al. Section 1(C) (6)  
Provides that members of the commission shall be compensated for each day devoted to commission work. Directs the city governing authority to determine the amount of compensation.

Dennery  
Mr. Dennery omits any mention of compensation.

#### DEPARTMENTS; STATE CIVIL SERVICE; CITY CIVIL SERVICE

Aertker, et al. Section 1(D) (1) (2)  
Section 1(D) (1) creates a Department of State Civil Service in state government. Section 1(D) (2) creates a department of city civil service in cities having a population exceeding four hundred thousand.

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Dennery Section 1(F) (1) (2)  
Section 1(F) (1) creates a Department of State Civil Service in the executive branch of state government. Section 1(F) (2) creates a department of city civil service in each city having a population exceeding two hundred fifty thousand.

#### DIRECTORS; STATE; CITY

Aertker, et al. Section 1(E)  
Section 1(E) requires each civil service commission to appoint a director of civil service from a list of eligibles qualifying on the basis of merit, efficiency, and fitness, ascertained by competitive examination and such other factors as deemed advisable by the commission. The director shall be in the classified service. Further provides that the director shall exercise power and appoint personnel to the extent prescribed by the commission.

Dennery Section 1(F) (3)  
Section 1(F) (3) provides that each commission shall appoint a director after competitive examination. The director shall be in the classified service. Vests director with same authority provided by committee proposal.

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#### UNCLASSIFIED AND CLASSIFIED SERVICE

Aertker, et al. Section 1(F)  
Defines the classified service and the unclassified service. Lists ten categories of unclassified employees; all other employees are classified.

Dennery Section 1(B)  
Similarly defines the classified and the unclassified service. However, the delegate proposal differs in several

respects. Allows one confidential assistant and one principal assistant or deputy to specified officers, boards, and commissions. (The committee proposal allows one principal assistant, or one confidential assistant, or one chief deputy to the officers, boards, and commissions.) In the listing of unclassified employees, the Dennery proposal omits the state tax collector for New Orleans. (This office is soon terminating.) Omits one chief deputy selected by registrars of voters. The delegate proposal also authorizes the civil service commission to add additional positions to the unclassified service.

#### APPOINTMENT AND PROMOTION

Aertker, et al. Section 1(G)  
Provides that permanent appointments and promotions in the classified state and city civil service shall be made after certification under a general system based upon merit, efficiency, length of service, and fitness as ascertained by competitive examination. The number to be certified shall be not less than five. However, one additional eligible for each vacancy may be certified when

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more than one vacancy exists. Also allows the certification of special lists for reemployment and reinstatement. Retains the commission's authority to provide for emergency and temporary appointments.

Dennery Section 1(G)  
Section 1(G) provides that permanent appointments and promotions shall be made after certification under a general system based upon merit, efficiency, and fitness, as ascertained by examination which, so far as practical, shall be competitive. Omits length of service as a consideration. The number to be certified shall be not less than three unless more than one vacancy is to be filled. Each commission shall adopt rules for the methods of certification of persons eligible for appointment, promotion, reemployment, and reinstatement and shall provide for appointments defined as emergency and temporary appointments where certification is not required.

#### VETERANS' PREFERENCES

Aertker, et al. Section 1(G) (2)  
Paragraph (G) (2) retains the existing provision for five-point preferences on original appointments to veterans who served in designated wartime periods and ten-point preferences on original appointments to veterans with service-connected disabilities, or ten-point preferences on original appointments to the spouses, unmarried parents, or eligible parents of deceased or disabled veterans who served in designated wartime periods.

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Dennery  
The delegate proposal deletes the provision for veterans' preferences. Mr. Dennery's Section 1(J) (1), however, gives the commission authority to adopt veterans' pre-

ferences under its rule-making authority.

LAYOFFS; PREFERENCE EMPLOYEES

Aertker, et al. Section 1(G)(3)  
Requires priority in continued employment, reinstatement, and re-employment to preference employees (veterans and their dependents) in case of layoffs affecting positions in the classified service.

Dennery

The delegate proposal deletes the provision on layoffs and preference employees. Mr. Dennery's Section 1(G) gives the commission authority to adopt rules relating to reinstatement and reemployment.

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DISCIPLINARY ACTION

Aertker, et al. Section 1(H)  
Section 1(H) prohibits disciplinary action against any classified employee except for just cause after the employee has received a copy of the charges against him and had an opportunity for a public hearing. Only one penalty may be assessed for the same offense. Also prohibits discrimination against a classified employee because of political or religious beliefs, sex, or race. Provides right of appeal for classified employees who allege discrimination. Burden of proof on appeal, as to the facts, is on the employer. The appeal is devolutive unless otherwise determined by the commission. Commission's ruling is subject to review by court of appeal wherein the commission is located.

Dennery

Section 1(H)

Section 1(H) provides that no person who has gained permanent status in the classified state or city service shall be subject to disciplinary action except for cause expressed in writing. Deletes need for public hearing on the charges. Repeats the same prohibition against discrimination. Burden of proof on appeal, as to the facts, is on the employee. Omits statement that only one penalty may be assessed for same offense. Mr. Dennery treats court review in Section 1(L). His proposal simply calls for an appeal to the commission, not a "devolutive [appeal] unless otherwise determined by the commission." The delegate proposal limits court review to questions of law, not

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of fact.

RULES AND REGULATIONS

Aertker, et al. Section 1(I)  
Section 1(I) vests the state and city commissions with general rule-making powers and subpoena powers to administer the classified civil service and effectuate the objectives and purposes of the merit system. These rules and regulations have the effect of law. But any matter affecting wages and hours shall become effective and shall have the force of law only after approval of the governor or the governing authority of the city.

Dennery

Section 1(J) (1), (3)

Similarly vests commissions with rule-making and subpoena

powers. Adds political activities, employee training and safety, veterans' preferences, and qualifications to matters subject to rule-making authority.

Provides that any rule or determination affecting wages or hours shall become effective and shall have the effect of law only after approval by the governor or appropriate governing authority.

POLITICAL ACTIVITY

Aertker, et al. Section 1(J)  
Prohibits civil service commissioner from seeking or holding public office or employment, except as the city civil service commissioner representing classified employees, and as notaries public, military officers, or members of a university faculty.

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Prohibits appointment of any commissioner who has held office in a political party in the preceding six months. Requires each commissioner to take an oath attesting his support of the merit system. Prohibits civil service commissioners and classified employees from soliciting political funds and from participating in any political activity except voting, privately expressing a political opinion, and serving as a poll commissioner. The proposal defines political activity as support of an individual or party in an election. No prohibition is imposed against support of issues involving bond elections, tax referenda, constitutional amendments, or participation in nonpolitical organizations which "from time to time" express political opinions.

Dennery

Section 1(I)

Imposes same restrictions on political activities upon civil service commissioners and classified employees. Omits allowance for a public employee to serve on the city civil service commission and omits definition of notaries public, military officers, and university faculty as public officers or employees eligible for service on a commission. Deletes prohibition against a civil service commissioner serving on a party committee within the six months prior to his appointment. Deletes reference to oath of office. Deletes definition of political activity. Does not allow participation in campaigns involving bond issues, tax referenda, or constitutional amendments and membership in organizations which at times express political opinions.

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VIOLATIONS; APPEALS

Aertker, et al. Section 1(K)  
Authorizes state and city civil service commissions to investigate violations of this Section and the rules and regulations adopted thereunder. Authorizes commissions to impose penalties for such violations in the form of demotion, suspension, or discharge with attendant loss of pay. Provides for review of commissioner's rulings in the court of appeal wherein the commission is located.

Dennery

Section 1(J) (1) (2), (L)

Conveys same authority to commissions regarding invest-

igation and punishment of violations. Gives the commission the "exclusive" power to hear and decide all removal and disciplinary cases. Differs in court review process. Retains existing provision whereby decision of the commission is final on facts, but, on appeal, subject to review on questions of law in the appropriate court of appeal.

PENALTIES

Aertker, et al. Section 1(L)  
Defines willful violation of any provision of this Section or any law enacted pursuant hereto as a misdemeanor. Conviction on such charge shall be punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

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Dennery Section 1(K)  
Section 1(K) repeats the committee proposal except for deletion of the phrase "or any law enacted pursuant hereto."

ACQUISITION OF PERMANENT STATUS

Aertker, et al. Section 1(M)  
Provides for retention of the position, rank, and classification held by classified employees on the effective date of this constitution. Such employees shall thereafter be subject to the provisions of this Section.

Dennery  
Delegate Proposal 27 omits this provision. Mr. Dennery has, however, included this material in Section 2 of Delegate Proposal 28, a transition measure.

EXISTING LAWS

Aertker, et al. Section 1(N)  
Continues all existing laws relating to classified employees that are not inconsistent with this Section. Prohibits the city civil service commission and the governing authority of the city from exercising any power which is inconsistent or in conflict with any general law. Prohibits the State Civil Service Commission from exercising any power inconsistent or in conflict with general law.

Dennery  
No comparable provision.

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APPROPRIATIONS

Aertker, et al. Section 1(O)  
Requires that the legislature appropriate for the annual operations of the State Civil Service Commission and the Department of State Civil Service a sum equal to not less than seven-tenths of one percent of the aggregate payroll of the state classified service for the preceding year. Requires such an appropriation at each regular session and each fiscal session. Requires that each city subject to the provisions of this Section make an adequate

annual appropriation to the city civil service commission and city civil service department.

Dennery Section 1(M)  
Paragraph (M) (1) provides the same formula for legislative funding of the State Civil Service Commission and Department. Omits reference to fiscal sessions of legislature. Paragraph (M) (2) repeats the committee's provision for adequate funding of city civil service.

ACCEPTANCE OF ACT; OTHER CITIES; CITY AND PARISH GOVERNED JOINTLY

Aertker, et al. Section 1(P)  
Provides that any city or any city and parish governed jointly, with a population exceeding ten thousand, but not exceeding four hundred thousand, may accept the provisions of this Section by a majority vote of its qualified electors. This election shall be called upon the initiative of the city or city-parish governing authority or upon presentation to such governing authority of a petition signed by five percent of the qualified voters of the city or the city-parish. If a majority of the votes cast in the referendum

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oppose the acceptance of this Section, the question shall not be resubmitted to the city or the city-parish within one year thereafter.

Dennery Section 1(N)  
Repeats committee proposal with one change in the population guidelines for cities. Relates to cities with a population exceeding ten thousand, but not exceeding two hundred fifty thousand. Adds means whereby parishes can adhere to this Section.

CITY, PARISH, CIVIL SERVICE SYSTEM  
CREATION BY LEGISLATURE

Aertker, et al. Section 1(Q)  
Confirms authority of the legislature to establish a civil service system in any parish or in any city having a population of less than four hundred thousand.

Dennery Section 1(O)  
Repeats committee proposal except confirms right of a local governing body to establish a civil service system as well as the right of the legislature to create such a system. Applies to cities of less than two hundred fifty thousand.

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CC/73 Research Staff  
Committee on Education and Welfare  
November 5, 1973  
Staff Memo. No. 13

RE: Administration of Local School Systems in selected states.

Alabama  
The Code of Alabama  
Title 52  
52:62 vests the administration of public schools for each

county in a county board of education, except in cities having a separate board.

52:151 vests the general administration of public schools of each municipality of 2500 or more in a city board of education.

52:82 allows merger of a city and county system after referendum.

California

Educational Code Annotated of the State of California

§1647 authorizes county boards of supervisors to organize or reorganize school districts upon petition of resident voters.

§1974 provides that every city organized before September 11, 1957 constitutes a separate school district unless otherwise provided in original charter.

§1972 requires State Board of Education to set minimum standards for formation of districts.

§921 provides a board of trustees or board of education for each school district.

§911 refers to elementary districts, high school districts, unified school districts.

Connecticut

General Statutes Annotated Title 10

10-240 provides that each town shall maintain control of all public schools within its limits and shall constitute a school district.

10-245 prohibits the formation of any new school district.

Illinois

Illinois Annotated Statute Chapter 122

§5-1 provides that territory in each county, exclusive of any school district governed by a special act which requires the district to appoint its own school treasurer, shall constitute a county school unit.

§10-21.5 refers to community high school districts, township high school districts, consolidated high school districts, and community unit districts.

§34-2 provides that each city with a population of 500,000 or more shall constitute one school district.

Oklahoma

Oklahoma Statutes Annotated Title 70

5-101 designates all school districts as independent, dependent, or area vocational-technical school districts. Independent school districts and vocational-technical school districts shall be under the supervision of their respective boards. Dependent school districts shall be under the supervision of the county superintendent of schools and under the administration of the respective district boards of education.

5-102 defines an independent school district as one having an accredited high school.

5-103 defines a dependent school district as one having grades one through eight.

Florida

Constitution, Art. IX

Each county in Florida constitutes one school district; two or more counties may consolidate school districts if

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resident voters so decide.

Georgia

Constitution, Art. VIII

§§V, VII provides that each county, exclusive of any independent school system now in existence, shall compose one school district; prohibits the formation of new independent school systems; allows municipal corporations to maintain existing independent school systems.

Georgia Code Annotated Title 32

§1201 allows municipal or independent school districts to become part of the county system by petition of voters.

Missouri

Vernon's Annotated Missouri Statutes

160.021 divides public school districts into classes:

common -- in territory with no district system, but having twenty pupils, established following referendum;

six-director -- district which includes urban territory;

urban -- containing all or a major portion of a city with a population between 75,000 and 700,000;

metropolitan -- cities of 700,000 or more.

Utah

Utah Code Annotated

10-1-1 defines a first class city as one having a population of 100,000 or more. A second class city has a population of 60,000 to 100,000.

53-4-4 provides that each city of the first and second class shall constitute one school district.

53-4-1 provides that each county constitutes a county school district (with the exception of cities in the county which have their own school district administration).

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Wisconsin

Wisconsin Statutes Annotated

40.01 divides school districts into common school districts, union high school districts, unified school districts, city school districts, and the Milwaukee school system.

40.025 provides for special committees on the district level to study needs and recommend consolidating or dividing districts. The advice of the state superintendent of education is secured, and the matter is submitted to voters.

Texas

Vernon's Annotated Civil Statutes

2741 provides that commissioner courts of counties shall subdivide their respective counties into convenient common school districts; they may create new districts, and consolidate or divide districts.

2742k refers to common school districts, independent school districts, consolidated common school districts, consolidated independent school districts, consolidated county line school districts, and rural high school districts.

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NUMBER OF SCHOOL DISTRICTS BY STATE

State	Number of School Districts, 1970-71	Number of Counties
Alabama	124	67
Alaska	28	10
Arizona	295	14
Arkansas	389	75
California	1120	58
Colorado	181	63
Connecticut	169	8
Delaware	26	3
Florida	67	67
Georgia	190	159
Hawaii	1	4
Idaho	115	44
Illinois	1174	102
Indiana	315	92
Iowa	454	99
Kansas	311	105
Kentucky	192	120
Louisiana	66	64
Maine	288	16
Maryland	24	23

Massachusetts	416	14
Michigan	630	83
Minnesota	500	87
Mississippi	150	82
Missouri	621	114
Montana	744	56
Nebraska	1700	93
Nevada	17	16
New Hampshire	168	10
New Jersey	599	21
New Mexico	89	32
New York	760	62
North Carolina	152	100
North Dakota	411	53
Ohio	631	88
Oklahoma	665	77

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State	Number of School Districts, 1970-71	Number of Counties
Oregon	350	36
Pennsylvania	597	67
Rhode Island	40	5
South Carolina	93	46
South Dakota	286	67
Tennessee	147	95
Texas	1187	254
Utah	40	29
Vermont	277	14
Virginia	134	96
Washington	321	39
West Virginia	55	55
Wisconsin	455	72
Wyoming	131	23

Source: The Book of the States

Council of State Governments, The Book of the States, 1972-1973 (Lexington, Ky., 1972), p. 309.

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CC/73 Research Staff

Committee on Education and Welfare

July 16, 1973

Staff Memorandum No.

RE: Origin of the term "police jury".

Origin of "Police Jury"

The term "police jury" appears to have evolved from the English translations of early Louisiana legislation, originally promulgated in French, establishing parish governments.

Act 18 of April 6, 1807, is the earliest of this legislation and provides that:

"The parish judges together with the justices of the peace and a jury of twelve inhabitants shall meet once in the year . . . . to order and provide for the execution of whatever concerns the interior and local police and administration of their parish. . . ."

Act 36 of April 30, 1811, uses the phrase "parish juries" in further delineating the powers and authority of the parish governing bodies.

Finally in Act 41 of March 25, 1813, the phrase "police jury" is used to denominate the parish governing body.

The phrase was not used in Louisiana constitutions until 1864, when it appeared as an accepted and undefined term.

The word "police" when used as a verb is defined as meaning "to maintain law and order; to govern"; while "jury" in its most general sense means "a body of sworn men". Therefore, a literal definition of "police jury" would be a body of sworn men who maintain law and order or govern.

## B. Subcommittee Staff Memoranda

### 1. Subcommittee on Elementary and Secondary Education

CC/73 Research Staff

Committee on Education  
and Welfare  
Subcommittee on  
Elementary and  
Secondary Education

March 20, 1973

Staff Memo No. 1

#### POSSIBLE ISSUES

1. Should elementary/secondary education continue to be governed by a state board and a state superintendent?
2. If so, should both the board and the superintendent be elective?
3. If an elective board is retained, how should the membership be apportioned throughout the state? Should terms be staggered? Should the board be assured a staff?
4. How is education to be financed and to what extent should the Constitution provide with respect to such finances?
5. Local school boards and administration of public schools on the local level -- Much the same kind of questions arise with respect to the membership, apportionment, terms, powers and duties of parish (and city) school boards, and with respect to public school finance on the local level.
6. Should the Constitution authorize the use of public funds for private education? If so, should such support be directly to the school? the parents? the child? COURT DECISIONS IN THIS AREA MUST BE EXAMINED.
7. To what extent should the Constitution provide with respect to:
  - a. retirement of teachers and other school personnel? Is it essential that provisions be included to authorize the use of public funds to pay the employer portion of retirement plans?
  - b. Does the existing requirement that notice of intention to introduce retirement bills in the Legislature serve the purpose intended? Should special retirement bills be prohibited?
8. Is it constitutional for the Legislature to authorize or provide for deduction of portions of taxes levied for school?
9. With respect to school finance on the local level, to what extent should tax levies without voter approval be authorized?  
  
Where voter approval is required, who may vote (NOTL present cases)

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CC/73 Research Staff

Subcommittee on Elementary-  
Secondary Education

April 3, 1973

Staff Memo No. 2

RE: Summary of Article entitled Selecting a State Superintendent of Education: Problem and Proposal

#### The Author

Dr. Gil E. Browning, Assistant Superintendent for the Division of Developmental and Innovative Programs, Louisiana State Department of Education

#### Problem:

Inadequacies caused by the election of the Chief State School Officer in Louisiana, the State Superintendent of Education.

#### Background:

Louisiana and twenty-one other states elect State Superintendents of Education through party primaries. Nine other states and Louisiana elect a State Board of Education by popular vote. However, Louisiana is the only state which elects both its State Board of Education and the Chief State School Officer by popular vote

through the normal elective process. While this is usually a satisfactory arrangement, the functional relationship between these two entities in Louisiana has wrought inherent ills.

One of the reasons therefore is that the two elected entities are designed to serve in a complimentary manner, but often find themselves at cross purposes.

From a political viewpoint the following deductions are made:

- (1) The dual leadership of the department both incur political debts in the election process which places a staggering burden on the system.
- (2) The legal, constitutional and statutory intent was to create a State Board of Education to control and a State Superintendent to administer thus creating a complimentary system.

While the intent of the law, constitutional and statutory, was to create a system with complimentary components, they each enjoy some autonomy. Because the State Superintendent has a greater base of support resulting from the statewide election he has the capacity for being more powerful than his board members who are elected by regions and districts. This makes it possible to subvert the true intent of the legal provisions creating the system. It is believed that this has happened in Louisiana in previous decades.

The present arrangement of electing both Superintendent and Board of Education has other ills non-political in nature. The more apparent are the following:

- (1) Over-control of the decision-making process, which causes delay in translating decisions into action.
- (2) Confusion on the part of subordinates in the overall system as to whom they are accountable.
- (3) Confusion on the part of the electorate which results in its inability to express its voting power as intelligently as it might otherwise do, if the system were less complicated and more functional.
- (4) Inflated expenses accruing as a result of duplicated functions and overlapping efforts on the part of the two entities to accommodate each other.

The author suggests that some alternative should be tried if these arguments can be assumed valid. His study of the methods of selecting the Chief State School Officer and the Board of Education in the fifty states indicates that a variety of methods are used. It is apparent that every state has problems as a result of the methods of selection used, thus his paper is limited to a general discussion of the pervasive factors affecting all methods.

#### Advantages and Disadvantages of the Election and Appointment Methods.

The main advantage of electing officials by popular vote is the direct accountability of officials to the electorate.

One advantage for appointing certain public officials lies in the rationale that the particular needs of certain offices demand specialized expertise. To name by appointment a State Superintendent of Education, assuming that the method of appointment be appropriate, would tend to insure that the person who fills the office would be more likely to have the necessary characteristics mandatory for the highest development of the educational system of the state.

While appointment is strongly suggested it is also pointed out that problems exist in all methods of selection and that over two-thirds of the states use some combination of election and appointment as their method.

"Entrenchment" is described as one of the evils which limits success of previous attempts to balance control of education through combining election and appointment of boards and the Chief

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State School Officers. It is defined as the procedure used by an elected official to mold his agency to conform to his personality, his plans, and his power. Whatever agency or "system" the official heads, he gradually shapes to serve his own end, one of which must of necessity be to maintain his political support, an end which can sometimes subvert any strong thrust for change. This is pointed out as being dangerous in an area such as education where flexibility is so necessary.

#### Proposed Plan:

The following is proposed as a method of selecting the Chief State School Officer in Louisiana:

- (1) That the method of selecting be alternated every four years.
- (2) That election by popular vote, or that appointment by an appropriate authority (with whatever confirmations, contingencies, etc., are desired) be the method used in 1976.
- (3) That the method used in 1976 be changed in the 1980 election year so that whichever method used in 1976 not be used in 1980.
- (4) That this procedure of alternating the method of selection every four years be continued.

CC/73 Research Staff  
 Committee on Education and Welfare  
 Subcommittee on Elementary and Secondary Education  
 April 3, 1973  
 Staff Memo No. 3

The author points out that his plan does little to improve the advantages of either electing or appointing, except indirectly. It does attack entrenchment and offers the potential of enhancing the favorable aspects of both the election and appointment methods. The following might be reasonable expectations if the plan is implemented.

- (1) A Superintendent elected for four years, whose tenure beyond that is dependent on appointment has less reason to use his office to increase his power base among the electorate.
- (2) A Superintendent appointed for four years would be less likely a political tool of the appointing authority if his tenure beyond that time is dependent on election by popular vote.
- (3) Every eight years when appointments are to be made, the appointing authority could choose the best qualified person, whether politically oriented or not. It is also possible that upon completion of a four year appointment, one might have demonstrated such a degree of effectiveness that he would be elected by popular vote.

In summary the author does state that the quality of political terms is in direct proportion to the integrity of public officials

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and that conditions favorable for selecting the best procedure for obtaining a State Superintendent of Education for Louisiana may be through the "resolving" method he suggests or some other method. It is clear, however, that consideration ought to be given by the Constitutional Convention to this issue.

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REPORT

Subcommittee on Elementary - Secondary Education

April 4, 1973

The subcommittee on Elementary - Secondary Education held public hearings on March 20, and April 3, 1973. Representatives from Council For a Better Louisiana, NAACP, American Federation of Teachers Local Number 1559, League of Women Voters, and the Parent-Teachers' Association were heard.

In the second meeting the subcommittee heard from representatives of the Louisiana School Boards Association, Louisiana Association of School Administrators, Louisiana Retirement System and the Louisiana School Employees' Retirement System.

Superintendents of the following systems were also heard:

- Gene Geisert, Orleans Parish System
- B. A. Petterson, Monroe City School System
- Frank Mobley, Bogalusa City School System
- James Bailey, Washington Parish School System

A summary of the remarks made is attached hereto and made a part hereof.

Submitted by

Norman F. Carmouche,  
 Chairman - Subcommittee on  
 Elementary - Secondary Education

RE: Summary of meetings of the Subcommittee on Elementary-Secondary Education

March 13, 1973

The subcommittee met and planned the subsequent meetings of the committee.

March 20, 1973. Public Hearing

Presentations made included:

Mr. Edward Stagg, Council for a Better Louisiana indicated that his organization would present their views in detail later but suggested a simple Constitution giving the legislature authority whenever possible. The organization favors an elected Board of Education and a Superintendent appointed by members of the board. The board should determine policies of administration and the legislature should have the right to define the duties of the board.

In addition, it was suggested that multi-parish districts might be utilized to meet the needs of handicapped and exceptional children. The Constitution should provide for adequate taxation allowing the public to vote on the proposals.

Mr. Edward Fontaine, President of the American Federation of Teachers Local number 1559 presented the views of his organization and in so doing indicated that the education department should evaluate the product it produces and a way must be found to secure the funds necessary to provide the public system what it needs to improve that product. In addition, he pointed out the need for the Superintendent to be an educator and asked that provisions granting benefits to teachers be retained in the Constitution.

Mr. Emmitt Douglas, President, Louisiana State Conference, NAACP recommended a concise constitution for Louisiana. This constitution should create responsible authorities to administer elementary and secondary education by (a) separating the functions of collegiate and pre-collegiate education into two boards (b) incorporating the spirit of Act 712, 1972 into all boards established by stipulating an equal number of elected and appointed members and by insuring black population in the state.

The second recommendation was to provide authority and duty for a state board of education to distribute state funds in order to insure equality of educational opportunity for all regions and peoples in the state.

The third recommendation suggested that superintendents of pre-collegiate and collegiate education be appointed by their respective boards. Such superintendents should be professional rather than politicians.

Mrs. Robert Holtman outlined the position of the League of Women Voters by indicating that the Constitution should guarantee public education on a non-discriminatory basis; that there should be a prohibition of funds to non-public schools; that there should be an elected Board of Education and a Superintendent of Education appointed by the board.

Mr. William Noonan, Jr. representing the Parent Teachers' Association indicated that his organization supports the idea of an elected board of education with a superintendent appointed by the board. Other concerns of the organization include revenue-sharing; the teacher-pupil ratio; separation of church and state, and the allocation of funds for classes for handicapped and exceptional children.

April 3, 1973. Public Hearings

James Prescott, Executive Secretary, Louisiana School Boards Association, indicated that many of the views expressed had not been formally approved by the organization but that he was certain he represented the views of the majority of the members.

A detailed proposal for rewriting Article XII was submitted with the following recommendations:

1. Delete Section 2, coordination of schools; Section 3, courses of study; Section 12, language requirements. Place Section 18 dealing with Sixteenth Section Lands in the Statutes. Sections 19, 20, 21, and 22 which deal with perpetual debts of the State should be eliminated by appropriations of the amounts of these debts to the proper agencies.

2. The Constitution should provide for a State Board of Education responsible solely for elementary and secondary schools and the special schools of the State (Schools for the Deaf, Blind, Handicapped and Retarded). The Board should be composed of eleven elected members with terms of six years for those members

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elected from Congressional Districts. An alternative composition was suggested which is found in the body of the written presentation attached hereto. The Board should appoint for a four year term the State Superintendent of Public Education who should become the Board's chief executive officer. The appointee should possess at least the same qualifications as those required of a parish or city school superintendent. This recommendation has the formal approval of the association.

3. Dedications from the Severance Tax to the State Public School Fund should continue only as long as dedicated funds are retained by other governmental agencies.
4. The Constitutional procedure for distributing the basic State funds for education should be changed.
5. The Constitutional Ad Valorem Tax for education should be retained at five mills.
6. Additional local funds should be provided for public education.
7. Article XII, Section 15 whereby school taxes are to be assessed, levied, and imposed on one hundred per centum of the assessed valuation should be eliminated. The legislature should set the percentage of actual cash value to be used to determine the assessed valuation on which the millage is to be levied.

Edward McCormick, Secretary-Treasurer, Louisiana School Employees' Retirement Systems recommended that the various retirement systems be consolidated, and pointed out the advantages and disadvantages of so doing. The advantage of this recommendation includes (1) simplification of reporting and record keeping procedures; (2) elimination of multiple boards; (3) competition between various systems; (4) cost to the state could be more easily determined; and (5) would prevent membership in more than one state supported retirement system.

The disadvantages of consolidation suggest: (1) administrative cost would be higher; (2) less representation on controlling board; and (3) the combined membership would have a potential for getting favorable legislation. The speaker also enumerated several considerations for consolidation.

J. L. McConathy, Chairman, Louisiana Association of School Administrators, indicated in his remarks that the State Board of Education should set policies and procedures for operation of elementary-secondary school programs including establishing the beginning school age for children, and the coordination of schools.

Members of the State Board should continue to be elected by popular vote with overlapping terms and vacancies on the board should be filled by appointment by the Governor.

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Gene Geisert, Superintendent, Orleans Parish System, said the system believes that the new Constitution should clearly spell out that the State has the responsibility of providing adequate public educational facilities for all citizens. It further believes that the interests of the public school system of the State would be better served if all parish and city school boards were subject to the same constitutional rights and duties. However, it is also concerned that its fiscal authority not be weakened. The board presented several proposals relative to the taxing authority of school boards. A copy of his statement is attached hereto and made a part hereof.

N. B. Hachett, Secretary-Treasurer, Louisiana Retirement System, in his remarks said that the Constitution should include a concise statement about a retirement system for all school employees and a statement to protect their rights. The Legislature, he mentioned, has been liberal in providing funds for a good retirement system. There is some concern, however, for the actuary soundness of the system due to the reduction of the employer's contribution.

B. A. Petterson, Acting Superintendent, Monroe City School System, joined by Frank Mobley, Superintendent of Bogalusa City School System, and James Bailey, Superintendent, Washington Parish School System, made a plea for the preservation of the city school systems. They agreed that the language used in the proposed changes for Article XII, submitted by Mr. Prescott, would be sufficient and would protect their interest.

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Statement by  
Orleans Parish School Board  
Relative to  
State Support of Non-Public Schools

The Orleans Parish School Board wishes to confirm the position which it has consistently taken in the past:

The doctrine of separation of Church and State should be strictly construed: public funds should not be used for support of non-public schools, either directly or indirectly.

HTP:wvf  
4/2/73

Statement by  
Orleans Parish School Board  
Relative to  
Constitutional Taxing Authority  
of School Boards

The Orleans Parish School Board believes that the new Constitution should clearly spell out that the State has the responsibility of providing adequate public educational facilities for all citizens. It further believes that the interests of the public school system of the state would be better served if all parish and city school boards were subject to the same constitutional rights and duties. However, it is also concerned that its fiscal authority not be weakened.

The Board therefore proposes the following general principles for consideration by other boards and by the constitutional convention:

1. Each parish and city school board shall be authorized to levy an annual ad valorem tax for school purposes not to exceed ten (10) mills on each dollar of assessed valuation on all property within its jurisdiction.
2. Each parish and city school board shall be authorized to continue to levy additional taxes heretofore approved in an election until such authority shall expire in accordance with the terms of the election, except that the provisions of paragraphs 1 and 2 shall not operate to increase the amount of millage any board can levy.
3. Each parish and city school board shall be authorized to levy such additional ad valorem tax for school purposes as may be approved hereafter by eligible voters in the parish or city in a special election held for that purpose, except that such additional tax shall not be levied for more than ten years.
4. Each parish and city school board shall be authorized to levy an ad valorem tax each year hereafter in an amount sufficient to pay principal and interest coming due during the year on all bonds presently outstanding.
5. Each parish and city school board shall have the authority to sell any bonds heretofore approved in an election but not yet sold and shall have the authority to levy an ad valorem tax for each year after such bonds are sold, in an amount sufficient to pay principal and interest coming due during the year.
6. Each parish and city school board shall have the authority to sell additional bonds as approved by eligible voters in an election held for that purpose and to levy additional taxes each year in an amount sufficient to pay principal and interest coming due during the year, provided that such bonds shall not run for more than forty years and that the average interest rate shall not exceed a rate to be fixed by the Legislature of Louisiana.

The Orleans Parish School Board believes that these proposals form an ad valorem tax basis which is fiscally sound and responsive to the will of the people.

HTP:wvf  
3/30/73



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## Testimony Before Sub-Committee on Elementary and Secondary Education of the Louisiana Constitutional Convention

by  
James D. Prescott  
Executive Secretary  
Louisiana School Boards Association

Baton Rouge, Louisiana  
April 3, 1973

4-3-73

I am James D. Prescott, Executive Secretary of the Louisiana School Boards Association. I appreciate the opportunity of appearing before you today to discuss proposed changes in the educational provisions contained in our Louisiana Constitution.

Let me say at the outset that only a few of the views expressed by me have been formally approved by the Louisiana School Boards Association. Indeed, except for the matter of an appointive State Superintendent of Public Education, our Association has not taken formal action on the proposals I shall make here this morning. Nevertheless, I am virtually certain that I represent the views of a majority of those whom I represent.

It is my intent to discuss for you my general ideas regarding Constitutional revision of educational matters and then to leave with you a detailed proposal for the rewriting of Article XII. I am not an attorney and I have not had a chance to discuss this detailed proposal with our general counsel so I ask that you regard my revision of Article XII accordingly. I am sure that your research staff and legal counsel can improve the wording which I recommend. Moreover, I am sure that you can reduce to statutory language those provisions which I believe can be omitted from our new Constitution, but which should be placed in the Statutes of our State.

I will now enumerate for you the changes which I propose in our Constitution. Some of these will be discussed generally while others will be presented in detail. In any case, I will be happy to answer any questions which you have at the conclusion of my presentation.

My recommendations are:

1. Much of the material in the Louisiana Constitution concerning public education can be deleted entirely, consolidated or put into the Statutes without damage to our educational system.

The proposed revision of Article XII which I will leave with you deletes from

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the present Constitution eight (8) sections in their entirety. Provisions concerning coordination of schools (Section 2), courses of study (Section 3), language requirements (Section 12), Sixteenth Section Lands (Section 18), and the Free School Fund (Section 19), the Seminary Fund (Section 20), and the A & M Fund (Sections 21-22) should be completely eliminated from Article XII.

Of these, Section 18 dealing with Sixteenth Section Lands should be placed in the Statutes. Sections 19, 20, 21 and 22 which deal with perpetual debts of the State should be eliminated by appropriations to the proper agencies of the amounts of these debts. Sections 2, 3 and 12 should be eliminated and forgotten.

Many other Sections in the present Constitution should be consolidated with other Sections or shortened considerably as seen below. Much material in these Sections can be reduced to Statutory status.

2. The present provisions for governance of education at the State level should be changed.

The Louisiana Constitution should provide for a State Board of Education responsible solely for elementary and secondary schools and the special schools of the State. The Board should be composed of the present eleven members, all of whom are elected. The only basic change in composition which appears to be needed is the reduction in terms of the members elected from Congressional Districts to six years from the present eight.

There could be workable alternatives to this recommendation, of course. For example, you could elect three members from the State-at-large instead of from these Public Service Commission Districts, you could have the Governor appoint these same three members either from the Public Service Commission Districts or from the State-at-large, or you could increase the total number to thirteen (13) and have five (5) members appointed by the Governor.

Regardless of the exact composition of the State Board, however, the majority of the members should be elected and therefore responsible directly to

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the public. In addition, this Board should appoint for a four year term the State Superintendent of Public Education who should become the Board's chief executive officer. This appointee should also possess at least the same qualifications as those required of a parish or city school superintendent.

3. Dedications from the Severance Tax to the State Public School Fund should continue only as long as dedicated funds are retained by other governmental agencies.

Dedications to the State Public School Fund have not been sufficient for about two decades to meet the financial needs of public education. Substantial revenues from the State General Fund have been used to make up the difference. Thus, if the Convention decides to remove all dedications, we believe education will be generously provided for by the Legislature. At the same time, however, we would oppose the elimination of educational dedications if other State agencies retain their dedications.

4. The Constitutional procedure for distributing the basic State funds for education should be changed.

The present Constitution calls for distributing basic funds on a per educable and an equalization basis. We believe that the per educable arrangement is antiquated, misunderstood, devoid of meaning and should be changed. The most important Constitutional provision for distributing State funds should be to insure that all students in this State are afforded at least a minimum program of education as defined by the State Board of Education. Our recommended change would eliminate entirely the per educable distribution and emphasize the distribution of funds to achieve this minimum program.

5. The Constitutional Ad Valorem Tax for education should be retained at five (5) mills.

The so-called Constitutional Tax of five (5) mills which local school boards can levy without a vote of the people should be retained. Education is too

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important a governmental function not to have some funds, no matter how meager, made available to school boards with which to provide this function. Some would have you increase the amount of millage which can be imposed but I realize the practical difficulties which confront you and would not now recommend that this amount of five (5) mills be increased.

6. There should be a drastic change in provisions for obtaining additional local funds for public education.

We see no reason why there should be any Constitutional limitations on the amount or usage of local funds from ad valorem taxes if we require that such taxes can be levied only upon a favorable vote of a majority of the electors affected and that they can not be voted for longer than ten (10) years. We would concede, too, that the Legislature should have the prerogative of imposing any additional limitations on the amount or use of local funds.

7. The provisions contained in Article XII, Section 15 whereby school taxes are to be assessed, levied and imposed on one hundred per centum (100%) of the assessed valuation should be eliminated.

There is no need to keep this provision in the Constitution in light of the recent Court ruling by Judge Doherty on the equalization of assessments. Rather, the Legislature should set the percentage of actual cash value to be used to determine the assessed valuation on which the millage is to be levied.

These are our recommendations for Constitutional change in the area of public elementary and secondary education. We appreciate the opportunity of presenting them to you and we hope that you will give them your greatest consideration.

April 3, 1973

Proposed Revision of  
Article XII of  
the Louisiana Constitution  
by  
James D. Prescott  
Executive Secretary  
Louisiana School Boards Association

#### ARTICLE XII -- Public Education

§ 1. Education of children; establishment and maintenance of public educational system

Section 1. The Legislature shall provide for the education of the children of the State and shall establish and maintain a public educational system to consist of all public schools and all institutions of learning operated by State agencies.

§ 2. State Board of Education; members; powers and duties

Section 2. A. There is hereby created a State Board of Education consisting of eleven members with one member elected from each of the three Public Service Commission Districts and one member elected from each of the

eight Congressional Districts, all for overlapping terms of six years. The present members of the Board shall serve the remainder of their terms and their successors shall be elected for terms as provided herein. Any vacancies occurring in the membership of the Board shall be filled by appointment of the Governor. All members shall serve without pay, except such per diem and expenses as shall be fixed by the Legislature.

B. The State Board of Education shall be the governing body of the State Department of Education and shall have supervision and control of all public elementary and secondary schools and special schools as provided by law under its jurisdiction.

C. The State Board of Education shall submit to the Legislature, or other agency designated by the Legislature, a budget for the Board and State Department of Education, elementary and secondary schools, and special schools under its jurisdiction. The Legislature shall make such appropriations for the improvement, equipment, support and maintenance of said institutions as their needs may require.

D. The Legislature shall prescribe the duties of the State Board of Education and define its powers; provided, that said Board shall not control the business affairs of the parish school boards, nor the selection or removal of their officers and directors.

E. The State Board of Education shall prescribe the qualifications, and provide for the certification of the teachers of elementary, secondary, and special schools, it shall have authority to approve private schools whose sustained curriculum is of a grade equal to that prescribed for similar public schools of the State; and the certificates or diplomas issued by such private schools so approved shall carry the same privileges as those issued by the State's schools.

Proposed Revisions of Article XII of the Louisiana Constitution, Page 2

NOTE: Workable alternatives to the composition of the State Board of Education recommended above would include 1) election of three members for six year terms from the State-at-large instead of from the three Public Service Commission Districts; 2) appointment by the Governor, instead of election, of the three members from the Public Service Commission Districts; 3) appointment by the Governor of three members from the State-at-large; and 4) increasing the total number of members to thirteen and having five members appointed by the Governor.)

§ 3. State Superintendent of Public Education; qualifications, duties and responsibilities; term of office; salary, vacancy

Section 3. The State Board of Education shall appoint a State Superintendent of Public Education who shall possess at least the same qualifications as those required of a parish or city school superintendent. The State Superintendent of Public Education shall be the ex-officio secretary of the State Board of Education and shall serve as its chief executive officer.

The State Superintendent of Public Education shall be appointed by the State Board of Education to serve for a term of four years, beginning May 15, 1976, at a salary fixed by the Board.

All powers and duties now or hereafter vested in the State Superintendent of Public Education, whether by the Constitution or laws or otherwise, hereafter shall be exercised under the direction and supervision of the State Board of Education, to which he shall be responsible.

§ 4. Institutions of higher learning

NOTE: The Louisiana School Boards does not intend to make a recommendation in this area.

§ 5. Parish school boards; parish superintendents

Section 5. The Legislature shall provide for the creation and election of parish school boards which shall elect parish superintendents for their respective parishes, and such other officers or agents as may be authorized by the Legislature. The State Board of Education shall fix the qualifications and prescribe the duties of parish superintendents who need not be residents of the parishes.

School boards and systems now in existence by virtue of special or local legislative acts or previous Constitutional provisions are hereby recognized, subject to control by and supervision of the State Board of Education, and the power of the Legislature to further control them by special laws.

Two or more parish or city school boards and systems may be consolidated under procedures enacted by the Legislature subject to

Proposed Revisions of Article XII of the Louisiana Constitution, Page 3

the approval of a majority vote of the qualified electors in each system affected.

§ 6. Public funds for private or sectarian schools; co-operative regional education

Section 6. No public funds shall be used for the support of any private or sectarian school. Provided, that the Legislature may enact appropriate legislation to permit institutions of higher learning which receive all or part of their support from the State of Louisiana to engage in interstate and intrastate education agreements with other state governments, agencies of other state governments, institutions of higher learning of other state governments and

§ 7. Elementary and secondary schools; sources of funds; apportionment

Section 7. There is hereby established a State Public School Fund. All State funds for the support of public schools as herein, heretofore, or hereafter provided for, shall be segregated and kept separate in bank accounts, apart from other State funds. Funds for the support of the public elementary and secondary schools shall be derived from the following sources and shall be apportioned to the parish school boards in the manner herein provided:

Sources: A. The residue of the Severance Tax Fund of the State, after allowing funds and appropriations as provided for elsewhere by this Constitution, and providing that not more than Five Hundred Thousand (\$500,000.00) Dollars per annum may be appropriated by the Legislature for the cost of administering and inspecting and enforcing of the taxes accruing to the Severance Tax Fund, and for the administration of the conservation laws incident to the severance of natural resources from the soil and water of the State, which severance tax fund shall be devoted, after allowing such funds and appropriations, as fixed in this Constitution, first to supplying free school books, second, to supplying free school supplies such as library books, writing paper, pencils, pens, ink and the like, to the school children of the State. After July 1st of each year, the State Treasurer shall forthwith set up a fund for the payment of the fixed charges hereinabove mentioned.

B. The proceeds of particular taxes, now or hereafter levied by the Legislature and dedicated, allocated, destined to or designated for said State Public School Fund.

C. Such other funds as the Legislature has or hereafter may designate, allocate, appropriate, or otherwise provide therefor or destine thereto.

Apportionment: A. There shall be appropriated out of the State Public School Fund and/or out of the State General Fund enough monies to provide and insure a minimum program of education in all of the public schools of the State. These funds shall be paid in twelve monthly payments and shall be apportioned and distributed and the minimum program administered by the State Board of Education under its rules and regulations.

B. Any other State funds provided by law for the support of public schools shall be apportioned and distributed in accordance with a formula established by the State Board of Education except as otherwise provided for by the Act appropriating the same.

C. Any other funds for public education from whatever sources shall be distributed under the authority and jurisdiction of the State Board of Education and in accordance with the terms of the law governing such funds or the stipulations of the source.

§ 8. Local school funds; sources

Section 8. The local funds for the support of elementary and secondary public schools shall be derived from the following sources:

A. The parish school board of each parish, the Parish of Orleans excepted, and no other parochial or municipal authority, except as provided for in this Constitution, is hereby required and directed to levy an annual ad valorem parish-wide maintenance tax of five (5) mills, or as much thereof as may be necessary on all property subject to taxation within said parish.

B. The provisions, under the caption "A" item above, for an ad valorem tax of five mills, shall not apply to property within a municipality exempt under existing laws from parochial taxation; but in lieu of such tax from which exemption so lies, the governing authority of each such municipality shall annually levy, collect and pay to the parish school board of the parish in which such municipality is situated, out of the proceeds of the general ad valorem tax for municipal purposes, such millage as shall equal the rate of five (5) mills levied hereunder by the parish school board.

None of the provisions under the caption "A" item above, for an ad valorem tax of five (5) mills shall apply to municipalities which under Constitutional or legislative authority, are actually conducting, maintaining, and supporting public schools of their own; but in lieu of such tax from which exemption so lies the school board in each such municipality shall be required to levy an annual tax of five (5) mills on the assessed valuation of all property within said municipality; the proceeds whereof shall be exclusively for the maintenance of the public schools.

C. The Orleans Parish School Board shall levy annually a tax not to exceed thirteen (13) mills on the dollar on the assessed valuation of all property within the City of New Orleans assessed for City taxation and shall certify the fact to the Council of the City of New Orleans, or other governing body of said City, which shall cause said tax to be entered on the tax rolls of said City, and collected in the manner and under the conditions and with the interest and penalties prescribed by law for the City taxes. The money thus collected shall be paid to said Board.

D. For giving additional support to the public elementary and secondary schools, any parish, school district or sub-school district may levy ad valorem taxes for specific school purposes or incur debt and issue bonds when authorized by a majority of the electors qualified to vote in such parish, district or sub-district, provided that the amount and usage of such proposals shall be in accord with any limitations imposed by the Legislature and provided further that any tax proposal shall not run for a period longer than ten years.

E. Local funds for the support of public schools of elementary and secondary grades shall be additionally derived from such other revenues as may be provided for by law.

F. For the effects and purposes of the provisions of this entire section and for the purpose of ascertaining and determining the maximum allowable millage as may be imposed by the Legislature, and levying the taxes herein authorized, the municipalities of Monroe, in Ouachita Parish, and Bogalusa, in Washington Parish, and no other, shall be regarded as, and treated upon the same basis and shall have the same authority in respect to this section as though they were separate parishes instead of municipalities.

Provided, further, that the provisions of this entire section shall apply to the Parish of Orleans just as it does to other parishes except as it may specially exempt or as may otherwise be provided for in this Constitution.

G. The school board of Ouachita Parish shall not be required to pay to the City of Monroe out of the public funds any per capita for children residing without the limits of said city and who may attend the schools maintained by the City of Monroe under its legislative charter.

§ 9. General Parish School Fund

Section 9. Parish school boards shall place into one fund, to be known as the General Parish School Fund, all revenue received for the general maintenance of public schools from State and parish constitutional and statutory sources; and such funds shall not be subdivided, apportioned or separated in any manner whatsoever, nor shall they be paid to any ward, district, or other subdivision, but such revenue shall be dedicated and used exclusively, to pay the cost of the current operation of public elementary and secondary schools within the parish and under the control of the parish school board, as provided for by the laws of the State.

Provided, that funds received from special taxes or the sale of bonds for the construction or repair of school buildings, the purchases of sites and of school equipment, shall not be placed in the general parish school fund but shall be kept separate and apart therefrom; and shall be used exclusively for the purposes for which they are intended, as provided for by the laws of the State.

§ 10. Retirement funds; teachers; school employees

Section 10. The Legislature shall provide for a retirement fund for aged and incapacitated teachers in the State public schools. The Legislature shall also provide for a retirement fund for aged and incapacitated employees of the State public school system engaged in transporting students to and from schools and those engaged as custodians, maintenance, school lunch and all other employees.

§ 11. Tulane University

Section 11. The Tulane University of Louisiana, located in New Orleans, is hereby recognized as created and to be developed in accordance with provisions of the Legislative Act No. 43 approved July 5, 1884.

CC/73 Research Staff  
Subcommittee on Elementary and Secondary Education  
April 2, 1973  
Staff Memo No. 4

RE: An Overview of Constitutional Provisions of Selected States Relating to Elementary and Secondary Education

This report surveys the constitutional provisions relating to the establishment, management, and finance of systems of elementary and secondary education in twenty-four states and the Model State Constitution. The report is divided into four parts. In Part I, consideration is given to the myriad of ways in which the states surveyed have constitutionally provided for a system of free public schools. Part II deals with boards of education as management agencies. In that regard, questions, such as "Is there a board of education?", "How is it selected?", "What are its powers and duties?", are answered based upon the constitutional provisions of the states surveyed. In Part III, the role of the chief state school officer as a management agent is considered. And, Part IV considers the various methods of financing elementary and secondary education that have been constitutionally provided for by the states surveyed.

The twenty-four states' constitutions surveyed are Alabama, California, Connecticut, Florida, Georgia, Idaho, Illinois, Iowa, Maine, Maryland, Mississippi, Montana, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

PART I: Constitutional Provisions Relating to Education

The constitutional provisions on education of the states surveyed vary in length and detail, from the relative short and simple statement of the Model State Constitution, which contains only forty-three words,

"The legislature shall provide for maintenance and support of a system of free public schools open to all children in the state and shall establish, organize and support such other public educational institutions, including public institutions of higher learning, as may be desirable";

the Maine Constitution, a one sentence paragraph; and the Maryland Constitution, which contains ninety-six words, to the very long and detailed California, Georgia, Mississippi, New Mexico and

North Dakota provisions which average over twenty-two hundred words. This pattern of variation in length and detail seems to hold up as it relates to those states that have recently adopted new constitutions. In the two most recently adopted state constitutions, Illinois has a relatively short provision which gives the legislature broad powers, while Montana has a much longer and more detailed provision.

Regardless of the length of the provision, generally, all the states require the establishment, support and maintenance of a system of free public or common schools. The requirement is usually stated as "the legislature shall establish," or "shall encourage," or "adequate provision shall be made," or "the legislature shall provide for," or "the board of education shall provide for," or "it is the goal of the people to establish" a system of free public schools.

The language varies from state to state, but the requirement that the state establish and maintain a system of free public schools is clearly stated in the provisions of all the states surveyed except Mississippi and Maine.

The Mississippi provision states that "the legislature may, in its discretion, provide for the maintenance and establishment of free public schools..." The discretion given the Mississippi Legislature in this provision is unique when compared with the requirement of the provisions of the other states surveyed. Likewise, Mississippi is the only state to give its legislature specific constitutional authority to abolish the public school system:

#### Section 213-B. Legislative Power Over Schools

- (b) Regardless of any provision of Article VIII, or any other provision of this constitution to the contrary, the legislature shall be and is hereby authorized and empowered, by a two-thirds (2/3) vote of those present and voting in each House, to abolish the public schools in this state, and enact suitable legislation to effect the same.
- (c) Regardless of any provision of Article VIII, or any other provisions of this constitution to the contrary, the legislature shall be and is hereby authorized and empowered by a majority vote of those present and voting in each House, to authorize the counties and school districts to abolish their public schools, and enact suitable legislation to effect the same.

On the other hand, while the other states provide for the support and maintenance of the school system to be divided between the state and local levels (as will be discussed in Part IV), the Maine provision is the only one to constitutionally put the complete responsibility on government at the local level:

"the legislature are authorized, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools..."

These three unique provisions, two in the Mississippi Constitution and one in Maine's Constitution are the main substantive variations in a relatively uniform method of constitutional establishment and maintenance of systems of free public schools in the states surveyed.

It should be noted also that in addition to the provisions discussed above, many of the states set forth other pertinent provisions that temper and complement their public school systems. In twenty-two of the states surveyed, the constitutions stipulate that the public schools must be free and open to all school-age children. Alabama, California, Idaho, Mississippi, New Mexico, Oklahoma, Wisconsin, and Wyoming set forth minimum amounts of time that public schools shall be open, usually three to six months of each year. Fourteen of the states specifically prohibit the support of any sectarian or denominational school, while the other states prohibit educational funds or funds appropriated for education to be diverted to any other use. Several of the states' constitutions provide for special schools for the deaf, dumb, and blind.

Additionally, New Mexico and Montana have special constitutional provisions relating to education. The State of New Mexico guarantees the educational right of children of Spanish descent and requires teachers to become proficient in both the English and Spanish languages so as to be able to teach students of Spanish descent:

#### Section 8. Teachers to Learn English and Spanish

The legislature shall provide for the training of teachers in the normal schools or otherwise so that they may become proficient in both the English and Spanish languages, to qualify them to teach Spanish-speaking pupils and students in the public schools and educational institutions of the State, and shall provide proper means and methods to facilitate the teaching of the English language and other branches of learning to such pupils and students.

Children of Spanish descent in the State of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other public educational institutions of the state, and they shall never be classified in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the State, and the legislature shall provide penalties for

the violation of this section. This section shall never be amended except upon a vote of the people of this State, in an election at which at least three-fourths (3/4) of the electors voting in the whole State and at least two-thirds (2/3) of those voting in each county in the State shall vote for such amendment.

The State of Montana has a provision that specifically provides for the protection of cultural rights for the American Indians:

"The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity."

**Comment.** While the states surveyed do not uniformly express a preference as it relates to the length and detail of their provisions on education, they do generally require the state to establish a system of free public schools. Likewise, most of the states stipulate that the schools should be free and open to all school-age children, and aid to sectarian or denominational schools is usually prohibited. Finally, Montana and New Mexico have unique or special provisions to protect the educational rights and cultural heritage, respectively, of predominant minorities residing therein.

#### PART II: State Boards of Education

Fifteen of the states surveyed specifically provide for a state board of education. These boards are selected in a variety of ways.

The states of California, Idaho, Illinois, Ohio and Oklahoma provide that the selection of the board of education shall be provided for by law. However, the Oklahoma provision also states that "unless otherwise provided by law, the Governor, Secretary of State, and Attorney General shall be ex-officio members, and with the Superintendent, compose said Board of Education."

Three states, Iowa, New Mexico, and Utah, provide that the members of the board of education be elected; Iowa and New Mexico, from judicial districts, and Utah, "as provided by law."

Four states, Georgia, Montana, Virginia, and West Virginia, provide for the appointment of the members of the board of education. All of these, except Virginia, require senate confirmation. The Virginia provision requires the confirmation of both houses of the general assembly.

The states of Florida, Mississippi, and North Dakota have comparatively unique provisions for the selection of members to, or composition of, their state boards of education. Florida has a state cabinet system of government providing for the state-wide

election of eight officials, the governor, lieutenant governor, secretary of state, attorney general, comptroller, treasurer, commissioner of agriculture, and commissioner of education. The cabinet consists of these officials, minus the lieutenant governor, with the governor serving as chairman of the cabinet. The governor and cabinet constitute the board of education, which is a corporate body. The Mississippi board of education is composed of the secretary of state, attorney general and superintendent of public education. North Dakota does not have a board of education as such; instead it has a "Board of University and School Lands" composed of the superintendent of public instruction, governor, attorney general, secretary of state and state auditor.

As it relates to the powers and duties of the boards of education, all of the states, except North Dakota, give their board general control and supervision of the public school system, or such powers and duties as "prescribed by law." In addition to these general powers, several states give their board other specific authority and responsibility. For example, California requires that its board "shall provide, compile, or cause to be compiled, and adopted, a uniform series of textbooks for use in the day and evening elementary schools throughout the state." The Mississippi provision stipulates that the board is responsible for the "management and investment of the school funds." The Illinois provision states that "the board, except as limited by law, may establish goals, determine policies, provide for planning and evaluating programs and recommend financing. And, the Virginia Constitution goes into some detail as it relates to the rather broad powers it gives the state board of education. For example, the board has the authority to divide the state into geographical school di-

visions, and further, has the power to "certify to the school board of each division a list of qualified persons for the office of division superintendent of schools, one of whom shall be selected to fill the post by the division board." In the event a division school board fails to select a division superintendent within the time prescribed by law, the board of education has the authority to "appoint him."

**Comment.** While there is no uniform method of selecting members of the boards of education of the states surveyed, four basic methods are discernible. The selection of members to the boards is either provided for by law, or they are elected, appointed, or the board is made up of other elected executive officials. These boards usually, as a minimum, have general control and supervision of the public school system. Additionally, some states give their board of education other specific authority and responsibilities.

### PART III: Chief State School Officers

Nineteen of the states surveyed provide for some type of "Chief State School Officer." The exact name given for this

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person varies, but he is usually called the "superintendent of public instruction," "state school superintendent," "state superintendent of public instruction," "state superintendent of free schools," "superintendent of education," "superintendent of public education," or "commissioner of education." The chief state school officer is either elected or appointed.

The constitution of ten states provides for the election of the chief state school officer, usually at the same time and same manner and for the same term as the governor.

Six states (Iowa, Illinois, New Mexico, Ohio, Utah, and West Virginia) provide for the appointment of the chief state school officer by the board of education to serve at its pleasure as its chief executive officer. It should be noted that Iowa does not really provide for a chief state school officer, but does authorize the board of education to appoint a "secretary" who performs basically the same duties as the chief state school officers of other states.

The Virginia provision provides for the appointment of the chief state school officer by the governor with the confirmation of the general assembly.

The Constitution of the State of Oregon provides for the governor to be the chief state school officer until such time after which the legislature shall be competent to "provide by law for the election of a superintendent."

As it relates to the duties of the chief state school officer, they seem to vary and depend upon the method in which the chief state school officer is selected. Usually when the person is elected his duties are "as provided by law." When he is appointed by the board of education, his duties are "as prescribed by the board." In the case of Virginia, where their chief state school officer is appointed by the governor, his duties are "as prescribed by law."

In some cases, however, the chief state school officer's duties are more specific. For example, the Alabama provision provides that the "supervision of public school shall be vested in a superintendent of education...."

The qualification for chief state school officer is usually provided for by law. However, the states of Mississippi and Virginia have specific qualifications. Mississippi requires that he have the same qualifications as the secretary of state, and Virginia requires that he "shall be an experienced educator...."

**Comment.** A majority of the states surveyed provide for some type of chief state school officer who is either appointed by the board of education or elected. The duties and powers of this officer is usually provided for by law when the officer is elected and usually provided for by the board when the officer is appointed. At least two states, noticeably Virginia, prescribe specific qualifications for this officer.

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### PART IV: Finance of Elementary and Secondary Schools

#### Section 3. Public School Funds to Remain Intact

The public school fund of the state shall forever remain inviolate and intact. The interest thereon only shall be expended in the maintenance of the schools of the states, and shall be distributed among the several counties and school districts of the state in such a manner as may be prescribed by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated except as herein provided. The state treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The state shall supply all losses thereof that may in any manner occur.

#### Section 4. Public School Fund Defined

The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the

state by the general government, known as school lands, and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the state from the general government; and of all other grants of land or money made to the state from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates or distributive shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state; and all other grants, gifts, devises, or bequests made to the state for general educational purposes.

These two sections of Article IX of Idaho's Constitution generally represent the consideration given to the task of financing elementary and secondary education in the constitutional provisions of the states surveyed. In fact, twenty of the twenty-four states surveyed provide for some type perpetual and inviolate "school fund" to be used exclusively for the support of the public school system.

Although these "funds" are called by different names, the provisions of the twenty states that establish them reflect a general concern for three basic things. First, there seems to be a concern for establishing a "fund" sufficient to take care

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of the major part of the cost of financing the public school system. In that regard, most of the states include all or most of the following as aggregate of that fund: (1) Proceeds from the school land which have been or may hereafter be granted by the United States, (2) Lands granted in lieu thereof, (3) Lands given or granted by any person or corporation under any law or grant of the United States, (4) All other grants of land or money made from the United States for general educational purposes or without special purpose, (5) All interests in estates that escheat to the state, (6) All unclaimed shares and dividends of any corporation incorporated in the state, (7) All other grants, gifts, devises, or bequests made to the state for general education purpose, (8) All estates of deceased persons who may have died without leaving a will or heir, (9) Annual tax on the taxable property of the state, (10) The clear proceeds of all fines collected for any breach of the penal laws, and (11) Any appropriation made by the state for education purposes.

Second, there seems to be concern that the "fund" remain intact and inviolate, "a permanent and perpetual fund." To insure this, most of the provisions specifically state that "the fund shall be preserved inviolate and undiminished," or "shall remain a perpetual fund" or "shall forever remain inviolate and intact." To further insure its viability, other states require that only the interest may be appropriated for the support and maintenance of the public schools. Idaho's provision, in part, reads "The interest thereon only shall be expended in the maintenance of the schools of the states...." The Iowa provision states that "the interest of which... shall be inviolably appropriated to the support of the common schools throughout the State." The Virginia provision modifies somewhat the "interest only" requirement, but is still rather restrictive of the use to which the principal of the fund may be put. The provision reads "but so long as the principal of the Fund totals as much as eighty million dollars, the General Assembly may set aside all or any part of additional moneys received into its principal for public school purposes...."

Other states go further in the protection of their "school fund." In fact, several states specifically provide for the manner in which the funds are to be invested and usually limit the amount and type of investment that can be made. Finally, most of the states require that the "school fund" be protected against all losses. The provision of the Constitution of the State of Washington goes furthest in this regard. In addition to providing for all losses the fund might suffer, the provision also states that "the amount of liability so created shall not be counted as a part of the indebtedness authorized and limited elsewhere in this Constitution."

Third, there seems to be concern that the funds be distributed in some equitable manner and used only for the support and maintenance of the public schools. This is usually accomplished in the majority of the states by providing that the distribution of such funds among the several school districts

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be made according to the number of children of school age in each.

In addition to the "school fund" discussed above, most states also authorize or require the legislature to make a general annual appropriation for education. Further, the local school districts are authorized and, in some cases, required to raise a tax to support the public schools. In fact, the towns in the State of Maine are required "to make suitable provision, at their own expense, for the support and maintenance of public schools...."

**Comment.** A preponderance of the states surveyed provide for the establishment of an "inviolable, permanent and perpetual school fund." Usually, the fund is protected against all losses by the states, distributed in an equitable manner, and used only for the support and maintenance of the public schools. Further,

the provisions either authorize or require the state and the local school districts to contribute to the support and maintenance of the public schools over and above that provided by the "school fund."

**Summary.** This report has surveyed the constitutional provisions of twenty-four states and the Model State Constitution as they relate to the establishment, management, and finance of systems of elementary and secondary education.

Most of the states surveyed, while not following a uniform pattern as it relates to the length and detail of their provisions on education, did establish systems of public schools that are free and open to all school-age children and usually prohibits aid to sectarian or denominational schools. Uniquely, two states, Montana and New Mexico, have special provisions to protect the educational rights and cultural heritage of named minorities.

Fifteen of the states surveyed provide for state boards of education that usually have general control and supervision of the public school system. Some of these boards have other specific authority and responsibilities. While there is no uniform method of selecting members of these boards, they are either elected or appointed, or their selection is simply provided for by law. Though not discussed in this report, the average size of the boards of education is seven to nine members and the average term of office is four to six years.

Nineteen of the states surveyed provide for some type chief state school officer whose powers and duties are usually provided for by law or determined by the board of education. A few states prescribe specific qualifications for this officer.

Twenty of the twenty-four states surveyed provide for the establishment of a school fund that is permanent and perpetual, protected against losses by the states, distributed in an equitable manner, and used only for the support and maintenance of the public schools.

have supervision and control of all free public schools."

However, this statement has not been interpreted as broadly as it reads. There seems to be some conflict between this section and that portion of section 4 which provides that the legislature shall prescribe and define the duties and powers of the board. In fact, the court held in Jackson v. Coxe (208 La. 715) that section 6 does not grant the board exclusive control over all phases of the administration of the public school system, and hence gives it no right to hire and discharge employees of the State Department of Education notwithstanding Acts 1922, No. 100, section 3 (LSA - R.S. 17:6), granting the state superintendent such authority, in view of the provision of section 4 that expressly deny the board the right to employ and discharge a great part of the personnel of the public school system and vesting such authority in the local parish school boards. Moreover, in the same case, the court said that the provision of section 6 that the State Board of Education

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CC/73 Research Staff  
Committee on Elementary  
and Secondary Education  
April 29, 1973  
Staff Memorandum No. 5

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RE: The State Board of Education and the State Superintendent of Education

This report outlines the powers and duties of the State Board of Education and the State Superintendent of Education.

Part I. The State Board of Education

Article XII, Section 4 establishes the State Board of Education, "There is hereby created a State Board of Education..." The powers and duties of the state board fall into two categories, those that are constitutional and those that are statutory.

The powers and duties of the state board which are constitutionally provided for are found in sections 4,5,6,7,9,10, 11,14, and 26 of Article XII.

Section 4 does not prescribe any specific power or duty, rather it states that the legislature shall prescribe the state board's duties. Moreover, this section prohibits the board from controlling the business affairs of parish school boards including the selection or removal of their officers and directors.

Section 5 provides for the state superintendent of education to be the "ex officio Secretary of the Board" and that the board fix his salary. The part of the provision relating to fixing the salary of the superintendent is for all purposes nonoperative in that the superintendent's salary was changed in 1948, 1952, 1956, 1960, and 1969 by acts of the legislature. So in effect, the legislature fixes the salary of the superintendent.

Section 6 states that "the State Board of Education shall

shall have supervision and control of all free public schools "does not clothe the board with complete power of supervision" over the affairs of the office of state superintendent except for express constitutional limitation, in view of section 4 of this article authorizing the legislature to prescribe duties and define powers of the board. However, according to several attorney general opinions the board does have broad and exclusive authority over the institutions of higher education under its supervision. Thus, the apparent broad powers given by section 6 have been circumvented largely by the jurisprudence in that more emphasis has been placed upon sections 4, 7, and 9 as it relates to the board's powers which has had the effect of conferring broad authority vis-a-vis institutions of higher education and relatively little authority vis-a-vis elementary and secondary education.

Paragraph B of section 7 specifically gives the board supervision over all higher education institutions not included in the LSU system. Further, it provides that the board shall prescribe the qualifications and provide for the certification of teachers. The board is also given the authority to approve private schools and colleges "whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the state, ..." Section 8 complements paragraph B by enumerating the institutions under board supervision and provide for those that may be created

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by the legislature.

Although there are limitations on the authority of the board (section 4) with reference to the selection and removal of parish school boards' officers and directors, section ten specifically requires the state board to "fix the qualifications and prescribe the duties of parish superintendent..." On the other hand while section eleven provides for the recognition of existing municipal and parish

boards and provides that they are subject "to control by and supervision of the State Board of Education..." the effect is similar to that given section six. In fact, the courts held in *Lemon v. Bossier Parish School Board* (240 F. Supp 743) that when this provision and section four are given full effect, section four is controlling as it relates to the prohibition against control of the business affairs of parish school boards.

Section 14 provides that the state board shall provide for a minimum education program and provide for the distribution of funds to each parish for this purpose based upon an equalization formula developed by the board.

Section 26 merely provides that the New Orleans branch of Southern University shall be under the supervision, control, and management of the state board.

The powers and duties of the state board are more clearly

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set out in the statutes and jurisprudence than the seemingly contradictory provisions of the constitution.

The statutory provisions governing education are found primarily in Title Seventeen of the Revised Statutes. Chapter one set out the general school law as it relates to the state board and state superintendent of education (see appendix for details). There are some provisions which are of more concern here in that they tract the constitutional provisions or set out in detail the powers and duties of the state board. Concern here is with the state board's substantive powers and duties rather than its basic organizational and administrative functions.

The state board's substantive powers are outlined in section 4,7,9,10,11,12, and 15 of title seventeen.

In the first instance, section four provides that in the event the office of the state superintendent became vacant the state board shall fill such vacancy.

Section seven pretty much outlines the meaning of the "Supervision and Control" clause of sections six and eleven of article twelve of the constitution as it relates to elementary and secondary education. Paragraph A of section seven provides that the state board "shall prepare courses of study, rules, bylaws, and regulations for the government of the public schools of the state, which shall be enforced by the parish superintendents and the several parish school boards. Paragraph

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B of the same section further provides that the state board "shall exercise administrative control and supervision over the adoption, distribution, and use free textbooks.. and shall adopt such rules and regulations governing their use by schools, parish school boards, and superintendents of education as may be necessary." Paragraph C, D, and E provide for a state textbook depository, its administration and distribution procedures.

Section nine authorizes the state board to require, at its

option, reports from parish superintendents and teachers. Section ten merely lists the institutions under the administrative control of the board and authorizes the board to purchase land, buildings, and equipment and to incur debt for those purposes. It should be noted, however, that Act 712 of 1972 provide for the transfer of all functions of the state board relating to higher education to a board of regents effective January 1, 1974.

The state board also has the powers to appoint executive committee for institutions under its supervision. The duties of these committees is determined by the state board. This authority is provided for in section eleven.

Section twelve require that the state board submit to the legislature biennially a budget of salaries and expenses required for the support of the State Department of Education and of the appropriation needed by the various state education

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institutions whose affairs are administered by the board. This provision generally follows the requirement of section 7-B of article twelve of the constitution. However, this authority does not apply to parish school boards. Historically, the state board did have authority over the budgets of the parish school boards. However, that function is now in the domain of the state budget committee.

The state board is required by section fifteen to set up procedures and supervise the enumeration of all educable children. This is an important function in that fund distribution is based upon the number of educables in each parish.

#### Summary:

The powers and duties of the state board are found in article twelve of the constitution and title seventeen of the revised statutes. When a determination of the actual powers and duties of the state board is being made the constitution and the statutes must be read in pari materia. In this regard, the restrictions of section four of article twelve with reference to control of the business affairs of local school boards seems to control as it relates to the state board's powers vis-a-vis elementary and secondary schools. On the other hand, the state board seems to have exclusive control as it relates to institutions of higher education not included in the LSU system.

#### Part II: The State Superintendent of Education

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The constitution is virtually silent as it regards the powers and duties of the State Superintendent of Education. Article twelve, section four provides for election of the state superintendent. This section also contains the only reference in the constitution to the powers or duties of the state superintendent. It states that the state superintendent "shall be the ex-officio Secretary of the State Board of Education..."

The statutory provisions governing the powers and duties

of the state superintendent are found primarily in title seventeen of the revised statutes (see appendix for details). The basic provisions concerning the state superintendent with which are of concern here are found in sections 4,6,11,13,13.1,14 and 16 of title seventeen.

Section four generally tracts the provisions of section five of article twelve of the constitution. However, section six of title seventeen provide for the establishment of the State Department of Education. It states that "the State Superintendent of Education as the executive officer of the board, shall establish a state department of education with such divisions and positions as he may deem necessary or appropriate." This section further provides that the state superintendent shall have control over the department of education and that his office shall be provided for by the legislature.

The state superintendent, as ex-officio secretary of the

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board, has some responsibilities as it relates to institutions of higher education under the supervision of the board. Section eleven provide that the state board appoint an executive committee for each institution under its supervision. The state superintendent is an ex-officio member and chairman of each such committee.

The state superintendent also has supervisory responsibilities as it relates to both institutions of higher education and the local school boards. Section thirteen provide that he shall keep in close touch with all state education institutions under the control of the state board and with the public schools of the various parishes so as to see that the state board's policies are followed. Further, the inspection and supervision of the employees of the state department of education are under the direct control of the state superintendent. As it relates to pilot programs, section thirteen-one (13.1) requires that the superintendent of the local school boards must have the approval of both the state board and the state superintendent.

Section fourteen provides that the state superintendent shall have responsibility for the distribution of funds to the local school boards.

Sections sixteen, seventeen, and eighteen are concerned with the state superintendent duties to keep records and make reports. Section nineteen requires the state superintendent to report any irregularities by the parish school boards or superintendents to the state board.

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#### Summary:

As noted above, the constitution makes only one reference to the powers and duties of the state superintendent of education. However, the powers and duties of the state superintendent are outlined in title seventeen of the revised statutes. In that regard, the state superintendent has exclusive control and supervision of the state department of education. Further,

he has some supervisory functions as it relates to both higher education institutions and the public elementary and secondary schools.

NOTE: The sources used in the report are the Louisiana Constitution of 1921 and Title Seventeen of the Revised Statutes.

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## APPENDIX

### LOUISIANA REVISED STATUTES

#### TITLE SEVENTEEN EDUCATION

##### CHAPTER ONE

#### Sec. 1. STATE BOARD OF EDUCATION; membership; terms; vacancies.

(This section of the statutes parallels Section 4 of Article XII of the Constitution which creates the STATE BOARD OF EDUCATION.)

Following the Constitution the statute specifies that

- 1 - STATE BOARD OF EDUCATION is composed of eleven members.
- 2 - One member is elected from each of the eight congressional districts for overlapping terms of eight years.
- 3 - One member is elected from each of the three public service commission districts for overlapping terms of six years.
- 4 - Vacancy provision of the statute is out of date.

#### Sec. 2. Corporate name of BOARD; domicile; authority to sue.

- 1 - The BOARD is a body politic and corporate by the name and style of LOUISIANA STATE BOARD OF EDUCATION.
- 2 - The BOARD is to be domiciled in the City of Baton Rouge, Parish of East Baton Rouge.
- 3 - The BOARD may sue and defend suits in all matters relating to the public schools EXCEPT cases within the jurisdiction of the parish school boards.

#### Sec. 3. Compensation of BOARD members; method of payment.

- 1 - Compensation
  - a - Per diem.
  - b - All traveling and other expenses incidental to attending BOARD meetings.
  - c - May not be compensated for both a Committee meeting and a BOARD meeting if they occur on the same day.

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#### 2 - Method

- a - STATE SUPERINTENDENT OF EDUCATION is to pay the BOARD members their compensation.
- b - STATE SUPERINTENDENT is to draw warrants against the appropriations made by the LEGISLATURE from the state public school fund to the STATE BOARD OF EDUCATION.

#### Sec. 4. SUPERINTENDENT OF EDUCATION as Secretary of BOARD; election; salary; vacancy, how filled.

- 1 - STATE SUPERINTENDENT OF EDUCATION is ex officio Secretary of the STATE BOARD OF EDUCATION.
- 2 - STATE SUPERINTENDENT is elected at the state general election.
- 3 - Term of office is four years.



- 4 - Annual salary is fixed by the LEGISLATURE.
- 5 - Salary is payable monthly on the SUPERINTENDENT'S own warrant.
- 6 - Vacancy to be filled by the STATE BOARD OF EDUCATION.

b - Do not apply to STATE DEPARTMENT OF EDUCATION employees who are in the classified service.

- 5 - The LEGISLATURE is to provide for the office of the STATE SUPERINTENDENT.
- 6 - The cost of the office operation to be kept within the limits of the appropriation made for that purpose.

Sec. 5. Officers of BOARD; meetings; acts, documents and proceedings of BOARD.

1 - Officers

- a - STATE BOARD OF EDUCATION to elect from its own membership a
  - (1) President.
  - (2) Vice President.
- b - STATE BOARD to fix the terms of its officers.
- c - Terms cannot exceed eight years.

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2 - Meetings

- a - BOARD to meet on or before the first Monday in December of each year.
- b - BOARD to meet at other times on the call of the President.

3 - Acts, documents, and proceedings of the BOARD

- a - Acts of the BOARD to be attested by the signatures of the
  - (1) President.
  - (2) Secretary.
- b - All papers, documents, and records of the BOARD to be filed
  - (1) By the Secretary of the BOARD.
  - (2) In the office of the STATE BOARD OF EDUCATION.
- c - Proceedings of the BOARD may be published
  - (1) In the official journal of the State.
  - (2) In an official pamphlet.

Sec. 6. STATE DEPARTMENT OF EDUCATION; establishment; divisions and positions; offices of STATE SUPERINTENDENT OF EDUCATION.

- 1 - "The STATE SUPERINTENDENT OF EDUCATION as the executive officer of the BOARD, shall establish divisions and positions as he may deem necessary or appropriate."
- 2 - The STATE SUPERINTENDENT is
  - a - To select and employ the personnel in the DEPARTMENT OF EDUCATION.
  - b - To fix their salaries.
  - c - To define their duties.
- 3 - The salaries and expenses of STATE DEPARTMENT OF EDUCATION employees to be paid from

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- a - Appropriations made by the LEGISLATURE.
- b - Other available sources.

4 - The provisions of this Section

- a - Apply to the unclassified employees of the STATE DEPARTMENT OF EDUCATION.

Sec. 7. Regulations for government of public schools; adoption and distribution of textbooks; contracts with publishers.

1 - For the government of the public schools of the state, the STATE BOARD OF EDUCATION is to prepare

- a - Courses of study.
- b - Rules.
- c - By-laws.
- d - Regulations.
- e - Enforcement of a, b, c, and d is to be by parish superintendents and parish school boards.

2 - Powers and duties of the STATE BOARD OF EDUCATION in connection with the free textbook program are

- a - To administer and supervise the free textbook program.
- b - To adopt rules and regulations concerning the use of free textbooks by
  - (1) Schools.
  - (2) Parish school boards.
  - (3) Parish superintendents of education.

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- c - To adopt lists of basal textbooks.
- d - To enforce uniform use of the books from the adopted lists.
- e - To award textbook contracts with publishers on a competitive basis.
  - (1) Such contracts to be made without a determinate date of expiration.
  - (2) Such contracts to authorize either party to terminate a contract upon ninety days notice.
- f - To control the procedures involved in the free textbook program for

- (1) The announcement of bids.
- (2) The examining of books.
- (3) The awarding of contracts.

g - Distribution requirements are

- (1) Publishers to maintain a depository in the state.
- (2) Books to be distributed to parish school boards on requisition of the STATE SUPERINTENDENT OF EDUCATION.
- (3) Failure or inefficiency of any publisher in this distribution is sufficient cause for cancellation of his contract.

Sec. 8. Federal or other funds for educational purposes, BOARD'S authority to receive.

"The STATE BOARD OF EDUCATION may receive and use for public school purposes any federal or other funds from out-of-state sources which in the judgment of the BOARD should be accepted and can be wisely used, as well as any donations from residents of the state which may become available for public school purposes."

Sec. 9. Reports by superintendents and teachers to BOARD OF EDUCATION.

"The STATE BOARD OF EDUCATION at its option may require

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reports to be made by the parish superintendents of schools and teachers."

Sec. 10. Educational institutions under administration of BOARD; acquisition of lands and other buildings.

"The STATE BOARD OF EDUCATION shall administer the affairs of the following educational institutions."

(This statement is followed by a list of the higher educational institutions, special schools, and vocational-technical schools under the jurisdiction of the STATE BOARD OF EDUCATION.)

"The BOARD OF EDUCATION shall purchase all lands, buildings, and equipment, and make all repairs, constructions, and improvements needed by the institutions listed in this section, or any other institution placed under the control of the BOARD in the future. For these purposes the BOARD may incur debts and issue its notes, bonds, or certificates of indebtedness in evidence thereof, and pledge any funds made available to it by the LEGISLATURE for that purpose."

Sec. 11. Executive committees for institutions under supervision of BOARD; appointment and compensation of members.

1 - Authorizes a three-member executive committee for each institution under the supervision of the STATE BOARD OF EDUCATION.

2 - Makes the STATE SUPERINTENDENT OF EDUCATION

a - An ex officio member of each such committee.

b - Chairman of each committee.

3 - Two additional members to be appointed by the STATE BOARD OF EDUCATION.

4 - Appointive members need not be members of the STATE BOARD OF EDUCATION.

5 - STATE BOARD OF EDUCATION determines the duties of such executive committees.

6 - Compensation of the two appointive members to be the same as that of the members of the STATE BOARD OF EDUCATION.

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Sec. 12. BOARD'S duty to submit biennial budget reports to LEGISLATURE.

"The LOUISIANA STATE BOARD OF EDUCATION shall submit to the LEGISLATURE biennially a budget of salaries and expenses required for the support of the STATE DEPARTMENT OF EDUCATION, and of appropriations needed by the various state educational institutions whose affairs are administered by the BOARD. This budget shall cover minimum appropriations required by the Constitution and such additional legislative appropriations as, in the judgment of the BOARD, may be necessary."

Note: The Constitution in Article XII, Section 7-B requires the STATE BOARD OF EDUCATION to "submit to the LEGISLATURE, or other agency designated by the LEGISLATURE, a budget for said BOARD and for these institutions."

Sec. 13. Supervisory duties of STATE SUPERINTENDENT; traveling expenses.

1 - Supervisory duties of STATE SUPERINTENDENT are

a - STATE SUPERINTENDENT to keep in close touch with all state educational institutions under the control of the STATE BOARD OF EDUCATION.

b - STATE SUPERINTENDENT to keep in close touch with public schools of the various parishes.

(1) To see that the physical plants are

(a) Adequate.

(b) Kept in proper state of repair.

(c) Kept in proper state of sanitation.

(2) To see that courses of study prescribed by the STATE BOARD OF EDUCATION are followed.

(3) To see that teachers meet the standards prescribed by the STATE BOARD OF EDUCATION.

(4) To see that classes are not overcrowded.

(5) To see that children are properly classified as to grades.

(6) To see that "wise" methods of presentation are used in the presentation of subject matter.

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(7) To assist the local authorities, superintendents, and teachers.

c - In the work of inspection and supervision the employees of the STATE DEPARTMENT OF EDUCATION are to be under the direct control of the STATE SUPERINTENDENT OF EDUCATION and to be subject to such verbal and written reports as the STATE SUPERINTENDENT may require.

d - In the professional administration of the schools it is the duty of the

(1) Heads of the state educational institutions  
AND

(2) Public school officials in the various parishes

to be guided by the suggestions and directions of the STATE SUPERINTENDENT.

2 - Traveling expenses of the STATE SUPERINTENDENT.

a - Travel and necessary expenses of the STATE SUPERINTENDENT and employees of the STATE DEPARTMENT OF EDUCATION in the performance of official duties are

(1) To be paid from the state public school fund.

(2) To be within the amount appropriated by the LEGISLATURE for this purpose.

Sec. 13.1. Federal educational or pilot programs; approval.

1 - Before any federal educational or pilot program financed with federal funds may be put into effect in any public school of the state, the superintendent of the system in which the school is located must obtain approval of the program from both

a - STATE SUPERINTENDENT OF EDUCATION.

b - STATE BOARD OF EDUCATION.

2 - Local superintendent must furnish detailed information on the program to the STATE AUTHORITIES.

3 - Local superintendent must furnish the STATE AUTHORITIES with a detailed analysis of the

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a - Amount of state funds required.

b - Amount of parish or city funds required.

Sec. 14. Funds for parish school boards; apportionment on basis of educables; source.

"The STATE SUPERINTENDENT OF EDUCATION shall draw and transmit to the parish school boards, during the current calendar or fiscal year, monthly warrants on the STATE AUDITOR covering the amount of the state school fund due to the parish school boards, on the basis of the number of educable children between the ages of six and eighteen years of age, both inclusive, in the respective parishes, bears to the total number of such educable children in the state, as per the last census of educables; these warrants shall be made payable to the treasurer of the various parish school boards and transmitted to them. The STATE SUPERINTENDENT shall also draw warrants on the STATE AUDITOR for the distribution of the state equalization fund in the months of November, February, and June, or more often, at his option, subject to the control and regulations established by the STATE BOARD OF EDUCATION. When these warrants are presented to him, the STATE AUDITOR shall issue his warrant to the STATE TREASURER for the payment thereof."

**Note:** The Constitution in Article XII, Section 14, provides for a distribution to the several parish school boards of three-fourths of the state public school fund upon an apportionment based upon the number of educable children in each parish with reference to the total number of such children in the state; and for the distribution of one-fourth of the fund to the parish school boards on the basis of equalization.

The Constitution also requires the LEGISLATURE to provide a minimum of \$10,000,000.00 for this fund.

The LOUISIANA SUPREME COURT has held that the three-fourths-to-one-fourth apportionment rule applies only to the \$10,000,000.00 minimum.

For the funds above this mandatory minimum amount, the LEGISLATURE is free to use this same formula or to choose another method.

Sec. 15. Census of educables; how taken; use of federal census.

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The STATE BOARD OF EDUCATION is to supervise, direct, and control the enumeration of all educable children in each parish.

The STATE BOARD OF EDUCATION may take a school census or use the current federal census.

Sec. 16. STATE SUPERINTENDENT'S report to GOVERNOR.

- 1 - The STATE SUPERINTENDENT OF EDUCATION is to make an annual report to the GOVERNOR and to the members of the LEGISLATURE. The report is to contain:
  - a - Complete financial report on receipts and expenditures for
    - (1) STATE DEPARTMENT OF EDUCATION.
    - (2) Educational institutions under the supervision of the STATE BOARD OF EDUCATION.
  - b - Data on faculty, enrollment, graduates, courses of study, and other information to show condition, progress, and needs of the institutions under the supervision of the STATE BOARD OF EDUCATION.
  - c - An abstract of reports of parish superintendents to the STATE SUPERINTENDENT and other facts of interest to the public schools.
- 2 - STATE SUPERINTENDENT to have sufficient copies of the report printed for distribution to
  - a - Members of the LEGISLATURE.
  - b - State officials.
  - c - Parish school boards.
  - d - Libraries.
  - e - Superintendents of schools of other states and territories.
- 3 - Presidents of state educational institutions to furnish STATE SUPERINTENDENT OF EDUCATION by August 15 of each year such annual reports as the STATE SUPERINTENDENT may require.

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Sec. 17. STATE SUPERINTENDENT'S duty to keep records.

- 1 - STATE SUPERINTENDENT OF EDUCATION is to file all papers, reports, and documents received from boards and officers due to report to the STATE SUPERINTENDENT.
- 2 - STATE SUPERINTENDENT is to hold the report materials received by his office in readiness for examination by
  - a - The GOVERNOR.
  - b - Any legislative committee.
  - c - Interested citizens.
- 3 - STATE SUPERINTENDENT is to keep a record of all matters pertaining to his office.

Sec. 18. Copies of records in office of STATE SUPERINTENDENT admissible in lieu of originals.

- 1 - Certified copies of records and papers in the office of the STATE SUPERINTENDENT OF EDUCATION to be received and admitted in evidence in lieu of the originals in all cases.
- 2 - When requested by any person, the STATE SUPERINTENDENT OF EDUCATION is authorized to make and certify copies of
  - a - Any papers deposited or filed in his office.
  - b - Any act or decision of the STATE SUPERINTENDENT.
  - c - Any act or decision of the STATE BOARD OF EDUCATION.

Sec. 19. Irregularities by parish boards; report by STATE SUPERINTENDENT to BOARD OF EDUCATION; conventions of officials and teachers.

- 1 - STATE SUPERINTENDENT OF EDUCATION is to report to the STATE BOARD OF EDUCATION any irregularities which come to his knowledge and which concern
  - a - Any parish school board.
  - b - Any parish superintendent.

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- 2 - STATE SUPERINTENDENT is to hold such annual conventions of school officials, superintendents, and teachers as he considers necessary to promote and advance the public school interests.

Sec. 20. ATTORNEY GENERAL and STATE SUPERINTENDENT; opinions and advice.

- 1 - ATTORNEY GENERAL to give legal opinions requested by
  - a - STATE SUPERINTENDENT OF EDUCATION.
  - b - STATE BOARD OF EDUCATION.
  - c - Any parish superintendent, if authorized by the parish school board and its legal advisor.
- 2 - STATE SUPERINTENDENT OF EDUCATION is to give advice, explanations, instructions, or information to
  - (1) Parish school board members.
  - (2) Parish superintendents.
  - (3) Citizens.
- 3 - STATE SUPERINTENDENT is to perform all other duties imposed upon him by law.

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## 2. Subcommittee on Higher Education

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### PROBABLE RESULTS

CC/73 Research Staff  
Subcommittee on Higher Education  
March 19, 1973  
Staff Memo No. 1

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In all probability, the states affected will make plans. The states will probably submit their plans to HEW well before June 16, 1973. HEW will determine whether these plans are in compliance or in violation. The NAACP Legal Defense Fund will review HEW's judgments. If they disagree with HEW's decisions, they will probably go back to Court to rewrite them.

Every six months for the next three years, HEW must provide data to the NAACP's plaintiff on what actions HEW has taken and the reason therefor; the nature and amount of funds paid out and a listing of each notice of hearing issued to a public educational system.

RE: Decision of the United States District Court for the District of Columbia in the case of Adams et al vs. Richardson et al (Reissued Memorandum Opinion Reflecting the Courts Amendments of February 12 and 16, 1973) as it relates to Higher Education

The United States District Court decision in the Adams vs. Richardson suit affects the higher educational systems in the ten states of Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, Pennsylvania, and Virginia.

The Court found these states to be operating segregated systems of higher education in violation of law.

The Adams Court concluded that the defendants (HEW) could not permit further advances of federal assistance in violation of the Civil Rights Acts. The Court declared that HEW had the duty to enforce the federal statute by HEW administrative hearing or through other legal means. The Court indicated that "after initiation and during the pendency of said administrative enforcement proceedings, defendants in their discretion have the authority to defer further federal payments under continuing and previously approved programs and to refuse payments applied for under new programs."

HEW's efforts toward voluntary compliance were found to be unsuccessful. The Court held that HEW now has no discretion to seek voluntary compliance but a duty to begin immediate enforcement by the means set forth in the statute. The statute requires an administrative hearing or "other means authorized by law".

### JUDGE PRATT'S ORDER

The Court Order charges defendants to commence enforcing the law pertaining to terminating federal funds to the ten states. HEW must act either by administrative determination; after a hearing showing failure to comply and that funds should be terminated; or by any other means authorized by law which may mean a referral to the Justice Department for suit. Administrative determination would be by holding hearings for each for each state to determine why that state's funds should not be determined due to its having a segregated system of higher education. An administrative hearing is where there are lawyers for HEW to challenge the case put forward by the state which will be reviewed by HEW hearing judges.

HEW must initiate such proceedings within 120 days (June 16, 1973).

### PROJECTIONS OF REACTIONS TO ADAMS VS. RICHARDSON

1. Defendants (Richardson - HEW et al) may appeal the Court's decision. The Defendants had 60 days (until March 16, 1973) to appeal the decision. The appeal would be to the United States Court of Appeals. At this time, we have no knowledge whether an appeal has been entered in that the time has expired.

In the event an appeal was filed, the Defendants would probably request a stay of the order requiring commencement of the enforcement procedures. The question whether or not Judge Pratt's Order will be stayed pending appeal, is a matter the Court will decide.

2. The states may present acceptable desegregation plans to HEW before June 16, 1973.

3. The defendants may not appeal and thus have to follow the requirements of the Court Order. Enforcement proceedings will begin with the mailing of a notice to the ten states for an HEW hearing or a referral to the Justice Department for federal court action (June 16, 1973).

When enforcement commences, several parties may seek to intervene in the administrative hearing or court action. Who these parties will be is a matter of speculation.

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CC/73 Research Staff  
Subcommittee on Higher Education  
March 20, 1973  
Staff Memo No. 2

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RE: Suggested Questions to be Asked Persons Appearing Before the Subcommittee on Higher Education

There are probably some basic questions that each person appearing before the Subcommittee on Higher Education should answer or be asked. The following list is suggestive, but by no means, exhaustive.

1. What do you consider to be the educational goals of the State of Louisiana? How does (do) your proposal(s) reconcile with or compliment those goals?
2. What were the more important factors considered in the finalization of your proposal(s)?
3. Are there inherent advantages (disadvantages) in the single board concept? The multi-board concept? How do they compare, on balance, when considered in relationship to the educational goals? Are there other variations in structural form that should be considered?
4. Was your proposal considered in the light of the desegregation requirements of Adams vs. Richardson?
5. What is the best (realistic) way of financing public higher education?
6. What are your views relative to the use of dedicated revenue to finance public higher education?
7. Have you considered (what are your views on) constitutionally limiting the term of office of the chief administrative officers of the state's institutions of higher education? Other officials?
8. What consideration should Adult Education, Career Education, and Special Education be given in higher education programs and planning?
9. Should the state provide aid to students attending non-public institutions of higher education?
10. How much detail verbiage should be included in the constitution regarding higher education coordination and governance?

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CC/73 Research Staff  
Subcommittee on Higher Education  
March 21, 1973  
Memo No. 3

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RE: An Overview of Coordination and Governance of Higher Education

This report surveys the systems of higher education coordination and governance of eight states and outlines in broad categories the higher education coordination and governance structural options which are found to be available. One method of evaluating and determining the best approach to higher education coordination and governance is considered. Additionally, a summary of the provisions on higher education in state constitutions recently considered and adopted or rejected

and a survey of the recent trends among the states in higher education coordination and governance are also included.

The eight states' systems of higher education coordination and governance surveyed are Florida, Georgia, Indiana, North Carolina, Ohio, Tennessee, Utah, and Wisconsin.

1. The Florida system of higher education governance fits into a comparatively unique state governmental structure. Florida has a state cabinet system of government providing for the state-wide election of eight officials, the governor, lieutenant governor, secretary of state, attorney general, comptroller, treasurer, commissioner of agriculture, and commissioner of education. The cabinet consists of these eight officials, minus the lieutenant governor, with the governor serving as chairman of the cabinet.

The governor and the cabinet constitute the State Board of Education, which is a corporate body. The Governor is the Chairman of the Board and the Commissioner of Education is the secretary and executive officer. The legislature is required to provide "for a uniform system of free public schools and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs." Additionally, the legislature is required to provide terms longer than four years "for any appointive board dealing with education." Acting under this constitutional mandate, the Legislature created a State Department of Education and placed it under the administration of the State Board of Education. The Department of Education is divided into four divisions, namely, Elementary and Secondary Education, Vocational Education, Community Colleges, and Universities. Each division except the Division of Universities is headed by a director, employed by the State Board of Education upon the recommendation of the Commissioner of Education. The director of the Division of Universities is the Board of Regents.

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The Board of Regents is composed of nine members, appointed by the Governor for nine year terms, with the approval of at least three other members of the cabinet, and the consent of the Senate. The board must be geographically representative of the areas of the state with no more than one member appointed from each county. It is vested with board management powers over the state university system, including establishing of the policies, rules and regulations under which the system is managed and operated, and authority to review, amend, and approve all budgets in the State University System, subject to provisions of existing law.

2. The State of Georgia has had a single board system of higher education governance for more than forty years. The Georgia Board of Regents was first created by statute in 1932. It gained constitutional recognition in 1943 as the Board of Regents University System of Georgia.

The Board of Regents is composed of fifteen members, one from each congressional district and five from the state-at-large, all appointed by the governor with approval of the Senate for terms of seven years. The governor may not be a member of the board.

The board has broad management powers. The constitution provides that it shall have the power to govern, control, and manage the University System of Georgia and all of the institutions in the System; the powers and duties provided by law existing at the time of the adoption of the Constitution; and such other powers and duties as may be provided by law. Included in those categories are the power to consolidate or discontinue institutions, merge departments, inaugurate or discontinue courses, and abolish or add degrees.

There are four universities, twelve senior institutions, and ten junior colleges in the University System of Georgia.

3. The State of Indiana has a Commission for Higher Education composed of twelve members appointed by the governor for four year terms. Each congressional district must be represented by at least one member.

The commission's authority is basically advisory, although it has the authority to review capital outlay requests, review and make recommendations on the budget requests of institutions, approve new programs and establish a master plan. However, there are two important restrictions on the Commission's authority. First, it cannot obligate any tax funds or other funds of the state except such as are appropriated to the commission by the General Assembly. Second, the commission has no power or authority relating to the management, operation, or financing of several educational institutions specifically named, or as to any other state educational institutions except as expressly set forth in the Charter. The management, operations, and financing of the state educational institutions are exclusively vested in the trustees and other governing boards or bodies of the institutions.

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4. In North Carolina a new plan "to consolidate the institutions of higher learning in North Carolina" became effective July 1, 1972. This was accomplished by designating sixteen senior institutions as the University of North Carolina, all to be governed by a Board of Governors of the University of North Carolina.

The board of governors is composed of thirty-two members serving overlapping terms of eight years, with eight members being chosen every two years. The members of the board are elected by the General Assembly. The House of Representatives elects one-half of the members and the Senate elects the other one-half from the candidates nominated by the General Assembly in joint session. The composition of the board must reflect a minimum of four women, four members from the minority races, and four members from the largest minority political party in the General Assembly.

The board has broad management authority, including the responsibility for the general determination, control, management, and governance of all affairs of the constituent institutions.

Each of the sixteen constituent institutions has a Board of Trustees composed of thirteen members, eight elected by the Board of Governors, four appointed by the governor, together with the president of the institution's student government who serves ex officio. The Board of Trustees has the responsibility for the development of the institutions in accordance with the duties defined and delegated by the Board of Governors.

In addition, North Carolina has fifty-four community colleges which are governed by the Department of Community Colleges of the State Board of Education. The State Board of Education is composed of thirteen members, ten of whom are appointed by the governor, one from each of the eight Congressional districts, and two at large. The lieutenant governor, state treasurer and state superintendent are ex officio members.

5. Ohio has a Board of Regents, composed of eleven members, each of whom serve nine year terms. Nine members are appointed by the governor while two are ex officio. The Board Chancellor (chairman) serves as the executive officer and employs and supervises the staff.

The board has the overall responsibility of establishing a master plan for higher education in the state, as well as the responsibility for providing research and other technical assistance for colleges and universities as needed. It reviews all requests for capital outlay and reviews and makes recommendations on budget requests. Additionally, the board has the authority to approve or disapprove the establishment of new branches or academic centers of state colleges and universities as needed. It reviews all requests for capital outlay and reviews and makes recommendations on budget requests. Additionally, the board has the authority to approve or disapprove the establishment of new branches or academic centers or state colleges and universities, state technical institutes or any other state institution of higher education.

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6. In the State of Tennessee a Higher Education Commission exists. It consists of nine members appointed by the governor for terms of nine years. One-third of the commission members must be members of the minority political party; three must reside, one each, in the three grand divisions of the state, and no member can be an official or employee of the state, or a trustee, officer, or employee of a public college or university in Tennessee.

The commission's duties include studying the use of public funds for higher education; analyzing needs and programs in higher education; developing a master plan and suggestions for implementing the plan; developing policies, formulae and guidelines for distribution of public funds among the constituent institutions; reviewing capital outlay and operational expense requests; reviewing, approving, or disapproving all proposed new degrees and degree programs; studying and making determinations concerning all proposed new institutions, locations, standards, functions, finance, and governance.

The commission may not usurp any existing powers or authority of the governing boards of the institutions except as provided by law.

7. The State of Utah has a Board of Higher Education composed of fifteen members, geographically representative of the state, appointed by the governor with the Senate's consent. Members serve terms of six years. No more than eight members may be from the same political party.

The State Board of Education is responsible for control, management, and supervision of the institutions of higher education, except the two technical colleges which are responsible to the Utah State Board for Vocational Education. A Commissioner of Higher Education is appointed by the board to serve as chief executive officer of the board and is responsible to it.

The board has general management authority, which includes state planning and determination of operating and capital budgetary needs of each institution. Additionally, the board makes periodic review of all programs and may require the modification or termination of any program after providing adequate hearing opportunity to the institution.

Each institution of higher education has an Institutional Council authorized to act on behalf of the institution. The councils are composed of eight members, appointed by the governor, with senate consent, to four year terms, plus the president of the institution's alumni association.

8. In 1971, the State of Wisconsin altered its system for governing higher education by consolidating the University of Wisconsin and the State University and creating a Board of Regents of the University of Wisconsin System. This action eliminated the

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Coordinating Council for Higher Education, the Board of Regents of the University of Wisconsin, and the Board of Regents of State Universities.

The new board is composed of sixteen members, fourteen of whom are appointed for overlapping terms of seven years. The State Superintendent of Public Instruction and the President of the Board of Vocational, Technical and Adult Education serve as ex officio members.

The board has broad management powers. For example, the board may remove the president or any professor, instructor, or officer of the system when, in the opinion of the board, the interest of the system requires it. Additionally, the powers of the two former boards of regents and of the former coordinating council were transferred to the new board. However, there are two important limitations on the board's authority. First, the board cannot abolish a campus, center, or branch campus that was in existence at the time of the merger. Second, the board cannot expand the post-high school collegiate training mission for semi-professional or skilled trade occupations beyond the offerings for the academic year 1971-1972 unless the expansion is approved by the Board of Vocational, Technical, and Adult Education.

Comment. While not all of the state systems above discussed are provided for constitutionally, this sample does indicate that there are a variety of ways in which higher education governance can be structured. The report of the Missouri Task Force on State-Level Coordination and Governance of Higher Education (1972) places these structures into four broad categories. The first provides for no state-level agency and permits the governing board of each institution to determine its own destiny, with or without regard to what other institutions in the state are doing. A second form utilizes an advisory coordinating agency but provides that these institutions shall have their own governing boards. The third type utilizes a state level coordinating agency, with regulatory as well as advisory powers. Powers not granted to the coordinating agency (or held by the state) are left to institutional governing boards. Finally, there is the consolidated governing board structure under which a single governing board has responsibility for all institutions.

These board categories by no means suggest inclusion of all the possible variations that could exist. In fact, even a casual survey of the state constitution and statutory provisions of the several states is sufficient to indicate that the differences in the details of the structures existing throughout the country are sufficiently great to preclude a single classification scheme which would faithfully represent all the variations that exist.

How then can a determination be made as to the best approach to higher education governance? The answer requires consideration

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of a number of factors: the state involved; what it expects of a system of higher education governance; the objectives and criteria for performance established for that system by the state, and others. While it is difficult to establish objectives and standards of performance in higher education that are not diffused, intangible or conflicting, some yardsticks for measuring performance are possible.

The Missouri Task Force developed thirteen criteria for evaluating structures for coordination and governance of higher education and postulated the characteristic of the structural forms (see charts in the LSU Alumni Federation Report, Appendix M). Reference to these charts is intended to be no more than suggestive. The establishment of criteria and the evaluation of the structural forms available in terms of that criteria, however, will be helpful in determining the best approach for Louisiana. Moreover, the question may not be "Single Board?" or "Multi-Board?" but rather which system of governance will best serve and accomplish the agreed on educational goals of this state?

In that regard, one approach is to determine what the educational goals are, establish standards of performance for the system and evaluate the variations of possible structural forms in terms of how well they satisfy the standards of performance and meet the educational goals. On balance, this approach suggests more productivity than surveying the many type systems used by other states with a view toward importing what seems to be working well elsewhere. While importation may bring with it the benefits of the system imported, it almost surely also brings its problems. An altruism that likely needs no restatement here is that no matter what system is chosen, its effectiveness is probably directly dependent on the quality of people in it.

In recent years several states have considered and either adopted or rejected new constitutions. Of these, constitutional provisions relating to higher education were examined for the states of Alaska, Connecticut, Hawaii, Illinois, Michigan, Virginia, and Maryland.

Article VII of the Alaska Constitution provides for the establishment of the University of Alaska, the state university and a body corporate. It further provides for a board of regents appointed by the governor "subject to confirmation by a majority of the members of the legislature in joint session." The board appoints the president of the university, who "shall be the executive officer of the board."

In Article VII of its Constitution, Connecticut provides for a system of higher education "dedicated to excellence." The provision further provides that "the General Assembly shall determine the size, number, terms, and method of appointment of the governing board of the University of Connecticut and of such constituent units or coordinating bodies in the system as from time to time may be established."

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Article IX of the Hawaii Constitution establishes a board of education to exercise control of the public school system through a superintendent, and a board of regents to exercise control over the state university, the University of Hawaii, a body corporate.

The members of the board of regents are appointed by the governor with consent of the senate, with the stipulation that a part of the membership be representative of the geographical subdivisions of the state. "The board shall have power, in accordance with law, to formulate policy, and exercise control of the university through its executive officer, the president of the university, who shall be appointed by the board."

As it relates to higher education, the Constitution of Illinois simply states that "There may be such other free education as the General Assembly shall provide." Although this provision creates a board of education, there is no specific mention of higher education. The provision does provide, however, that the "Board shall have such other duties and powers as provided by law."

Article VIII of the Michigan Constitution is a comprehensive provision on public education. Among its provisions is a requirement for a system of free public schools and for a state board of education to exercise "leadership and general supervision over all public education, including adult education and instructional programs...except as to institutions of higher education." In addition, the board serves as the general planning and coordinating agency for all public education, including higher education. The Article also provides for a superintendent of public instruction, appointed by the board, as well as boards of regents for the University of Michigan, Michigan State University, and Wayne State University; and boards of control for the other institutions of higher education, their organization, power and the methods of selection of their memberships. Additionally, the legislature "shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards."

As it relates to higher education governance, the Virginia Constitution, in Article VIII, simply provides that the "General Assembly may provide for the establishment, maintenance, and operation of any educational institutions which are desirable.... The governance of such institutions, and the status and powers of their boards of visitors or other governing bodies, shall be provided by law."

In a proposed constitution, not adopted, the State of Maryland provided for the General Assembly to create governing boards for the University of Maryland, the state colleges, and all other state institutions of higher education, including community colleges. The governing boards were to have power to "formulate policies for the respective institutions and...have general supervision over them in all academic matters."

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Comment. Whether very short and simple as in the case of Illinois and Virginia, or long and comprehensive as in the case of Michigan, this survey of recently proposed and adopted (rejection in Maryland) constitutional provisions on education at least suggest a trend toward including, in some fashion, provisions for higher education governance in state constitutions.

For another view on trends, an article by M. M. Chambers, "Trends Among the States in Governance and Coordination of Higher Education," is recommended (see LSU Alumni Federation Report of the Constitutional Revision Study Committee, Appendix K).

Finally, note should be taken of the indications in California and Kansas, (see attached excerpts), that might suggest the beginning of a re-evaluation of the merits of the single board concept in those states.

#### NOTES

Addenda consisting of W. Slevert, "Committee of Cal. Legislature Urges Sweeping Higher-Education Changes," Chronicle of Higher Education, Feb. 20, 1973, and "Kansas," Grapevine, Dept. of Educational Administration, Illinois State University, has been omitted from Higher Education Staff Memo No. 3.

CC/73 Research Staff

Subcommittee on Higher Education

March 22, 1973

Staff Memo No. 4

RE: A Summary of Public Hearings - March 20 and 21, 1973

The subcommittee held public hearings in a two day session March 20 and 21. At Tuesday's session, the subcommittee heard Mr. Jesse Bankston, Judge Carlos Spaht, Judge John T. Hood, Jr. and Senator Donald Williamson.

Mr. Bankston told the subcommittee that the constitution should provide some guarantees as it relates to governance of education. As a minimum, he thought the constitution should "provide for effective coordination of all educational services; ample provision for legislative authority to meet the changing needs of education; preservation of the right of voters to select the major policy makers in educational governance; and ample provision for planning, fiscal control and policy making to assure that education meets the changing needs of all society." In that regard, Mr. Bankston proposed a single state agency to administer all educational services. He said that "the separation of higher education from other educational programs will certainly bring about much greater conflicts than we have experienced under existing conditions."

In the afternoon session, Judge Hood, Chairman of the L.S.U. Alumni Federation Constitutional Revision Study Committee, presented the L.S.U. Plan for Higher Education. Judge Hood told the subcommittee that a single board could not efficiently administer the many colleges and universities of the state. As an alternative, the plan he presented provided for a board of regents that would have specific coordination and planning authority for all higher education, but no governance or administrative authority. Two boards, a board of supervisors for L.S.U. and a board of trustees for state colleges and universities, would have governance and administrative authority or "all powers not specifically given to the board of regents..." Under this plan, the State Board of Education would continue to regulate elementary and secondary education and, along with the board of regents, coordinate vocational-technical training and career education. With the exception of the state board of education which would be an elected board, the board of regents, board of supervisors, and board of trustees would be appointed by the governor with senate consent to represent the geographic areas of the state.

Later in the afternoon, Senator Williamson appeared before the subcommittee and proposed a single board to govern all public education. Senator Williamson felt that the board should divide its responsibilities into three divisions of elementary and secondary education, vocational-technical training and career education, and colleges and universities with each having an advisory board. Senator Williamson saw the big problem as "no coordination" and though he indicated that Act 712 "left something to be desired", he stated that "Act 712 in its present condition is better than what we have now."

At the March 21 session, Dr. G. L. Netterville, Dr. E. C. Harrison, Dr. Emmett Bashful, Mr. Leonard Barnes, and Mr. Ashford Williams of the Southern University System; Mr. Wayne Collier, President of the L.S.U.N.O. Alumni Federation; and State Superintendent Michot appeared before the subcommittee.

Mr. Ashford Williams, representing the Southern University Alumni Federation proposed that "the Southern University System be written into the Louisiana Constitution as a permanent educational institution, and that a vote of the people of the State be required to abolish this system or any of its components", and that "the Authors of the Constitution of the State of Louisiana provide and insure that the board(s) having supervision, management, or control over any educational institution, system or unit, will be composed of minority representation in proportion to the predominant minority population in the total population of the State." Mr. Williams told the subcommittee that the Southern University System "is the largest and only predominantly Black University System in the United States" and stated that the two proposals offered were in the "best interest of the state" and would "provide opportunity for all ethnic groups of the state to participate in the decision-making process of determining their aspirations and destinies."

Mr. Wayne Collier told the subcommittee that he had requested to appear because the L.S.U.N.O. Alumni Federation had not been given the opportunity to present its views to the L.S.U. Alumni Federation Constitutional Revision Study Committee. Mr. Collier proposed a single board, geographically representative of the state, to coordinate, but not to administer, all higher education. He stated that such a board would provide the state with a "good management tool" for higher education. Mr. Collier also indicated to the subcommittee that the proposed board should develop a formula that would be fair and guarantee parity of financial support for the state's institutions of higher learning.

Superintendent Michot proposed a single board to have jurisdiction over all facets of public education. He said that the board should be composed of eleven elected members and six members appointed by the governor with senate consent; that it should appoint with senate consent its chief administrative officer; that it should be responsible for establishing policy and coordinating educational efforts; and that it should have the authority to appoint such bodies as it deems necessary. Mr. Michot told the subcommittee that "the idea of the single board for all education is neither new or novel, nor is it necessarily the panacea to cure all of the ills of education. However, it will provide a better vehicle by which, competent men, with the proper intention and dedication, will have a chance of putting it all together".

The subcommittee agreed to meet again and hold public hearings on March 30. The following persons are tentatively scheduled to appear:

1. Mr. Edward Steimel, Executive Director, and Miss Emogene Pliner, of the Public Affairs Research Council.
2. Dr. William Arceneaux, Executive Director of the Higher Education Coordinating Council.
3. Mr. G. Frank Parvis, President, and Mr. Edward

Stagg, Executive Director of the Council for a Better Louisiana.

4. Dr. Elias Blake, President of the Institute for Services to Education.

CC/73 Research Staff

Subcommittee on Higher Education

April 16, 1973

Staff Memorandum No. 5

RE: Revision Proposal

Attached hereto is a revision of the language of the Higher Education Coordinating Council's proposal so as to reflect the general opinions of the subcommittee with reference to that proposal.

Specifically the revision made in the proposal will do the following:

1. Change Section 2, Paragraph B so as to made the term of office for all three boards the same,
2. Change Section 1, Paragraph C, Subparagraph 3 so as to provide flexibility with reference to the creation of an additional management board(s),
3. Change Section 3, Paragraph A so as to preclude conflict with the revised provision of Section 1, Paragraph C, Subparagraph 3 as it relates to the transfer of existing institutions from one board to another board, and
4. Change Section 2, Paragraph A(2) so as to include any management board that may be created.

REVISION OF THE HIGHER EDUCATION COORDINATING COUNCIL'S PROPOSAL

#### Public Education

##### Section 1. Board of Regents

A. There shall be a body corporate known as the "Board of Regents" which shall plan and coordinate all education in the state. It shall have such powers, duties, and responsibilities as are provided in this section.

B. The board shall consist of fifteen members to be appointed by the governor for seven-year terms, by and with the advice and consent of the Senate. There shall be at least one member of the board who is a resident of each congressional district.

C. The board shall have the following powers, duties, and responsibilities with respect to all public institutions of higher education and post-secondary vocational-technical training and career education:

1. To revise or eliminate any existing degree program, department of instruction, institute, school, division, or similar subdivision.
2. To approve, disapprove, or modify any new degree program, department of instruction, institute, school, division, or similar subdivision sought to be inaugurated.
3. To study the need for and feasibility of any new institution of post-secondary education. If the creation of a new institution is proposed, or an additional management board for a university or group of universities is proposed, or a proposal is made to transfer an existing institution from one board to another, the board shall report its findings and recommendations within one year to the legislature, governor, and public, and only after such written report has been filed, or if no report is filed within one year, the legislature may take affirmative action on such a proposal by vote of two-thirds of the membership of each house. This subparagraph shall apply to branches of institutions and conversion of two-year institutions to institutions offering longer courses of study.
4. To formulate a master plan for higher education and post-secondary vocational-technical training and career education in the state.
5. To require the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the State Board of Education, and any board created by the legislature to submit to it, at times specified by the Board of Regents,

their annual budget proposals for the operational and capital needs of each institution under their respective control. The board shall submit to the legislature, not later than the opening day of each regular session, its recommendations on budgets for all institutions of public higher education and post-secondary vocational-technical training and career education in the state. It shall recommend priorities for capital construction and improvements.

D. The board shall have only broad planning and coordinating functions over elementary and secondary education.

E. Appropriations by the legislature for operational and capital projects of institutions of higher education and post-secondary vocational-technical training and career education shall be made to the institutions. The appropriations shall be administered by the respective governing boards and applied to the internal operations of the institutions under their control.

F. All powers over public institutions of higher education and post-secondary vocational-technical training and career education not specifically vested in the Board of Regents by this article are reserved to the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College and the State Board of Education as to the institutions under their respective control, or to any board which may be created by the legislature with respect to vocational-technical training and career education at the post-secondary level.

G. The board and its members shall also be subject to the applicable provisions of Section 4 of this article.

#### Section 2. State Board of Education.

A. There shall be a body corporate known as the "State Board of Education" which shall be the governing body of the State Department of Education and shall have the following authority:

(1) Supervision and control of all public elementary and secondary education through twelfth grade, including vocational-technical training and career education, however the board shall not control the business affairs of parish and municipal school boards, nor the selection or removal of their officers, parish superintendents, directors, and other employees; (2) Supervision and control of all state colleges and universities except those included in the Louisiana State University and Agricultural and Mechanical College system, and any other system that may be created as herein provided; and (3) Supervision and control of all public institutions of vocational-technical training and career education at post-secondary levels, unless and until the legislature shall provide otherwise. These authorities are subject to the powers granted the Board of Regents in Section 1 of this article.

B. The board shall consist of fifteen members who shall be elected for seven-year terms from single member districts. Anything hereinabove to the contrary notwithstanding, any member of the existing State Board of Education on the effective date of this constitution shall become a member of the board created by this section and to serve until the expiration of the term to which he was elected.

C. The board and its members shall also be subject to the applicable provisions of Section 4 of this article.

D. The state superintendent of public education shall be appointed by and may be removed at the pleasure of the board, which shall fix his term of office, qualifications, duties, and

salary; provided, that the person who occupies the office of state superintendent of public education on the effective date of this constitution shall continue to serve until the expiration of his term.

#### Section 3. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College.

A. There shall be a body corporate known as the "Board of Supervisors of Louisiana State University and Agricultural and Mechanical College" which, subject to the powers granted to the Board of Regents in this article, shall govern, direct, control, supervise, and manage the institutions and statewide agricultural and medical programs included in the Louisiana State University and Agricultural and Mechanical College system, as constituted at the time this constitution is adopted. However, nothing in this paragraph shall be interpreted so as to limit the powers, duties, and responsibilities of the Board of Regents.

B. The board shall consist of fifteen members to be appointed by the governor for seven-year terms, by and with the consent of the Senate. There shall be at least one member of each congressional district, and no more than three members from any one congressional district, as such districts shall be constituted at the time of each appointment. Anything hereinabove to the contrary notwithstanding, all persons serving as appointive members of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, as that body will have been in existence on December 31, 1973, shall become members of the board created by this section and shall serve until the expiration of the respective terms to which they were appointed.

C. The board and its members shall also be subject to the applicable provisions of Section 4 of this article.

#### Section 4. Miscellaneous Provisions Applicable to Boards.

A. The legislature shall appropriate the necessary funds for the operation and maintenance of all boards created by or pursuant to this article, together with their respective administrative and research staffs.

B. The members of all boards created by or pursuant to this article shall serve without pay, except for such per diem and expenses as shall be fixed by the legislature.

C. No officer, employee, or faculty member of any state institution of higher education or post-secondary vocational-technical training or career education, or their spouses, shall be eligible for membership on a board.

D. Each board shall elect from its members a chairman, vice chairman and secretary, and shall appoint such other officers as deemed necessary.

E. The governor shall make an appointment to fill any vacancy on any appointive board within 60 days after such vacancy occurs, and he shall submit such appointments to the Senate for confirmation at the next session of the legislature.

F. The legislature shall provide for staggered terms on all boards in this article.

G. An appropriate number of black citizens shall be included on the appointive boards specified in this section.

H. There shall be no duplication of membership on the boards specified in this section.



### 3. Subcommittee on the Public Welfare

CG/73 Research Staff  
Committee on Education  
and Welfare  
Subcommittee on Public  
Welfare  
March 20, 1973  
Staff Memo No. 1

CC/73 Research Staff  
Committee on Education  
and Welfare  
Subcommittee on Public  
Welfare  
March 20, 1973  
Staff Memo No. 2

RE: Provisions for Business and Industry in Other State Constitutions.

Enclosed is a summary of provisions from the constitutions of other states which pertain to business and industry.

#### Business and Industry in Other State Constitutions

The research staff has examined the constitutions of Alaska (1956), Connecticut (1965), Hawaii (1968), Illinois (1970), Michigan (1964), Virginia (1971), New Jersey (1947), Missouri (1945), and Georgia (1945) in an effort to identify provisions which relate to business and industry.

Although these documents vary in a number of ways, some similarities are readily noted. The four main topics covered under the general heading of business and industry are corporations, public utilities, banks, and insurance companies.

Most of the constitutions examined specifically prohibit the legislature from enacting any special, local, or private laws creating or amending corporate charters. There are also prohibitions against granting any special privilege to a corporation. Another typical provision forbids any state investment in private companies and corporations.

The constitutions of Illinois, Virginia, Missouri, Georgia, and New Jersey grant the state legislature the power to regulate corporations through the passage of general laws while the Connecticut Constitution simply confirms the existing rights and duties of corporations. The Georgia document specifically forbids the formation of monopolies. The Virginia Constitution creates a State Corporation Commission elected by the legislature to administer state law regarding corporations. This commission is also charged with regulating the rates and services of public utilities and common carriers.

Of the states under consideration, only Georgia makes constitutional provision for a Public Service Commission to regulate public utilities and common carriers. The Virginia State Corporation Commission, however, exercises the same functions in that state. Missouri has four sections in its constitution dealing with the regulation of railroads. The Michigan Constitution has several references to the awarding of franchises for public utilities on the local level. Such contracts must be subject to the approval of electors, and no franchise can be granted for a period longer than thirty years.

Various references to banking are included in these constitutions. In Connecticut branch banking must be authorized by a three-fifths vote of both houses of the legislature. A two-thirds vote of both houses of the legislature is necessary in Michigan to pass general laws incorporating or regulating the business of banks or trust companies. The Missouri Constitution forbids the passage of local or special laws fixing rates of interest. Additionally, it provides that interest rates fixed by law shall be applicable to all lenders regardless of the type of business involved.

The Georgia Constitution incorporates several safeguards against irresponsible insurance operations. Bonds are prescribed for insurance companies doing business in Georgia. These companies must also submit annual reports to the state government on their financial situation.

#### NOTES

Provisions from the constitutions of Alaska, Connecticut, Hawaii, Illinois, Missouri, Michigan, Virginia, New Jersey, and Georgia relative to "Business and Industry" are omitted.

RE: Civil Service in Other State Constitutions.

Enclosed is a report on the provisions in state constitutions relating to civil service and the method of selecting civil service commissioners in other states.

#### Civil Service in Other State Constitutions

Thirteen states provide for a state civil service system in their constitutions. These include Alabama, Alaska, California, Colorado, Georgia, Hawaii, Kansas, Louisiana, Michigan, Missouri, New Jersey, New York, and Ohio. Louisiana's civil service article is by far the longest and most detailed. In the constitutions of eight states there is simply a definition of a state merit system and an authorization for the legislature to implement such a system. Only Louisiana, California, Colorado, Georgia, and Michigan specify the establishment and organization of a state commission to administer the program.

California has a five member personnel board appointed by the governor with the advice and consent of each house of the legislature. In Colorado the governor appoints three "persons of known reputation to the merit system" to the state commission. A recent amendment permits classified employees to elect two additional members. Georgia has a personnel board of three citizens "of known interest in the improvement of public administration" who are appointed by the governor and confirmed by the legislature. The Michigan Constitution establishes a civil service commission composed of four members with no more than two belonging to the same political party. They are appointed by the governor.

The research staff has requested information regarding the nomination of commission members in those states whose systems are authorized by statute. Available statistics reveal only the nature of the respective systems and the method of appointment to governing bodies.

Among the fifty states, personnel or civil service commissions range in size from three to eight members serving terms of from three to ten years. In the following states the governor appoints a commission or board with confirmation by the legislature: Alabama, Alaska, Arizona, Arkansas, California, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Maryland, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Vermont, Washington, and West Virginia. A number of states rely solely on gubernatorial appointment with no legislative confirmation: Delaware, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Montana, Nevada, New Mexico, North Carolina, Oklahoma, South Dakota, Tennessee, Utah, and Wyoming.

Florida and Nebraska provide that nominations come from the governor and his cabinet with confirmation by the legislature. In Connecticut the governor appoints three members from the public. The other three members are

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the commissioner of finance and control, the labor commissioner, and an appointee of the Commission for Higher Education. As noted, Colorado has three members appointed by the governor with legislative confirmation and two members elected by classified employees. The Maine commission contains three members selected by the governor who serve four year terms and one member elected by state employees to serve two year term. These four choose a fifth person to serve for two years. In Nebraska various state agencies select members of a civil service board. Virginia employs a similar system. New Hampshire's board is appointed by the governor and his cabinet. In North Dakota covered agencies submit the names from which the governor makes his appointments. South Carolina's commission is elected by its general assembly. Texas' limited civil service system is administered by board appointed by the Employment Commissioner.

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NOTES

An addendum of Book of the States, 1971-1972, pp. 176, 178 is omitted.

- 11. Mrs. Roberta Madden, Consumer Protection Center
- 12. Joe Wall, Acting Director, Health, Education Authority of Louisiana
- 13. Dr. Joseph A. Sabatier, Jr., Director, Louisiana Regional Medical Program ( Will send written statement)

Staff Memorandum No. 3/14/73-A

March 14, 1972

To: Subcommittee on Public Welfare  
From: Research Staff

We have attempted to identify provisions of the Louisiana Constitution of 1921 concerning public welfare which may be classified as statutory in nature. We have also noted those sections which have purely local import.

The attached outline is divided by topics. The material in each section is correlated to the packets distributed last week on Public Welfare, Labor and Industry, Consumer Affairs, Civil Service, etc

This study is intended to be suggestive. The researcher was guided by the recommendations made by the Louisiana State Law Institute in its Project of a Constitution for the State of Louisiana (1954). Constitutions recently adopted by Alaska, Hawaii, Connecticut, Illinois, Michigan, and Virginia were also consulted. Material currently in the Louisiana Constitution which is not treated in these more recent constitutions has generally been designated as statutory on the assumption that it is not essential to a state constitution.

PENAL AND CORRECTIONAL AFFAIRS

Article III, § 33. Convict labor; public works, leases.  
Constitutional. Prohibits legislative action in this field. Recent state constitutions omit any reference to convict labor. Project includes this section.

Article IV, § 2(a). Board of liquidation of state debt; bonds; public works. Board membership; bonds; funding priorities; amount; form.

Statutory. Such boards could be established by the legislature. The Project, however, recommends the retention of this board because of its ability to act in emergency situations. Also, a majority of the legislature must approve its actions. [Project, vol. II, pp. 21b-16.] The section on public works provides specific dedication of funds. The Project recommends that dedicated revenues be deleted from the constitution. [Project, vol. II, pp. 221-24.]

Article VI, § 30. Board of Institutions.  
Repealed, 1968. Superseded by RS 15:821 creating a Louisiana Department of Corrections.

Article VIII, § 6. Disqualification from voting or holding office; employment.  
Constitutional. Many states have similar provisions. [Committee on Bill of Rights and Elections]

Article XIV, § 17. State penal institutions; crimes in, or by inmates or employees; reimbursement of parish expense.

Statutory. No similar provisions in recent state constitutions or in Project.

Article XVIII, § 8. Confederate memorial medical center; correctional, charitable, and penal institutions; bonds; tax.

Statutory. Legislature could have general authorization to provide for establishment and funding of correctional, charitable, and penal institutions. Trend in new state constitutions is to avoid specific dedication of funds. The Project recommends that dedication of revenues be deleted from

CC/73 Research Staff  
Subcommittee on Public Welfare of the Committee on Education and Welfare  
March 27, 1973  
Staff Memo No. 3

The following persons and/or organizations were contacted by the research staff and invited to appear March 28, 1973 and March 29, 1973:

March 28, 1973

- 1. Victor Bussie, AFL-CIO
- 2. Robert Brooksher, Mid-Continent Oil & Gas Association
- 3. Lamar Walters, State Chamber of Commerce
- 4. Louis Quinn, Public Service Commission
- 5. Ford S. Lacey, Louisiana Manufacturers Association
- 6. E.C. Bacon, Louisiana Motor Transport Association, Inc.
- 7. Charlie Dupuy, South Central Bell Telephone Company
- 8. Charles M. Smith, Jr., Louisiana Department of Commerce and Industry
- 9. New Orleans Public Service
- 10. Mr. Vanderpool, Louisiana Bankers' Association
- 11. Joseph J. Fortetich, Association General Contractors of America, Inc.
- 12. Charles Smith, Construction Industry Legislative Council
- 13. Curtis Luttrell, Commissioner, State Department of Labor
- 14. Henri Wohlbrete, Louisiana Chemical Association
- 15. Jack Worthly, Gulf States Utilities
- 16. J. R. McDowell, Baton Rouge Oil & Chemical Workers Union
- 17. International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers, Local Union No. 5

Staff Memo No. 3  
Page Two

- 18. Charles Winter, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers, Local Union No. 270

March 29, 1973

- 1. Mrs. Annie Smart, Baton Rouge Welfare Rights Organization
- 2. Dr. Ramson Vidrene, State Board of Health
- 3. Dr. Ashton Thomas, Louisiana State Medical Society
- 4. H.K. Sweeney, Louisiana Health, Social, and Rehabilitation Services Administration, Division of Administration and Planning
- 5. Garland Bonin, Division of Income Maintenance, Louisiana Health, Social and Rehabilitation Services Administration
- 6. Dr. Bernard J. Weist, Dean, LSU School of Social Welfare
- 7. Dr. Charles Mary, Commissioner, Louisiana Health, Social, and Rehabilitation Services Administration
- 8. Mrs. Nell Weekly, New Orleans Office of Consumer Affairs
- 9. Charles Tapp, Governor's Consumer Protection Division
- 10. William H. Forman, Louisiana Consumers League

		the constitution. [ <u>Projet</u> , vol. II, pp. 221-24.]		Merged with § 7 below.	
Article XX,	§ 1.	Bond issue; Angola Plantation enlargement and improvement.  Statutory. Provides specific dedication of funds.	§ 4.	Civil War; memorial hall for relics; battlefield markers and monuments.  Statutory.	
			§ 5.	Mothers' pensions.  Statutory. Could be covered by a general welfare clause	
<u>Consumer Affairs</u>					
Article III,	§ 44.	Milk manufacturers, pasteurizers and distributors; bond.  Statutory. Legislature could take such action under authority of a general welfare clause.	§ 6.	Confederate veterans and their widows; back pensions; bond issue; tax; transfer of functions.  Statutory. Could be covered by a general welfare clause. Funding of a system of pensions may properly be a legislative function.	
Article IV,	§ 4.	Local or special laws; prohibited subjects.  Constitutional. Places prohibition on legislature.	§ 7.	Social security and public welfare.  Statutory. See § 6 above. Board of Public Welfare has been superseded by RS 46:1751 creating the Louisiana, Health, and Social and Rehabilitation Services.	
	12-b.	State market commission; guaranteed loans; agricultural facilities.			
	12-c.	Commissioner of agriculture and immigration; guaranteed loans; farm youth organizations.  Statutory. Legislature could authorize and fund this program.	§ 8.	Confederate memorial medical center; correctional, charitable and penal institutions; bonds; tax.  Statutory. Legislature could have general authorization to provide for establishment and funding of correctional, charitable, and penal institutions. Trend in new state constitutions is to avoid specific dedication of funds. The <u>Projet</u> recommends that dedication of revenues be deleted from the constitution. [ <u>Projet</u> , vol. II, pp. 221-24.]	
Article VI,	§ 4.	Public service commission; powers.  Could be statutory. Such regulatory commissions are generally not specifically established in recent state constitutions. A section granting the legislature power to regulate public utilities and common carriers would suffice. The <u>Projet</u> recommends retaining the Public Service Commission in the constitution because of its importance as a quasi-judicial and quasi-legislative body. [ <u>Projet</u> , vol. II, p. 40].	Article XVIII, § 9.	Retirement fund; aged and incapacitated state employees.  Constitutional. Several recent state constitutions make specific provision for a state retirement system. Details and funding are left to legislature.	
	§ 6.	Public service commission; orders; penalties for violation.  See § 4 above.	§ 9.1.	Retirement system for political subdivision employees, policemen and firemen excepted.  See § 9 above.	
	§ 12.	Public health; practice of healing arts; food and drug regulations.  Statutory. Legislature could take such action under authority of a general welfare clause.	§ 10.	Bonuses for service-men and service-women; bonds; tax.  Statutory. Legislature could establish and fund such programs.	
Article VI,	§ 14.	Agriculture and immigration; public policy.  Statutory. Legislature could take such action under authority of a general welfare clause.	§ 11.	Bonuses; veterans of Korean conflict; widow, orphans, or parents; indebtedness; tax; surplus.  Statutory. See § 10 above.	
	§ 18.	State bank commissioner.  Statutory. Creation of such offices could be left to legislature.	§ 12.	Korean bonus. Veterans of Spanish American War; Boxer Rebellion, Philippine Insurrection and World War I; bonus.  Statutory. See § 10 above.	
Article XIX,	§ 14.	Monopolies, trusts, combinations or conspiracies in restraint of trade.  Statutory. Could be province of the legislature. [ <u>Projet</u> , vol. II, p. 40]	Article IV,	§ 8.	Public funds; prohibited expenditure for sectarian, private, charitable or benevolent purposes; state charities; religious discrimination.  Constitutional. Prohibits certain legislative action.
Article VI,	§ 4.	Public service commission; powers. See Article VI, § 4 above.	§ 9.	Appropriation bills; form and contents.  Constitutional. See § 8 above.	
	§ 14.	Agriculture; public policy.  Statutory. Legislature could authorize such programs.	§ 12.	Loan or pledge of public credit; relief of destitute; donations; transfers of property; bonds; leasing of health institutions; donation to U.S. for Veterans Hospital.  Constitutional in that it forbids the legislature to take certain action. Most sections could be statutory.	
<u>PUBLIC WELFARE</u>					
Article XVIII,	§ 1.	Soldiers' home.  No longer relevant	[Local]	Provides for transfer of property in the city of New Orleans. Specific dedication of funds generally not included in recent state constitutions.	
	§ 2.	Confederate veterans and their widows; pensions. Merged with § 7 below.			
	§ 3.	Confederate veterans and their widows; tax for pensions; bonds.			

Project recommends that dedication of Of revenues be deleted from the constitution. [Project, vol. II, pp. 121-24.]

- § 14. State educational or charitable institutions; establishment; vote.  
Constitutional. Places limitations on legislature.

#### HEALTH

- Article V, § 11. Boards of health; state, parochial and municipal; state health officer.

Statutory. Could be covered by a clause authorizing the legislature to provide for the general welfare. No comparable provision in recent state constitutions. Board of Health now included in Louisiana, Health, and Social and Rehabilitative Services, R.S. 45:1751.

- § 12 Public health; practice of healing arts; food and drug regulations.

Statutory. Legislature could take such action under authority of a general welfare clause. No comparable provision in other recent state constitutions.

- § 19.1 Beautification of highways; regulation of outdoor advertising and junkyards.

Statutory. See § 12 above.

- Article X, § 10. Political subdivisions; special local taxes; purposes; limitations.

[Local]

Statutory. Recent state constitutions generally avoid specific dedication of funds. The Project recommends that dedication of revenues be deleted from the constitution. [Project, vol. II, pp. 221-24.]

#### CIVIL SERVICE

- Article XIV, s 15. Civil service system; state cities.

Both constitutional and statutory. Authorization of a civil service system for employees of a state and its political subdivisions is a valid constitutional concern. Of the recent state constitutions examined for this study, only the Michigan document goes beyond a simple authorization for such a system. In its Project, the Louisiana State Law Institute calls for a new section article on civil service. The institute admits that much of the material it retains is statutory in nature. "Because of the peculiar history of civil service in Louisiana," however, the law institute believes that the inclusion of a certain amount of detail in this area is justified. [Project, vol. III, p. 499.]

- Article § 15.1 Fire and police civil service; municipalities of 13,000 to 250,000.  
See § 15 above.

#### RETIREMENT

- Article IV, § 9. Appropriation bills; form and contents.  
Constitutional. Prohibits legislative action on certain subjects. The Project recommends retaining this section. [Project, vol. II, p. 206.]

- Article VI, § 26. Department of revenue; Legislative Auditor, state printing board.  
Statutory. Legislature could authorize this office.

- Article VII, § 8. Retirement. [Judiciary! [May be considered by Committee on Judiciary.]

- § 59.1. Retirement. [District Attorneys] [See § 3 above.]

- Article IX, § 4. Judiciary Commission; removal or involuntary retirement of judges and justices. [Committee on Judiciary]

- Article XII, § 21. Retirement funds; teachers; school employees.

Statutory. The Project recommends that references to separate retirement plans be deleted from the constitution. One article authorizing the legislature to provide a system of retirement for employees of the state and its political corporations would suffice. [Project, vol. II, p. 171.]

- Article XVIII, § 2. Confederate veterans and their widows; pensions.

Statutory. Legislature could establish and fund such programs. See outline of Article XVIII under Public Welfare.

- Article XVIII, § 1. Confederate veterans and their widow; tax for pensions; bonds.

Statutory. See § 2 above.

- § 5. Mothers' pensions.

Statutory. See § 2 above.

- § 9. Retirement fund; aged and incapacitated state employees.

Constitutional. The Project recommends that one article authorizing the legislature to provide a system of retirement for employees of the state and its political subdivisions should be included in the constitution. Arrangements for financing the system and providing separate plans should be left to the legislature.

- § 10. Bonuses for service-men and service-women; bonds; tax.

Statutory. Legislature could establish and fund such programs.

- § 9.1. Retirement system for political subdivision employees, policemen and firemen excepted.

Statutory. See § 9 above.

- § 11. Bonuses; veterans of Korean conflict; widows, orphans, or parents; indebtedness; tax; surplus.

Statutory. See § 10 above.

- § 12. Korean bonus.

Statutory. See § 10 above.

- Article XIX, § 25. Retirement systems; notice of intention to propose amendment or change; publication.

Statutory. See Article XII, § 23.

#### LABOR AND INDUSTRY

- Article IV, § 4. Local and special laws; prohibited subjects.

Constitutional. Prohibits legislative action on certain subjects.

- § 7. Price of manual labor; wages, hours, and working conditions of women.

Constitutional.

- § 12-b. State market commission; guaranteed loans; agricultural facilities.

Statutory. Legislature could be

given authority to establish and fund such programs.

Article VI, § 3. Public service commission. Creation; composition; qualifications; election.

could be statutory. Such regulatory commissions are generally not specifically established in recent state constitutions. A section granting the legislature power to regulate public utilities and common carriers would suffice. The Projet recommends retaining the Public Service Commission in the constitution because of its importance as a quasi-judicial and quasi-legislative body. [Projet, vol. II, p. 401.]

§ 4. Public Service Commission; powers.  
See § 3 above.

§ 5. Public service commission; orders; effective date; injunction; review; enforcement; appeals.  
See § 3 above.

§ 6. Public service commission; orders; penalties for violation.

§ 7. Public service commission; local regulation of utilities; retention or surrender.  
See § 3 above.

Article VI, § 8. Public service commission districts.  
See § 3 above. In addition, such districts may be subject to future reapportionment.

§ 9. Public service commission; applicability of laws relating to railroad commission.  
See § 3 above.

Article VII, § 4. Tax exemptions.  
Constitutional. Certain classes of property, i.e., religious, educational, charitable, public, are generally exempted in recent constitutions. [Committee on Revenue, Finance, and Taxation will consider.]

Article XIII, § 1. Corporations and corporate rights. real estate holdings; restriction on duration and amount.  
Repealed, Acts 1968, no. 677.

§ 2. Stock or bond issues; consideration; fictitious issues.  
Statutory. In recent state constitutions a definition of "corporation" is included. Regulation of corporations is left to the legislature. The Projet recommends that the legislature be given the authority to regulate corporations in the constitution; other material should be deleted. [Projet, vol. II, p. 40.]

§ 3. Railroads; public highways; crossings; traffic interchange.  
Statutory. See § 2 above.

§ 4. Office location; books; inspection, contents.  
Repealed, Acts 1962, no. 534.

Article XIII, § 5. Creation and regulation by general laws; monopolies  
Constitutional. Projet recommends that this section be retained. [Projet, vol. II, p. 40.]

§ 6. Canal and hydro-electric developments; use of state waters; state ownership.  
Statutory. See § 2 above.

§ 7. Perpetual franchises or privileges.  
Constitutional. Recent state constitutions have similar provisions.

§ 8. Definition  
Constitutional. See § 2 above.

Article XIV, § 29. Zoning ordinances. Authority: municipalities; airport zones  
Statutory. ["Special districts" will be considered by Committee on Local and Parochial Government.]

§ 29.1 Parish industrial areas.  
Statutory. See § 29 above.

Article XVIII, § 7. Social security and public welfare.  
Statutory. Could be covered by a general welfare clause.

Article XIX, § 14. Monopolies, trusts, combinations or conspiracies in restraint of trade.  
Statutory. Could be province of the legislature. [Projet, vol. II, p. 40.]

*State of Louisiana*

PROVISIONS FOR THE PUBLIC WELFARE

IN OTHER STATE CONSTITUTIONS

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NOTES

Provisions of the following state constitutions relating to the previously listed topics are omitted: Alaska, Connecticut, Hawaii, Illinois, Michigan, and Virginia. Also similar materials from the Model State Constitution and the Projet for a Constitution for the State of Louisiana are omitted.

CC/73 Research Staff  
 Committee on Education and Welfare  
 Subcommittee on Public Welfare  
 April 3, 1973  
 Staff Memo No. 3

Re: Summary of meetings of the Subcommittee on Public Welfare  
 WORK DRAFT

March 21, 1973  
 The subcommittee met and planned subsequent meetings.

March 28, 1973 Public Hearing  
 Hearings were held on constitutional provisions relating to business, industry, and labor.

Speakers included representatives of the following organizations: Louisiana Bankers Association, Louisiana Chemical Association, State Chamber of Commerce, Louisiana Manufacturers Association, Construction Industry Legislative Council, Public Service Commission, Gulf States Utilities Company, Louisiana Department of Commerce and Industry, Baton Rouge Oil and Chemical Workers Union, AFL/CIO, and the State Department of Labor.

From this group the subcommittee heard several pleas for a

concise basic document eliminating the detail and local material found in the Louisiana Constitution of 1921.

Business and industrial interests, however, strongly urge that industrial inducement measures be retained in the constitution. Most important of these are the ten year tax exemptions for new or expanding industry and the two-thirds requirement on legislation to levy a new tax or increase an existing tax.

A general consensus was expressed that the Public Service Commission remain a constitutional body and that its organization and functions be unchanged.

Labor will be satisfied if no specific provisions relating to it are included in the constitution. The AFL/CIO has several recommendations regarding the use of Louisiana labor and material in tax exempt industries and the prohibition of convict labor in competition with the private sector.

The State Department of Labor believes that its organization and duties should continue to be governed by statute.

March 29, 1973 Public Hearing

Hearings were held on constitutional provisions relating to health, welfare, and consumer affairs. Speakers included representatives of the following organizations: Baton Rouge Welfare Rights Organization, Louisiana Health and Social and Rehabilitation Services Administration, Louisiana State Medical Society, Louisiana State University School of Social Welfare, Governor's Office of Consumer Protection, Louisiana Consumers League, and Baton Rouge Consumer Protection Center.

These speakers agreed that the new constitution should contain only a broad, general statement regarding the Louisiana Health, and Social and Rehabilitation Services Administration and its functions. Because of changing conditions and the need to conform to federal regulations, specific programs must be governed by statute.

Advocates of consumer protection made a number of requests regarding the new constitution. Most of these witnesses recommended that some provision be made to guarantee consumer representation on all state commissions. Creation of an Office of Consumer Counsel would be one method of accomplishing this. The constitution should also specifically authorize the legislature and local governing bodies to pass laws protecting the consumer. In this manner, statute could provide for changing conditions in the general area of consumer affairs.

A more detailed summary of the subcommittee's activities is attached.

#### ATTACHMENT

The Subcommittee on Public Welfare held public hearings on March 28 and March 29, 1973 to consider constitutional provisions relating to business and industry, labor, health, welfare, and consumer affairs. In the field of business and industry, representatives of the following organizations appeared before the subcommittee: Louisiana Bankers Association, Louisiana Chemical Association, State Chamber of Commerce, Louisiana Manufacturers Association, Construction Industry Legislative Council, Public Service Commission, Gulf States Utilities Company, and the Louisiana Department of Commerce and Industry.

The subcommittee heard several pleas for a concise, basic document eliminating the detail and local material found in the Louisiana Constitution of 1921. The representative of the Louisiana Bankers Association, in fact, asked for nothing else. No provisions in the present constitution specifically regulate banks, and members of the banking profession are satisfied with this arrangement. Because of changing conditions and the need for flexibility, they prefer being governed by statute.

Other speakers discussed sections of the constitution which relate to their particular interest and to the interests of business in general. Representatives of the Louisiana Chemical Association, State Chamber of Commerce, Louisiana Manufacturers Association, and Department of Com-

merce and Industry strongly urged the retention of industrial inducement measures in the constitution. They believe that such provisions, when embedded in basic law, give an aura of stability to state government which does much to attract industry. Accordingly, business and industrial organizations want the following provisions left in the constitution:

- (1) Authority for state and local governing bodies to grant ten-year tax exemptions to new or expanding industries [X, §4, (10)].
- (2) Authority for parishes to create special tax and service districts for industries within their boundaries (XIV, § 29.1).
- (3) The stipulation that the severance tax shall be the only tax imposed on oil, gas, or sulphur leases and that no assessment shall be added to property because of the presence of oil, gas, and sulphur deposits (X, 21).
- (4) Tax exemptions for nonprofit corporations devoted to the development of trade, travel, commerce, and understanding [X, 4 (18)].
- (5) Exemptions for imported raw materials and articles so long as they are in storage or in transit [X, 4 (19)].
- (6) Elimination of natural gas sales to industrial users from the control of the Public Service Commission (VI, 4).
- (7) Legislative prohibition against the enactment of local or special laws regulating labor, trade, manufacturing, and agriculture (IV, 4).
- (8) The requirement that two-thirds of both houses of the legislature must approve any new tax or increase in an increasing tax. (Most spokesmen for business and industry consider this vital to industrial inducement.) (X la; III, 25.1)

The subcommittee also considered the status of corporation in the constitution. Several witnesses asked that the new document include a legal definition of a corporation and that the legislature be given authority to regulate such organizations. (XIII, 5 & 8)

On the subject of public utilities, the subcommittee heard from the executive secretary of the Public Service Commission and from a representative of Gulf States Utilities Company. Both agreed that the commission should remain in the constitution because of its importance as a deliberative, quasi-judicial body. The wording is now very brief and general and could easily be incorporated in the new constitution. With the exception of one technical matter relating to the appeal process, no operational changes were suggested for the Public Service Commission. (VI, 3-7)

The subcommittee heard witnesses regarding constitutional provisions for labor from the Baton Rouge Oil and Chemical Worker Union, the AFL/CIO, and the State Department of Labor. The independent oil and chemical union wants either a constitutional guarantee of labor's right to organize and engage in

collective bargaining in all matters pertaining to wages, hours, and working conditions or no mention of labor at all in the constitution.

A spokesman for the AFL/CIO noted that his organization would be satisfied if no specific provision relating to labor were included in the constitution. He also recommended that the convention delete the present section authorizing the legislature to regulate the wages, hours, and working conditions of women and girls. The AFL/CIO supports the industrial exemption program but urges that a provision be added requiring that companies receiving exemptions use Louisiana labor and materials whenever these are available. [X, 4 (10)]

Labor is additionally concerned with the use of convict labor on public construction projects. While the leasing of convicts to any public or private concern is presently forbidden, the legislature may authorize the employment of convicts on public projects. The AFL/CIO recommends that the new constitution forbid the use of convict labor on work which could otherwise be handled by private enterprise. (III, 33)

The State Department of Labor believes that its organization and duties should continue to be governed by statute, not the constitution. The department also recommends retention of the present provision authorizing the legislature to pass laws which are necessary to decide differences, with the consent of the parties, by arbitration. (III, 36)

The section giving the legislature authority to establish a system of unemployment compensation should also be left in the constitution. (XVIII, 7)

In the fields of health and welfare, the subcommittee heard testimony from the Welfare Rights Organization, several officials of the Louisiana Health, and Social and Rehabilitation Services Administration, the Louisiana State Medical Society, and the Louisiana State University School of Social Welfare.

The representative of the Welfare Rights Organization primarily expressed concern over the great need still existing among welfare recipients and the lack of adequate job training and work incentives for these individuals. It was recognized, however, that a new constitution could do little to correct the situation since these problems must be handled through statute and through cooperation with the federal government.

The commissioner of the Louisiana Health, and Social and Rehabilitation Services Administration, and the agency's counsel, director of administration and planning, and director of the division of income maintenance appeared before the Subcommittee on Public Welfare to discuss various aspects of the state's health and welfare program. All agreed that the new constitution should contain only a broad, general statement regarding their agency and its functions. Specific programs must be governed by statute because of changing conditions and the need to conform to federal regulations.

The dean of the Louisiana State University School of Social Welfare recommended that the constitution contain "only

broad objectives committing state government to provide the necessary human services to maintain and enhance the welfare and health of all its citizens, irrespective of age, sex, race, or ethnic origin." All details should be left to the legislature.

The representative of the Louisiana State Medical Society emphasized the need for a constitution that applies statewide. Local problems should be omitted. The society is satisfied with the manner in which health care is now provided by statute, not by constitutional provision. It hopes that this procedure will be continued in the new document.

Advocates of consumer protection made a number of requests regarding the new constitution. Most of these witnesses recommended that some provision be made to guarantee consumer representation on all state commissions. Creation of an Office of Consumer Counsel would be one method of accomplishing this. The constitution should also specifically authorize the legislature and local governing bodies to pass laws protecting the consumer. In this manner, statute could provide for changing conditions in the general area of consumer affairs.

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CC/73 Research Staff  
Committee on Education  
and Welfare  
Subcommittee on Public  
Welfare  
April 11, 1973  
Staff Memorandum No. 4

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RE: Proposed Drafts of Constitutional Provisions  
Relating to Business, Industry, Labor, Health,  
and Welfare.

The research staff has prepared a number of formal proposals for the consideration of the subcommittee. These include tentative sections on business, industry, labor, health, and welfare.

As requested, provisions currently found in the constitution and recommended for retention by representatives of business and industry are submitted in their existing form. The one exception to this is an addition to Article X, Section 4 (10) specifying that Louisiana suppliers, contractors, and labor be used by tax exempt industries where feasible.

Members may note that Article XIII, Section 5 and Article XIX, Section 14 both prohibit monopolies. The former was included in the original constitution; the latter, amended in 1936. Commentary on the 1936 amendment explains only that "the protection of the section was extended to cover manufactured products and to prohibit the restraint of business and monopolies of business."

Two provisions, not mentioned by spokesmen of business and industry, are also included for consideration. These concern tax credits for industrial buyers of natural gas and the prohibition of perpetual franchises. Constitutional provisions governing the organiza-

tion and work of the Public Service Commission are not included. The commission has not yet finished its draft of recommendations.

Regarding labor, since James R. McDowell of the Baton Rouge Oil and Chemical Workers Union initially requested that the new constitution guarantee the right of labor to organize and engage in collective bargaining, a proposal encompassing this has been written.

Several suggestions have been made as to the proper disposition of Article IV, Section 7, which authorizes the legislature to establish minimum wages and regulate the working conditions of women and girls. It could be deleted, or authority could be given to the legislature to act in the general area of hours and working conditions, not simply in the interest of women and girls. Such a provision is attached.

The staff has prepared three alternatives concerning convict labor: (1) retention of the current provision; (2) use of the Projet recommendation which rephrases the existing section; and (3) a section prohibiting the

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the lease of convicts and the employment of convicts in competition with private enterprise.

At the recommendation of the director of the Louisiana Department of Labor, two existing provisions are submitted for retention. One directs the legislature to pass laws for the arbitration of disputes. The other authorizes the legislature to establish a system of unemployment compensation. The existing provision for unemployment compensation is included as a formal proposal. A simplified version of this section has been written as well as a sample "general welfare" clause which could authorize state action in the fields of unemployment compensation, health, and welfare.

The Louisiana Health and Social and Rehabilitation Services Administration recommends a one-paragraph section to cover its organization and functions. The agency's proposal is attached.

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#### NOTES

Staff Proposals may be found in Chapter III, below. The agency proposal cited as attached to this memo is not found in the committee files.

CC/73 Research Staff  
Committee on Education  
and Welfare  
Subcommittee on Public  
Welfare  
April 18, 1973  
Staff Memorandum No. 5

RE: Recommendations for a Civil Service System.

The research staff has compiled a summary of recommendations relating to a state civil service system. This material includes views expressed to the subcommittee in its hearings and recommendations for specific constitutional provisions. The following individuals and organizations are represented:

Mr. Harold Forbes, director, Department of State Civil Service.

Mr. Wilson Callender, executive vice president, Louisiana Civil Service League.

Mr. Harry A. Johnson, Jr., president, Louisiana Civil Service Commission.

Mr. Henry Le Bert, director, Louisiana Public Employees Council No. 17, AFL-CIO.

1

Mr. Earl A. Marcelle, Jr., director of classified personnel, Southern University.

Mr. John Bradley, personnel director, Board of Commissioners, Port of New Orleans and chairman, Louisiana State Personnel Council.

Mr. J.K. Haynes, executive secretary, Louisiana Educational Association.

Representative Richard Turnley, member, Louisiana House of Representatives.

For each area of discussion, the existing constitutional provision and the relevant sections of the Louisiana State Law Institute's Projet are also indicated.

2

#### Civil Service Commission: Appointment and Composition

Louisiana Constitution: Five-member commission; members serve overlapping six-year terms; nominated by presidents of Louisiana State University, Loyola University, Tulane University, Centenary College, and Louisiana College. [XIV, § 15 (C)]

Projet: Six-member commission; five members to be nominated by college presidents as currently provided; these five serve overlapping six-year terms; sixth member directly appointed by governor



to serve a term concurrent with that of the governor.

Mr. Forbes: Retain existing provisions; expansion to seven colleges would be acceptable, however.

Mr. Johnson: Retain existing provisions.

Mr. Callender: Retain existing provisions.

Mr. Le Bert: Provide for election of one or more commissioners from the employees, by the employees.  
3

Mr. Bradley: Retain "the non-political appointment of commissioners who do not serve strictly at the pleasure of the governing authority."

Mr. Marcelle: Add two predominantly black colleges (e.g., Dillard and Southern) to the five colleges now submitting nominations or establish a five-member commission directly appointed by governor.

Mr. Haynes: Nine-member commission; three members must be black; governor selects eight members from nominations submitted by each four-year degree granting institution in the state; ninth member elected by employees of the civil service system.

Representative Turnley: Overhaul present system; make commission accountable to governor.  
4

Removal of Commissioners

Louisiana Constitution: Removable only for cause "after being given a copy of charges against him and an opportunity to be heard publicly on such charges by his appointing authority." [XIV, § 15 (E)]

Project: Removable only for cause through the impeachment process.

Mr. Forbes: "No member 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."

Mr. Johnson: -----

Mr. Callender: -----

Mr. Le Bert: -----

Mr. Bradley: Calls for "the protection of commissioners who do not serve strictly at the pleasure of the appointing authority."

Mr. Marcelle: Commission should be accountable to the governor or to the legislature.

Mr. Haynes: -----

Representative Turnley: Commission should be accountable to the legislature.

5

Eligibility for Job Appointments

Louisiana Constitution: (1921) Appointments and promotions are to be based upon merit, efficiency, and fitness determined "so far as practical" by competitive examinations; number of applicants to be certified shall be "not less than three." [XIV, §15, (I)]

Project: Based upon general system of "merit, efficiency, and fitness as ascertained by examinations which, so far as practical, shall be competitive, and all employees. . . shall be employed from those eligible under such certification." "The number to be certified. . . shall be not less than three."

Mr. Forbes: Appointments and promotions shall be made 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"; the commission "shall adopt rules for the method of certification of persons eligible."

Mr. Johnson: -----

Mr. Callender: Give commission exclusive power to make rules and maintain "impartial, non-discriminatory Merit System of Public Employment"; "THE RULE OF THREE is an indispensable and much maligned feature of any good merit system. It is portrayed as a big (bug-a-bear). Its application is varied, reasonable, and absolutely essential to merit. It means workers are picked for lifetimes of rewarding public service from the top down impartially, instead of from the bottom up."

Mr. Le Bert: Qualifying examinations should be more job related.

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Mr. Bradley: Urges continuation of existing requirements concerning recruitment, examination, placement, and pay.

Mr. Marcelle: Present rule "has served as a tool for everyone to hide behind in appointing blacks to state jobs." Proposes pass-fail system.

Mr. Haynes: "We recommend the continued use of the test as one of several evaluative criteria for the screening of applicants for employment. This proposal calls for the weighting of such criteria as the Test, Personal References, Academic Qualifications, Interview and other measurable characteristics. Further, we propose that the Test would be highly 'job' related." "We believe that it should be written into law or provided by Executive Order that each employing agency be required to recruit its staff from the black and white constituency in proportion to their population ratio in the State."

Representative Turnley: "The Commission's so-called 'Top' 3 score effort is questioned for when blacks do get into the 'Top' 3 and still aren't hired, certainly an explanation is due and the people need to know what type of examination is administered."

7

Review of Commission Rulings

Louisiana Constitution: "There is vested in the State Civil Service Commission . . . the authority and power . . . to adopt, repeal and enforce rules which shall have the effect of law." [XIV § 15 (1)]

Project: Rules of Civil Service Commission shall have the effect of law.

Mr. Forbes: "The commission's rule-making power shall be exclusive, and its rules shall have the effect of law."

Mr. Johnson: New constitution should retain the power of the commission to make rules having the effect of laws; he is opposed to legislative review.

Mr. Callender: "The commission adopts rules that have the full force and effect of law, and the legislative and the executive branch shall not interfere or limit the power of the commission to establish its own rules in the implementation of its administration of civil service."

Mr. Le Bert: Legislature and governor should have the authority to grant pay raises at any time and cost-of-living increases when necessary.

Mr. Bradley: -----

Mr. Marcelle: Commission should be accountable to the governor or to the legislature.

Mr. Haynes: -----

Representative Turnley: Commission should be accountable to the legislature.

8

Burden of Proof in Hearings

Louisiana Constitution: "The burden of proof on appeal, as to the facts, shall be on the employee." [XIV, § 15 (B,1)]

Mr. Forbes: Retain existing provision.

Mr. Callender: Retain existing provision. "THIS QUASI-JUDICIAL system of public hearings simplifies the essential process of getting rid of undesirable workers, while at the same time protecting all workers from undue discrimination or abuse. In order to enable the involved worker to carry the burden of proof in a hearing he must be given at the time of discipline a letter with time and place specifics as to 'why.'"

Le Bert: Burden of proof should be placed on employer.

9

Appeals from the Rulings of the Commission

Louisiana Constitution: "The decision of the appropriate Civil Service Commission shall be final on the facts, but an appeal shall be granted to the Supreme Court of Louisiana on any question of law." [XIV, § 15 (0,1)]

Project: "The commissions [state and city] shall hear and decide all removal and disciplinary cases subject to judicial review."

Mr. Forbes: Decision of commission final on the facts but subject to review on questions of law in the First Circuit Court of Appeal.

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CC/73 Research Staff  
 Committee on Education and Welfare  
 Subcommittee on Public Welfare  
 April 23, 1973  
 Staff Memorandum No. 6

Re: Municipal Fire and Police Civil Service

Attached is a summary of recommendations presented to the Subcommittee on Public Welfare regarding fire and police civil service. Views of the following individuals and organizations are represented:

- John C. Runyon, state examiner, Municipal Fire and Police Civil Service
- Clarence J. Perez, president, New Orleans Fire Fighters Association
- L.F. Peters, legislative representative, Professional Fire Fighters Association of Louisiana
- Hugh T. Ward, attorney, Professional Fire Fighters Association of Louisiana
- Wellborn Jack, delegate, Louisiana Constitutional Convention of 1973
- Irvin L. Magri, Jr., chairman, Patrolmen's Association of New Orleans, National Union of Police Officers, AFL-CIO
- William Konrad, director of personnel, Department of City Civil Service, city of New Orleans

Recommendations regarding fire and police civil service in the new constitution:

- Mr. Runyon: Recommends a section similar to Section 15.1 of Article XIV with the following exceptions:
  1. The system should apply to municipalities of more than 7,000 inhabitants as determined by the federal census or by any population count officially recognized by the state government.
  2. Remove the present maximum population limit (250,000) of cities within the system. This would bring New Orleans firemen and policemen into the state system.
  3. Word the provision so as to cover municipalities with a police and/or a fire department. Extend coverage to all parish fire departments.
- Mr. Perez: Exclude New Orleans fire fighters from City Civil Service and include them in Municipal Fire and Police Civil Service.
- Mr. Peters: Include cities with a population of 7,000 or more; include New Orleans.
- Mr. Ward: Maintain present system but make it apply to firemen and policemen in all cities.
- Mr. Jack: Maintain present system but include New Orleans and all cities with a population of 7,000 or more.
- Mr. Magri: Place New Orleans under the Municipal Fire and Police Civil Service.
- Mr. Konrad: Maintain present status of New Orleans City Civil Service.

CC/73 Research Staff  
 Committee on Education and Welfare  
 Subcommittee on Public Welfare  
 April 23, 1973  
 Staff Memorandum No. 7

Re: Constitutional Provisions for City Civil Service

Mr. William Konrad, director of personnel, New Orleans Department of Civil Service, submitted a project of a civil service system for the city of New Orleans. The plan applies to cities with a population exceeding 300,000 but could serve other cities as well. The recom-

mentation primarily simplifies and shortens material now found in Section 15 of Article XIV. Some provisions, however, represent a change:

1. In paragraph (B) of the proposal, the City Civil Service Commission is given authority to make additional exemptions to the classified service. At the present time, this can be done only by constitutional amendment.
2. Mr. Konrad recommends that the City Civil Service Commission remain a three-member board. One member would continue to be directly appointed by the governing body of the city. The other two would be selected by the governing body of the city from nominations made by the presidents of the "six oldest colleges or universities located in or nearest the city." Each president would contribute one name to the list of eligibles.
3. Each commissioner would receive compensation of \$50 for each day devoted to commission work but no more than \$2,000 in any year. Current per diem is \$25 with the same annual maximum.
4. The New Orleans plan retains the basic features of a merit system of appointment but makes no mention of the "rule of three." The commission is given authority to adopt rules for certification of job eligibility.
5. Penalties for the willful violation of civil service provisions are lessened. Upon conviction for such a violation, a defendant now faces a fine of not less than \$100 nor more than \$1,000 and/or imprisonment for not less than one month nor more than six months. Mr. Konrad's recommendation specifies a fine of not more than \$500 and/or imprisonment for not more than six months.

Mr. Roy Stewart, director, Jefferson Parish Civil Service, and Mr. Charles P. Roth, Jr., a civil service employee in that parish, proposed a uniform merit system for city and parish employees throughout Louisiana. Mr. Roy J. Champagne, director of personnel, Municipal Government Employees Civil Service, Lafayette, Louisiana, has notified the subcommittee that he endorses this plan.

The Stewart-Roth recommendation mandates a civil service system for all political subdivisions serving a population of

50,000 or more and/or political subdivisions employing 150 or more persons in full-time classified service. Each system shall be administered by a "citizen-manned board of supervisors" of from three to seven members. Not more than one-third of the members shall be directly appointed by the chief executive officer of the affected jurisdiction. Not less than two-thirds of the members shall be selected by the chief executive from lists sub-

mitted by the presidents of universities located in or near the jurisdiction. Members of these commissions have powers and duties comparable to those of the present New Orleans City Civil Service Commission.

Establishment of a Public Personnel Council is a novel feature of the Stewart-Roth project. This council would be composed of one representative from each civil service jurisdiction in the state, and it would study and promote uniform policies of public personnel administration.

The recommendation includes provisions for nondiscrimination in job appointments and promotions, employment based on merit, prohibition of political activities, the appeal process, the definition of classified and unclassified positions, and funding of the system. These provisions are based on the constitutional sections now governing the state civil service system and the New Orleans city system.

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CC/73 Research Staff

Committee on Education and Welfare

Subcommittee on Public Welfare

April 24, 1973

Staff Memorandum No. 8

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Re: Proposals Relating to Business, Industry, Labor, Health, and Welfare.

For purposes of identification, the following numbers have been assigned to the proposals under consideration:

1. Definition of corporation
2. Perpetual franchises or privileges
3. Creation and regulation of corporations; monopolies
4. Monopolies, trusts, combinations or conspiracies in trade
5. Ex-post facto laws; impairment of contracts; vested rights; just compensation
6. State tax, levy or increase in rate; approval by two-thirds of legislature
7. Tax measures; amendments; conference committee reports; vote required
8. Industrial tax exemptions
9. New industries; exemption from municipal and parochial taxation; school tax exemption
10. Raw materials, goods, commodities, and other articles held in public storage for export outside the continental United States
11. Imports
12. Goods, commodities, and personal property in interstate transit
13. Property of nonprofit corporation devoted to promotion of trade, travel, and commerce
14. Tax relief for manufacturing establishments
15. Severance tax on natural resources; levy; rate; allocation to parishes
16. Parish industrial areas
17. Encouragement of industrial enterprises; bonds to acquire plant sites
18. Limitations on the legislature
19. Arbitration laws
20. Regulation of hours and conditions of employment
21. Collective bargaining
22. Unemployment compensation
23. Unemployment compensation
24. Convict labor
25. Convict labor
26. Convict labor
27. Administration of health, social, and welfare programs
28. Public health and welfare

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CC/73 Research Staff  
Committee on Education  
and Welfare  
Subcommittee on Public  
Welfare  
May 1, 1973  
Staff Memorandum No. 9

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Department of State Civil Service and the Louisiana  
Civil Service Commission.

The research staff has prepared an analysis of the civil service proposal submitted by the Louisiana Department of State Civil Service and the Louisiana Civil Service Commission. The attached study compares this project with Article XIV, Section 15 of the Louisiana Constitution. For each section of the recommendation, corresponding parts of the constitution are provided. Material included in the constitution which is not repeated in the project is underlined or designated as "Deleted." The "Comment" following the department's proposal indicates similarities or differences between the two documents.

The project is reproduced exactly as submitted by the Department of State Civil Service. Sentences may be isolated to facilitate comparison with existing constitutional provisions, but the order of the project remains intact.

Re: Constitutional Provisions Recommended by the Louisiana

CONSTITUTIONAL PROVISION FOR THE STATE CIVIL SERVICE SYSTEM AS PROPOSED BY THE LOUISIANA DEPARTMENT OF STATE CIVIL SERVICE AND THE LOUISIANA CIVIL SERVICE COMMISSION

LOUISIANA CONSTITUTION ARTICLE XIV

§ 15 State Civil Service

§ — State Civil Service

A. The State Civil Service includes all offices 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 offices 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 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.

Comment: Omits examples of state boards covered. Last sentence should be in part (3). See below.

(A) (2). State service. "State Service" or "Civil Service of the State" means all offices and positions of trust or employment in the employ of the State, or any department, independent agency or other agency; board or commission thereof (such as Dock Boards and all Boards of Commissioners, Levee and Drainage Boards and Commissions, Housing Authorities, Court House Commission of New Orleans, State Hospitals, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College), and shall also include all offices and positions of trust or employment in the employ of joint State and Federal agencies administering State and/or Federal funds; joint state and municipal agencies financed by state and/or municipal funds, except municipal boards of health; joint state and parochial agencies financed by state and/or parochial funds; irrespective of whether the pay for such offices and positions of trust or employment is to be paid with state or municipal or parochial funds or with funds contributed jointly by the state and/or municipalities and/or parishes involved.

(Add: The State Civil Service divided into the "unclassified" and the "classified" service [A])

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; (1) registrars of voters and one chief deputy for each registrar of voters.

Comment: Omits examples of "heads of principal departments appointed by the governor (G, a, 2). Omits one private secretary for president of each college or university; omits the Louisiana Youth Commission, which has been absorbed by the Louisiana Health, Social, and Rehabilitation Services Administration; omits statement that appointing authority may fill these jobs with classified employees if desired (G, a, 5). Shortens reference to members of military and naval forces (G, a, 6). Omits recorders of mortgages, registrars of conveyances, constables of city courts (G, a, 10).

(G). Unclassified and classified service; definitions; change of status. The "State Service" and the "City Service" of cities of the State having a population exceeding two hundred fifty thousand shall be divided into the "unclassified" and "classified" service.

(a) The Unclassified State and City Service shall comprise the following offices and positions: (1) State and City officers elected by the people, and persons appointed to fill vacancies in elective offices; (2) heads of principal departments appointed by the Governor or the Mayor or other governing body of any city, including the State Fire Marshal, Surveyor General, State Live Stock Inspector, Service Commissioner for United Spanish War Veterans, Director of Veterans' Affairs, and Director of Civil Defense, and the administrator of the Division of Employment Security in the Department of Labor, who shall be appointed by the Governor. (3) City Attorneys; (4) members of State and City Boards and Commissions discharging executive, administrative or advisory functions; (5) one private secretary for the President of each college or university, one principal assistant or deputy, one attorney, and one person holding a confidential position to any officer, Board or Commission mentioned in (1) (2) and (4), except The Louisiana Youth Commission, Department of State Civil Service and the Departments of City Civil Service, provided no appointing authority shall be required to fill any of these positions with unclassified employees, but may assign the duties of any of them to a classified employee; (6) members of the military or naval forces, including those employees in the military department of the State of Louisiana, who, by the nature of their duties, must be officer or enlisted personnel of the Louisiana National Guard, either active or retired, or must have had prior service in the Armed Forces of the United States; (7) the teaching, professional and administrative officers of all schools, colleges and universities of the State, and bona fide students of such institutions employed by any State agency; (8) officers and employees of the Legislature and of the offices of the Governor, Lieutenant Governor, Attorney General, mayors of the several cities, and city attorneys, and the Board of Liquidation of the City Debt of New Orleans; (9) Commissioners of elections, and watchers; custodians and deputy custodians of voting machines; (10) all persons employed and deputies selected by sheriffs, clerks of court, police juries, assessors, coroners, state tax collector for the City of New Orleans, recorders of mortgages, registrars of conveyances, district attorneys, constables of city courts, etc.

(C, a)

record; (11) registrars of voters and one chief deputy for each registrar of voters; (12) persons employed to make or conduct a special inquiry, investigation, examination or installation if the Governor or governing body of the city certifies that such employment is temporary, and that the work should not be performed by the employees in the Classified Service, and the Commission approves such certifications; (13) special counsel and special prosecutors of any appointing authority, notaries public, referees, receivers, and jurors; (14) patient or inmate help in State or city charitable, penal, or correctional institutions; (15) persons temporarily retained or employed by a Director of Personnel for the purpose of conducting or assisting in examinations; (16) laborers and other workers employed and paid on an hourly, daily, or piece work basis, provided the inclusion of such persons in the Unclassified Service is requested by the appointing authority and is approved by the appropriate Commission; (17) persons employed to make or conduct a special inquiry, investigation, examination or installation on behalf of the Legislature or a Committee thereof; and such persons employed by or on behalf of any other agency of the State or a city, provided that inclusion of such persons in the Unclassified Service is approved by the appropriate Commission; (18) independent contractors employed to render services on a contractual basis, including independent contractual professional service.

(G) (c) Although the Legislature shall not increase the exemptions or add to the Unclassified service defined in (C) (a) by providing restrictions in (G) (a) or this section shall apply to the Legislature or to the governing body of any city or any parish governed jointly with one or more municipalities under a plan of government, having a Civil Service System, the power to place in the classified state or city service, as the case may be, any classes and positions, except elective offices, which are placed in the unclassified service by (G) (a), provided the governing body of any city or any parish, governed jointly with one or more municipalities or any municipality desiring to so place in the classified state or city service, as the case may be, any offices and position shall notify, in writing, the city or state Civil Service Commission, as the case may be, of its desire and intent to do so at least six months prior to the effective date of the inclusion of such offices and positions in said system.

(G) (b) The Classified Civil Service of the cities subject to the provisions of this Section shall comprise all other offices and positions of employment now existing or hereafter created in the City Service. The Classified Civil Service of the State shall comprise all other offices and positions of employment in the State service existing on the thirtieth (30th) day of June, 1953, or thereafter created in the State Service.

Comment: Omits subsections (12) through (18).

(B) Additional exceptions may be made and revoked by rules adopted by the Commission.

Comment: New.

(B) All persons excepted from the classified service are in the unclassified vice of the state.

Comment: Essentially repeats the existing provision.

(C). State commission. There is hereby created and established a State Civil Service Commission to be composed of five members who are citizens and qualified voters of the State of Louisiana. Three members of the Commission shall constitute a quorum.

(E) The State Commission shall be domiciled in Baton Rouge, and each City Commission shall be domiciled in the city in which its members serve.

(C) The five Commissioners shall be appointed by the Governor for a term of six years as follows:

The Presidents of Louisiana State University and Agricultural and Mechanical College, at Baton Rouge, Louisiana, Loyola University of the South, at New Orleans, Louisiana, Centenary College, at Shreveport, Louisiana, Tulane University of Louisiana, at New Orleans, Louisiana, and Louisiana College, at Pineville, Louisiana, shall each nominate three persons, and one member of said Commission shall be appointed by the Governor from the three persons nominated by each president. Vacancies by expiration of the term of office or otherwise shall be filled by appointment of the Governor from nominations made in like manner by the president (or his successor) who nominated the member whose place is being filled. It shall be the duty of the president to make such nominations within thirty days after the effective date of this section, and thereafter within thirty days after any vacancy occurs, and appointments shall be made by the Governor within thirty days after nominations have been submitted. Should the Governor fail to appoint within said thirty days, the first named nominee shall automatically become a member of the Commission.

All appointments, as hereinabove provided, shall be made by the Governor without the advice or consent of the Senate, or confirmation by the Senate.

(E). Commissions; domicile; members; removal; political activity. No member of the State or a City Civil Service Commission shall be removable except for cause, after being given a copy of charges against him and an opportunity to be heard publicly on such charges by his appointing authority.

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 appointment to fill an unexpired term shall be only for the unexpired term. Domicile of the commission shall be the city of Baton Rouge, Louisiana.

The presidents 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 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.

Comment: Stipulation that nominees be listed in order of preference is new; deletes the statement that appointees are not subject to confirmation by the Senate.

No member of the State Civil Service Commission shall be removed 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.

Comment: Provides for removal hearing in Nineteenth Judicial District Court rather than by the appointing authority.



(C)

The first Commissioners shall serve from the date of their appointment. The first five commissioners nominated by the President of the five educational institutions shall serve as hereinafter provided.

One of the first five Commissioners appointed from nominations submitted by the presidents of the educational institutions, as hereinabove provided, shall serve for two years, two for four years, and two for six years. The respective term of the first five appointees shall be designated by the Governor. The term of office for each successor to an original appointment made on nominations submitted by the respective presidents shall be for six years, provided that appointment to fill a vacancy for an unexpired term shall be only for the unexpired term. Each Commissioner shall serve until his successor has been appointed and qualified. If for any reason nominations are not submitted to the Governor by any of the college presidents herein named within the time herein designated, the vacancy on the Commission for the term or unexpired term resulting from such failure to nominate shall be filled by a majority vote of the other members of the Civil Service Commission.

This material is deleted from the recommendation:

(E)

Each Commission shall elect one of its members Chairman. All hearings shall be open to the public.

(K). Commission members; compensation. Members of the State and City Commissions shall each be paid twenty-five dollars for each day devoted to the work of the Commission, but not more than two thousand dollars each in any year. They also shall be entitled to reimbursement for actual traveling and other expenses.

(C) 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.

Comment: Transition schedule for commission members. Original schedule had to establish overlapping terms for first commissioners.

Comment: Deletes mention of a chairman and proviso that all hearings be open to the public.

Comment: Deletes compensation of commissioners.

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.

Comment: Omits statement that director of personnel may be removed only for cause, after being given a copy of the charges against him and an opportunity for a hearing before the commission. This procedure would be followed regardless since the director is a classified employee.

(C)

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.

(F) (1). Directors of personnel; appointment; powers and duties; removal. The Director of Personnel for the Department of State Civil Service or any Department of City Civil Service shall be appointed with or without competitive examination by the appropriate State or City Civil Service Commission. Directors shall be classified as Civil Service employees and act as administrative heads of their respective departments, shall appoint such employees, experts, special assistants and attorneys, with the consent of the appropriate Commission, as may be necessary to carry out effectively the provisions of this Section, and shall have such other powers and perform such duties as may from time to time be delegated to them by the appropriate Civil Service Commission. A Director may be removed only for cause by the appropriate Commission after being given a copy of charges against him and an opportunity to be heard publicly on such charges before the Commission. Directors of Personnel holding such positions on the effective date of this Section in any city of the State shall retain their positions as Directors, subject to the provisions of this Section, and such persons shall be classified Civil Service employees with status until their successors are duly appointed and qualified as provided herein.

(c.) (2). Directors of personnel; conduct of examinations. As far as may otherwise be provided in this Section or the rules adopted hereunder, Directors of Personnel and their staffs shall hold competitive entrance and promotion examinations for all appointments in the Classified Service so far as it is practicable, and may under the supervision and with the approval of the appropriate Civil Service Commission restrict admission to take examinations to persons qualified to perform the duties of the position by fixing requirements of training, work, age, health, skill, education, character, physical capacity, experience, reputation, and other qualifications. The subject matter, experience, ratings, nature, and content of competitive examinations, practice, and given by its experts and staff, shall be solely within the administrative supervision and discretion of the appropriate Civil Service Commission. In the case of positions where the duties thereof require that the applicant or employee hold a license issued by any board or examining authority established under laws of the State, the examination shall be unassembled and shall be based upon the training, residence, health, skill, education, character, physical capacity, experience, reputation and other qualifications of the applicant or employee. Where there are sufficient local applicants and the kind and character of positions justifies it and it is otherwise practicable and reasonable to do so, statewide examinations for positions in the state service shall be given at convenient localities in each senatorial district.

(A) (1). Appointments and promotions; examinations; discrimination. Permanent appointments and promotions in the Classified Civil Service of the State and of cities having a population exceeding two hundred fifty thousand, according to the last preceding decennial census of the United States for which the final report of population returns have been printed, published and distributed by the Director of the Census, shall be made only after certification by the appropriate Civil Service Departments pursuant to a general system based upon merit, efficiency, and fitness, under which certificates shall be based on examinations which, so far as practical, shall be competitive, and all employees in the Classified Service shall be employed from those eligible under such certification.

(I, a)

The State and City Civil Service Commissions shall adopt:

(a) rules providing for the method of certification of eligibles for appointment or promotion, and the number to be certified, which shall be not less than three except if more than one vacancy is to be filled, the name of one additional eligible for each additional vacancy shall be certified, and except that special and different rules may be published in the case of reemployment lists and reinstatement or rules defined in (C), (5), (4) and (3).

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.

Comment: Omits references to additional requirements for examination and appointment; omits "rule of three."  
See comment under part (G) of this project.

(E)

The commission shall adopt rules for the method of certification of persons eligible for appointment and promotion

Comment: Shortens existing authorization. See part (F) of this recommendation for reference to the commission's rule-making power.

and shall provide for appointments defined as emergency and temporary appointments where certification is not required.

Comment: Commission now has authority to provide for such appointments.

(I)

There is vested in the State Civil Service Commission and in the appropriate City Civil Service Commissions for the several cities respectively the authority and power, after public notice and public hearing, to adopt, amend, repeal and enforce rules which shall have the effect of law, regulations employment, transfers, promotion,

(I, a)

and the rules shall also define and establish such certifications and appointments as are declared and defined by the Commission to be emergency, provisional or conditional appointments or appointments for a limited period where Civil Service status is not obtained and certification not required.

(E)

No person having gained permanent civil service status in the classified State Civil Service shall be subjected to disciplinary action except for cause;

Comment: Omits requirement that cause for disciplinary action must be expressed in writing by the appointing authority.

or 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 subjected to such disciplinary action shall have the right of appeal to the State Civil Service Commission.

Comment: Adds prohibition of discrimination on the basis of race, sex, national origin, or any other non-merit factor (A, 1; N, 2). Omits right of appeal for job applicants who allege discrimination (O, 2).

The burden of proof on appeal, as to the facts, shall be on the employee.

Comment: Identical with existing provision.

(N) (1). Employees' rights and obligations; dismissal, etc., for cause. No person in the State or Classified Service, having acquired permanent Civil Service status, shall be demoted, dismissed, or discriminated against, except for cause, expressed in writing by the appointing authority.

(A, 1)

No person in the "State" or "City Classified Service", having gained civil service status shall be discriminated against or subjected to any disciplinary action except for cause, and no person in the State or City Classified Service shall be discriminated against or subjected to any disciplinary action for political or religious reasons, and all such persons shall have the right of appeal from such actions.

(N) (2). Discrimination; political or religious. No person shall be appointed or promoted to, or demoted, or dismissed from any position in the State or City Classified Service, or in any way favored or discriminated against with respect to employment in the Classified Service because of his political or religious opinions or affiliations.

(O) (2). Right of appeal. Subject to the rules governing the right of appeal, persons in the State or City Classified Service who allege that they have been deprived of their rights or discriminated against under the provisions of this Section, or persons who shall have applied for or shall have been examined for the Classified Service and shall not have established their status as permanent Classified employees and allege that they have been discriminated against in review of their applications, admission to the examination, the scoring of examinations, the establishment of eligible lists and certifications therefrom, shall be granted the right of appeal before the appropriate Commission.

(N, 1; a)

The burden of proof on appeal, as to facts, shall be on the employee.

N. No member of the State Civil Service Commission and no officer 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 political club or organization, or an officer or member of any factional, political club or organization, or a candidate for nomination or election to any public office, or shall make any political speech or public political statement in behalf of any candidate, faction, or party, as a part of any political campaign for the nomination or election of public officers, or shall take any part in the management or affairs of any political faction or party or in 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 in any election, and to cast his vote as he desires.

Comment: Essentially repeats (N, 7) and (N, 8). Does not forbid a commissioner to hold any "position of public employment whatsoever" (with the exception of notary public, faculty member of educational institution, and military or naval officer) as in (E) of the existing constitution. Deletes reference to oath of office (E).

(N)(7). Political activity; campaigning, etc. No employee in the Classified Service of the State or a city, and no member of a State or City Commission shall be a member of any national, state, or local committee of a political party, or an officer or member of any factional, political club or organization, or a candidate for nomination or election to any public office, or shall make any political speech or public political statement in behalf of any candidate, faction, or party, as a part of any political campaign for the nomination or election of public officers, or shall take any part in the management or affairs of any political faction or party or in 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 in any election, and to cast his vote for whom he pleases.

(N)(8). Elective officers; exclusion from classified service. No person elected to public office shall, while serving in such elective office, be appointed to or hold any position in the Classified Service of the State or a city.

(E)

No member of any Civil Service Commission shall be a candidate for nomination or election to any public office or hold any other public office or position of public employment whatsoever, the office of Notary Public or a military or naval office, or Dean or member of the faculty of any educational institution excepted; nor shall any member of the Commission be or have been during a period of six months immediately preceding his appointment a member of any local, state, or national committee of a political party, or an officer or member of a committee in any factional or political club or organization, and each Commissioner shall take the oath of office before entering upon the duties of office, and such oath shall include a statement of belief in and desire to support the principles of the Merit System.

(F) No person shall solicit contributions for political purposes from any classified employee or official

Comment: Shortens existing provision.

nor use or attempt to use his position in the State Civil Service to punish or coerce the political action of such person.

Comment: Omits examples of punishment and political coercion.

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.

Comment: Commission currently has this authority.

(N)(3). Political contributions. No employee in the Classified Service of the State or a city, and no member of the State or City Commissions shall, directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political organization or purpose, or solicit or take any part in soliciting any such assessment, subscription, or contribution. No person shall solicit any such assessment, subscription or contribution of any employee in the Classified Service.

(N)(6). Political activity; influencing subordinate. No appointing authority, or agent or deputy thereof, or supervisor of any employee, shall directly or indirectly demote, suspend, discharge, or otherwise discipline or threaten to demote, suspend, discharge, or otherwise discipline any person in the Classified Civil Service of the State or any city for the purpose of influencing his vote, support, or other political activity in any election or primary election; and no appointing authority, or agent or deputy thereof, shall use his official authority or influence, by threats, promises, or other means, directly or indirectly, to punish or coerce the political action of any employee in the Classified Service of the State or a City.

(N)(8). Political activity; commission rules. The State and City Civil Service Commissions shall have the authority to adopt rules prohibiting other and additional political activities on the part of appointing authorities, which may have the effect of intimidation or coercion of employees in the Classified Service for political or partisan purposes.

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.

Comment: Deletes specific mention of these items in Paragraph (I):

public notice prior to promulgation of rules;  
 work test periods (2);  
 compilation of eligible lists and removal of names therefrom; leaves of absence, sick and annual leaves, layoffs, reinstatements, re-employment, transfers, and abolition of positions (3);  
 promotions based on competition (4);  
 filling vacancies from within and without the classified service (5);  
 hours of work and necessity for governor's approval of hour scale (6);  
 attendance records, training programs (7);  
 fixing the appeal procedure (8);  
 veterans' preference (9).

(1) Rules and regulations; removal of names from lists; delegation of powers. There is vested in the State Civil Service Commission, and in the appropriate City Civil Service Commissions for the several cities respectively the authority and power, after public notice and public hearing, to amend, amend, repeal and enforce rules which shall have the effect of law, regulating employment, transfers, promotion, removal, qualifications and other personnel matters and transactions, employment conditions and disbursements to employees, and carrying out generally in the foregoing respects, and as may be otherwise necessary to that end, the provisions and purposes of civil service as herein provided, including, but not by way of limitation, rules (2) provided for the approval or disapproval of disbursements for all personal services in the classified service; (2) establishing work-test periods of not less than six months nor more than twelve months, before appointments, before appointments status as classified employees, provided that no more than three months of such status shall be removed successively from the same position during their work-test periods without the approval of the commission; (3) promulgating uniform standards, covering examinations, qualification, consolidation and cancellation of eligible lists and the removal of names from an eligible list; leaves of absence, including sick and annual leaves, layoffs, reinstatements, reemployment after transfers, and abolition of positions; (4) providing for promotions on a competitive basis, except where the commission finds that it is impractical and where, where rules have been adopted which are arbitrary and as decided in (1) (c) and (1) (d); (5) providing for the filling of vacancies in the classified service by promotion, transfer, reassignment, temporary employment, promotion, or appointment or temporary appointment, as such methods are defined, and under the conditions and subject to the restrictions and limitations prescribed in the rules; (6) establishing and recommending hours of work, including in the rules; (7) establishing and recommending hours of work, provided that the rules establishing the hours of work shall not become effective until approved by the governor or governing body of the city, as the case may be; (8) providing for attendance records, conditions for layovers, and training and educational programs for members in the State of the service; and a uniform service rating system (including the manner in which ratings are to be used in promotions, salary increases, suspensions, and separations); (9) other matters pertaining to appeals; (9) according preferences in original appointments to citizens and registered voters of the state and preferences to citizens and registered voters of the cities subject to the provisions of this section, and five-point preferences in original appointments and three-point preferences in promotions to all persons honorably discharged, or discharged under honorable conditions, from the armed forces of the United States, after having served between the wartime dates of April 6, 1917 and November 11, 1918, both dates inclusive, or between September 16, 1940 and July 25, 1947, both dates inclusive, or between June 27, 1950 and a date to be established hereafter by presidential proclamation or by concurrent resolution of the Congress, both dates inclusive, or who served in the Viet Nam Theater between July 1, 1955 and the date the government of the United States declares to be the date of termination of service for members of the armed forces to receive credit for the award of the Viet Nam Service Medal, both dates inclusive, or who served in the peace-time campaigns or operations for which campaign badges have been authorized, and five-point preferences in original appointments to honor-

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(I)

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and discharged veterans who served either in peace or in war and who have one or more disabilities recognized by the Veterans Administration as service-connected, or to wives of veterans who are in such poor physical condition as to preclude their appointment to civil service jobs in their usual line of work, or to unmarried widows of deceased veterans who served in a war period as defined above or in peacetime campaigns or expeditions, or to unmarried widowed mothers of persons who died in active wartime or peacetime service or who suffered total and permanent disabilities in active wartime or peacetime service, or divorced or separated mothers of persons who died in wartime or peacetime service or who became totally and permanently disabled in wartime or peacetime service, provided, that only one ten-point preference shall be allowed at any one time to the persons enumerated above, provided further, that if the ten-point preference is not being utilized by the veteran, either because of the veteran's physical or mental incapacity which precludes his appointment to a civil service job in his usual line of work or because of his death, such preference shall be available to his wife, unmarried widow, or eligible mother as defined above, in the order specified, provided that all such preferences may be given only to persons who have attained marks on the tests which meet at least the minimum requirements imposed for each test, and who have received at least the minimum rating required for eligibility.

The State and City Civil Service Commissions shall adopt:

(a) rules providing for the method of certification of eligibles for appointment or promotion, and the number to be certified, which shall be not less than three, except if more than one vacancy is to be filled, the name of one additional eligible for each additional vacancy may be certified, and except that special and different rules may be established in the case of reemployment lists and reclassification and if the rules defined in (1) (3) (4) and (5), and the rules shall also define and establish such certifications and appointments as are declared and defined by the Commission to be emergency, provisional or conditional appointments or appointments for a limited period where Civil Service status is not obtained and certification not required.

(b) A classification plan, prepared and submitted by the Director or already in existence, requiring the classification of positions in the classified service according to similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan and any amendments of the plan from time to time have been adopted by the Commission, the Director, with the approval of the Commission,

Comment: Omits the directive that the number certified for job eligibility shall be no less than three except for special procedures for reinstatement and reemployment.

Comment: Omits the procedure for implementing job allocation lists.

Deleted:

(I)

... shall allocate the positions of every employee in the class and service to one of the positions in the plan. Thereafter, as new positions are created or additional classes are established, or existing classes are divided, combined, altered or abolished, the Director shall make such allocations or reallocations of positions to new or existing classes as are necessitated thereby. Following the adoption of the classification plan and any amendments of the plan, and the allocation to classes therein of positions in the classified service, the class titles set forth therein shall be used to designate such positions in all official records, documents, vouchers and communications, and no person shall be appointed to or employed in a position in the Classified service under any class title which has not been approved by the Director as appropriate to the duties to be performed.

Employees affected by the allocation or reallocation of a position to a class, or by any changes in the classification plan, shall be afforded a reasonable opportunity to be heard thereon, first by the Director and later by appeal to the Commission after filing with the Director a written request for a hearing.

(c) Rules fixing minimum, maximum, and such intermediate rates of compensation as may be necessary, and establishing uniform pay plans and amendments thereof from time to time, according to duties and responsibilities, on the basis of recommendations of the Director after consultation by the Director with appointing authorities and the State or municipal fiscal officer, as the case may be, and resort to such other measures of investigation and research as he may deem desirable. In the adoption of a pay plan and amendments thereof for the State Service, differences in pay in private business and industry and the scarcity of applicants in the different areas of the State may be taken into consideration in fixing the different rates in the different localities and areas. Each employee shall be paid at one of the rates set forth in the pay plan for the class of position in which he is employed. The rate of any employee at the time the original pay plan takes effect shall not be reduced by such pay plan. A pay plan, or amendments thereto, of the State shall become effective only after approval of the Governor; and a pay plan and amendments thereto for any city shall become effective only after approval by the governing body of said city.

Comment: Deletes authorization for providing salary differentials; deletes proviso that the governor must approve all pay plans.

Deleted:

(1) Promotions. Vacancies in positions in the Classified Service of the State and cities, except for such rules as may be adopted under the authority of (1) (3) (4) (5) and (1) (a), shall, as far as practicable, be filled by promotion from lower classes following competitive tests; provided, that in case the Commission so directs, such positions shall be filled by competitive tests open not only to State or city officers and employees serving in lower classes, but also to persons not in the service of the State or city. A change from a position in any class to a position in another class for which a higher maximum rate of pay is prescribed shall be considered a promotion. The Director with the approval of the Commission shall, to the extent he considers such action desirable, indicate the principal or normal lines of promotion from and to each class in the class specifications or in regulations.

(2) Lay-offs; preference employees; reinstatement or preferred reemployment lists. Whenever a position in the Classified service is abolished or needs to be vacated because of stoppage of work from lack of funds, or other causes, the employee or employees in the class involved in the organization unit affected shall be laid off without pay by the appointing authority under such rules and regulations as to selection and priority as may from time to time be adopted by the Commission. Provided, that preference employees (ex-members of the armed forces and their dependents as described in I of this Section) whose length of service and efficiency ratings are as good as or better than other competing employees shall be retained in preference to all other competing employees; and provided further, that when any or all of the functions of any state agency are transferred to or when any state agency is replaced by some other state agency, or state agencies, all preference employees in the classifications and performing the function or functions transferred or in the state agency which is replaced by some other state agency shall first be transferred to the replacing state agency, or state agencies, for employment

Comment: Omits directive to fill vacancies by promotion, so far as practicable, following open, competitive tests.

Comment: Omits provision for layoffs necessitated by economic or other causes and the assignment of preference ratings to employees thereby affected.

**Deleted:**

in positions for which they are qualified, before such state agency or state agencies, shall appoint additional employees from eligible lists for such positions. The appointing authority shall give written notice to the Director of any proposed lay-off a reasonable time before the effective date thereof, and the Director shall make such orders relating thereto as he considers necessary to secure compliance with the rules. The name of every regular employee so laid off shall be placed on the appropriate reemployment lists, and said employee shall also be eligible for reinstatement and shall be reinstated in any position in the same class in the same organization unit in which a vacancy exists. If he cannot be reinstated as hereinabove required, the Director shall, upon employee's request to be made within one year from the time of his lay-off or the time his position was abolished, place his name on a reinstatement or preferred reemployment list for the class of the position which was abolished or from which the employee was laid off. The appointing authority of the organization unit, during the time such employee's name remains on such lists is prohibited from filling any vacancy in the class in which the employee has reinstatement rights without first offering appointment to, and appointing, if he accepts, the employee who has reinstatement rights in such organization unit.

(11). Waiver of requirements in filling certain vacancies. The provisions and requirements of this Section as to methods of filling vacancies, establishment of promotional lists and employment lists, eligibility and original entrance competitive tests and admission to tests may from time to time be waived or dispensed with by the appropriate State or City Commission in its discretion in whole or in part, and under such conditions as the appropriate Commission may see fit, in the case of appointment for salaried unskilled labor including custodial workers, attendants, street cleaners, garbage workers, janitors, food service workers, and porters. Any public employees described in this paragraph, when once duly appointed by the appointing authority in accordance with the rules adopted by the Commission shall acquire permanent status in the Classified Service.

Comment: Deletes authorization to hire unskilled labor without usual testing procedure and the authorization to assign permanent status to such employees.

(G)

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.

Comment: Commission currently has this authority. See comment under recommendation (I) below for further review of the commission's investigatory and disciplinary powers.

(O)(4). Violations; investigations; hearings; suspension or dismissal. The State and each City Civil Service Commission may, at any time, upon its own initiative, investigate any violation by any person of the provisions of this Section, and shall upon the filing of written charges by any person of such a violation within one year after the alleged violation, investigate such charges. Within ninety days after the filing of charges as herein provided, the Commission shall hold a public hearing concerning the charges. If the appropriate Commission, after public hearing in an investigation instituted either on its own initiative or after charges, shall determine that the person or persons under inquiry have violated any of the provisions of this Section, the appropriate Commission is empowered, in its discretion, to direct the appointing authority having power and supervision over any offending officer or employee in the State of City Service, as the case may be, forthwith to suspend without pay for a period of time designated by the Commission or to dismiss such officer or employee, and such officer or employee shall be suspended or dismissed as directed by the Commission.

II. 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.

Comment: Gives legislature the authority to set penalties for violations of this section.

I. The Commission shall have the exclusive power and authority to remove and decide all removal and disciplinary cases with subpoena power and 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 promulgate rules of procedure to be followed in taking and lodging such appeals.

Comment: Civil Service Commission now has this authority. Appeals on a question of law would, however, be heard by the First Circuit Court of Appeal of the State of Louisiana, rather than the Supreme Court of Louisiana (0, 1). Recommendation deletes mention of "the production of books and papers" (0, 5) and the transcript of testimony (0, 6).

(P)(3). Violations; offense; punishment. Any person who wilfully violates any provision of this Section or of the rules issued hereunder shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not less than one hundred (\$100.00) dollars, nor more than one thousand (\$1000.00) dollars, or by imprisonment for a term of not less than one (1) month nor more than six (6) months, or by both such fine and imprisonment.

(O)(1). Appeals; jurisdiction; decision; judicial review. There is vested in the State Civil Service Commission and in the appropriate Civil Service Commissions for the several cities respectively the exclusive right to hear and decide all appeals and the legality of all removal and disciplinary cases. The decision of the appropriate Civil Service Commission shall be final on the facts, but an appeal shall be granted to the Supreme Court of Louisiana on any question of law if application to the Commission is made within thirty (30) days after the Commission's decision becomes final. The Supreme Court shall promulgate rules of procedure to be followed in the taking and lodging of such appeals.

(O)(5). Witnesses; production of evidence. The State and City Civil Service Commissions and each member of the Commissions, the Director, and any specially designated agent of the Commissions, shall have power to administer oaths, subpoena witnesses and compel the production of books and papers pertinent to any investigation or hearing authorized by this Section.

(O)(6). Reference; powers of referee. Any Commission may refer the taking of testimony to one or more members of the Commission, the Director, or any other employee of the Department. If a referee is appointed as herein provided, he shall have the power to administer oaths and shall examine under oath all witnesses brought or summoned before him at the parish seat nearest the place of employment of the employee, and shall cause a true transcript of the testimony to be recorded. Such transcript, together with any documentary evidence that may be introduced, shall be submitted to the Commission, which shall render its opinion on the basis of such evidence, and its opinion as thus rendered shall be final.

Other material relating to disciplinary cases and the appeal process which is not specifically mentioned in the proposal of the Department of State Civil Service:

(O)(3). Reinstatement by commission; conditions; pay for lost time. If any Commission after any hearing orders a dismissed or suspended employee reinstated, it may reinstate such employee under such conditions as it deems proper and may order full pay for lost time.

(7). Witnesses; offenses; contumacy. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any investigation or hearing, or who shall knowingly give false testimony therein shall be guilty of a misdemeanor and subject to the penalties provided in this Section. In case of contumacy or refusal to obey a subpoena issued to any person, any District Court of the State of Louisiana within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found, or resides, or transacts business, upon application by the appropriate Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, its member, agent or agency, and to produce evidence, if so ordered, or there to give testimony touching on the matter under consideration or in question; and any failure to obey such order of court may be punished by said court as a contempt thereof.

(8). Costs. The appropriate Commission may, in its discretion, order the costs of any hearing or appeal, or any portion of such costs, including the cost of recording and transcribing testimony, to be paid by or charged to the department or organization unit against which action the appeal is taken or hearing granted.

(P) (1). Conduct of employees; refusal to testify; forfeiture of office. If any member of the State or City Commissions or any officer or employee in the State or City Civil Service shall willfully refuse or fail to appear before any Civil Service Commission, court, or judge, any legislative committee, or any officer, board or body authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or answer any question relating to the affairs or government of the State or city, or the conduct of any State or city officer or employee on the ground that his testimony or answers would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any matter about which he may be asked to testify at any such hearing or inquiry, he shall forfeit his office or position and shall not be eligible thereafter for appointment to any position in the State or City Service for a period of ten years.

(2). Violations; eligibility for employment. The appropriate Civil Service Commission may, in its discretion, render an effective decree or order that any applicant for employment or person in the State of City Classified Service who has been found by it to have violated any of the provisions of this Section shall not again be eligible for employment or public office in the State or City Service for a period not exceeding ten years from the date of dismissal.

(4). Conviction of violation; eligibility for employment. Any person who is convicted of a misdemeanor under this Section shall, for a period not exceeding ten years, in the discretion of the presiding judge, be ineligible for appointment to or employment in a position in the State or City Service, and, if he is an officer or an employee in the Unclassified Service of the State or a city of the State subject to the provisions of this Section, shall forfeit his office or position.

(5). Persons illegally employed; withholding compensation. The State or any City Civil Service Commission may order the withholding of compensation from any person whom the Director has found is employed by the State or a city, as the case may be, contrary to the provisions of this Section or rules adopted hereunder. Such order shall be directed to the officer with authority to approve the payroll or sign the paycheck for such employee and the officer to whom it is directed shall make no payment of compensation to such person until authorized by the Commission upon the penalty of personal liability for the sum so paid contrary to the order of the Commission and such other penalties as are provided in this Section.

Any valid rule, regulation, or order of a State or a City Civil Service Commission shall be enforceable in the courts of this State by mandamus or injunction suits brought for this purpose by the appropriate Civil Service Commission.



J. Beginning with the regular session that convenes in the year 1971, the Legislature of the state shall then, and at each regular session and fiscal session, thereafter, 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.

Comment: Directs the legislature to fund the commission and the department, using the same formula as currently provided. The provision that this appropriation be made annually, instead of biennially, is new.

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.

Comment: Classified employees shall retain existing status in new constitution. No additional qualifying tests are necessary.

(T). Appropriations. Each city of the State subject to the provisions of this Section shall make adequate annual appropriations to enable the Civil Service Commission and Civil Service Department of the city to carry out efficiently and effectively the provisions of this Section.

The Legislature of the State shall make adequate appropriations to enable the State Civil Service Commission and Civil Service Department to establish and carry out efficiently and effectively the provisions of this Section, and beginning with the regular session which convenes in 1954, shall at each regular session make an appropriation to the State Commission and Department of Civil Service for each of the fiscal years of the next biennium in a sum equal to not less than seven-tenths of one percent of the aggregate annual payroll of the State Classified Service for the twelve (12) month period ending on the first day of March preceding the regular session as certified to by the State Civil Service Commission.

(Q) (3) All employees in the Classified Civil Service of the State and cities of the State subject to the provisions of this Section, except those described in the preceding paragraph (3)(1) and (2), and the succeeding paragraphs (S) (1) and (2), shall on the thirtieth (30th) day of June 1953 acquire permanent Civil Service status in the class of position they are occupying on such date, subject to passing a qualifying non-competitive test, prescribed and given within a reasonable time after the thirtieth (30th) day of June 1953 by the Director of the appropriate Civil Service Department, to determine their fitness to perform satisfactorily the duties of their positions, and thereafter they shall be deemed Classified Civil Service employees, and shall be subject to and governed by the provisions of this Section and the rules and regulations adopted under the authority of this Section.

Deleted material:

(A) (3). City service. "City Service" or "Civil Service of the City" means all offices and positions of trust or employment in the employ of the city, or any department, independent agency or other agency, board or commission thereof, including City Boards of Health, or corporations organized for public purposes, any part of the stock of which is owned or controlled by the city, and persons employed by city or joint federal and city agencies administering city and federal relief and other funds, other than the military and naval service, irrespective of whether the pay for such offices and positions of trust or employment be paid out of the City Treasury, either in whole or in part.

(B)

There is hereby created and established in the City government of each city having a population exceeding two hundred fifty thousand a Department of City Civil Service, the administrative head of which shall be the Director of Personnel, to be appointed as hereinafter provided.

(D) City commission. There is hereby created and established City Civil Service Commission for each city having a population exceeding two hundred fifty thousand, to be composed of three citizens who are qualified voters of the city in which they serve, two of whom shall constitute a quorum. One member of the Commission shall be appointed by the governing body of the City. The other two members of the Commission shall be appointed as follows:

The Presidents of those two colleges or universities mentioned in (C) hereof located in or nearest to the city shall each nominate three persons, and one member of the Commission shall be appointed by the governing body from the three persons nominated by each President, provided that the governing body of the city may, by appropriate action, elect to have the President of any one of the colleges or universities mentioned in (C) hereof nominate two groups of three persons each, in which event one member of the Commission shall be appointed by the governing body from each of said groups of three persons. One of the Commissioners first appointed shall serve for two years, one for four years, and one for six years. The respective terms of the first appointees shall be designated by the governing body of said city. Vacancies by expiration of the term of office or otherwise shall be filled by appointment of the governing body of the city in the same manner as the original appointment was made, and in those instances in which nominations were required in the original appointment, nominations shall be made by the President (or his successor) who nominated the member whose place is being filled. It shall be the duty of the President to make such nominations within thirty days after the effective date of this Section, and thereafter within thirty days after any vacancy occurs, and appointments shall be made by the governing body of the city within thirty days after nominations have been submitted. Should the governing body of the city fail to appoint within said thirty days, the first named nominee shall automatically become a member of the Commission. The term of office of each successor to each original appointee shall be for six years, provided that appointment to fill a vacancy for an unexpired term shall be only for the unexpired term. Each Commissioner shall serve until his successor has been appointed and qualified. Members of existing City Civil Service Commissions shall continue to serve until the first City Civil Service Commissions are appointed pursuant to this Section.

(G) (d) Nothing in (G) or this Section shall prevent the establishment by the Legislature in one or more parishes of a Civil Service System applicable to any or all parish employees, including those hereinabove exempted from the State Classified Service, or the establishment by the Legislature of a Civil Service System in one or more cities having a population of less than two hundred fifty thousand, in any manner that may now or hereafter be provided by law.

(L). Department records. The records of the State and City Civil Service Departments (except such records as the Commission may properly require to be held confidential, because they involve (a) investigation correspondence and data, related to the moral character and reputation of applicants for employment or employees in the Classified Service, (b) files, statements, reports, correspondence and other data in connection with and related to investigations of violations of this Section conducted by a Commission and members of its staff, and (c) examination materials, question, data and examination papers and records relating in any way to competitive examinations and tests conducted and held by the State Department of Civil Service or any City Civil Service Department), shall be public records and their inspection, availability and regulation shall be subject to and governed by the provisions of R.S. 44:1 through 39, and any future amendments thereof.

(M) (1). Departments; Service agreements with other public bodies. Subject to the approval of the Commission, the Director of the Department of State Civil Service or any municipality having a Civil Service Department may enter into agreements with any municipality, political subdivision or public body of the State to furnish services and facilities of the Department to them in the administration of their personnel on merit principles. Any such agreement may provide for the reimbursement of the reasonable cost of the services and facilities furnished, as determined by the Director. All municipalities and political subdivisions, or public bodies of the State, are hereby authorized to enter into such agreements.

(2). Cooperation. The Directors of the State and City Civil Service Departments may cooperate with governmental agencies for other jurisdictions, whether state or municipal, charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of this Section.

(M)(2). Certification of payroll. After the State or any City Civil Service Commission decides that it is prepared to function under the provisions of this Section, and the Governor of the State and all appointing authorities of the State or the governing body of any city, as the case may be, have been notified of this fact by the appropriate Civil Service Commission, thereafter no payment for personal services of any employee in the Classified Civil Service shall be made until after certification by the appropriate State or City Civil Service Department.

(N)(4). Falsifications; fraud. No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provision of this Section, or in any manner commit or attempt to commit any fraud preventing the impartial execution of this Section and the rules.

(5). Purchase or sale of position. No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in a position in the Classified Service of the State or a city.

(P)(6). Existing laws. All existing laws relating to the State or City Civil Service System are continued in force insofar as not in conflict herewith, subject to the power of the Legislature to amend or repeal such laws or adopt new laws, provided said amendments or new laws are supplementary and not in conflict herewith.

(Q). Acquisition of permanent status. Upon the effective date of this Section all officers and employees of the City of New Orleans who have acquired Civil Service status under the Civil Service System of the City of New Orleans shall retain said status and shall thereafter be subject to and governed by the provisions of this Section and the rules and regulations adopted under the authority of this Section.

(2) All employees of the State and cities of the State subject to the provisions of this Section who, upon the effective date of this Section, are employed to engage in the practice of a trade or profession for which they are licensed by any board or examining authority established under existing laws of the State shall acquire permanent Civil Service status upon the effective date of this Section and shall thereafter be subject to and governed by the provisions of this Section and the rules and regulations adopted under the authority of this Section.

(R). Effective date. Except as provided in (S) (1) and (2) hereof, the provisions of this Section designated as (A), (E), (F) (2), (H), (I) (1) to (10) inclusive, (J) (1) (2) and (3), (N) (1) to (9) inclusive, (O) (1) to (8) inclusive, and (P) (1) (2) and (5), insofar as they occur and apply to the State Service and State Civil Service System, shall not become operative until the thirtieth (30th) day of June 1953. In all other respects the provisions of this Section shall become operative on the effective date of this Amendment.

(S). Merit system council; transfers to state civil service commission. (1) Agencies of the State whose personnel administration is governed by the Louisiana Merit System Council pursuant to R.S. 42:721 through 736 shall continue to be so governed and administered until the members of the State Civil Service Commission, provided for in this Section, shall have been appointed and qualified, at which time R.S. 42:721 through 736 shall cease to be in effect and this Section shall become effective and operative as to such merit system agencies and all records, fixtures, equipment, and property of the Louisiana Merit System Council shall be transferred to the Department of State Civil Service.

(2) When the State Civil Service Commission succeeds and replaces the Louisiana Merit System Council the Merit System status acquired by the employees of the State agencies under the jurisdiction of the Louisiana Merit System Council shall be recognized and continued, and such employees shall acquire civil service status comparable to that acquired by them under the Louisiana Merit System Law and Rules; the eligible registers established by the Merit System Director shall, in conformity with the provisions of the Merit System rules, be recognized and continued; the Merit System rules and Classification and pay plan shall likewise be recognized and continued until the State Civil Service Commission adopts new rules and a new classification and pay plan for all State agencies; the officers and employees of the Louisiana Merit System Council shall be transferred to the Department of State Civil Service to positions, as far as practicable, comparable in responsibilities and duties to those occupied by them under the Louisiana Merit System Council, provided that such transfers shall be subject to the unrestricted right and authority of the State Civil Service Commission to select and appoint the first Director of Personnel and his successors, as provided for in this Section, and the right and authority of the Director of Personnel of the State Civil Service

Department to make provisional appointments and thereafter select and appoint, with the approval of the Commission, the first Assistant Director of Personnel and the first Bureau, Division, Section or Unit heads of the State Civil Service Department and their successors, based on competitive examinations as contemplated and provided for in this Section; provided, that all officers and employees of the Louisiana Merit System Council may participate in any competitive examination and may be appointed to any such positions and provided further, that the Director or Assistant Director of the Louisiana Merit System Council may be appointed, without examination, as the Assistant Director or to any position in a lower class in the State Civil Service Department, and any chief of a division of the Louisiana Merit System Council may be appointed, without examination, as the first

(U). City and parish governed jointly; acceptance of act. Any city, and any parish governed jointly with one or more cities under a plan of government, having a population exceeding ten thousand but not exceeding two hundred fifty thousand, according to the last preceding decennial census of the United States for which the final report of population returns have been printed, published and distributed by the Director of the Census may elect and determine to accept the provisions of this Section 15 by a majority vote of its qualified electors voting at a general or special election for this purpose. This election shall be ordered and held by the city or city-parish as the case may be, upon

(a) The adoption of an ordinance by the governing body of the city or the parish governed jointly with one or more cities under a plan of government as the case may be, calling for such election; or (b) the presentation to such governing body of a petition signed by qualified electors equal in number to five per cent of the qualified registered voters of the city or city-parish, as the case may be, calling for such election.

If a majority of the legal votes cast in such election are in favor of the adoption of the provisions of this Section 15, then this Section 15 and all the provisions thereof shall thereafter permanently apply to and govern the city or city-parish, as the case may be, in the same manner and to the same extent as if said Section 15 and all its provisions had originally applied to such city or city-parish. In such instance, all officers and employees of the city or city-parish or any other subdivision of the state, as the case may be, except those coming within the provisions of Article XI, Section 151 of the Constitution of the State of Louisiana, who have acquired civil service status under a civil service system established by legislative act, city charter or otherwise, shall retain such status and shall thereafter be subject to and governed by the provisions of this Section and the rules and regulations adopted under the authority of this Section. If a majority of the legal votes cast in such election are against the adoption of the provisions of this Section 15, the question of adopting the provisions of this Section 15 shall not be resubmitted to the voters of the city or the city-parish, as the case may be, within one year thereafter.

(V). Civil service commissions in cities not under section; powers. Any Civil Service Commission or City Personnel Board now or hereafter legally created and established in any city of this State, which is not subject to this Section, except Municipal Fire and Police Civil Service Boards, not constituted under (W) hereof, shall have all of the power given and granted to and vested in the State and City Civil Service Commissions in (M) (1) (2), (O) (3) (4) (5) (6) (S), and (P) (2) (4) and (5) of this Section, and the limitations, restrictions, prohibitions and penalties provided for in (N) (1) (2) (3) (4) (5) (6) (7) (8), (O) (7), and (P) (1) (3) (4) of this Section, shall apply to and govern all officers and employees and residents of such cities in the same manner and to the same extent as provided for in this Section in connection with State and City residents, officers and employees described in and subject to the provisions of this Section.

(W). Exceptions. Provided however that nothing contained in (A) through (V) of this Section, nor any action therein authorized shall apply to or affect any officers or employees of any fire or police departments or the Municipal Fire and Police Civil Service System in the respective municipalities as outlined and established by R.S. 33:2471 through 33:2508 or by this Constitution if amended to establish and provide for a Municipal Fire and Police Civil Service System, except that under the presentation to the governing body of the city or the parish governed jointly with one or more cities under a plan of government, as the case may be, of a petition signed by qualified voters equal in number to thirty-five per cent of the qualified voters of the city or city-parish, as the case may be, an election may be called in any city, and in any parish governed jointly with one or more cities under a plan of government having a population exceeding fifty thousand but not exceeding two hundred fifty thousand, in accordance with the provisions of (U) hereof, and the results thereof shall be governed by (U).

X. Self-execution. This Section and the provisions thereof shall be self-executing. (As amended Acts 1940, No. 381, adopted Nov. 5, 1940; Acts 1952, No. 18, adopted Nov. 4, 1952.)



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CC/73 Research Staff

Committee on Education  
and Welfare

Subcommittee on Public  
Welfare

May 2, 1973

Staff Memorandum No. 10

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RE: Constitutional proposals considered by the subcommittee

Of study proposals prepared for consideration, the Subcommittee on Public Welfare has acted in several areas which were assigned to it. Other topics were reviewed at the request of representatives of business, commerce, and industry who appeared before the subcommittee. The attached exhibit indicates actions taken on these proposals.

Proposal Number	Subject	Action
1. Art. XIII, § 8	Definition of corporation.	Deferred action pending testimony of Honorable Wade O. Martin, Jr.
2. Art. XIII, § 7	Perpetual franchises or privileges.	Deferred action pending testimony of Honorable Wade O. Martin, Jr.
3. Art. XIII, § 5	Creation and regulation of corporations; monopolies.	Deferred action pending testimony of Honorable Wade O. Martin, Jr.
4. Art. XIX, § 14	Monopolies, trusts, combinations or conspiracies in trade.	Deferred action pending testimony of Honorable Wade O. Martin, Jr.
5. Art. IV, § 15	Ex post facto laws; impairment of contracts; vested rights; just compensation.	Deferred action pending testimony of Honorable Wade O. Martin, Jr.
6. Art. X, § 1a	State tax, levy or increase in rate; approval by two-thirds of the legislature.	Deferred to Committee on Revenue, Finance, and Taxation with strong recommendation for adoption
7. Art III, § 25.1	Tax measures; amendments; conference committee reports; vote required.	Deferred to Committee on Revenue, Finance, and Taxation with strong recommendation for adoption.
8. Art. X, § 4, para. 10	Industrial tax exemptions. (existing provision plus directive specifying the use of Louisiana labor, suppliers, and contractors by exempted industries)	Delayed consideration

Proposal Number	Subject	Action
9. Art. X, " 22	New industries; exemption from municipal and parochial taxation; school tax exemption.	Delayed consideration.
*10. Art. X, § 4, para. 19(b)	Raw materials, goods, commodities, and other articles held in public storage for export outside the United States.	Delayed consideration.
*11. Art. X, § 4, para. 19(a)	Imports.	Delayed consideration.
*12. Art. X, § 4, para. 19(c)	Goods, commodities, and personal property in interstate transit.	Delayed consideration.
*13. Art. X, § 4, para. 18	Property of nonprofit corporation devoted to promotion of trade, travel, and commerce.	Delayed consideration.
*14. Art. X, § 24	Tax relief for manufacturing establishments.	Delayed consideration.
*15. Art. X, § 21	Severance tax on natural resources; levy; rate; allocation to parishes. Forestry commission allocation.	Delayed consideration.
16. Art XIV, § 29.1	Parish industrial areas.	Referred to Committee on Local and Parochial Government with strong recommendation for adoption.

\* This material was not assigned to the Subcommittee on Public Welfare but has been reviewed at the request of spokesmen for business, industry, and commerce.

Proposal Number	Subject	Action
17. Art. XIV, § 14 (b.2)	Encouragement of industrial enterprises; bonds to acquire plant sites.	Referred to Committee on Local and Parochial Government.
18. Art. IV, § 4	Limitations on the legislature. (prohibits local or special laws regulating labor, trade, manufacturing, agriculture, or commerce)	Approved
19. Art. III, § 36	Arbitration laws.	Approved
20. Art. IV, § 4	Regulation of hours and conditions of employment.	Delayed consideration.
21. New	Collective bargaining.	Delayed consideration.
22. New	Economic security, social welfare, unemployment compensation, and public health.	Approved
26. New	Convict labor. (prohibits the leasing of convicts, prohibits the employment of convicts in competition with private enterprise. See Art. III, § 33)	Approved
27. New	Administration of health, social, and welfare programs.	Delayed consideration

Preliminary discussions on a civil service article have resulted in the adoption of several changes in the current system. The subcommittee has voted to enlarge the Louisiana Civil Service Commission from five members to seven. One of the additional members is to be appointed by the governor from a list of three nominees submitted by the president of Xavier University in New Orleans. The seventh member is to be an employee in the classified state service, appointed by the governor, and confirmed by the Senate.

Additional changes adopted by the subcommittee include the following:

1. No classified state employee shall be subjected to disciplinary action except for just cause. The existing provision omits the word "just."
2. The burden of proof on appeal, as to the facts, shall be on the employer. The burden of proof now rests with the employee.

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 May 5, 1973

is provided by statute as court decisions have established the power of a state legislature to act in this area.<sup>2</sup>

<sup>2</sup>Ibid.

Table of State Constitutions  
 Researched for Definition of Corporations

Re: Constitutional definitions of the word "corporation."

The research staff has compared Louisiana's constitutional definition of a corporation (Article XIII, § 8) with material in other state constitutions and in the Model State Constitution of 1969.

The constitutions of nine states, including Louisiana, define a corporation as follows: "The term 'corporation,' as used in this Constitution, shall include all joint stock companies or associations having any power or privileges not possessed by individuals or partnerships." (See Table A, page 3.) This interpretation has survived court tests in several states.<sup>1</sup>

Another eight states repeat this definition, adding the phrase: "and all corporations shall have the right to sue and shall be subject to be sued, in all courts, in like cases as natural persons." (See Table B, page 3.)

The constitution of Virginia contains no real definition of corporation but states: "The term 'corporation' or

A	B	C
Alabama	Arizona	Alaska
Idaho	California	Arkansas
Louisiana	Kansas	Colorado
Mississippi	Minnesota	Connecticut
Missouri	New York	Delaware
North Dakota	North Carolina	Florida
Oklahoma	Utah	Georgia
South Carolina	Washington	Hawaii
South Dakota		Indiana
		Illinois
		Iowa
		Maine
		Maryland
		Michigan
		Nebraska
		Nevada
		New Hampshire
		New Jersey
		New Mexico
		Ohio
		Oregon
		Pennsylvania
		Rhode Island
		Tennessee
		Texas
		Vermont
		West Virginia
		Wisconsin
		Wyoming

<sup>1</sup> 18 AM Jur 2d 551

'company' as used in this article shall exclude all municipal corporations, other political subdivisions, and public institutions owned or controlled by the Commonwealth."

The constitution of Kentucky shortens the traditional definition: "The word 'corporation' as used in this Constitution shall embrace joint stock companies and associations."

No definition of corporation appears in the constitutions of thirty states or in the Model State Constitution of 1969. (See Table C, page 3) In these thirty states the definition

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Committee on Education and Welfare

September 4, 1973

Staff Memorandum No. 12

RE: Comparison of Committee Proposal 9 and Delegate Proposal 27.

I. OUTLINE OF MAJOR DIFFERENCES, COMMITTEE PROPOSAL 9 AND DELEGATE PROPOSAL 27

	COMMITTEE PROPOSAL	DELEGATE (DENNERY) PROPOSAL
CITY CIVIL SERVICE	Creates civil service system in cities with population exceeding 400,000. [1(C)(1)]	Creates civil service system in cities with population exceeding 250,000. [1(A)(1)]
STATE COMMISSION	Five-member; nominated by Tulane, Loyola, Louisiana College, Centenary, and Dillard. [1(B)(1)(2)]	Seven-member; nominated by Tulane, Loyola, Louisiana College, Centenary, Dillard, Xavier, and Dominican. [1(C)(1)(2)]

NEW ORLEANS CITY COMMISSION	Five-member; three nominated by Tulane, Loyola, and Dillard; one classified employee elected by other employees; one nominated by governing authority of city. [1(C)(1)(2)]	Three-member; nominated by Tulane, Loyola, and Dillard. [1(D)(1)(2)]
UNCLASSIFIED (NON-MERIT) EMPLOYEES	Ten categories of employees exempted from the classified service. [1(F)]	Same ten categories, but allows commission to increase exemptions from classified service. [1(B)]
APPOINTMENT AND PROMOTION	Number certified to be not less than five.	Number certified to be not less than three.
	Promotion based on merit, efficiency, length of service and fitness as ascertained by competitive examination. [1(G)]	Deletes length of service as consideration in promotion. [1(G)]
VETERANS' PREFERENCES	Retains preference points on appointment and promotion. [1(G)(2)]	Deletes separate provision on veterans' preferences; relegates the matter to the commission's rule-making authority. [1(G)]
BURDEN OF PROOF ON APPEAL	On employer. [1(H)]	On employee. [1(H)]
APPEAL TO COMMISSION	Devolutive unless otherwise determined by commission. [1(H)]	Retains appeal; no mention of devolutive appeal. [1(H)]
COURT REVIEW OF COMMISSION RULINGS	Rulings subject to review in court of appeal. [1(H)]	Decision of commission final on facts. On appeal, subject to court review on questions of law, not of fact. [1(L)]
POLITICAL ACTIVITY	Allows support of issues involving bond elections, tax referenda, and constitutional amendments and participation in organizations which "from time to time" express political opinions. [1(J)]	Retains present prohibition against any political activity. [1(I)]
EXISTING LAWS	Continues all existing laws not inconsistent with this Section; prohibits commissions from exercising any power inconsistent with general law. [1(N)]	No comparable provision.
EXTENSION OF CITY SYSTEM	Retains referendum method for a city or city-parish to adhere to this Section. [1(P)]	Adds means (referendum) whereby a parish can adopt civil service as well as a city and a city-parish. [1(N)]

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Other Committee Provisions Not Included in Dennery Proposal:

1. Compensation of civil service commissioners [1(B)(6), (C)(6)].
2. Transition of present terms on commissions [1(B)(4), (C)(4)]. This material is included in a separate transition proposal.
3. Acquisition of permanent status for present employees [1(M)]. This material is included in a separate transition proposal.
4. Layoffs; preference employees for reinstatement and re-employment [1(G)(3)].

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II. ANALYSIS OF SUBSECTIONS

DEFINITION; STATE CIVIL SERVICE

Aertker, et al. Section 1(A)(1)  
 Section 1(A)(1) defines state civil service as all offices and positions of trust or employment in the employ of the state, or

any board, commission, department, independent agency thereof, and all joint state and federal agencies, joint state and municipal agencies, and joint state and parochial agencies, irrespective of the source of funds used to pay for such employment. Municipal boards of health are specifically excluded.

Dennery Section 1(A)(1)  
 Section 1(A)(1) contains the same basic definition, but considerably shortens (by eight lines) the language itemizing joint state-federal, joint state-municipal, etc., agencies.

DEFINITION; CITY CIVIL SERVICE

Aertker, et al. Section 1(A)(2)  
 Section 1(A)(2) defines city civil service as all offices and positions of trust or employment in the employ of the city and every board, commission, department, or agency thereof, except as otherwise specifically provided in this constitution.

Dennery Section 1(A)(2)  
 Section 1(A)(2) defines city civil service as offices, etc., in each city with over two hundred fifty thousand population, and "every instrumentality thereof." (The committee proposal for city civil service applies to cities with a population exceeding four hundred thousand.)

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STATE CIVIL SERVICE COMMISSION

MEMBERSHIP; NOMINATIONS

Aertker, et al. Section 1(B)(1)(2)  
 Section 1(B) creates the State Civil Service Commission. Paragraph (B)(1) establishes a five-member commission to be appointed by the governor. Members serve overlapping terms of six years. Paragraph (B)(2) requires the governor to select one member from each of five lists of nominees submitted by five university presidents. Loyola, Tulane, Louisiana College, and Centenary are retained as nominating universities. Dillard replaces Louisiana State University as the fifth nominator.

Dennery Section 1(C)(1)(2)  
 Section 1(C)(1) and (2) creates a seven-member State Civil Service Commission with members serving six-year overlapping terms. Incorporates the same nominating procedure, using Tulane, Loyola, Louisiana College, Centenary, and Dillard as nominators and adding Xavier and St. Mary's Dominican. Adds a provision that the college presidents shall make the nominations after giving due consideration to all groups.

STATE CIVIL SERVICE COMMISSION

VACANCIES

Aertker, et al. Section 1(B)(3)  
 Paragraph (B)(3) provides that vacancies be filled in accordance with procedures and from the same sources used in the original appointment. Requires university presidents to submit nominees within thirty days after a vacancy occurs. Further provides that the

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first name appearing on the nomination list becomes a member of the commission if the governor fails to appoint within thirty days. If any university president fails to submit the required nominations, the vacancy shall be filled by a majority vote of other members of the State Civil Service Commission.

Dennery Section 1(C)(2)  
Contains same provision for filling vacancies, but omits the procedure to be followed in the event a college president fails to submit names to the governor.

STATE CIVIL SERVICE COMMISSION

TRANSITION

Aertker, et al. Section 1(B)(4)  
Paragraph (B)(4) provides that members of the commission on the effective date of this constitution shall complete their respective terms. Requires the president of Dillard to submit three nominees to the governor within thirty days after the expiration of the term of the commissioner nominated by Louisiana State University. The initial term of the Dillard nominee shall be six years.

Dennery  
The delegate proposal contains no provision on transition of membership. This material is included in a separate transition, or schedule, proposal, Delegate Proposal 28.

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STATE CIVIL SERVICE COMMISSION

REMOVAL

Aertker, et al. Section 1(B)(5)  
Paragraph (B)(5) provides that a commissioner may be removed by the governor for just cause after being given a copy of the charges against him and an opportunity for a public hearing by the appointing authority.

Dennery Section 1(E)  
Paragraph (E) provides that a member of the commission may be removed by the governor for cause after he has been served with a written copy of the charges against him and has had an opportunity for a public hearing.

STATE CIVIL SERVICE COMMISSION

COMPENSATION

Aertker, et al. Section 1(B)(6)  
Paragraph (B)(6) provides that members be compensated for each day of work in an amount to be determined by the legislature.

Dennery  
Mr. Dennery omits the paragraph on compensation of members of the commission.

CITY CIVIL SERVICE COMMISSION

Aertker, et al. Section 1(C)(1)  
Section 1(C)(1) creates a five-member city civil service commission for each city having a population exceeding four hundred thousand. Members serve overlapping terms of six years.

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Dennery Section 1(D)  
Section 1(D) creates a three-member civil service commission in each city having a population exceeding two hundred fifty thousand. Members serve six-year overlapping terms.

CITY CIVIL SERVICE COMMISSION

NOMINATIONS

Aertker, et al. Section 1(C)(2)  
Paragraph (C)(2) requires the governing authority of New Orleans to select one commissioner from each of three lists submitted by the presidents of Dillard, Loyola, and Tulane. In addition, the governing authority appoints one member, and classified city employees elect a classified employee to serve on the commission. If a college president fails to submit nominees, members of the city civil service commission shall elect that member. Requires other cities subject to this provision to constitute their commissions in the same manner as New Orleans except that the three lists of university nominees may be submitted by the presidents of any three of the institutions that nominate for the state commission: Centenary, Dillard, Louisiana College, Tulane, or Loyola.

Dennery Section 1(D)(1)(2)  
Paragraph (D)(1) provides that the presidents of Dillard, Loyola, and Tulane each shall nominate three persons for membership on the civil service commission of New Orleans. The governing authority of the city shall appoint one mem-

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ber from each list. Excludes the elected classified employee and the member directly nominated by the city governing authority. Adds the directive that university presidents give due consideration to all groups in selecting nominees. Paragraph (D)(2) provides that in other cities subject to this provision, the presidents of any three of the universities that nominate for the state commission may submit lists of nominees to the governing authority of the city. The governing authority shall appoint one member from each list to serve on the commission. (In the Dennery proposal, institutions that nominate for the state commission are Tulane, Loyola, Centenary, Louisiana College, Dillard, Xavier, and Dominican.)

CITY CIVIL SERVICE COMMISSION

VACANCIES

Aertker, et al. Section 1(C)(3)  
Paragraph (C)(3) provides that vacancies be filled in accordance with procedures and from the same sources used in the original appointment. Requires university presidents to submit nominees within thirty days after a vacancy occurs. Further provides that the first name appearing on the nomination list becomes a member

of the commission if the governing authority fails to appoint within thirty days. The city governing authority shall call and hold an election for the member representing classified city employees at least thirty days prior to the expiration of that

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term and within thirty days after a vacancy occurs in an unexpired term of the employee representative.

Dennery Section 1(D)(3)  
Contains same provision for filling vacancies, but omits the procedure to be followed in the event a college president fails to submit names to the governing authority.

CITY CIVIL SERVICE COMMISSION  
TRANSITION

Aertker, et al. Section 1(C)(4)  
Paragraph (C)(4) provides for the transition of members of the New Orleans commission nominated by Tulane, Loyola, and the city governing authority. Requires the president of Dillard to submit three nominees within thirty days after the effective date of this constitution. This commissioner serves an initial term of three years. Requires an election for the member representing classified employees within the same thirty days. The initial term of the classified employee shall be five years. Other cities affected by this Section shall provide a similar transition for commission members.

Dennery  
The delegate proposal contains no provision on transition of membership. This material is included in a separate transition, or schedule, proposal, Delegate Proposal 28.

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CITY CIVIL SERVICE COMMISSION  
REMOVAL

Aertker, et al. Section 1(C)(5)  
Provides that a member of a city civil service commission may be removed by the governing authority for just cause after he has received a copy of the charges against him and has had an opportunity for a public hearing.

Dennery Section 1(E)  
Same removal provision, except cites removal for "cause," not "just cause."

CITY CIVIL SERVICE COMMISSION  
COMPENSATION

Aertker, et al. Section 1(C)(6)  
Provides that members of the commission shall be compensated for each day devoted to commission work. Directs the city governing authority to determine the amount of compensation.

Dennery  
Mr. Dennery omits any mention of compensation.

DEPARTMENTS; STATE CIVIL SERVICE; CITY CIVIL SERVICE

Aertker, et al. Section 1(D)(1)(2)  
Section 1(D)(1) creates a Department of State Civil Service in state government. Section 1(D)(2) creates a department of city civil service in cities having a population exceeding four hundred thousand.

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Dennery Section 1(F)(1)(2)  
Section 1(F)(1) creates a Department of State Civil Service in the executive branch of state government. Section 1(F)(2) creates a department of city civil service in each city having a population exceeding two hundred fifty thousand.

DIRECTORS; STATE; CITY

Aertker, et al. Section 1(E)  
Section 1(E) requires each civil service commission to appoint a director of civil service from a list of eligibles qualifying on the basis of merit, efficiency, and fitness, ascertained by competitive examination and such other factors as deemed advisable by the commission. The director shall be in the classified service. Further provides that the director shall exercise power and appoint personnel to the extent prescribed by the commission.

Dennery Section 1(F)(3)  
Section 1(F)(3) provides that each commission shall appoint a director after competitive examination. The director shall be in the classified service. Vests director with same authority provided by committee proposal.

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UNCLASSIFIED AND CLASSIFIED SERVICE

Aertker, et al. Section 1(F)  
Defines the classified service and the unclassified service. Lists ten categories of unclassified employees; all other employees are classified.

Dennery Section 1(B)  
Similarly defines the classified and the unclassified service. However, the delegate proposal differs in several respects. Allows one confidential assistant and one principal assistant or deputy to specified officers, boards, and commissions. (The committee proposal allows one principal assistant, or one confidential assistant, or one chief deputy to the officers, boards, and commissions.) In the listing of unclassified employees, the Dennery proposal omits the state tax collector for New Orleans. (This office is soon terminating.) Omits one chief deputy selected by registrars of voters. The delegate proposal also authorizes the civil service commission to add additional positions to the unclassified service.

APPOINTMENT AND PROMOTION

Aertker, et al. Section 1(G)  
Provides that permanent appointments and promotions in the classi-



fied state and city civil service shall be made after certification under a general system based upon merit, efficiency, length of service, and fitness as ascertained by competitive examination. The number to be certified shall be not less than five. However, one additional eligible for each vacancy may be certified when

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more than one vacancy exists. Also allows the certification of special lists for reemployment and reinstatement. Retains the commission's authority to provide for emergency and temporary appointments.

Dennergy

Section 1(G)

Section 1(G) provides that permanent appointments and promotions shall be made after certification under a general system based upon merit, efficiency, and fitness, as ascertained by examination which, so far as practical, shall be competitive. Omits length of service as a consideration. The number to be certified shall be not less than three unless more than one vacancy is to be filled. Each commission shall adopt rules for the methods of certification of persons eligible for appointment, promotion, reemployment, and reinstatement and shall provide for appointments defined as emergency and temporary appointments where certification is not required.

#### VETERANS' PREFERENCES

Aertker, et al.

Section 1(G) (2)

Paragraph (G) (2) retains the existing provision for five-point preferences on original appointments to veterans who served in designated wartime periods and ten-point preferences on original appointments to veterans with service-connected disabilities, or ten-point preferences on original appointments to the spouses, unremarried parents, or eligible parents of deceased or disabled veterans who served in designated wartime periods.

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Dennergy

The delegate proposal deletes the provision for veterans' preferences. Mr. Dennergy's Section 1(J)(1), however, gives the commission authority to adopt veterans' preferences under its rule-making authority.

#### LAYOFFS; PREFERENCE EMPLOYEES

Aertker, et al.

Section 1(G) (3)

Requires priority in continued employment, reinstatement, and reemployment to preference employees (veterans and their dependents) in case of layoffs affecting positions in the classified service.

Dennergy

The delegate proposal deletes the provision on layoffs and preference employees. Mr. Dennergy's Section 1(G) gives the commission authority to adopt rules relating to reinstatement and reemployment.

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#### DISCIPLINARY ACTION

Aertker, et al.

Section 1(H)

Section 1(H) prohibits disciplinary action against any classified employee except for just cause after the employee has received a copy of the charges against him and had an opportunity for a public hearing. Only one penalty may be assessed for the same offense. Also prohibits discrimination against a classified employee because of political or religious beliefs, sex, or race. Provides right of appeal for classified employees who allege discrimination. Burden of proof on appeal, as to the facts, is on the employer. The appeal is devolutive unless otherwise determined by the commission. Commission's ruling is subject to review by court of appeal wherein the commission is located.

Dennergy

Section 1(H)

Section 1(H) provides that no person who has gained permanent status in the classified state or city service shall be subject to disciplinary action except for cause expressed in writing. Deletes need for public hearing on the charges. Repeats the same prohibition against discrimination. Burden of proof on appeal, as to the facts, is on the employee. Omits statement that only one penalty may be assessed for same offense. Mr. Dennergy treats court review in Section 1(L). His proposal simply calls for an appeal to the commission, not a "devolutive [appeal] unless otherwise determined by the commission." The delegate proposal limits court review to questions of law, not

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of fact.

#### RULES AND REGULATIONS

Aertker, et al.

Section 1(I)

Section 1(I) vests the state and city commissions with general rule-making powers and subpoena powers to administer the classified civil service and effectuate the objectives and purposes of the merit system. These rules and regulations have the effect of law. But any matter affecting wages and hours shall become effective and shall have the force of law only after approval of the governor or the governing authority of the city.

Dennergy

Section 1(J) (1), (3)

Similarly vests commissions with rule-making and subpoena powers. Adds political activities, employee training and safety, veterans' preferences, and qualifications to matters subject to rule-making authority. Provides that any rule or determination affecting wages or hours shall become effective and shall have the effect of law only after approval by the governor or appropriate governing authority.

#### POLITICAL ACTIVITY

Aertker, et al.

Section 1(J)

Prohibits civil service commissioner from seeking or holding public office or employment, except as the city civil service

commissioner representing classified employees, and as notaries public, military officers, or members of a university faculty.

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Prohibits appointment of any commissioner who has held office in a political party in the preceding six months. Requires each commissioner to take an oath attesting his support of the merit system. Prohibits civil service commissioners and classified employees from soliciting political funds and from participating in any political activity except voting, privately expressing a political opinion, and serving as a poll commissioner. The proposal defines political activity as support of an individual or party in an election. No prohibition is imposed against support of issues involving bond elections, tax referenda, constitutional amendments, or participation in nonpolitical organizations which "from time to time" express political opinions.

Dennery Section 1(I)  
Imposes same restrictions on political activities upon civil service commissioners and classified employees. Omits allowance for a public employee to serve on the city civil service commission and omits definition of notaries public, military officers, and university faculty as public officers or employees eligible for service on a commission. Deletes prohibition against a civil service commissioner serving on a party committee within the six months prior to his appointment. Deletes reference to oath of office. Deletes definition of political activity. Does not allow participation in campaigns involving bond issues, tax referenda, or constitutional amendments and membership in organizations which at times express political opinions.

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#### VIOLATIONS; APPEALS

Aertker, et al. Section 1(K)  
Authorizes state and city civil service commissions to investigate violations of this Section and the rules and regulations adopted thereunder. Authorizes commissions to impose penalties for such violations in the form of demotion, suspension, or discharge with attendant loss of pay. Provides for review of commissioner's rulings in the court of appeal wherein the commission is located.

Dennery Section 1(J)(1)(2), (L)  
Conveys same authority to commissions regarding investigation and punishment of violations. Gives the commission the "exclusive" power to hear and decide all removal and disciplinary cases. Differs in court review process. Retains existing provision whereby decision of the commission is final on facts, but, on appeal, subject to review on questions of law in the appropriate court of appeal.

#### PENALTIES

Aertker, et al. Section 1(L)  
Defines willful violation of any provision of this Section or any

law enacted pursuant hereto as a misdemeanor. Conviction on such charge shall be punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

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Dennery Section 1(K)  
Section 1(K) repeats the committee proposal except for deletion of the phrase "or any law enacted pursuant hereto."

#### ACQUISITION OF PERMANENT STATUS

Aertker, et al. Section 1(M)  
Provides for retention of the position, rank, and classification held by classified employees on the effective date of this constitution. Such employees shall thereafter be subject to the provisions of this Section.

Dennery  
Delegate Proposal 27 omits this provision. Mr. Dennery has, however, included this material in Section 2 of Delegate Proposal 28, a transition measure.

#### EXISTING LAWS

Aertker, et al. Section 1(N)  
Continues all existing laws relating to classified employees that are not inconsistent with this Section. Prohibits the city civil service commission and the governing authority of the city from exercising any power which is inconsistent or in conflict with any general law. Prohibits the State Civil Service Commission from exercising any power inconsistent or in conflict with general law.

Dennery  
No comparable provision.

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#### APPROPRIATIONS

Aertker, et al. Section 1(O)  
Requires that the legislature appropriate for the annual operations of the State Civil Service Commission and the Department of State Civil Service a sum equal to not less than seven-tenths of one percent of the aggregate payroll of the state classified service for the preceding year. Requires such an appropriation at each regular session and each fiscal session. Requires that each city subject to the provisions of this Section make an adequate annual appropriation to the city civil service commission and city civil service department.

Dennery Section 1(M)  
Paragraph (M) (1) provides the same formula for legislative funding of the State Civil Service Commission and Department. Omits reference to fiscal sessions of legislature. Paragraph (M) (2) repeats the committee's provision for adequate funding of city civil service.

#### ACCEPTANCE OF ACT; OTHER CITIES; CITY AND PARISH GOVERNED JOINTLY

Aertker, et al. Section 1(P)  
Provides that any city or any city and parish governed jointly,

with a population exceeding ten thousand, but not exceeding four hundred thousand, may accept the provisions of this Section by a majority vote of its qualified electors. This election shall be called upon the initiative of the city or city-parish governing authority or upon presentation to such governing authority of a petition signed by five percent of the qualified voters of the city or the city-parish. If a majority of the votes cast in the referen-

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dum oppose the acceptance of this Section, the question shall not be resubmitted to the city or the city-parish within one year thereafter.

Dennery Section 1(N)  
Repeats committee proposal with one change in the population guidelines for cities. Relates to cities with a population exceeding ten thousand, but not exceeding two hundred fifty thousand. Adds means whereby parishes can adhere to this Section.

CITY, PARISH, CIVIL SERVICE SYSTEM  
CREATION BY LEGISLATURE

Aertker, et al. Section 1(Q)  
Confirms authority of the legislature to establish a civil service system in any parish or in any city having a population of less than four hundred thousand.

Dennery Section 1(O)  
Repeats committee proposal except confirms right of a local governing body to establish a civil service system as well as the right of the legislature to create such a system. Applies to cities of less than two hundred fifty thousand.

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CC/73 Research Staff  
Committee on Education and Welfare  
Subcommittee on Public Welfare  
May 15, 1973  
Staff Memorandum No. 12

RE: Subcommittee assignments

A number of provisions of the Louisiana Constitution of 1921 must be reviewed by the Subcommittee on Public Welfare. These sections have been specifically assigned to this subcommittee by the Coordinating Committee. These provisions concern the following subjects:

Health Article VI, Section 11 Boards of health; state, parochial, and municipal; state health officer.  
Health and Consumer Affairs Article VI, Section 12 Public health; practice of healing arts; food and drug regulations.  
Consumer Affairs Article IV, Section 4 Local or special laws; prohibited subjects. (fixing the rate of interest)

Penal Affairs  
Article XIV, Section 17

State penal institutions; crimes in, or by inmates or employees; reimbursement of parish expense.

(Article VIII, Section 6. Disqualifications from voting or holding office; employment. The Coordinating Committee did not take action on this section. The Committee on Bill of Rights and Elections is considering a proposal which would restore the right

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to vote to a convict upon release from the penitentiary and restore all rights of citizenship upon release from parole supervision.)

(Article XX, Section 1. Bond issue; Angola Plantation enlargement and improvement. The research staff is working with the Committee on Revenue, Finance and Taxation to determine the proper disposition of this provision.)

Business  
Article XIII, Section 6

Canal and hydro-electric developments; use of state waters; state ownership.

Civil Service  
Article XIV, Section 15

Civil service system; state; cities.

Article XIV, Section 15.1

Fire and police civil service; municipalities of 13,000 to 250,000

Article XIV, Section 15.2

Financial security for surviving spouses and children of law enforcement officers in certain cases.

Retirement  
Article XVIII, Section 9

Retirement fund; aged and incapacitated state employees.

Article XVIII, Section 9.1

Retirement system for political subdivision employees, policemen, and firemen excepted.

Article XIX, Section 25

Retirement systems; notice of intention to propose amendment or change; publication.

Copies of all sections except those relating to retirement and civil service are attached. The entire Committee on Education and Welfare will review the retirement provisions at its next meeting; these provisions were recently distributed to members of the committee.

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NOTES

Provisions of the Louisiana Constitution of 1921 cited in the text above have been omitted.

CC/73 Research Staff  
Committee on Education and Welfare  
Subcommittee on Public Welfare  
May 15, 1973  
Staff Memorandum No. 13

RE: Recommendations concerning consumer affairs.

Representatives of the Louisiana Consumers League, the

Baton Rouge Consumer Protection Center, and the Governor's Office of Consumer Protection appeared before the Subcommittee on Public Welfare to urge the inclusion of constitutional provisions to protect the interests of consumers in Louisiana. Mr. William H. Forman, president of the Louisiana Consumers League represented that group; Mr. Glen Ducote represented the Baton Rouge Consumer Protection Center; and Mr. Ronald Hersbergen, assistant professor of law at Louisiana State University, represented the Governor's Office of Consumer Protection. In addition Mrs. Nell Weekley, director, New Orleans Office of Consumer Affairs, submitted a number of written recommendations to the subcommittee.

Various proposals were made, but all representatives agreed on one point: Louisiana should provide consumer representation on state regulatory and licensing boards. Mr. Forman asked that the constitution authorize the executive department to provide consumers with "meaningful representation" on regulatory boards. Mr. Ducote advocated representation of consumers at hearings of the Public Service Commission. The Montana Constitution (1972) contains such a provision:

Article XIII, Section 2.

Section 2. Consumer counsel. The legislature shall provide for an office of consumer counsel which shall have the duty of representing consumer interests in hearings before the public service commission or any other successor agency. The legislature shall provide for the funding of the office of consumer counsel by a special tax on the net income or gross revenues of regulated companies.

He also proposed that consumers constitute at least 51 percent of the membership of boards regulating service professions (i.e., insurance, pharmacy, cosmetology, radio and television repair, and mortuary science). Mr. Hersbergen asked for either "meaningful consumer representation" on regulatory and licensing boards or the establishment of an office of consumer counsel to represent the consumer before all boards. Mrs. Weekley requested "broad" consumer and public representation on state boards, commissions, and advisory committees.

A list of additional proposals made by consumer advocates is attached.

Recommendations for new provisions:

Mr. Ducote:

1. A clause guaranteeing equal protection to all in the market place.

Mrs. Weekley:

1. A short, basic document.
2. No provisions to protect special interest groups as opposed to the general public interest; specification that the interests of larger numbers be protected over the interests of small groups and that the interests of future generations be taken into account.

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3. That any constitutional provisions relating to chartering local governments specify elective offices only to allow local governments maximum latitude in organizing

service departments to meet citizen and consumer needs within their own jurisdictions.

4. That no conflicts in lines of authority, responsibility, or funding be built into the constitution through the creation of special administrative authorities funded by, but not controlled by, local governments.
5. In the charge to provide for public education inclusion of a charge to provide for life-oriented (including consumer) education as well as career-oriented and college-oriented education.

Mr. Hersbergen:

1. Additional judicial seats at the district court level; separate courts of appeal for criminal matters; an original jurisdiction court system devoted exclusively to consumer cases.
2. A directive to the legislature to protect small claims cases by providing for court-awarded attorney's fees in consumer cases, to be paid by the losing party.
3. A directive to the legislature to enact laws to guarantee the fundamental dignity of men and women as functioning heads of households by:

- a. prohibiting garnishment of wages pursuant to judgments arising out of consumer transactions.
- b. prohibiting the acquisition of liens or mortgage interests on and attendant attachment of property necessary to the basic well-being of

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Louisiana citizens; the legislature should define such property, allow its use in first mortgages, and allow a waiver in emergency circumstances.

4. A directive to the legislature to guarantee the rights of minor children to the basic necessities of life (food, clothing, education) and prohibit the abridgment of these rights by legal process or creditor's remedy.
5. Laws guaranteeing the right of an individual citizen to bring suit against parties regarding consumer transactions in any parish where such parties reside, are found, have an office or agent, or are "doing business."
6. A directive to the legislature to allow individual citizens to be sued only in the parish of their residence.
7. A provision stating that it is the public policy of Louisiana that its courts shall not enforce unconscionable (unscrupulous) laws or unconscionable agreements between parties.

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DISPOSITION OF EXISTING PROVISIONS \*

PROVISION	RECOMMENDATION	COMMITTEE ASSIGNMENT
<u>Article I, Section 6</u> (guaranteeing an open system of justice)	Retain	Judiciary
<u>Article XI, Section 1</u> (homestead exemption)	Strengthen and retain	Revenue, Finance and Taxation
<u>Article I</u> ("Bill of Rights Freedoms")	Retain	Bill of Rights and Elections
<u>Article III, Section 36</u> (arbitration laws)	Retain	<u>Public Welfare</u> (retained)
<u>Article VI, Section 12</u> (food and drug regulations)	Retain only in rewritten form; preferably relegate to the legislature	<u>Public Welfare</u>
<u>Article IV, Section 7</u> (minimum wage)	Retain only in rewritten form; preferably relegate to the legislature	<u>Public Welfare</u> (deleted)
<u>Article XIX, Section 14</u> (restraints of trade)	Retain only in rewritten form; preferably relegate to the legislature	Legislative Powers and Functions
<u>Article VII, Section 44</u> (confession of judgment)	Relegate to legislature or delete; if relegated, should be rewritten to protect consumers	Judiciary
<u>Article VII, Section 43</u> (Justice of the peace courts)	Relegate to legislature or delete; if relegated, should be rewritten to protect consumers	Judiciary

\* All recommended by Mr. Hersbergen.

PROVISION	RECOMMENDATION	COMMITTEE ASSIGNMENT
<u>Article XI, Section 2</u> (mechanic's liens)	Relegate to legislature or delete; if relegated, should be rewritten to protect consumers	Revenue, Finance and Taxation
<u>Article XI, Section 3</u> (waiver of homestead exemption)	Relegate to legislature or delete; if relegated, should be rewritten to protect consumers	Revenue, Finance and Taxation
<u>Article VI, Section 7</u> (Public Service Commission)	Relegate to legislature or delete; if relegated, should be rewritten to protect consumers	Natural Resources and Environment; Executive Department

CC/73 Research Staff  
Committee on Education  
and Welfare  
Subcommittee on Public  
Welfare  
May 16, 1973  
Staff Memorandum No. 14

RE: Industrial tax exemptions.

The Louisiana Department of Commerce and Industry has provided the research staff with statistics on the number of tax exemptions granted Louisiana industries in the years 1971 and 1972.

In 1971 the Board of Commerce and Industry considered

295 applications for tax exemptions. Other applications were submitted to the department, but only those which appear to meet eligibility standards reach the board for a final decision. Of the 295 finally considered, 293 applications were approved for a tax exemption by the Board of Commerce and Industry. The approved applications represented a total investment of \$668,797,687; the number of permanent new jobs created was 4,877.

The Board of Commerce and Industry approved 267 of 275 applications in 1972. The 267 tax exemptions represented an investment of \$1,851,887,672; the number of permanent new jobs created was 4,144.

A more detailed listing of these statistics is attached

1971	Total Applications Approved	293	Total Dollar Investment	\$ 668,797,687	Total Jobs Created	4,877
1971	New Plants Investment	\$104,707,558	New Plants Jobs Created	2,027	Additions Investments	\$564,090,129
					Additions Jobs Created	2,850
1972	Total Applications Approved	267	Total Dollar Investment	\$1,851,887,672	Total Jobs Created	4,144
1972	New Plants Investment	\$1,116,076,277	New Plants Jobs Created	2,169	Additions Investments	\$735,811,395
					Additions Jobs Created	1,975



CC/73 Research Staff  
Committee on Education  
and Welfare  
Subcommittee on Public  
Welfare  
May 17, 1973  
Staff Memorandum No. 15

candidates in prescribed score groups rather than the top three scores.

International Personnel Management Association Survey, 1972.  
Additional information gathered by CC/73 Research Staff.

RE: Civil service procedures in other states.

The research staff has compiled additional information on the operation of civil service systems in other states. Seven states have answered a questionnaire prepared by the staff. The Public Personnel Association and the International Personnel Management Association also provided material from their files.

The attached surveys cover our questions regarding the burden of proof in appeals, legislative or executive review of commission rulings, certification procedures, and court appeal in disciplinary cases.

RESPONSE TO CC/73 STAFF QUESTIONNAIRE

Burden of proof in disciplinary hearings:

- Alaska - on both appellant and appointing authority
- California - on appointing authority except concerning a probationary employee
- Massachusetts- appointing authority
- Michigan - "can go either way depending on the circumstances"
- New York - appointing authority
- Texas - employee
- Virginia - employee

Legislative review of commission rules:

- Alaska - no review
- California - legislature has no review where the Personnel Board derives authority for the ruling from the constitution (i.e., disciplinary action); the legislature has review where the ruling is based on statutory authority (i.e., salary administration).
- Massachusetts - no review
- Michigan - no review
- New York - no review
- Texas - no review
- Virginia - no review

A recent survey conducted by the Public Personnel Association lists five states (Alabama, Hawaii, Kentucky, Utah, and Vermont) in which the governor must countersign administrative rules passed by the State Personnel Commission.

Certification Procedures Used by States in the United States

- Rule of One: no states
  - Rule of Three: twenty-three states
  - Rule of More than Three: twenty states
- Of the twenty, five use a Rule of Five and one uses a Rule of Six. The other states did not specify the number certified.

- Oregon certifies from three to five names, depending on the job and the circumstances.
- Nebraska certifies a "reasonable number of names."
- Michigan is embarking on a one-year trial of certification by

Civil Service Provisions on Appeal to the Courts in Cases of Adverse Actio

No:	no court appeal from commission's disciplinary action.		
Yes:	court appeal from commission's disciplinary action on law only.		
Yes*:	court appeal from commission's disciplinary action on law and facts.		
Alabama .....	No	Kentucky .....	Yes
Alaska .....	No	Louisiana.....	Yes
Arizona .....	Yes	Massachusetts.....	Yes
California.....	Yes*	Michigan.....	Yes
Colorado.....	Yes	Minnesota.....	Yes
Connecticut.....	No	New Hampshire.....	Yes*
Florida.....	Yes	New Mexico.....	No
Hawaii.....	No	Oregon.....	Yes
Idaho.....	Yes	Vermont.....	Yes*
Indiana.....	Yes*	Wisconsin.....	Yes
Iowa.....	Yes		

International Personnel Management Association survey, 1972-73.

CC/73 Research Staff  
Committee on Education  
and Welfare  
Subcommittee on Public  
Welfare  
May 24, 1973  
Staff Memorandum No. 16

RE: City Civil Service

The research staff has prepared a summary of the constitutional provisions relating to city civil service and the recommendations presented by Mr. William Konrad, director of personnel, New Orleans Department of Civil Service, and Mr. Roy Stewart, director, Jefferson Parish Civil Service. Mr. Stewart's project was coauthored by Mr. Charles P. Roth, Jr., a civil service employee in Jefferson Parish.

The comparison is arranged topically. In most cases, the provisions are briefly summarized. Provisions relating to political activity and procedures for certification and promotion are repeated in detail so that subcommittee members can identify the specific constitutional material deleted by the projects. On these topics the reader is also referred to Staff Memorandum No. 9.

The following topics are covered:

Creation .....	2
Employees Covered .....	2
Change in Classification Scheme .....	4
City Civil Service Commission .....	4
Removal of Commissions .....	5
Meetings .....	5
Compensation of Commissioners .....	5
Director of Personnel .....	5
Rule of Three .....	6
Discrimination .....	6
Examinations, Appointments, Promotions .....	6
Political Activity, Commissioners .....	7
Political Activity, Employees .....	8
Violations .....	11
Disciplinary Action, Appeals .....	12
Appropriations .....	13
Coordination of Local Systems .....	13
Extension of System .....	13
Transition .....	13

CREATION

La. Const.: Creates a city civil service department in each city having a population exceeding 250,000 (B).

Konrad: Creates a city civil service department in each city having a population exceeding 300,000 (C).

Stewart-Roth: Creates a civil service department in all political subdivisions and/or public entities which serve populations in excess of 50,000 and/or which employ 150 or more persons in full-time classified service (1).

persons in the Unclassified Service is approved by the appropriate Commission;

(18) independent contractors employed to render services on a contractual basis, including independent contractual professional service. (G)

Stewart-Roth: Omits Board of Liquidation of City Debt of New

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EMPLOYEES COVERED

La. Const.: The "City Service" of cities of the state having a population exceeding two hundred fifty thousand shall be divided into the "unclassified" and "classified" service.

(a) The Unclassified City Service shall comprise the following offices and positions:

- (1) city officers elected by the people, and persons appointed to fill vacancies in elective offices;
- (2) heads of principal departments appointed by the mayor or other governing body of any city;
- (3) City Attorneys;
- (4) members of City Boards and Commissions discharging executive, administrative or advisory functions;
- (5) one principal assistant or deputy, one attorney, and one person holding a confidential position to any officer, Board or Commission mentioned in (1) (2) and (4), except the Departments of City Civil Service, provided no appointing authority shall be required to fill any of these positions with unclassified employees, but may assign the duties of any of them to a classified employee;
- (7) the teaching, professional and administrative officers of all schools, colleges and universities of the State;
- (8) officers and employees of the offices of the mayors of the several cities, and city attorneys, and the Board of Liquidation of the City Debt of New Orleans;

Orleans, commissioners of elections and watchers, custodians and deputy custodians of voting machines; omits employees of sheriffs, clerks of court, police juries, assessors, coroners, state tax collector of the City of New Orleans, recorders of mortgages, registrars of conveyances, district attorneys (except for professional legal assistants), constables of city courts, school boards, and courts of record; omits registrars of voters and one chief deputy for each; omits unskilled laborers. Instead of specifying types of temporary service positions this projet describes as unclassified: persons and organizations, and the employees thereof, who are retained on a contractual basis for a specific period of time to perform a specific service which can not reasonably or economically be better performed by employment within the Classified Service. (4)

CHANGE IN CLASSIFICATION SCHEME

La. Const.: Governing body of city may add offices, except elective offices to the classified service provided it notifies the city civil service commission at least six months prior to change. (G) (C)

Konrad: Additional exceptions may be made and revoked by the commission. (B)

Stewart-Roth: Governing body of the city may add offices to the classified service. (4)

CITY CIVIL SERVICE COMMISSION

La. Const.: Three-member commission; selected by governing body of city from two lists of three names each submitted by the presidents of two universities located in or near the city (universities which also nominate for the state commission); one member directly appointed by city governing body; serve six-year staggered terms. (D)

Konrad: Three-member commission; two members selected by governing body of the city from nominations made by the presidents of the "six oldest colleges or universities located in or nearest the city (each president contributes one name);" one member directly appointed by the governing body of the city; serve six-year staggered terms. (D)

Stewart-Roth: Three to seven-man board of supervisors for each jurisdiction; not more than one-third of the members shall be directly appointed by the chief executive officer of the affected jurisdiction; not less than two-thirds of the members shall be

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selected by the chief executive from lists submitted by the presidents of universities located in or near the jurisdiction; serve overlapping terms. (4)

REMOVAL OF COMMISSIONERS

La. Const.: For cause, after being given a copy of charges and an opportunity to be heard publicly on such charges by his appointing authority. (E)

Konrad: For cause, after being given a copy of charges and an opportunity to be heard publicly on such charges by his appointing authority. (D)

Stewart-Roth: For cause and after a public hearing. (2)

MEETINGS

La. Const.: All meetings shall be open to the public. (E) (some personnel records may be held in confidence). (L)

Konrad: No provision.

Stewart-Roth: Meetings open to public except for material the board believes should be held in confidence. (6)

COMPENSATION OF COMMISSIONERS

La. Const.: Members shall be paid \$25 for each day of work devoted to the commission, but not more than \$2,000 each in any year; members shall be entitled to reimbursement for actual traveling and other expenses. (K)

Konrad: Members shall be paid \$50 for each day of work devoted to the commission, but not more than \$2,000 a year; members shall be entitled to reimbursement for actual expenses. (O)

Stewart-Roth: Members may be compensated for their services. (2)

as it deems necessary and appropriate to administer the merit system of personnel administration within the context of this Article, such rules to have the force and effect of law;

(4) to adopt a plan for the classification of positions, and such amendments thereto as may be necessary from time to time;

(5) to recommend a pay plan for classified positions and to enforce and administer the plan as approved by the governing body of the jurisdiction;

(9) to perform such functions and assume such responsibilities for personnel administration in the Unclassified Service as may be delegated to it by the governing body of the appropriate jurisdiction. (3)

DIRECTOR OF PERSONNEL

La. Const.: Commission appoints a director of personnel to administer the program; director is in the classified service. (F) (1)

Konrad: Commission appoints a director of personnel to administer the program; director is in the classified service. (C) (E)

Qualifications and eligibility for employment in any position in the Classified Service shall be solely within the authority of the appropriate personnel board; except that, any and all qualifications and qualifying procedures shall be merit oriented and job related and shall not in any way discriminate against or in favor of any applicant by reason of race, national origin, color, creed, religion, or politics. (7)

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Stewart-Roth: Commission appoints a director of personnel to administer program.(3[1,2])

POLITICAL ACTIVITY

Commissioners

See comment, page 10, Staff Memorandum 9, for comparison of Konrad projet as provisions of the present constitution. The Stewart-Roth proposal prohibits commissioners from being a candidate or occupant of an elective office or any paid public position.

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RULE OF THREE

La. Const.: Not less than three names shall be certified as eligible for classified position. (I) (a)

Konrad: No mention of rule of three; commission is given authority to adopt rules for certification of job eligibility. (F)

Stewart-Roth: Qualifications and eligibility for employment shall be determined by the personnel board; any and all qualifying shall be merit oriented and job related. (7)

La. Const.:

No member of any Civil Service Commission shall be a candidate for nomination or election to any public office or hold any other public office or position of public employment whatsoever, the office of Notary Public or military or naval office, or Dean or member of the faculty of any educational institution excepted; nor shall any member of the Commission be or have been during a period of six months immediately preceding his appointment a member of any local, state, or national committee of a political party, or an officer or member of a committee in any factional or political club or organization, and each Commissioner shall take the oath of office before entering upon the duties of office, and such oath shall include a statement of belief in and desire to support the principles of the Merit System. (E)

DISCRIMINATION

La. Const.: No discrimination with respect to political or religious beliefs. (N) (2)

Konrad: No discrimination because of political or religious beliefs, sex, or race. (G)

Stewart-Roth: No discrimination because of race, national origin, color, creed, religion, or politics. (7)

EXAMINATIONS, APPOINTMENTS, PROMOTIONS

See constitutional provisions and comment, pages 7,8,12,13,14, 15, and 16, staff memorandum 9. Constitutional provisions for the state and city commissions are identical. The Konrad and Stewart-Roth proposals substitute a general rule-making authority in the area of appointment, promotion, and conditions of employment for the specific directive now contained in the constitution.

Konrad:

No member of the City 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 for 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 as an 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 City Civil Service to punish or coerce the political action of such person. (I)

Stewart-Roth:

Each such board shall be composed of not less than three (3) nor more than seven (7) members each of whom are citizens and qualified electors of the jurisdictions served, and none of whom are candidates for or occupants of any elective office or any paid public position. (2)

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City Civil Service including, but not limited to, regulation of employment, promotion, demotion, suspension, reduction in pay, 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. (H)

POLITICAL ACTIVITY

Employees

See provisions from present constitution and comment, pages 10 and 11, Staff Memorandum 9. The Konrad projet compares similarly with constitutional provisions. The Stewart-Roth proposal specifies prohibited political activities. It repeats the existing prohibitions and asks a prohibition against displaying political signs, badges, etc.

Stewart-Roth: Each board as described and defined in Section 2, above, shall have the following powers, authorities, and duties:

(3) to prepare, adopt, and enforce such rules

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Konrad: No member of the City 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 for 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 as an 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 City Civil Service to punish or coerce the political action of such person. (I)

Stewart-Roth: In order to ensure to the greatest extent possible the rendering of impartial and objective service to all citizens of the state, to provide for continuity of employment unaffected by results of political elections, and to free public employees from undesirable partisan political pressures and influences, participation in public political activity by persons employed in or considered for employment in any Classified Service position is hereby restricted, as follows:

1. No person who is a candidate for any public elective office shall, while actively pursuing such candidacy, be considered for, appointed to, or employed in any Classified Service position;
2. No person who is elected to any public office shall, while awaiting assumption of or while serving in such office, be appointed to or employed in any Classified Service position;
3. No Classified Service employee shall be granted any form of leave of absence with or without pay the purpose of which is directly or indirectly to permit the employee to seek or to occupy an elective public office or to accept interim appointment to such an office;
4. No Classified Service employee shall be a member of any national, state, or local committee of any political party, or a member or an officer of any factional political club or organization, or a candidate for nomination or election to any public office, or shall actively take part in any campaign for the nomination or election of any public officer, or shall take part in the management or affairs of any political faction or

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5. party or organization; No Classified Service employee shall contribute money, materials, property, personal services, or any other valuable consideration to or on behalf of any candidate for public office or on behalf of any partisan political cause or organization;
6. No Classified Service employee shall display or permit to be displayed on his person or on any property owned by him in whole or in part any signs, posters, emblems, decals, literature, pictures, banners, badges, or other materials or paraphernalia intended directly or indirectly to advocate, espouse, or further the cause of any candidate for public office or any political cause or endeavor;
7. No Classified Service employee shall make any public speech or public statement, verbal, written or otherwise, in behalf of any candidate for public office or any political faction, party, organization, cause, or endeavor;
8. No person shall be appointed to, promoted to, dismissed from, or disciplined in any position in the Classified Service or in any way favored or discriminated against with respect to Classified Service employment because of political opinions, affiliations, or considerations, or lack of same;
9. No employee in a Classified Service position shall, directly or indirectly, pay or promise to pay or permit to be deducted from his pay any assessment, subscription, or contribution to further the cause of any candidate for office or for any political purpose whatever, and no Classified Service employee shall solicit or take part in soliciting any such assessment, subscription, or contribution from any Classified Service employee or any other person or source;
10. No person shall, directly or indirectly, give, render, pay, offer, solicit, or

accept any money, service, or other valuable consideration for or on account of any appointment to, proposed appointment to, promotion to, proposed promotion to, dismissal from, disciplinary action in, or any advantage in a position in the Classified Service;

11. No appointing authority, or agent or deputy thereof, or supervisor, or other public official shall, directly or indirectly, demote, suspend, discharge, or otherwise discipline or coerce any Classified Service employee for the purpose of influencing

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his vote, support, or other activity with regard to any political cause, election, candidate, nominee or endeavor whatever.

Every employee in Classified Service positions shall have the unrestricted right to express his opinions privately, to attend political meetings and gatherings as a spectator, to read political literature, to listen to political speeches and broadcasts, to serve as a commissioner or an official watcher at the polls in any election, to cast his vote for the candidate or issue of his choosing, and to register to vote or refrain therefrom under any party designation or lack of designation as he may choose. Any Classified Service employee who, after investigation and public hearing by any appropriate personnel board, is found to have violated any provision of this Section shall be subjected to any disciplinary action ordered by the Board in its discretion, up to and including dismissal from the Classified Service and prohibition against future Classified Service employment in the State. (9)

#### VIOLATIONS

See constitutional provisions in Staff Memorandum 9, pages 17, 18, 19, and 20. Same comment is applicable. The two projects under consideration shorten the existing provision.

Konrad: The Commission is authorized to make investigations into violations of the provisions of this section and the rules or laws adopted pursuant hereto. (J) The rules adopted pursuant hereto shall have the effect of law. The Commission may impose penalties for their violation in the form of demotion in, or suspension or discharge from, position with attendant loss of pay. (K) Any person who willfully 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 by a fine of not more than \$500.00, or by imprisonment for not more than six (6) months, or both. (L)

Stewart-Roth: Each board as described and defined in Section 2, above, shall have the following powers, authorities, and duties:  
(6) to investigate any and all matters pertinent or related to personnel administration within its jurisdiction, and to take such action as it deems appropriate to correct problems which it determines or discovers, including disciplinary action against classified employees or applicants for classified position and to file legal charges against persons felt to have violated positions and provisions of this article or any of the rules adopted under authority hereof. (3)

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#### DISCIPLINARY ACTION; APPEALS

La. Const.: No person in the State or Classified Service, having acquired permanent Civil Service status, shall be demoted, dismissed, or discriminated against, except for cause, expressed in writing by the appointing authority. (a) The burden of proof on appeal, as to the facts, shall be on the employee. (N) (1)  
There is vested in the State Civil Service Commissions and in the appropriate Civil Service for the several cities respectively the exclusive right to hear and decide all appeals and the legality of all removal and disciplinary cases. The decision of the appropriate Civil Service Commission shall be final on the facts, but an appeal shall be granted to the Supreme Court of Louisiana on any question of law if application to the Commission is made within thirty (30) days after the Commission's decision becomes final. The Supreme Court shall promulgate rules of procedure to be followed in the taking and lodging of such appeals. (0) (1)  
Subject to the rules governing the right of appeal, persons in the State or City Classified Service who allege that they have been deprived of their rights or discriminated against under the provisions of this Section, or persons who shall have applied

for or shall have been examined for the Classified Service and shall not have established their status as permanent Classified employees and allege that they have been discriminated against in review of their applications, admission to the examination, the scoring of examinations, the establishment of eligible lists and certifications therefrom, shall be granted the right of appeal before the appropriate Commission. (0) (2) If any Commission after any hearing orders a dismissed or suspended employee reinstated, it may reinstate such employee under such conditions as it deems proper and may order full pay for lost time. (0) (3)

CC/73 Research Staff  
Committee on Education and Welfare  
Subcommittee on Public Welfare  
May 25, 1973  
Staff Memorandum No. 17

Konrad: No person having gained permanent Civil Service status in the classified City Civil Service shall be subjected to disciplinary action except for cause. Any classified employee discriminated against or subjected to disciplinary action shall have the right of appeal to the City Civil Service Commission. The burden of proof on appeal, as to the facts, shall be on the employee. (G)

Stewart-Roth: Each board as described and defined above, shall have the authority to receive and hear employee appeals, to administer oaths, subpoena witnesses and/or records, and render decisions which shall

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be binding on all officials of the appropriate jurisdiction and shall be final as to fact, appealable only on question of law to the appropriate court of appeals of the State. (3(7))

#### APPROPRIATIONS

La. Const.: Each city subject to provisions of this section shall make adequate annual appropriations to enable the civil service commission of the city to effectively carry out these provisions. (T)

Konrad: No provision.

Stewart-Roth: Governing body of city will allocate to the commission appropriate at least seven-tenths of 1 percent of the total personnel budget for classified positions. (8)

#### COORDINATION OF LOCAL SYSTEMS

Stewart-Roth: Creates a Public Personnel Council composed of one representative from each civil service jurisdiction in the state; the council would study and promote uniform policies of public personnel administration. (10)

#### EXTENSION OF SYSTEM

La. Const.: Any city (and any parish governed jointly with a city) having a population exceeding 10,000, but not exceeding 250,000, may accept constitutional provisions relating to civil service by a majority vote at a general or special election; this election shall be held at the direction of the city's governing body or upon presentation of a petition signed by 5 percent of the city's registered voters; if provision fails to pass election, it shall not be resubmitted for one year. (U)

Konrad: Projet applies only to New Orleans; Mr. Konrad believes it could serve other cities as well.

Stewart-Roth: Applies to cities or political jurisdictions with a population exceeding 50,000 or with 150 or more full-time classified employees. (1)

#### TRANSITION

Konrad: Upon the effective date of this amendment, all officers and employees of the city who have Civil Service status in the classified service

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of the city 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. (M)

Stewart-Roth: All systems of Civil Service and/or merit employment existing and in force at the time of the adoption of this Article may continue insofar as not in conflict herewith.

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RE: MUNICIPAL FIRE AND POLICE CIVIL SERVICE

Representatives of the Municipal Fire and Police Civil Service and members of the New Orleans Fire and Police departments appeared before the Subcommittee on Public Welfare to recommend that New Orleans firemen and policemen be removed from the Department of City Civil Service and placed in the Municipal Fire and Police Civil Service. (See Staff Memorandum No. 6). Members of the subcommittee have copies of Article XIV, Section 15 concerning state and local civil service departments and Article XIV, Section 15.1 concerning the fire and police civil service system. The research staff has prepared a summary of the major differences between the New Orleans city system and the fire and police system in effect in the rest of the state. Mr. Clarence J. Perez of the International Association of Fire Fighters indicated the provisions which most concern his organization. This comparison is attached.

1. Negotiations for Wages and Hours.

Mr. Perez believes that this is the most important difference between the two systems. The New Orleans Department of City Civil Service sets classification plans and uniform rates of pay for all employees in the city system. (XIV, §15, Para. I (c)) Firemen and policemen cannot bargain with either the City Civil Service Commission or the City Council for changes in wages or hours. Mr. Perez is the district representative for 160,000 firemen in five southern states, and he relates that in other cities in the district a bargaining arrangement prevails. In other Louisiana cities, Municipal Fire and Police Civil Service Boards adopt classification plans (XIV, §15.1, Para. 7), but local governing bodies set the wage scales. Firemen and policemen therefore can deal directly with city officials.

2. Composition of Local Commissions.

The New Orleans Civil Service Commission is composed of three members. One member is directly appointed by the governing body of the city. Two members are appointed by the governing body of the city from two lists of three nominees, each submitted by the presidents of local universities designated in the constitution. (XIV, § 15, Para. D) Municipal Fire and Police Civil Service Boards are five-member commissions. Two members are selected by the city governing body from nominees submitted by two college presidents; one member is directly appointed by the governing body of the city; one member is elected within the ranks of firemen to represent that group; one member is elected within the ranks of policemen to represent that group. (XIV, §15.1, Para. 6)

2

3. Political Activities.

The two constitutional provisions contain similar prohibitions

against political activity by employees. (XIV, §15, Para. N [3, 5, 6, 7, 8, 9]; XIV §15.1 Para. 34 ) The New Orleans commission, according to Mr. Perez' organization, has consistently rendered a stricter, more limiting interpretation of the provision. Mr. Perez believes that employees in both systems should be allowed to take a public position on bond issues, constitutional amendments, and other referenda.

4. Rule-making Authority.

The New Orleans City Civil Service Commission has the authority to make rules which have the effect of law. (XIV, § 15, Para. I) Municipal Fire and Police Civil Service Boards have the same rule-making authority, but the constitution declares that their rules may not be "contrary to any other provisions of law." (XIV, § 15.1, Para. 8)

5. Examination Schedules.

The constitution dictates no time schedule for promotional examinations. In the fire and police system, promotional examinations must be offered at least once every eighteen months. (XIV, 15.1, Para. 22 [c])

6. Burden of Proof in Appeal.

In the New Orleans City Civil Service Department the burden of proof in an appeal is on the employee. (XIV, § 15, Para. N In the fire and police system, both sides present evidence. (XIV, § 15.1, Para. 31)

3

7. System of Promotion.

The New Orleans system uses the "rule of three." (XIV, § 15, Para. I [a] ) The fire and police system uses a seniority system. Candidates for promotion who attain a score of "75" on the examination are rated in order of seniority and must be appointed in that order. A six-month working test period follows. (XIV, § 15.1, Para. 25)

CC/73 Research Staff  
Committee on Education and Welfare  
Subcommittee on Public Welfare  
June 8, 1973  
Staff Memorandum No. 18

RE: Civil Service Employment Regulations

In the Louisiana Constitution Article XIV, Section 15, Paragraphs (F) (2), (I), (I) (a), (I) (b), (I) (c), (J) (1), and (H) relate to civil service rules and regulations, conduct of examinations, certification, appointment, and conditions of employment. These provisions apply to both the State Civil Service Commission and the City Civil Service Commission established by authority of the constitution.

The proposals submitted by Mr. William Konrad, director of personnel, New Orleans City Civil Service, and Mr. Harold Forbes, director of personnel, Louisiana Department of State Civil Service, shorten existing provisions in this area.

A comparison of relevant sections of the constitution with the projects of Mr. Konrad and Mr. Forbes is attached.

Civil Service Employment Regulations

Konrad:

(F) Permanent appointments and promotions in the classified City 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.

Forbes: *Forbes: ...*  
(E) Repeats the Konrad provision.

Konrad:

(H) The Commission is vested with broad and general rule-making powers, including subpoena powers, for the administration and regulation of the classified City Civil Service including, but not limited to, regulation of employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications and all other personnel matters and transactions, the adoption of a uniform pay and classification plan, employment conditions, compensation and dis-

2

bursements to employees, and generally to carry out and effectuate the objectives and purposes of the merit system of Civil Service as herein established.

Forbes:

(G) Repeats the Konrad provision except that the words underlined above are omitted in this paragraph. The Forbes proposal also adds the sentence: "The Commission's rule-making power shall be exclusive, and its rules shall have the effect of law." This proviso is found in paragraph (n) of Mr. Konrad's project.

Louisiana Constitution Art. XIV, Sec. 15.

(F) (2) Admission to Examinations

- 1. The commission may restrict admission to examinations to persons qualified to perform the duties of the position by fixing requirements of training, residence, health, skill, education, character, physical capacity, experience, reputation, and other qualifications.

Structure of Examinations

- 2. The subject matter, experience ratings, nature, and content of examinations shall be solely within the supervision and discretion of the commission.

Unassembled Examinations

- 3. If the duties of a position require a state license,

3

the examination shall be unassembled and shall be based on the training, residence, health, skill, education, character, physical capacity, experience, reputation, and other qualifications.

#### Statewide Examinations

4. Where there are sufficient local applicants and the kind and character of positions justify it, and it is practical and reasonable to do so, statewide examinations for positions in the state service shall be given at convenient locations in each senatorial district.

#### (I) (a)

##### Rule of Three

5. The commission shall adopt rules providing the number to be certified as eligible for appointment or promotion. This number shall be not less than three unless more than one vacancy is to be filled in which case one additional name may be certified for each additional vacancy.

6. Special and different rules may be established in the case of reemployment lists and reinstatement.

#### (I)

##### Work-test Periods

7. The commission may establish work-test periods of not less than six months or more than twelve months before permanent appointment.

4

##### Work-test Periods

8. No more than three employees shall be removed successively from the same position during their work-test periods without the approval of the commission.

##### Rules and Regulations, Uniformity

9. Uniform regulations shall be adopted covering examination regulations, maintenance, consolidation, and cancellation of eligible lists, and removal of names from eligible lists, leaves of absence, sick and annual leaves, layoffs, reinstatements, reemployment, transfers, and abolition of positions.

##### Promotions

10. The commission shall provide for promotions on a competitive basis except where the commission finds it impractical

##### Vacancies

11. The commission shall provide for the filling of vacancies by demotion, transfer, reinstatement, reemployment, promotion, original appointment, or temporary appointment.

##### Hours

12. The commission shall establish and recommend hours of work, with the approval of the governor (or the governing body of the city).

5

##### Records, Salaries, Training Programs

13. Provision shall be made for attendance records, conditions for payment of salaries, training, and educational programs.

##### Rating System

14. The commission shall provide a uniform rating system for promotions, salary increases, suspensions, and separations.

##### Appeals Procedure

15. The commission shall fix the procedure for appeals, the time within which appeals must be taken, and all other matters pertaining to appeals.

##### Residency

16. Preferences in original appointments shall be accorded to registered voters of the state (or the city in city civil service).

##### Veterans' Preference

17. The commission shall accord five-point preferences in original appointments and three-point preferences in promotions to all persons honorably discharged, or discharged under honorable conditions, from the U.S. armed forces after having served within the following inclusive dates: April 6, 1917 and November 11, 1918; September 16, 1940 and July 25, 1947; June 27, 1950 and a date to be established by presidential proclamation or concurrent resolution of Congress; July 1, 1958 in the Vietnam theatre and a date

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to be decided by the president or Congress; or who served in peacetime campaigns for which campaign badges have been authorized.

##### Veterans' Preference

18. The commission shall accord ten-point preferences in original appointments to honorably discharged veterans who served either in peace or in war and who have one or more disabilities recognized by the Veterans Administration as service-connected. If the disability precludes employment, the ten-point preference shall accrue to the veteran's wife, unmarried widow, or eligible mother. These preferences shall only be given to persons who meet the minimum requirements or ratings for job eligibility.

#### (I) (a)

##### Classification Titles

19. The commission shall assign appropriate classification titles to each position in the classified service.

#### (I) (b)

##### Employees Affected By Reallocation

20. Employees affected by the allocation or reallocation of a position or by any changes in the classification plan shall be afforded an opportunity for hearing and appeal.

7

#### (I) (c)

##### Pay Differentials

21. The commission may take into consideration differences in pay in private business and industry and the scarcity of applicants in different areas of the state in fixing different pay rates in different areas.

Pay Plan

22. A pay plan for the state shall be effective only after the governor approves it; a pay plan for city civil service shall be effective only after approval by the governing body of that city.

(J) (1)

Promotions

23. Vacancies in positions in the classified service shall, as far as practicable, be filled by promotion from lower classes following competitive examination. These tests, however, shall be open to persons not in the classified service.

Lines of Promotion

24. The commission shall indicate the normal lines of promotion from and to each class.

(J) (2)

Preference Categories for Laid-off Employees

25. The commission shall establish preference categories

8

whenever a position is abolished or terminated because of lack of funds. These employees shall be laid off without pay. Veterans and their dependents (described previously) whose length of service and efficiency are as good as or better than other competing employees shall be retained in preference to other employees. When comparable job vacancies become available, preference employees and laid-off employees shall be hired or transferred before the regular eligible list is consulted.

(H)

Unskilled Labor

26. "From time to time," the commission may authorize the hiring of salaried, unskilled labor (including custodial workers, attendants, street cleaners, garbage workers, janitors, food service workers, and porters) without the usual testing and certification procedures. Once duly appointed, these employees shall acquire permanent status.

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# III. Proposals

## A. Committee Proposals

### NOTES

The following proposals cited in the Minutes are not found in the committee files: CC-214, 215, 216, 315 and 316. The Request File of the Convention Staff indicates that these proposals were concerned with the following topics:

- CC-214 dealt with a plan to reimburse parishes for costs related to crimes committed in penal institutions.
- CC-215 required the legislature to provide for a system of economic security, social welfare, unemployment compensation and public health.
- CC-216 was to provide a system of arbitration to settle disagreements.
- CC-315 is not identified in the files.
- CC-316 was another organizational plan for education.

CC-201

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by A.M. Rachal on behalf of Subcommittee on Public Welfare

#### A PROPOSAL

4 To provide financial security for surviving spouses  
5 and children of law enforcement officers in  
6 certain cases.

#### PROPOSED SECTIONS:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. Financial Security  
8 for Surviving Spouses and Children of Law En-  
9 forcement Officers in Certain Cases

10 Section \_\_\_\_\_. (A) It is hereby declared to be  
11 the public policy of this state, under its police  
12 power, to provide for the financial security of  
13 surviving spouses and dependent children of law  
14 enforcement officers where such officers suffer  
15 death from physical violence under the conditions  
16 described herein: while engaged in the direct  
17 apprehension of a person during the performance of  
18 their duties, in the protection of the State  
19 Capitol, any state-owned hospital or any state-  
20 owned college or university, or persons in these  
21 buildings or the property on which they are  
22 situated.

23 (B) Law enforcement officers, within the  
24 meaning of this section, shall include: all sheriffs  
25 and deputy sheriffs in the state employed on a full-  
26 time basis; all members of the state police thus  
27 employed, those municipal police officers to whom

28 state compensation is or may be paid as provided by  
29 law, all enforcement personnel of the Louisiana  
30 Wildlife and Fisheries Commission, guards at the  
31 State Capitol, guards at stated-owned hospitals, and  
32 security guards on the campuses of state-owned  
33 colleges and universities; provided, however, that

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1 honorary law enforcement officers, all state pro-  
2 bation and parole officers, including juvenile pro-  
3 bation and parole officers be construed or interpreted  
4 to be such law enforcement officers within the purview  
5 of this act.

6 (C) In any case in which a law enforcement  
7 officer, as defined by this section, suffers  
8 death as a result of physical violence, under  
9 the conditions described in paragraph (A), the  
10 legislature shall appropriate the sum of ten  
11 thousand dollars, which shall be paid to the  
12 surviving spouse of such law enforcement  
13 officer, and in addition thereto, should such  
14 law enforcement officer be survived by minor  
15 children, the legislature shall appropriate  
16 the sum of five thousand dollars for each of  
17 said minor children, which sum shall be paid  
18 to the duly appointed and qualified tutor or  
19 other legal representative of said child.

20 (D) No such payment shall be made until a  
21 judgment of a court of competent juris-  
22 diction has become final and such judgment  
23 has decreed that the law enforcement officer  
24 did suffer death as a result of physical  
25 violence while engaged during the performance  
26 of his duties as such law enforcement officer  
27 and under the conditions described in  
28 paragraph (A) above.

29 (E) Suit shall be instituted by the attorney  
30 general against the legislative auditor in the  
31 district court of the parish in which the state  
32 capitol is situated in any case where it appears  
33 that such a law enforcement officer has suffered  
34 death in the circumstances provided by this  
35 section and jurisdiction over such suit is hereby

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1 conferred on said court. Any judgment  
2 rendered by such court shall be subject to  
3 appeal as in other civil matters.

4 (F) Such suit may be instituted under the

5 laws applicable to declaratory judgments and  
6 any such suit shall be regarded as presenting  
7 a justiciable controversy between the attorney  
8 general and the legislative auditor.

9 (G) This section shall be self-operative and  
10 no further or additional legislation shall be  
11 required to place the provisions hereof in effect.

13 Source: La. Const. Art. XIV, §15.2 (1921).

15 Comment: Revises present constitutional provision allow-  
16 ing survivors' benefits in the death of law en-  
17 forcement officers by describing the conditions  
18 under which death may occur. Those conditions  
19 include the direct apprehension of a person during  
20 the course of the performance of their duties, in  
21 the protection of the state capitol, any state-  
22 owned hospital or any state-owned college or  
23 university or persons in these buildings or the  
24 property on which they are situated.

25 Expands definition of law enforcement officers  
26 to include guards at the state capitol, guards at  
27 state-owned hospitals and security guards on the  
28 campuses of state-owned colleges and universities.  
29 It retains the proviso that honorary law en-  
30 forcement officers, all state probation and parole  
31 officers, including juvenile probation and parole  
32 officers shall not be construed or interpreted to be  
33 such law enforcement officers within the purview of  
34 this act.

35 Retains provision requiring the legislature to

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1 appropriate \$10,000 which shall be paid to  
2 the surviving widow and \$5,000 to each sur-  
3 viving minor child of a law enforcement officer.  
4 The benefits described are allowed only where  
5 death is suffered by a law enforcement officer  
6 as defined and under the conditions described in  
7 this provision.

8 Retains provision withholding payment until a  
9 court of competent jurisdiction issues a final  
10 judgment and decrees that the law enforcement  
11 officer as defined suffered death under the con-  
12 ditions described herein.

13 Retains provisions determining the legal pro-  
14 cedure without substantive change.

15 Retains provision relating to the self-operative  
16 nature of this provision.

CC-201-A  
1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by Robert Aertker on behalf of Committee

4 on Education and Welfare  
5 A PROPOSAL  
6 To provide financial security for surviving spouses  
7 and children of law enforcement officers in cer-  
8 tain cases.

9 PROPOSED SECTIONS:  
10 Article \_\_\_\_, Section \_\_\_\_\_. Financial Security  
11 for Surviving Spouses and Children of Law  
12 Enforcement Officers in Certain Cases

13 Section \_\_\_\_\_. (A) It is hereby declared to  
14 be the public policy of this state, under its po-  
15 lice power, to provide for the financial security of  
16 surviving spouses and dependent children of law  
17 enforcement officers where such officers suffer  
18 death as a result of injury sustained in the course  
19 of the performance of official duties or ensuing  
20 from any activity while on or off duty engaged in  
21 the protection of life or property.

22 (B) Law enforcement officers, within the meaning  
23 of this Section, shall include: all sheriffs and deputy  
24 sheriffs in the state employed on a full-time basis; all  
25 members of the state police thus employed; those municipal  
26 police officers to whom state compensation is or may be  
27 paid as provided by law; all enforcement personnel of the  
28 Louisiana Wildlife and Fisheries Commission; capitol security  
29 police; guards at state-owned hospitals; security officers  
30 on the campuses of state-owned colleges and univer-  
31 sities; guards at state penal institutions; enforce-  
32 ment personnel of dock boards and levee boards; and  
33 other state employees whose primary responsibility  
34 is the full-time protection of state property;  
35 provided, however, that honorary law enforcement

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1 officers, all state probation and parole officers,  
2 including juvenile probation and parole officers  
3 shall not be construed or interpreted to be such  
4 law enforcement officers within the purview of  
5 this act.

6 (C) In any case in which a law enforcement  
7 officer, as defined by this Section, suffers death,  
8 under the conditions described in Paragraph (A),  
9 the legislature shall appropriate the sum of ten  
10 thousand dollars, which shall be paid to the surviving  
11 spouse of such law enforcement officer, and in addi-  
12 tion thereto, should such law enforcement officer  
13 be survived by minor children, the legislature  
14 shall appropriate the sum of five thousand dollars  
15 for each of the said minor children, which sum  
16 shall be paid to the duly appointed and qualified  
17 tutor or other legal representative of said child.

18 (D) No such payment shall be made until a  
19 judgment of a court of competent jurisdiction has

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where death is suffered by a law enforcement officer as defined and under the conditions described in this provision.

Retains provision withholding payment until a court of competent jurisdiction issues a final judgment and decrees that the law enforcement officer as defined suffered death under the conditions described herein.

Retains provisions determining the legal procedure without substantive change.

Retains provision relating to the self-operative nature of this provision.

*see change 5/28/73*

CC-201-A

auditor.

(G) This Section shall be self-operative and no further or additional legislation shall be required to place the provisions hereof in effect.

Source: La. Const. Art. XIV, §15.2 (1921).

Comment: The present provision allows survivors' benefits only where death occurs from physical violence while engaged in direct apprehension of a person during the performance of duty.

The revision authorizes payment of benefits to widows and children of law enforcement officers where death results from injury sustained in the course of the performance of official duties or activities, while on or off duty, undertaken in the protection of life or property.

Expands definition of law enforcement officers to include guards at the State Capitol, guards at state-owned hospitals, and security guards on the campuses of state-owned colleges and universities, enforcement personnel of dock boards and levee boards, and other state employees whose primary responsibility is the full-time protection of state property. It retains the proviso that honorary law enforcement officers, all state probation and parole officers, including juvenile probation and parole officers shall not be construed or interpreted to be such law enforcement officers within the purview of this act.

Retains provision requiring the legislature to appropriate ten thousand dollars which shall be paid to the surviving widow and five thousand dollars to each surviving minor child of a law enforcement officer. The benefits described are allowed only

CC-210

Constitutional Convention of Louisiana of 1973

COMMITTEE PROPOSAL NUMBER 1

Introduced by Robert Aertker on behalf of the Committee on Education and Welfare

A PROPOSAL

To require the legislature to provide for education and to establish an educational system.

PROPOSED SECTIONSL

Article \_\_\_\_\_, Section 1. Public Educational System

Section 1. The legislature shall provide for the education of the people of the state and shall establish and maintain a public educational system consisting of all public schools and all institutions of learning supported in whole or in part by state funds, the funds of any political subdivision thereof, or both.

Source: La. Const. Art. XII, §1 (1921).

Comment: Requires the legislature to provide for the education of the people of the state by establishing and maintaining a system of public education. Changes the language of the first unnumbered paragraph by deleting school children and adding people.

Deletes the second unnumbered paragraph which was declared unconstitutional in Poindexter v. Louisiana Financial Assistance Commission, 275F. Supp. 833, (1968).

Deletes the third paragraph of the present provision with respect to age at which children may enter public school and kindergarten.

Section 2. Elementary and Secondary Schools;

Purposes

Section 2. The purpose of the public educational system shall be to provide at all stages of human development, learning environments and experiences that are humane, just, and designed to promote excellence in the elementary and secondary levels of education, in order that every individual may be afforded the opportunity to develop to his full potential.

Source: La. Const. Art. XII, §3 (1921).

Comment: Revises the present provision by defining the purpose of education. Changes the present requirement that there be taught only fundamental branches of study, including instruction upon the constitutional system of state and national government and the duties of citizenship.

Section 3. State Board of Elementary and Secondary Education

Section 3. (A) Creation; function. There is created a body corporate, known as the State Board of Elementary and Secondary Education. The board shall supervise, control, and have budgetary responsibility for all public elementary and secondary schools and special schools under its jurisdiction, as provided by law. The board shall have such other specific powers, duties, and responsibilities as are provided by law, but shall have no control over the business affairs of parish and municipal school boards or the selection or removal of their officers and employees.

(B) Membership; terms. The board shall consist of seven members who shall be appointed by the

governor from the state at large, and an additional number of members equal to the number of congressional districts into which the state is divided, one of whom shall be elected from each of such districts, as provided by law. All members shall serve overlapping terms of six years, following the initial terms which shall be determined by the governor or the legislature, as the case may be, in a manner as to effectuate this purpose.

(C) Vacancies. Vacancies occurring for any cause prior to the expiration of the term shall be filled by appointment by the governor for the remainder of the unexpired term. Members shall serve without pay except for such per diem and

expenses as shall be fixed by the legislature.

17

Source: La. Const. Art. XII, §§4, 6, 7B (1921).

19

Comment: Removes the authority of the board to supervise institutions of higher education. Changes the composition of the board. Requires the governor to appoint 7 members of the board. Requires an election for an additional number of members, equal to the number of congressional districts into which the state is divided. All members shall serve overlapping terms of 6 years, following the initial terms which shall be determined by the governor or legislature. The present provision requires that the membership of the board be composed of 11 members; 3 elected from the Public Service Commission for terms of 6 years, and 8 members elected from districts corresponding to the congressional districts, for terms of 8 years.

Continues the existing authorization to the legislature to prescribe the duties and specific powers of the board. The board may not control the business affairs of parish school boards or the selection or removal of officers and employees.

Authorizes the board to supervise, control, and assume budgetary responsibility for all schools under its jurisdiction.

Section 4. State Superintendent of Public Elementary and Secondary Education

Section 4. (A) Term. There shall be a state superintendent of public education for elementary and secondary education, who shall be elected for a term of four years. He shall be the ex officio secretary of the State Board of Elementary and Secondary Education and shall serve as its chief executive officer.

(B) Qualifications. The state superintendent shall possess the qualifications required of parish school superintendents and such additional qualifications as may be fixed by law. However, any person serving or having served as state superintendent of public education on the effective date of this constitution shall continue to be eligible to hold or to be reelected to that office.

(C) Functions. The powers, duties, responsibilities, and salary of the state superintendent of public education shall be prescribed by law.

(D) Vacancy. A vacancy in the office of state

32 superintendent of public education for any cause  
33 except expiration of the term shall be filled by  
34 the State Board of Elementary and Secondary Edu-  
35 cation for the remainder of the unexpired term.

5

1 Source: La. Const. Art. XII, §5 (1921).

2  
3 Comment: Establishes that there shall be an

4 elected state superintendent of public education  
5 for elementary and secondary schools. Retains  
6 the term of office of 4 years and the superin-  
7 tendent shall be the ex officio secretary of the  
8 Board of Elementary and Secondary Education.

9 Deletes the salary of the superintendent and  
10 authorizes the legislature to prescribe the  
11 salary, powers, duties, and responsibilities.

12 Requires that the superintendent possess the  
13 same qualifications as required of parish  
14 superintendents and additional qualifications as  
15 may be fixed by law. Provides that any person  
16 serving or having served in the office, on the  
17 effective date of this constitution, shall con-  
18 tinue to be eligible to hold or to be reelected  
19 to that office.

20 Specifies that a vacancy in the office shall  
21 be filled by the board.

22  
23 Section 5. Qualifications and Certification of  
24 Teachers

25 Section 5. The board shall prescribe and pro-  
26 vide for the qualifications to be met by teachers  
27 and for the certification of teachers of public  
28 elementary and secondary and special schools.

29  
30 Source: La. Const. Art. XII, §7B (1921).

31  
32 Comment: Retains the authority of the board to de-  
33 termine the qualifications of teachers and for  
34 the certification of teachers in public  
35 elementary and secondary and special schools.

6

1 Section 6. Approval of Private Schools;

2 Effect

3 Section 6. The board may approve private  
4 schools whose sustained curriculum is of a  
5 quality equal to that prescribed for similar  
6 public schools. The certificates issued by  
7 private schools so approved shall carry the  
8 same privileges as those issued by the state  
9 public schools.

10

11 Source: La. Const. Art. XII, §7B (1921).

12

13 Comment: Retains the power of the board to approve  
14 private schools. The certificates issued by  
15 private schools approved by the board shall  
16 carry the same privileges as those issued by  
17 state public schools.

18

19 Section 7. Board of Regents

20 Section 7. (A) Board of regents; estab-  
21 lishment. There is created a body corporate  
22 known as the Board of Regents. The board shall  
23 plan, coordinate, and have budgetary responsibil-  
24 ity for all public higher education and shall  
25 have such other powers, duties, and responsibili-  
26 ties as are provided in this section and by law.

27 (B) Board membership; terms. The members  
28 of the board shall be appointed by the governor  
29 with the consent of the Senate for overlapping  
30 terms of six years, following initial terms  
31 which shall be fixed by law. Two of the mem-  
32 bers shall be residents of each of the congres-  
33 sional districts into which the state is divided,  
34 and one member shall be from the state at large.

35 (C) Minority representation. An appropriate

7

1 number of citizens from the predominant minority  
2 race of the state shall be included on the  
3 Board of Regents, the Board of Supervisors of  
4 Louisiana State University and Agricultural and  
5 Mechanical College, the Board of Trustees  
6 for State Colleges and Universities, and any  
7 other board created pursuant to this article.

8 (D) Board members; per diem and expenses.

9 The members of the Board of Regents, Board of  
10 Supervisors of Louisiana State University and  
11 Agricultural and Mechanical College, Board of  
12 Trustees for State Colleges and Universities, and  
13 any other board created pursuant to this article  
14 shall serve without pay, but the legislature  
15 may fix the per diem and expenses to be paid  
16 to them.

17 (E) Vacancies. A vacancy occurring  
18 prior to the expiration of the term shall be  
19 filled for the remainder of the unexpired term  
20 by appointment by the governor, with the consent  
21 of the Senate.

22 (F) Powers of board. The board shall have  
23 the following powers, duties, and responsibili-  
24 ties with respect to all public institutions of  
25 higher education and post-secondary vocational-  
26 technical training and career education:

- 27 (1) To revise or eliminate any existing  
 28 degree program, department of instruction,  
 29 division, or similar subdivision.  
 30 (2) To approve, disapprove, or modify  
 31 any proposed degree program, department of  
 32 instruction, division, or similar sub-  
 33 division.  
 34 (3) To study the need for and feasibility  
 35 of any new institution of post-secondary

8

1 education, including branches of insti-  
 2 tutions and conversion of two-year  
 3 institutions to institutions offering  
 4 longer courses of study. If the creation  
 5 of a new institution is proposed, or an  
 6 additional management board for an  
 7 institution or group of institutions is  
 8 proposed, or a proposal is made to transfer  
 9 an existing institution from one board to  
 10 another, the board shall report its findings  
 11 and recommendations within one year to the  
 12 legislature. Only after this written  
 13 report has been filed, or if no report is  
 14 filed within one year, the legislature may  
 15 take affirmative action on such a proposal  
 16 by vote of two-thirds of the membership  
 17 of each house.

18 (4) To formulate and make timely  
 19 revision of a master plan for higher  
 20 education and post-secondary vocational-  
 21 technical training and career education.  
 22 As a minimum, the plan shall include a  
 23 formula for the equitable distribution of  
 24 funds to the institutions of higher educa-  
 25 tion of the state.

26 (5) To require the Board of Supervisors  
 27 of Louisiana State University and Agricul-  
 28 tural and Mechanical College, the Board of  
 29 Trustees for State Colleges and Universities,  
 30 and any other board hereafter created pur-  
 31 suant to this section to submit to it, at  
 32 times specified by it, their annual budget  
 33 proposals for the operational and capital  
 34 needs of each institution under the control  
 35 of each. The Board of Regents shall submit

9

1 its recommendations on budgets for all  
 2 institutions of higher education and post-  
 3 secondary vocational-technical training and  
 4 career education in the state. It shall  
 5 recommend priorities for capital construction  
 6 and improvements.

7 (G) Powers not vested. Powers of manage-  
 8 ment over public institutions of higher education  
 19 and post-secondary vocational-technical training  
 11 and career education not specifically vested in  
 12 the Board of Regents by this section are reserved  
 13 to the Board of Supervisors of Louisiana State  
 14 University and Agricultural and Mechanical College  
 15 and to the Board of Trustees for State Colleges  
 16 and Universities as to the institutions under  
 17 the control of each or to any board created  
 18 pursuant to this section.

19 Source: La. Const. Art. XII §§ 7, 9 (1921).

20 Comment: Restructures and seeks to strengthen the  
 21 governance of higher education. Deletes the  
 22 Louisiana Coordinating Council for Higher  
 23 Education provided for in Article XII, Section  
 24 7 C . Creates the Board of Regents and provides  
 25 that the Board of Supervisors of Louisiana State  
 26 University and Agricultural and Mechanical  
 27 College and the Board of Trustees for State  
 28 Colleges and Universities be subordinate to it.  
 29 Requires the governor to appoint, with senate  
 30 consent, the members of the board consisting of  
 31 2 from each congressional district and 1 from  
 32 the state at large. All members shall serve  
 33 overlapping terms of 6 years, following the

10

1 initial terms which shall be fixed by law.  
 2 Provides for minority representation on all  
 3 boards aforementioned. Prescribes the manner  
 4 of filling vacancies by the governor.

5 Retains the provision that the legislature  
 6 may fix the per diem and expenses to be paid to  
 7 members of boards aforementioned.

8 Authorizes the board to plan, coordinate,  
 9 and assume budgetary responsibility for all  
 10 public higher education and post-secondary  
 11 vocational-technical training and career educa-  
 12 tion, and to have such other powers, duties,  
 13 and responsibilities as provided by law. All  
 14 management powers not specifically vested in  
 15 the Board of Regents are reserved to the boards  
 16 described in this section.

17 Section 8. Board of Trustees for State Colleges  
 18 and Universities

19 Section 8. (A) Creation; powers. There is  
 20 created a body corporate known as the Board of  
 21 Trustees for State Colleges and Universities  
 22 which, subject to the powers vested in the Board  
 23 of Regents by this article, shall have:  
 24

(1) Supervision and management of all state colleges and universities except those included under the management of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and any other board hereafter created pursuant to this article.

(2) Unless and until the legislature shall provide otherwise, supervision and management of all public institutions of vocational-technical training and career

11

education at post-secondary levels.

(B) Board membership; terms. The members of the board shall be appointed by the governor, with the consent of the Senate, for overlapping terms of six years following initial terms which shall be fixed by law. Two of the members shall be residents of each of the congressional districts into which the state is divided, and one member shall be from the state at large.

(C) Vacancies. A vacancy occurring prior to the expiration of the term shall be filled for the remainder of the unexpired term by appointment by the governor, with the consent of the Senate.

Source: La. Const. Art. XII, § 4;7,9,26 (1921).

Comment: The proposed provision creates and substitutes the Board of Trustees for State Colleges and Universities for the State Board of Education and gives it the responsibility now exercised by the State Board of Education as it relates to higher education. Deletes that part of Section 9 of Article XII as it relates to listing the institutions declared to be institutions of higher learning subject to the direct supervision of the State Board of Education and as it relates to appropriation of not less than \$700,000, for the support and maintenance of said institutions being recommended by the State Board of Education. Deletes that part of Section 26 of Article XII that requires that the New Orleans Branch of Southern University be under the direct supervision, control, and management of the Louisiana State Board of Education.

12

The proposed provision provides that, subject to the powers vested in the Board of Regents, the board shall have supervision and management over higher education not included under the supervision

and management of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and supervision and management over post-secondary vocational-technical training and career education unless the legislature provides otherwise.

Requires the governor to appoint, with senate consent, the members of the board consisting of 2 from each congressional district and 1 from the state at large. All members shall serve overlapping terms of six years, following the initial term which shall be fixed by law.

Section 9. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College

Section 9. (A) Creation; powers. There is created a body corporate, known as the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, which subject to the powers vested in the Board of Regents, shall supervise and manage the institutions and statewide agricultural and other programs administered through the Louisiana State University and Agricultural and Mechanical College system.

(B) Membership; terms. The members of the board shall be appointed by the governor, with the consent of the Senate, for overlapping terms of six years following initial terms which shall be fixed by law. Two of the members shall

13

be residents of each of the congressional districts into which the state is divided, and one member shall be from the state at large.

(C) Vacancies. A vacancy occurring prior to the expiration of the term shall be filled for the remainder of the unexpired term by appointment by the governor, with the consent of the Senate.

Source: La. Const. Art. XII, § 7, 25 (1921).

Comment: Revises Section 7A of Article XII. Changes the term of office of members of the board from 14 years to 6 years and provides that all members shall serve overlapping terms of that duration following the initial terms which shall be fixed by law. Deletes the provision that the governor shall be an ex officio member of the board.

Provides that the board shall, subject to power vested in the Board of Regents, supervise

21 and manage the LSU system.  
22 Requires the governor to appoint, with senate  
23 consent, the members of the board consisting of  
24 2 from each congressional district and 1 from the  
25 state at large.

26 Provides that the governor fill vacancies.

27  
28 Section 10. Responsibilities

29 Section 10. The Board of Regents shall have  
30 planning and coordinating responsibilities as it  
31 relates to the elementary and secondary educational  
32 curricula.

33  
34 Source: La. Const. Art. XII, §§2, 6 (1921).  
35

14

1 Comment: Revises Sections 2 and 6 and provides that  
2 the board shall have planning and coordinating  
3 responsibility as it relates to the elementary  
4 and secondary educational curricula.

5  
6 Section 11. Parish School Boards; Parish  
7 Superintendents

8 Section 11. (A) Parish school boards. The  
9 legislature shall create parish school boards and  
10 shall provide for the election of the members of  
11 such boards.

12 (B) Parish superintendents. Each parish  
13 board shall elect a superintendent of parish  
14 schools. The State Board of Elementary and  
15 Secondary Education shall fix the qualifications  
16 and prescribe the duties of the parish superin-  
17 tendent, who need not be a resident of the parish  
18 in which he serves.

19  
20 Source: La. Const. Art. XII, §10 (1921).  
21

22 Comment: Revises the present provision. Deletes the  
23 last sentence which provides that where parishes  
24 contain a municipality with a population  
25 in excess of one-half of the population of  
26 the entire parish, it shall have representation  
27 proportionate to its population on the parish  
28 board.

29  
30 Section 12. Recognition of Existing Boards and  
31 Systems; Consolidation

32 Section 12. (A) Recognition of boards and  
33 systems. Parish and city school boards and  
34 systems, in existence on the effective date of  
35 this constitution, by virtue of special or local

15

1 legislative acts or previous constitutional pro-  
2 visions, are hereby recognized, subject to control  
3 by and supervision of the State Board of Elemen-  
4 tary and Secondary Education and the power of the  
5 legislature to enact laws affecting them.

6 (B) Consolidation. Two or more school systems  
7 may be consolidated under procedures enacted by  
8 the legislature, subject to approval of a majority  
9 of the qualified electors voting in each system  
10 affected in an election called for that purpose.

11  
12 Source: La. Const. Art. XII, §11 (1921).  
13

14 Comment: Rewords the present provision without sub-  
15 stantive change.

16 Provides for the consolidation of two or more  
17 school systems subject to procedures prescribed by  
18 the legislature and approval of a majority of the  
19 electors voting in an election for that purpose.

20  
21 Section 13. Public Funds for Private or Sectarian  
22 Schools; Prohibition

23 Section 10. No public funds shall be used for  
24 the support of any private or sectarian school.  
25 This section shall not apply to funds from federal  
26 sources provided to the state, its political subdi-  
27 visions, or the agencies of either, for nonpublic  
28 education.

29  
30 Source: La. Const. Art. XII, §13 (1921).  
31

32 Comment: The language of the 1st sentence of the present  
33 provision is retained. The 2nd sentence concerning  
34 interstate and intrastate education agreements is  
35 deleted. In the proposed provision a 2nd sentence

16

1 is added that excludes federal funds from the  
2 prohibitions of the first sentence.

3  
4 Section 14. Appropriations; Boards; Staffs

5 Section 14. (A) State Board of Elementary and  
6 Secondary Education. The legislature shall  
7 appropriate funds for the administration and  
8 operating expenses of the State Board of  
9 Elementary and Secondary Education.

10 (B) Boards; higher education. The legisla-  
11 ture shall appropriate funds for the operations  
12 and administrative expenses of the Board of  
13 Regents, the Board of Supervisors of Louisiana  
14 State University and Agricultural and Mechanical  
15 College, the Board of Trustees for State



16 Colleges and Universities, and any other board  
17 created pursuant to this article, and for the  
18 administrative and research staff of each.

19  
20 Source: La. Const. Art. XII, §8 (1921).

21  
22 Comment: Revises the present provision by requiring  
23 the legislature to provide funds for the opera-  
24 tion and administration of the boards. The  
25 legislature is to provide funds for the adminis-  
26 trative and research staffs of the boards des-  
27 cribed in paragraph (B).

28 The present provision prohibits the State  
29 Board of Education to create or maintain adminis-  
30 trative departments in which salaries or expenses  
31 are payable from state funds, unless authorized  
32 by the legislature.

33 Deletes the requirement that the legislature  
34 shall prescribe the terms under which funds offered  
35 for educational purposes shall be received and disbursed.

17

1 Section 15. Appropriations

2 Section 15. Higher education. Appropria-  
3 tions for the institutions of higher education  
4 and post-secondary vocational-technical training  
5 and career education shall be made to their respec-  
6 tive managing boards. The appropriations shall  
7 be administered by the managing boards and used  
8 solely for the operations of the institution for  
9 which designated in the appropriations.

10  
11 Source: La. Const. Art. XII, §9 (1921).

12  
13 Comment: Revises that part of Section 9 dealing with  
14 appropriations. Proposed provision requires  
15 appropriations for the institutions of higher  
16 education and post-secondary vocational-tech-  
17 nical training and career education to be made  
18 to their respective board for the use of the  
19 institution for which designated.

20  
21 Section 16. Funding; Elementary and Secondary  
22 Schools; Apportionment

23 Section 16. (A) State funds. State funds for  
24 the support of the public schools of elementary  
25 and secondary levels shall be derived from the  
26 sources and shall be apportioned to the parish  
27 and city school boards in the manner hereinafter  
28 set forth:

29 First: After dedication of annual amounts  
30 required by this constitution to be deducted from  
31 the first monies available to the State Severance

32 Tax Fund, and after deduction of not to exceed  
33 five hundred thousand dollars per annum to pay  
34 for the costs of collecting this tax and adminis-  
35 tering the laws pertaining to the conservation of

18

1 the natural resources of the state, out of the  
2 first monies comprising the residue then existing  
3 in the fund, the legislature shall appropriate  
4 funds to supply free school books and other ma-  
5 terials of instruction prescribed by the State  
6 Board of Elementary and Secondary Education.  
7 After July first of each year, the state treasurer  
8 shall set up a fund for the payment of the amounts  
9 set forth in Paragraph (A) of this section. When  
10 sufficient funds have accumulated in the fund for  
11 the payment of the monies required for the purposes  
12 above mentioned including school books and materials  
13 of instruction, then, before the tenth day of  
14 each month, the state treasurer shall transfer  
15 to a fund in the state treasury designated as  
16 the State Public School Fund such balances as  
17 have accrued.

18 Second: The proceeds of particular taxes  
19 now or hereafter levied by the legislature and  
20 dedicated, appropriated or otherwise made  
21 available to the State Public School Fund or for  
22 the support of public schools.

23 Third: Such other funds as the legislature  
24 has provided or hereafter provides for the support  
25 of public schools.

26 (B) Allocation of funds. The funds specified  
27 in Paragraph (A) hereof shall be apportioned as  
28 follows:

29 (1) Minimum Program. There shall be ap-  
30 propriated from the State Public School Fund  
31 and from the State General Fund sufficient  
32 funds to insure a minimum program of  
33 education in all public elementary and  
34 secondary schools. The minimum program  
35 of education to be maintained in all parish

19

1 and city school systems shall be es-  
2 tablished by the State Board of Elementary  
3 and Secondary Education. The board shall  
4 adopt formulas and procedures for the  
5 distribution of these funds to the several  
6 school boards.

7 (2) Other State Funds. Any other  
8 funds provided by the legislature for the  
9 support of public schools shall be appor-  
10 tioned and distributed in accordance with

11 a formula established by the State Board  
12 of Elementary and Secondary Education,  
13 except as otherwise specifically provided  
14 for by the law appropriating the funds.

15 (3) Other Funds. Any funds for public  
16 education from any other source shall be  
17 distributed in the manner determined by the  
18 State Board of Elementary and Secondary  
19 Education, subject, however, to the terms  
20 of the laws governing such funds or the lawful  
21 stipulations of the source of the funds.

22 (C) Local Funds. The local funds for  
23 the support of elementary and secondary public  
24 schools shall be derived from the following  
25 sources:

26 First: Each parish school board, the parish  
27 of Orleans excepted, and no other parochial or  
28 municipal authority except as otherwise spe-  
29 cifically provided for in this constitution,  
30 shall levy annually an ad valorem maintenance  
31 tax of five mills, or as much thereof as is  
32 necessary, on all property subject to such  
33 taxation within the parish.

34 Second: The provisions of Paragraph (C)  
35 First above shall not apply to property within

20

1 a municipality which is exempt from parochial  
2 taxation. In lieu of that tax the governing  
3 authority of each of these municipalities shall  
4 levy a tax annually and shall collect and pay,  
5 to the parish school board in which such muni-  
6 cipality is situated, out of the proceeds of the  
7 general ad valorem tax for municipal purposes,  
8 such an amount as shall equal the rate of five  
9 mills levied hereunder by the parish school board.

10 The provisions of Paragraph (C) First shall  
11 not apply to municipalities which under consti-  
12 tutional or legislative authority are actually  
13 operating, maintaining, and supporting a separate  
14 city system of public schools. In lieu of such  
15 tax, however, the school board in each such  
16 municipality shall levy an annual tax of five mills  
17 on the dollar on the assessed valuation of all  
18 property within the municipality. The proceeds  
19 thereof shall be used exclusively for the support  
20 of the public schools.

21 Third: The Orleans Parish School Board shall  
22 levy annually a tax not to exceed thirteen  
23 mills on the dollar on the assessed valuation  
24 of all property within the city of New Orleans  
25 assessed for city taxation and shall certify  
26 the fact to the governing authority of the city.  
27 The governing authority shall cause said tax to

28 be entered on the tax rolls of the city and  
29 collected in the manner and under the conditions  
30 and with the interest and penalties prescribed  
31 by law for city taxes. The money thus collected  
32 shall be paid daily to the Orleans Parish School  
33 Board.

34 Fourth: For giving additional support to the  
35 public elementary and secondary schools, any

21

1 parish, school district, or subschool district, or  
2 any municipality which supports a separate city  
3 system of public schools may levy ad valorem taxes  
4 for specific purposes or incur debt and issue bonds  
5 for specific purposes, when authorized by a  
6 majority of the electors voting in the parish,  
7 municipality, district or subdistrict, in an  
8 election called for the purpose. The amount,  
9 duration, and purpose of such proposals shall be  
10 in accord with any limitations imposed by the  
11 legislature. No such tax shall be levied for a  
12 period longer than ten years, except that any tax  
13 levied to pay the costs of bonds or other debts  
14 incurred shall be levied and collected until the  
15 principal and interest on the bonds or other  
16 debts have been paid.

17 Fifth: The legislature may provide for addi-  
18 tional sources of local support for elementary  
19 and secondary schools.

20 (D) Monroe, Bogalusa; Treatment as Parishes.  
21 For the effects and purposes of the provisions of  
22 this entire section and for the purpose of ascer-  
23 taining and determining the maximum allowable  
24 millage as may be imposed by the legislature, and  
25 levying the taxes herein authorized, the  
26 municipalities of Monroe, in Ouachita Parish,  
27 and Bogalusa, in Washington Parish, and no  
28 other, shall be regarded as, and treated upon  
29 the same basis and shall have the same authority  
30 in respect to this section as though they were  
31 separate parishes instead of municipalities.

32 (E) Ouachita Parish. The school board of  
33 Ouachita Parish shall not be required to pay to  
34 the city of Monroe out of the public funds any  
35 per capita for children residing without the

22

1 limits of said city and who may attend the  
2 schools maintained by the city of Monroe under  
3 its legislative charter.

4  
5 Source: La. Const. Art. XII, §§ 8, 14, 15 (1921).

6  
7 Comment: Revises Sections 14 and 15 of the present

8 constitution. Deletes Section 14 First because of  
9 obsolescence. Stipulates the sources and apportion-  
10 ment of funds for public elementary and secondary  
11 schools. Sources: (1) The legislature shall ap-  
12 propriate funds, for free school books and materials  
13 of instruction, from the residue of the State  
14 Severance Tax Fund. The appropriation shall be  
15 made after a deduction of an amount annually dedi-  
16 cated from the first monies of the fund, and after  
17 a deduction of an amount, not in excess of \$500,000,  
18 for the costs of collecting the tax and administering  
19 the laws pertaining to the conservation of natural  
20 resources. The state treasurer shall set up a fund  
21 for the payment of the amounts set forth and shall  
22 establish the State Public School Fund. (This dedi-  
23 cation of funds shall be removed if no dedications  
24 of funds are involved in the proposed constitution).  
25 (2) Proceeds from taxes levied by the legislature,  
26 dedicated, appropriated or otherwise made available  
27 to and for the support of public schools. (3) Other  
28 funds provided by the legislature, or other sources.  
29 This provision revises that portion of Article XII,  
30 §8 of the present constitution which says that the  
31 legislature shall prescribe the terms under which  
32 funds offered for educational purposes shall be  
33 received and disbursed. The funds set forth in  
34 Paragraph A hereof shall be apportioned by the  
35 formulas, procedures, and manner established by the

23

1 State Board of Elementary and Secondary Education  
2 except as otherwise specifically provided by the law  
3 or sources of the funds. (4) Local funds shall be  
4 derived in the manner prescribed by law allowing  
5 the levy of taxes for that purpose in the parishes  
6 and municipalities.

7 Retains the present provision which regards  
8 Bogalusa and Monroe on the same basis and gives  
9 them the same authority in respect to this section  
10 as though they were separate parishes.

11 Retains the present provision, Art. XII, Sec-  
12 tion 15 Seventh, which exempts Ouachita Parish from the  
13 payment of per capita contributions for children  
14 living in the parish but attending city schools.

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CC-210  
1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER 1  
3 Introduced by Robert Aertker on behalf of the  
4 Committee on Education and Welfare  
5 A PROPOSAL  
6 To require the legislature to provide for education and to  
7 establish an educational system.  
8 PROPOSED SECTIONS:  
9 Article \_\_\_\_\_, Section 1. Educational Goals  
10 Section 1. The goal of the public educational  
11 system shall be to provide at all stages of human  
12 development, learning environments and experiences that  
13 are humane, just, and designed to promote excellence  
14 in order that every individual may be afforded the  
15 opportunity to develop to his full potential.  
16  
17 Source: La. Const. Art. XII, §3 (1921).  
18  
19 Comment: Revises the present provision by defining the pur-  
20 pose of education. Changes the present requirement that  
21 there be taught only fundamental branches of study,  
22 including instruction upon the constitutional system of  
23 state and national government and the duties of citizen-  
24 ship.  
25  
26 Section 2. Public Educational System  
27 Section 2. The legislature shall provide for the  
28 education of the people of the state and shall  
29 establish and maintain a public educational system  
30 consisting of all public schools and institutions  
31 of learning supported in whole or in part by state  
32 funds, the funds of any political subdivision thereof,  
33 or both.  
34  
35 Source: La. Const. Art. XII, §1 (1921).  
-  
1 Comment: Requires the legislature to provide for the educa-  
2 tion of the people of the state by establishing and  
3 maintaining a system of public education. Changes the  
4 language of the first unnumbered paragraph by deleting  
5 "school children" and adding "people".  
6 Deletes the second unnumbered paragraph which was  
7 declared unconstitutional in Poindexter v. Louisiana  
8 Financial Assistance Commission, 275 F. Supp. 833,  
9 (1968).  
10 Deletes the third paragraph of the present provision  
11 with respect to age at which children may enter public  
12 school and kindergarten.  
13

14 Section 3. State Board of Elementary and Secondary  
15 Education

16 Section 3. (A) Creation; function. There is  
17 created a body corporate, known as the State Board  
18 of Elementary and Secondary Education. The board  
19 shall supervise, control, and have budgetary  
20 responsibility for all public elementary and  
21 secondary schools and special schools under its  
22 jurisdiction, as provided by law. The board shall  
23 have such other specific powers, duties, and  
24 responsibilities as are provided by law, but shall  
25 have no control over the business affairs of  
26 parish and municipal school boards or the selection  
27 or removal of their officers and employees.

28 (B) Membership; terms. The board shall consist of  
29 seven members who shall be appointed by the governor  
30 from the state at large, and an additional number of  
31 members equal to the number of congressional districts  
32 into which the state is divided, one of whom shall be  
33 elected from each of such districts, as provided by law.  
34 All members shall serve overlapping terms of six years,  
35 following the initial terms which shall be determined

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1 by the governor or the legislature, as the case may be,  
2 in a manner as to effectuate this purpose.

3 (C) Vacancies. Vacancies occurring for any cause  
4 prior to the expiration of the term shall be filled by  
5 appointment by the governor for the remainder of the  
6 unexpired term. Members shall serve without pay except  
7 for such per diem and expenses as shall be fixed by the  
8 legislature.

9  
10 Source: La. Const. Art. XII, §§4, 6, 7B (1921).

11  
12 Comment: Removes the authority of the board to supervise  
13 institutions of higher education. Changes the com-  
14 position of the board. Requires the governor to appoint  
15 seven members of the board. Requires an election for an  
16 additional number of members, equal to the number of  
17 congressional districts into which the state is divided.  
18 All members shall serve overlapping terms of six years,  
19 following the initial terms which shall be determined  
20 by the governor or legislature. The present provision  
21 requires that the membership of the board be composed  
22 of 11 members; three elected from the Public Service  
23 Commission Districts for terms of six years, and eight  
24 members elected from districts corresponding to the  
25 congressional districts, for terms of eight years.

26 Continues the existing authorization to the legis-  
27 lature to prescribe the duties and specific powers of  
28 the board. The board may not control the business  
29 affairs of parish school boards or the selection or  
30 removal of officers and employees.

31 Authorizes the board to supervise, control, and  
32 assume budgetary responsibility for all schools under  
33 its jurisdiction.  
34  
35

4

1 Section 4. State Superintendent of Public Elementary  
2 and Secondary Education

3 Section 4. (A) Term. There shall be a state  
4 superintendent of public education for elementary and  
5 secondary education, who shall be appointed by the  
6 State Board of Elementary and Secondary Education for  
7 a term of four years. He shall be the ex officio  
8 secretary of the board and shall serve as its chief  
9 executive officer.

10 (B) Qualifications. The state superintendent shall  
11 possess the qualifications required of parish school  
12 superintendents and such additional qualifications as  
13 may be fixed by law. However, any person serving or  
14 having served as state superintendent of public educa-  
15 tion on the effective date of this constitution shall  
16 continue to be eligible to hold or to be appointed to  
17 that office.

18 (C) Functions. The powers, duties, responsibili-  
19 ties, and salary of the state superintendent of public  
20 education shall be prescribed by law.

21 (D) Vacancy. A vacancy in the office of state  
22 superintendent of public education for any cause except  
23 expiration of the term shall be filled by the State  
24 Board of Elementary and Secondary Education for the  
25 remainder of the unexpired term.

26  
27 Source: La. Const. Art. XII, §5 (1921).

28  
29 Comment: Establishes that there shall be an appointed  
30 state superintendent of public education for elementary  
31 and secondary schools.

32 The superintendent shall be the ex officio secretary  
33 of the Board of Elementary and Secondary Education.

34 Retains the term of office of four years.

35 Deletes the salary of the superintendent and

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1 authorizes the legislature to prescribe the salary,  
2 powers, duties, and responsibilities.

3 Requires that the superintendent possess the same  
4 qualifications as required of parish superintendents  
5 and additional qualifications as may be fixed by law.  
6 Provides that any person serving or having served in the  
7 office, on the effective date of this constitution,  
8 shall continue to be eligible to hold or to be appointed  
9 to that office.

10 Specifies that a vacancy in the office shall be fill-

11 ed by the board.

12  
13 Section 5. Qualifications and Certification of Teachers

14 Section 5. The board shall prescribe and provide  
15 for the qualifications to be met by teachers and for  
16 the certification of teachers of public elementary and  
17 secondary and special schools.

18  
19 Source: La. Const. Art. XII, §7B (1921).

20  
21 Comment: Retains the authority of the board to determine  
22 the qualifications of teachers and for the certification  
23 of teachers in public elementary and secondary and  
24 special schools.

25  
26 Section 6. Approval of Private Schools; Effect

27 Section 6. The board may approve private schools  
28 whose sustained curriculum is of a quality equal to that  
29 prescribed for similar public schools. The certificates  
30 issued by private schools so approved shall carry the  
31 same privileges as those issued by the state public  
32 schools.

33  
34 Source: La. Const. Art. XII, §7B (1921).

35  
6-

1 Comment: Retains the power of the board to approve private  
2 schools. The certificates issued by private schools  
3 approved by the board shall carry the same privileges  
4 as those issued by state public schools.

5  
6 Section 7. Board of Regents

7 Section 7. (A) Board of regents; establishment.

8 There is created a body corporate known as the Board  
9 of Regents. The board shall plan, coordinate, and have  
10 budgetary responsibility for all public higher educa-  
11 tion and shall have such other powers, duties, and  
12 responsibilities as are provided in this Section and  
13 by law.

14 (B) Board membership; terms. The members of the  
15 board shall be appointed by the governor with the con-  
16 sent of the Senate for overlapping terms of six years,  
17 following initial terms which shall be fixed by law.  
18 Two of the members shall be residents of each of the  
19 congressional districts into which the state is divid-  
20 ed, and one member shall be from the state at large.

21 (C) Minority representation. An appropriate number  
22 of citizens from the predominant minority race of the  
23 state shall be included on the Board of Regents, the  
24 Board of Supervisors of Louisiana State University and  
25 Agricultural and Mechanical College, the Board of  
26 Trustees for State Colleges and Universities, and any  
27 other board created pursuant to this Section.

28 (D) Board members; per diem and expenses. The  
29 members of the Board of Regents, Board of Supervisors  
30 of Louisiana State University and Agricultural and  
31 Mechanical College, Board of Trustees for State Colleges  
32 and Universities, and any other board created pursuant  
33 to this Article shall serve without pay, but the legis-  
34 lature may fix the per diem and expenses to be paid to  
35 them.

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1 (E) Vacancies. A vacancy occurring prior to the  
2 expiration of the term shall be filled for the remain-  
3 der of the unexpired term by appointment by the governor,  
4 with the consent of the Senate.

5 (F) Powers of board. (1) The board shall have  
6 coordinating responsibilities as it relates to the  
7 elementary and secondary educational curricula. (2)  
8 The board shall have the following powers, duties, and  
9 responsibilities with respect to all public institu-  
10 tions of higher education and post-secondary vocational-  
11 technical training and career education:

12 (a) To revise or eliminate any existing degree  
13 program, department of instruction, division,  
14 or similar subdivision.

15 (b) To approve, disapprove, or modify any pro-  
16 posed degree program, department of instruc-  
17 tion, division, or similar subdivision.

18 (c) To study the need for and feasibility of any  
19 new institution of post-secondary education,  
20 including branches of institutions and con-  
21 version of two-year institutions to instiutions  
22 offering longer courses of study. If  
23 the creation of a new institution is proposed,  
24 or an additional management board for an  
25 institution or group of institutions is  
26 proposed, or a proposal is made to transfer  
27 an existing institution from one board to  
28 another, the board shall report its findings  
29 and recommendations within one year to the  
30 legislature. Only after this written report  
31 has been filed, or if no report is filed  
32 within one year, the legislature may take  
33 affirmative action on such a proposal by vote  
34 of two-thirds of the membership of each house.

35 (d) To formulate and make timely revision of a

U-

1 master plan for higher education and post-  
2 secondary vocational-technical training and  
3 career education. As a minimum, the plan  
4 shall include a formula for the equitable  
5 distribution of funds to the institutions of  
6 higher education of the state.

7 (e) To require the Board of Supervisors of  
8 Louisiana State University and Agricultural

9 and Mechanical College, the Board of Trustees  
10 for State Colleges and Universities, and any  
11 other board hereafter created pursuant to this  
12 Section to submit to it, at times specified  
13 by it, their annual budget proposals for the  
14 operational and capital needs of each institu-  
15 tion under the control of each. The Board of  
16 Regents shall submit its recommendations on  
17 budgets for all institutions of higher educa-  
18 tion and post-secondary vocational-technical  
19 training and career education in the state.  
20 It shall recommend priorities for capital  
21 construction and improvements.

22 (G) Powers not vested. Powers of management over  
23 public institutions of higher education and post-  
24 secondary vocational-technical training and career  
25 education not specifically vested in the Board of  
26 Regents by this section are reserved to the Board of  
27 Supervisors of Louisiana State University and Agricul-  
28 tural and Mechanical College and to the Board of  
29 Trustees for State Colleges and Universities as to the  
30 institutions under the control of each or to any  
31 board created pursuant to this section.

32  
33 Source: La. Const. Art. XII, §§ 2,6,7,9 (1921).

34  
35 Comment: Restructures and seeks to strengthen the governance

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1 of higher education. Deletes the Louisiana Coordinat-  
2 ing Council for Higher Education provided for in  
3 Article XII, Section 7C. Creates the Board of  
4 Regents and provides that the Board of Supervisors of  
5 Louisiana State University and Agricultural and  
6 Mechanical College and the Board of Trustees for State  
7 Colleges and Universities be subordinate to it. Requires  
8 the governor to appoint, with senate consent, the mem-  
9 bers of the board consisting of two from each congres-  
10 sional district and one from the state at large. All  
11 members shall serve overlapping terms of six years,  
12 following the initial terms which shall be fixed by  
13 law. Provides for minority representation on all  
14 boards aforementioned. Prescribes the manner of fill-  
15 ing vacancies by the governor.

16 Retains the provision that the legislature may fix  
17 the per diem and expenses to be paid to members of  
18 boards aforementioned.

19 Authorizes the board to plan, coordinate, and  
20 assume budgetary responsibility for all public higher  
21 education and post-secondary vocational-technical  
22 training and career education, and to have such other  
23 powers, duties, and responsibilities as provided by  
24 law.

25 Revises Sections 2 and 6 and provides that the

26 board shall have coordinating responsibility as it  
27 relates to the elementary and secondary educational  
28 curricula.

29 All management powers not specifically vested in the  
30 Board of Regents are reserved to the boards described  
31 in this Section.

32  
33 Section 8. Board of Trustees for State Colleges and  
34 Universities

35 Section 8. (A) Creation; powers. There is created

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1 a body corporate known as the Board of Trustees for  
2 State Colleges and Universities which, subject to the  
3 powers vested in the Board of Regents by this Article,  
4 shall have:

5 (1) Supervision and management of all state  
6 colleges and universities except those included  
7 under the management of the Board of Supervisors of  
8 Louisiana State University and Agricultural and  
9 Mechanical College, and any other board hereafter  
10 created pursuant to this Article.

11 (2) Unless and until the legislature shall pro-  
12 vide otherwise, supervision and management of all  
13 public institutions of vocational-technical training  
14 and career education at post-secondary levels.

15 (B) Board membership; terms. The members of the  
16 board shall be appointed by the governor, with the con-  
17 sent of the Senate, for overlapping terms of six years  
18 following initial terms which shall be fixed by law.  
19 Two of the members shall be residents of each of the  
20 congressional districts into which the state is divided,  
21 and one member shall be from the state at large.

22 (C) Vacancies. A vacancy occurring prior to the  
23 expiration of the term shall be filled for the remainder  
24 of the unexpired term by appointment by the governor,  
25 with the consent of the Senate.

26  
27 Source: La. Const. Art. XII, §§ 4,7,9,26 (1921).

28  
29 Comment: The proposed provision creates and substitutes the  
30 Board of Trustees for State Colleges and Universities  
31 for the State Board of Education and gives it the  
32 managerial responsibility now exercised by the State  
33 Board of Education as it relates to higher education.  
34 Deletes that part of Section 9 of Article XII as it  
35 relates to listing the institutions declared to be

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1 institutions of higher learning subject to the direct  
2 supervision of the State Board of Education and as it  
3 relates to appropriation of not less than \$700,000,  
4 for the support and maintenance of said institutions  
5 being recommended by the State Board of Education.

6 Deletes that part of Section 26 of Article XII that  
7 requires that the New Orleans Branch of Southern  
8 University be under the direct supervision, control,  
9 and management of the Louisiana State Board of Educa-  
10 tion.

11 The proposed provision provides that, subject to the  
12 powers vested in the Board of Regents, the board shall  
13 have supervision and management over higher education  
14 not included under the supervision and management of  
15 the Board of Supervisors of Louisiana State University  
16 and Agricultural and Mechanical College, and supervision  
17 and management over post-secondary vocational-technical  
18 training and career education unless the legislature  
19 provides otherwise.

20 Requires the governor to appoint, with senate con-  
21 sent, the members of the board consisting of two from  
22 each congressional district and one from the state at  
23 large. All members shall serve overlapping terms of  
24 six years, following the initial term which shall be  
25 fixed by law.

26  
27 Section 9. Board of Supervisors of Louisiana State  
28 University and Agricultural and Mechanical College

29 Section 9. (A) Creation; powers. There is created  
30 a body corporate, known as the Board of Supervisors  
31 of Louisiana State University and Agricultural and  
32 Mechanical College, which subject to the powers vested  
33 in the Board of Regents, shall supervise and manage the  
34 institutions and statewide agricultural and other  
35 programs administered through the Louisiana State

1 University and Agricultural and Mechanical College  
2 system.

3 (B) Membership; terms. The members of the board  
4 shall be appointed by the governor, with the consent of  
5 the Senate, for overlapping terms of six years follow-  
6 ing initial terms which shall be fixed by law. Two of  
7 the members shall be residents of each of the congress-  
8 sional districts into which the state is divided, and  
9 one member shall be from the state at large.

10 (C) Vacancies. A vacancy occurring prior to the  
11 expiration of the term shall be filled for the remainder  
12 of the unexpired term by appointment by the governor,  
13 with the consent of the Senate.

14  
15 Source: La. Const. Art. XII, §57,25 (1921).

16  
17 Comment: Revises Section 7A of Article XII. Changes the  
18 term of office of members of the board from 14 years to  
19 six years and provides that all members shall serve over-  
20 lapping terms of that duration following the initial  
21 terms which shall be fixed by law. Deletes the pro-  
22 vision that the governor shall be an ex officio member

23 of the board.

24 Provides that the board shall, subject to power  
25 vested in the Board of Regents, supervise and manage  
26 the LSU system.

27 Requires the governor to appoint, with senate con-  
28 sent, the members of the board consisting of two from  
29 each congressional district and one from the state at  
30 large.

31 Provides that the governor fill vacancies.

32  
33 Section 10. Boards; Dual Membership Prohibited

34 Section 10. No person shall be eligible to simul-  
35 taneously serve on more than one board created by or

13-

1 pursuant to this article.

2  
3 Source: New

4  
5 Comment: The proposed provision prohibits dual membership  
6 on boards responsible for public education.

7  
8 Section 11. Parish School Boards; Parish Superinten-  
9 dents

10 Section 11. (A) Parish school boards. The legis-  
11 lature shall create parish school boards and shall pro-  
12 vide for the election of the members of such boards.

13 (B) Parish superintendents. Each parish board  
14 shall elect a superintendent of parish schools. The  
15 State Board of Elementary and Secondary Education shall  
16 fix the qualifications and prescribe the duties of the  
17 parish superintendent, who need not be a resident of  
18 the parish in which he serves.

19  
20 Source: La. Const. Art. XII, §10 (1921).

21  
22 Comment: Revises the present provision. Deletes the last  
23 sentence which provides that where parishes contain a  
24 municipality with a population in excess of one-half  
25 of the population of the entire parish, it shall have  
26 representation proportionate to its population on the  
27 parish board.

28  
29 Section 12. Recognition of Existing Boards and  
30 Systems; Consolidation

31 Section 12. (A) Recognition of boards and systems.  
32 Parish and city school boards and systems, in existence  
33 on the effective date of this constitution, by virtue  
34 of special or local legislative acts or previous con-  
35 stitutional provisions, are hereby recognized, subject

14-

1 to control by and supervision of the State Board of  
2 Elementary and Secondary Education and the power of

3 the legislature to enact laws affecting them.  
4 (B) Consolidation. Two or more school systems may  
5 be consolidated under procedures enacted by the legis-  
6 lature, subject to approval of a majority of the qualifi-  
7 ed electors voting in each system affected in an election  
8 called for that purpose.

9  
10 Source: La. Const. Art. XII, §11 (1921).

11  
12 Comment: Rewords the present provision without substantive  
13 change.

14 Provides for the consolidation of two or more  
15 school systems subject to procedures prescribed by the  
16 legislature and approval of a majority of the electors  
17 voting in an election for that purpose.

18  
19 Section 13. Public Funds for Private or Sectarian  
20 Schools; Prohibition

21 Section 13. No public funds shall be used for the  
22 support of any private or sectarian school. This section  
23 shall not apply to funds from federal sources provided  
24 to the state, its political subdivisions, or the  
25 agencies of either, for nonpublic education.

26  
27 Source: La. Const. Art. XII, §13 (1921).

28  
29 Comment: The language of the first sentence of the present  
30 provision is retained. The second sentence concerning  
31 interstate and intrastate education agreements is delet-  
32 ed. In the proposed provision a second sentence is  
33 added that excludes federal funds from the prohibitions  
34 of the first sentence.

35  
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1 Section 14. Appropriations; Boards

2 Section 14. The legislature shall appropriate funds  
3 for the operating and administrative expenses of the  
4 boards created pursuant to this article.

5  
6 Source: La. Const. Art. XII, §8 (1921).

7  
8 Comment: Revises the present provision by requiring the leg-  
9 islature to provide funds for the operation and adminis-  
10 tration of the boards.

11 The present provision prohibits the State Board of  
12 Education to create or maintain administrative depart-  
13 ments in which salaries or expenses are payable from  
14 state funds, unless authorized by the legislature.

15 Deletes the requirement that the legislature shall  
16 prescribe the terms under which funds offered for ed-  
17 ucational purposes shall be received and disbursed.

18  
19 Section 15. Appropriations; Higher Education

20 Section 15. Appropriations for the institutions of  
21 higher education and post-secondary vocational-technical  
22 training and career education shall be made to their  
23 respective managing boards. The appropriations shall  
24 be administered by the managing boards and used solely  
25 for the operations of the institution for which designat-  
26 ed in the appropriations.

27  
28 Source: La. Const. Art. XII, §9 (1921).

29  
30 Comment: Revises that part of Section 9 dealing with  
31 appropriations. Proposed provision requires appropria-  
32 tions for the institutions of higher education and post-  
33 secondary vocational-technical training and career  
34 education to be made to their respective board for the  
35 use of the institution for which designated.

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1 Section 16. Funding; Elementary and Secondary Schools;  
2 Apportionment

3 Section 16. (A) State funds. State funds for the  
4 support of the public schools of elementary and second-  
5 ary levels shall be derived from the sources and shall  
6 be apportioned to the parish and city school boards in  
7 the manner hereinafter set forth:

8 First: After dedication of annual amounts required  
9 by this constitution to be deducted from the first  
10 monies available to the State Severance Tax Fund, and  
11 after deduction of not to exceed five hundred thousand  
12 dollars per annum to pay for the costs of collecting  
13 this tax and administering the laws pertaining to the  
14 conservation of the natural resources of the state, out  
15 of the first monies comprising the residue then exist-  
16 ing in the fund, the legislature shall appropriate funds  
17 to supply free school books and other materials of  
18 instruction prescribed by the State Board of Elementary  
19 and Secondary Education. After July first of each year,  
20 the state treasurer shall set up a fund for the payment  
21 of the amounts set forth in Paragraph (A) of this  
22 Section. When sufficient funds have accumulated in the  
23 fund for the payment of the monies required for the  
24 purposes above mentioned including school books and  
25 materials of instruction, then, before the tenth day of  
26 each month, the state treasurer shall transfer to a  
27 fund in the state treasury designated as the State  
28 Public School Fund such balances as have accrued.

29 Second: The proceeds of particular taxes now or  
30 hereafter levied by the legislature and dedicated,  
31 appropriated or otherwise made available to the State  
32 Public School Fund or for the support of public schools.

33 Third: Such other funds as the legislature has  
34 provided or hereafter provides for the support of  
35 public schools.



(B) Allocation of funds. The funds specified in Paragraph (A) hereof shall be apportioned as follows:

(1) Minimum program. There shall be appropriated from the State Public School Fund and from the State General Fund sufficient funds to insure a minimum program of education in all public elementary and secondary schools. The minimum program of education to be maintained in all parish and city school systems shall be established by the State Board of Elementary and Secondary Education. The board shall adopt formulas and procedures for the distribution of these funds to the several school boards.

(2) Other state funds. Any other funds provided by the legislature for the support of public schools shall be apportioned and distributed in accordance with a formula established by the State Board of Elementary and Secondary Education, except as otherwise specifically provided for by the law appropriating the funds.

(3) Other funds. Any funds for public education from any other source shall be distributed in the manner determined by the State Board of Elementary and Secondary Education, subject, however, to the terms of the laws governing such funds or the lawful stipulations of the source of the funds.

(C) Local funds. The local funds for the support of elementary and secondary public schools shall be derived from the following sources:

First: Each parish school board, the parish of Orleans excepted, and no other parochial or municipal authority except as otherwise specifically provided for in this constitution, shall levy annually an ad valorem maintenance tax of five mills, or as much thereof as is necessary, on all property subject to such taxation with-

-1.-

in the parish.

Second: The provisions of Paragraph (C) First above shall not apply to property within a municipality which is exempt from parochial taxation. In lieu of that tax the governing authority of each of these municipalities shall levy a tax annually and shall collect and pay, to the parish school board in which such municipality is situated, out of the proceeds of the general ad valorem tax for municipal purposes, such an amount as shall equal the rate of five mills levied hereunder by the parish school board.

The provisions of Paragraph (C) First shall not apply to municipalities which under constitutional or legislative authority are actually operating, maintaining, and supporting a separate city system of public schools.

In lieu of such tax, however, the school board in each such municipality shall levy an annual tax of five mills on the dollar on the assessed valuation of all property within the municipality. The proceeds thereof shall be used exclusively for the support of the public schools.

Third: The Orleans Parish School Board shall levy annually a tax not to exceed thirteen mills on the dollar on the assessed valuation of all property within the city of New Orleans assessed for city taxation and shall certify the fact to the governing authority of the city. The governing authority shall cause said tax to be entered on the tax rolls of the city and collected in the manner and under the conditions and with the interest and penalties prescribed by law for city taxes. The money thus collected shall be paid daily to the Orleans Parish School Board.

Fourth: For giving additional support to the public elementary and secondary schools, any parish, school district, or subschool district, or any municipality which supports a separate city system of public schools

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may levy ad valorem taxes for specific purposes or incur debt and issue bonds for specific purposes, when authorized by a majority of the electors voting in the parish, municipality, district or subdistrict, in an election called for the purpose. The amount, duration, and purpose of such taxes shall be in accord with any limitations imposed by the legislature. No such tax shall be levied for a period longer than ten years, except that any tax levied to pay the costs of bonds or other debts incurred shall be levied and collected until the principal and interest on the bonds or other debts have been paid.

Fifth: The legislature may provide for additional sources of local support for elementary and secondary schools.

(D) Monroe, Bogalusa; treatment as parishes. For the effects and purposes of the provisions of this entire section, the municipalities of Monroe, in Ouachita Parish, and Bogalusa, in Washington Parish, and no other, shall be regarded as, and treated upon the same basis and shall have the same authority as though they were separate parishes instead of municipalities.

(E) Ouachita Parish. The school board of Ouachita Parish shall not be required to pay to the city of Monroe out of the public funds any per capita for children residing without the limits of said city and who may attend the schools maintained by the city of Monroe under its legislative charter.

Source: La. Const. Art. XII, §§8,14,15 (1921).

Comment: Revises Sections 14 and 15 of the present constitu-

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1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER 1

3 Introduced by Robert Aertker on behalf of the

4 Committee on Education and Welfare

5 A PROPOSAL

6 To require the legislature to provide for education and to  
7 establish an educational system.

8 PROPOSED SECTIONS:

9 Article \_\_\_\_\_, Section 1. Educational Goals

10 Section 1. The goal of the public educational  
11 system shall be to provide at all stages of human  
12 development, learning environments and experiences that  
13 are humane, just, and designed to promote excellence  
14 in order that every individual may be afforded the  
15 opportunity to develop to his full potential.

16 Source: La. Const. Art. XII, §3 (1921).

17 Comment: Revises the present provision by defining the pur-  
18 pose of education. Changes the present requirement that  
19 there be taught only fundamental branches of study,  
20 including instruction upon the constitutional system of  
21 state and national government and the duties of citizen-  
22 ship.

23 Section 2. Public Educational System

24 Section 2. The legislature shall provide for the  
25 education of the people of the state and shall  
26 establish and maintain a public educational system  
27 consisting of all public schools and institutions  
28 of learning supported in whole or in part by state  
29 funds, the funds of any political subdivision thereof,  
30 or both.

31 Source: La. Const. Art. XII, §4 (1921).

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32 Comment: Requires the legislature to provide for the  
33 education of the people of the state by establish-  
34 ing and maintaining a system of public education.  
35 Changes the language of the first unnumbered para-  
graph be deleting "school children" and adding  
"people".

Deletes the second unnumbered paragraph.

Deletes the third paragraph of the present  
provision with respect to age at which children may  
enter public school and kindergarten.

Section 3. State Board of Elementary and Secondary

tion. Deletes Section 14 First because of obsolescence.  
Stipulates the sources and apportionment of funds for  
public elementary and secondary schools. Sources : (1)  
The legislature shall appropriate funds, for free school

books and materials of instruction, from the residue of  
the State Severance Tax Fund. The appropriation shall  
be made after a deduction of an amount annually dedi-  
cated from the first monies of the fund, and after a  
deduction of an amount, not in excess of \$500,000, for  
the costs of collecting the tax and administering the  
laws pertaining to the conservation of natural resources.  
The state treasurer shall set up a fund for the payment  
of the amounts set forth and shall establish the State  
Public School Fund. (This dedication of funds shall  
be removed if no dedications of funds are involved in  
the proposed constitution).

(2) Proceeds from taxes levied by the legislature,  
dedicated, appropriated, or otherwise made available to  
and for the support of public schools.

(3) Other funds provided by the legislature, or other  
sources. This provision revises that portion of Article  
XII, §8 of the present constitution which says that the  
legislature shall prescribe the terms under which funds  
offered for educational purposes shall be received  
and disbursed. The funds set forth in Paragraph A hereof  
shall be apportioned by the formulas, procedures, and  
manner established by the State Board of Elementary and  
Secondary Education except as otherwise specifically  
provided by the law or sources of the funds.

(4) Local funds shall be derived in the manner pre-  
scribed by law allowing the levy of taxes for that pur-  
pose in the parishes and municipalities.

Retains the present provision which regards Bogalusa  
and Monroe on the same basis and gives them the same  
authority in respect to this Section as though they were  
separate parishes.

Retains the present provision, Art. XII, Section 15  
Seventh, which exempts Ouachita Parish from the payment  
of per capita contributions for children living in the

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parish but attending city schools.

Section 17. Tulane University

Section 17. The Tulane University of Louisiana,  
located in New Orleans, is hereby recognized as created  
and to be developed in accordance with provisions of  
the Legislative Act No. 43 approved July 5, 1884.

Source: La. Const. Art. XII, §24 (1921).

Comment: Retains the present provision without change.

13 Education

14 Section 3. (A) Creation; function. There is  
15 created a body corporate, known as the State Board  
16 of Elementary and Secondary Education. The board  
17 shall supervise, control, and have budgetary  
18 responsibility for all funds appropriated or allo-  
19 cated for all public elementary and secondary schools  
20 and special schools under its jurisdiction, as pro-  
21 vided by law. The board shall have such other specific  
22 powers, duties, and responsibilities as are provided  
23 by law, but shall have no control over the business  
24 affairs of parish and municipal school boards or  
25 the selection or removal of their officers and  
26 employees.

27 (B) Membership; terms. The board shall consist of  
28 seven members who shall be appointed by the governor,  
29 with the consent of the Senate, from the state at large,  
30 and an additional number of members equal to the number  
31 of congressional districts into which the state is  
32 divided, one of whom shall be elected from each of  
33 such districts, as provided by law. All members  
34 shall serve overlapping terms of six years, follow-  
35 ing the initial terms which shall be determined

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1 by the governor or the legislature, as the case may be,  
2 in a manner as to effectuate this purpose.

3 (C) Vacancies. Vacancies occurring for any cause  
4 prior to the expiration of the term shall be filled by  
5 appointment by the governor for the remainder of the  
6 unexpired term. Members shall serve without pay except  
7 for such per diem and expenses as shall be fixed by the  
8 legislature.

9  
10 Source: La. Const. Art. XII, §§4, 6, 7B (1921).

11  
12 Comment: Removes the authority of the board to supervise  
13 institutions of higher education. Changes the com-  
14 position of the board. Requires the governor to appoint  
15 seven members of the board. Requires an election for an  
16 additional number of members, equal to the number of  
17 congressional districts into which the state is divided.  
18 All members shall serve overlapping terms of six years,  
19 following the initial terms which shall be determined  
20 by the governor or legislature. The present provision  
21 requires that the membership of the board be composed  
22 of 11 members; three elected from the Public Service  
23 Commission Districts for terms of six years, and eight  
24 members elected from districts corresponding to the  
25 congressional districts, for terms of eight years.

26 Continues the existing authorization to the legis-  
27 lature to prescribe the duties and specific powers of

28 the board. The board may not control the business  
29 affairs of parish school boards or the selection or  
30 removal of officers and employees.

31 Authorizes the board to supervise, control, and  
32 assume budgetary responsibility for all schools under  
33 its jurisdiction.  
34  
35

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1 Section 4. State Superintendent of Public Elementary  
2 and Secondary Education

3 Section 4. (A) Term. There shall be a state  
4 superintendent of public education for elementary and  
5 secondary education, who shall be elected for a term  
6 of four years. He shall be the ex officio secretary  
7 of the board and shall serve as its chief executive  
8 officer.

9 (B) Qualifications. The state superintendent shall  
10 possess the qualifications required of parish school  
11 superintendents and such additional qualifications as  
12 may be fixed by law.

13 (C) Functions. The powers, duties, responsibili-  
14 ties, and salary of the state superintendent of public  
15 education shall be prescribed by law.

16 (D) Vacancy. A vacancy in the office of state  
17 superintendent of public education for any cause except  
18 expiration of the term shall be filled by the governor  
19 for the remainder of the unexpired term.

20  
21 Source: La. Const. Art. XII, §5 (1921).

22  
23 Comment: Establishes that there shall be an elected state  
24 superintendent of public education for elementary  
25 and secondary schools.

26 The superintendent shall be the ex officio secretary  
27 of the Board of Elementary and Secondary Education.

28 Retains the term of office of four years.

29 Deletes the salary of the superintendent and  
30 authorizes the legislature to prescribe the salary,  
31 powers, duties, and responsibilities.

32 Requires that the superintendent possess the same  
33 qualifications as required of parish superintendents  
34 and additional qualifications as may be fixed by law.

35 Specifies that a vacancy in the office for any

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1 cause except expiration of the term shall be filled by  
2 the governor for the remainder of the unexpired term.

3  
4 Section 5. Qualifications and Certification of Teachers

5 Section 5. The board shall prescribe and provide for

6 the qualifications to be met by teachers and for the  
7 certification of teachers of public elementary and  
8 secondary and special schools.

10 Source: La. Const. Art. XII, §7B (1921).

12 Comment: Retains the authority of the board to determine the  
13 qualifications of teachers and for the certification of  
14 teachers in public elementary and secondary and special  
15 schools.

17 Section 6. Approval of Private Schools; Effect

18 Section 6. The board may approve private schools  
19 whose sustained curriculum is of a quality equal to that  
20 prescribed for similar public schools. The certificates  
21 issued by private schools so approved shall carry the  
22 same privileges as those issued by the state public  
23 schools.

25 Source: La. Const. Art. XII, §7B (1921).

27 Comment: Retains the power of the board to approve private  
28 schools. The certificates issued by private schools  
29 approved by the board shall carry the same privileges  
30 as those issued by state public schools.

32 Section 7. Board of Regents

33 Section 7. (A) Board of Regents; establishment.  
34 There is created a body corporate known as the Board of  
35 Regents. The board shall plan, coordinate, and have

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1 budgetary responsibility for all public higher education  
2 and shall have such other powers, duties, and responsi-  
3 bilities as are provided in this Section and by law.

4 (B) Board membership; terms. The members of the  
5 board shall be appointed by the governor with the con-  
6 sent of the Senate for overlapping terms of six years,  
7 following initial terms which shall be fixed by law.  
8 Two of the members shall be residents of each of the  
9 congressional districts into which the state is divided,  
10 and one member shall be from the state at large.

11 (C) Minority representation. An appropriate number  
12 of citizens from ~~the predominant~~ <sup>the predominant</sup> minority race of the  
13 state shall be included on the Board of Regents, the  
14 Board of Supervisors of Louisiana State University and  
15 Agricultural and Mechanical College, the Board of Trustees  
16 for State Colleges and Universities, and any other board  
17 created pursuant to this Section.

18 (D) Board members; per diem and expenses. The members  
19 of the Board of Regents, Board of Supervisors of Louisiana

20 State University and Agricultural and Mechanical College,  
21 Board of Trustees for State Colleges and Universities,  
22 and any other board created pursuant to this Article  
23 shall serve without pay, but the legislature may fix  
24 the per diem and expenses to be paid to them.

25 (E) Vacancies. A vacancy occurring prior to the ex-  
26 piration of the term shall be filled for the remainder  
27 of the unexpired term by appointment by the governor,  
28 with the consent of the Senate.

29 (F) Powers of the board. (1) The board shall have  
30 coordinating responsibilities as it relates to the  
31 elementary and secondary educational curricula. (2) The  
32 board shall have the following powers, duties, and re-  
33 sponsibilities with respect to all public institutions  
34 of higher education and post-secondary vocational-tech-  
35 nical training and career education:

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- 1 (a) To revise or eliminate any existing degree  
2 program, department of instruction, division,  
3 or similar subdivision.  
4 (b) To approve, disapprove, or modify any pro-  
5 posed degree program, department of instruc-  
6 tion, division, or similar subdivision.  
7 (c) To study the need for and feasibility of any  
8 new institution of post-secondary education,  
9 including branches of institutions and con-  
10 version of two-year institutions to institu-  
11 tions offering longer courses of study. If  
12 the creation of a new institution is proposed,  
13 or an additional management board for an  
14 institution or group of institutions is  
15 proposed, or a proposal is made to transfer  
16 an existing institution from one board to  
17 another, the board shall report its findings  
18 and recommendations within one year to the  
19 legislature. Only after this written report  
20 has been filed, or if no report is filed  
21 within one year, the legislature may take  
22 affirmative action on such a proposal by vote  
23 of two-thirds of the membership of each house.  
24 (d) To formulate and make timely revision of a  
25 master plan for higher education and post-  
26 secondary vocational-technical training and  
27 career education. As a minimum, the plan  
28 shall include a formula for the equitable  
29 distribution of funds to the institutions of  
30 higher education of the state.  
31 (e) To require the Board of Supervisors of  
32 Louisiana State University and Agricultural  
33 and Mechanical College, the Board of Trustees  
34 for State Colleges and Universities, and any  
35 other board hereafter created pursuant to this

Section to submit to it, at times specified by it, their annual budget proposals for the operational and capital needs of each institution under the control of each. The Board of Regents shall submit its recommendations on budgets for all institutions of higher education and post-secondary vocational-technical training and career education in the state. It shall recommend priorities for capital construction and improvements.

(G) Powers not vested. Powers of management over public institutions of higher education and post-secondary vocational-technical training and career education not specifically vested in the Board of Regents by this Section are reserved to the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College and to the Board of Trustees for State Colleges and Universities as to the institutions under the control of each or to any board created pursuant to this Section.

Source: La. Const. Art. XII, §§2, 6, 7, 9 (1921).

Comment: Restructures and seeks to strengthen the governance of higher education. Deletes the Louisiana Coordinating Council for Higher Education provided for in Article XII, Section 7C. Creates the Board of Regents and provides that the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College and the Board of Trustees for State Colleges and Universities be subordinate to it. Requires the governor to appoint, with senate consent, the members of the board consisting of two from each congressional district and one from the state at large. All members shall serve overlapping terms of six years,

following the initial terms which shall be fixed by law. Provides for minority representation on all boardsaforementioned. Prescribes the manner of filling vacancies by the governor.

Retains the provision that the legislature may fix the per diem and expenses to be paid to members of boardsaforementioned.

Authorizes the board to plan, coordinate, and assume budgetary responsibility for all public higher education and post-secondary vocational-technical training and career education, and to have such other powers, duties, and responsibilities as provided by law.

Revises Sections 2 and 6 and provides that the

board shall have coordinating responsibility as it relates to the elementary and secondary educational curriculum.

All management powers not specifically vested in the Board of Regents are reserved to the boards described in this Section.

Section 8. Board of Trustees for State Colleges and Universities

Section 8. (A) Creation; powers. There is created a body corporate known as the Board of Trustees for State Colleges and Universities which, subject to the powers vested in the Board of Regents by this Article, shall have:

(1) Supervision and management of all state colleges and universities except those included under the management of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and any other board hereafter created pursuant to this Article.

(2) Unless and until the legislature shall

provide otherwise, supervision and management of all public institutions of vocational-technical training and career education at post-secondary levels.

(B) Board membership; terms. The members of the board shall be appointed by the governor, with the consent of the Senate, for overlapping terms of six years following initial terms which shall be fixed by law. Two of the members shall be residents of each of the congressional districts into which the state is divided, and one member shall be from the state at large.

(C) Vacancies. A vacancy occurring prior to the expiration of the term shall be filled for the remainder of the unexpired term by appointment by the governor, with the consent of the Senate.

Source: La. Const. Art. XII, §§ 4, 7, 9, 26 (1921).

Comment: The proposed provision creates and substitutes the Board of Trustees for State Colleges and Universities for the State Board of Education and gives it the managerial responsibility now exercised by the State Board of Education as it relates to higher education. Deletes that part of Section 9 of Article XII as it relates to listing the institutions declared to be institutions of higher learning subject to the direct supervision of the State Board of Education and as it relates to appropriation of not less than \$700,000, for the support and maintenance of said institutions being recommended by the State Board of Education.

31 Deletes that part of Section 26 of Article XII that  
32 requires that the New Orleans Branch of Southern  
33 University be under the direct supervision, control,  
34 and management of the Louisiana State Board of Educa-  
35 tion.

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1 The proposed provision provides that, subject to the  
2 powers vested in the Board of Regents, the board shall  
3 have supervision and management over higher education  
4 not included under the supervision and management of  
5 the Board of Supervisors of Louisiana State University  
6 and Agricultural and Mechanical College, and supervision  
7 and management over post-secondary vocational-technical  
8 training and career education unless the legislature  
9 provides otherwise.

10 Requires the governor to appoint, with senate con-  
11 sent, the members of the board consisting of two from  
12 each congressional district and one from the state at  
13 large. All members shall serve overlapping terms of  
14 six years, following the initial term which shall be  
15 fixed by law.

16  
17 Section 9. Board of Supervisors of Louisiana State  
18 University and Agricultural and Mechanical College

19 Section 9. (A) Creation; powers. There is created  
20 a body corporate, known as the Board of Supervisors  
21 of Louisiana State University and Agricultural and  
22 Mechanical College, which subject to the powers vested  
23 in the Board of Regents, shall supervise and manage the  
24 institutions and statewide agricultural and other  
25 programs administered through the Louisiana State  
26 University and Agricultural and Mechanical College  
27 system.

28 (B) Membership; terms. The members of the board  
29 shall be appointed by the governor, with the consent of  
30 the Senate, for overlapping terms of six years follow-  
31 ing initial terms which shall be fixed by law. Two of  
32 the members shall be residents of each of the congres-  
33 sional districts into which the state is divided, and  
34 one member shall be from the state at large.

35 (C) Vacancies. A vacancy occurring prior to the

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1 expiration of the term shall be filled for the remainder  
2 of the unexpired term by appointment by the governor,  
3 with the consent of the Senate.

4  
5 Source: La. Const. Art. XII, §57, 25 (1921).

6  
7 Comment: Revises Section 7A of Article XII. Changes the  
8 term of office of members of the board from 14 years to

9 six years and provides that all members shall serve over-  
10 lapping terms of that duration following the initial  
11 terms which shall be fixed by law. Deletes the pro-  
12 vision that the governor shall be an ex officio member  
13 of the board.

14 Provides that the board shall, subject to power  
15 vested in the Board of Regents, supervise and manage  
16 the LSU system.

17 Requires the governor to appoint, with senate con-  
18 sent, the members of the board consisting of two from  
19 each congressional district and one from the state at  
20 large.

21 Provides that the governor fill vacancies.

22  
23 Section 10. Boards; Dual Membership Prohibited

24 Section 10. No person shall be eligible to simul-  
25 taneously serve on more than one board created by or  
26 pursuant to this Article.

27  
28 Source: New

29  
30 Comment: The proposed provision prohibits dual membership  
31 on boards responsible for public education.

32  
33 Section 11. Parish School Boards; Parish Superinten-  
34 dents

35 Section 11. (A) Parish school boards. The legis-

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1 lature shall create parish school boards and shall pro-  
2 vide for the election of the members of such boards.

3 (B) Parish superintendents. Each parish board  
4 shall elect a superintendent of parish schools. The  
5 State Board of Elementary and Secondary Education shall  
6 fix the qualifications and prescribe the duties of the  
7 parish superintendent, who need not be a resident of  
8 the parish in which he serves.

9  
10 Source: La. Const. Art. XII, §10 (1921).

11  
12 Comment: Revises the present provision. Deletes the last  
13 sentence which provides that where parishes contain a  
14 municipality with a population in excess of one-half  
15 of the population of the entire parish, it shall have  
16 representation proportionate to its population on the  
17 parish board.

18  
19 Section 12. Recognition of Existing Boards and  
20 Systems; Consolidation

21 Section 12. (A) Recognition of boards and systems.

22 Parish and city school boards systems, in existence  
23 on the effective date of this constitution, by virtue  
24 of special or local legislative acts or previous con-

stitutional provisions, are hereby recognized, subject to control by and supervision of the State Board of Elementary and Secondary Education and the power of the legislature to enact laws affecting them.

(B) Consolidation. Two or more school systems may be consolidated under procedures enacted by the legislature, subject to approval of a majority of the qualified electors voting in each system affected in an election called for that purpose.

Source: La. Const. Art. XII, §11 (1921).

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Comment: Rewords the present provision without substantive change.

Provides for the consolidation of two or more school systems subject to procedures prescribed by the legislature and approval of a majority of the electors voting in an election for that purpose.

#### Section 13. Appropriations; Boards

Section 13. The legislature shall appropriate funds for the operating and administrative expenses of the boards created pursuant to this Article.

Source: La. Const. Art. XII, §8 (1921).

Comment: Revises the present provision by requiring the legislature to provide funds for the operation and administration of the boards.

The present provision prohibits the State Board of Education to create or maintain administrative departments in which salaries or expenses are payable from state funds, unless authorized by the legislature.

Deletes the requirement that the legislature shall prescribe the terms under which funds offered for educational purposes shall be received and disbursed.

#### Section 14. Appropriations; Higher Education

Section 14. Appropriations for the institutions of higher education and post-secondary vocational-technical training and career education shall be made to their respective managing boards. The appropriations shall be administered by the managing boards and used solely for the operations of the institution for which designated in the appropriations.

Source: La. Const. Art. XII, §9 (1921).

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Comment: Revises that part of Section 9 dealing with appropriations. Proposed provision requires appropria-

tions for the institutions of higher education and post-secondary vocational-technical training and career education to be made to their respective board for the use of the institution for which designated.

#### Section 15. Funding; Elementary and Secondary Schools; Apportionment

Section 15. (A) State funds. State funds for the support of the public schools of elementary and secondary levels shall be derived from the sources and shall be apportioned to the parish and city school boards in the manner hereinafter set forth:

First: After deduction of annual amounts required by this constitution to be deducted from the first monies available to the State Severance Tax Fund, and after deduction of not to exceed five hundred thousand dollars per annum to pay for the costs of collecting this tax and administering the laws pertaining to the conservation of the natural resources of the state, out of the first monies comprising the residue then existing in the fund, the legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education. After July first of each year, the state treasurer shall set up a fund for the payment of the amounts set forth in Paragraph (A) of this Section. When sufficient funds have accumulated in the fund for the payment of the monies required for the purposes above mentioned including school books and materials of instruction, then, before the tenth day of each month, the state treasurer shall transfer to a fund in the state treasury designated as the State Public School Fund such balances as have accrued.

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Second: The proceeds of particular taxes now or hereafter levied by the legislature and dedicated, appropriated or otherwise made available to the State Public School Fund or for the support of public schools.

Third: Such other funds as the legislature has provided or hereafter provides for the support of public schools.

(B) Allocation of funds. The funds specified in Paragraph (A) hereof shall be apportioned as follows:

(1) Minimum program. There shall be appropriated from the State Public School Fund and from the State General Fund sufficient funds to insure a minimum program of education in all public elementary and secondary schools. The minimum program of education to be maintained in all parish and city school systems shall be established by the State Board of Elementary and Secondary Education. The board shall adopt formulas and procedures for the

19 distribution of these funds to the several school  
20 boards.

21 (2) Other state funds. Any other funds provided  
22 by the legislature for the support of public  
23 schools shall be apportioned and distributed in  
24 accordance with a formula established by the State  
25 Board of Elementary and Secondary Education, except  
26 as otherwise specifically provided for by the law  
27 appropriating the funds.

28 (3) Other funds. Any funds for public education  
29 from any other source shall be distributed in the  
30 manner determined by the State Board of Elementary  
31 and Secondary Education, subject, however, to the  
32 terms of the laws governing such funds or the law-  
33 ful stipulations of the source of the funds.

34 (C) Local funds. The local funds for the support of  
35 elementary and secondary public schools shall be derived

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1 from the following sources:

2 First: Each parish school board, the parish of  
3 Orleans excepted, and no other parochial or municipal  
4 authority except as otherwise specifically provided for  
5 in this constitution, shall levy annually an ad valorem  
6 maintenance tax of five mills, or as much thereof as is  
7 necessary, on all property subject to such taxation with-  
8 in the parish.

9 Second: The provisions of Paragraph (C) First above  
10 shall not apply to property within a municipality  
11 which is exempt from parochial taxation. In lieu of that  
12 tax the governing authority of each of these municipal-  
13 ities shall levy a tax annually and shall collect and  
14 pay, to the parish school board in which such municipal-  
15 ity is situated, out of the proceeds of the general ad  
16 valorem tax for municipal purposes, such an amount as  
17 shall equal the rate of five mills levied hereunder by  
18 the parish school board.

19 The provisions of Paragraph (C) First shall not apply  
20 to municipalities which under constitutional or legis-  
21 lative authority are actually operating, maintaining,  
22 and supporting a separate city system of public schools.  
23 In lieu of such tax, however, the school board in each  
24 such municipality shall levy an annual tax of five mills  
25 on the dollar on the assessed valuation of all property  
26 within the municipality. The proceeds thereof shall be  
27 used exclusively for the support of the public schools.

28 Third: The Orleans Parish School Board shall levy  
29 annually a tax not to exceed thirteen mills on the  
30 dollar on the assessed valuation of all property within  
31 the city of New Orleans assessed for city taxation and  
32 shall certify the fact to the governing authority of  
33 the city. The governing authority shall cause said tax  
34 to be entered on the tax rolls of the city and collected

35 in the manner and under the conditions and with the

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1 interest and penalties prescribed by law for city taxes.  
2 The money thus collected shall be paid daily to the  
3 Orleans Parish School Board.

4 Fourth: For giving additional support to the public  
5 elementary and secondary schools, any parish, school  
6 district, or subschool district, or any municipality  
7 which supports a separate city system of public schools  
8 may levy ad valorem taxes for specific purposes or incur  
9 debt and issue bonds for specific purposes, when authoriz-  
10 ed by a majority of the electors voting in the parish,  
11 municipality, district or subdistrict, in an election  
12 called for the purpose. The amount, duration, and pur-  
13 pose of such taxes shall be in accord with any limitations  
14 imposed by the legislature. No such tax shall be levied  
15 for a period longer than ten years, except that any tax  
16 levied to pay the costs of bonds or other debts incurr-  
17 ed shall be levied and collected until the principal  
18 and interest on the bonds or other debts have been paid.

19 Fifth: The legislature may provide for additional  
20 sources of local support for elementary and secondary  
21 schools.

22 (D) Monroe, Bogalusa; treatment as parishes. For  
23 the effects and purposes of the provisions of this entire  
24 Section, the municipalities of Monroe, in Ouachita Parish,  
25 and Bogalusa, in Washington Parish, and no other, shall  
26 be regarded as, and treated upon the same basis and  
27 shall have the same authority as though they were  
28 separate parishes instead of municipalities.

29 (E) Ouachita Parish. The school board of Ouachita  
30 Parish shall not be required to pay to the city of  
31 Monroe out of the public funds any per capita for  
32 children residing without the limits of said city and  
33 who may attend the schools maintained by the city of  
34 Monroe under its legislative charter.

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1 Source: La. Const. Art. XII, §§8, 14, 15 (1921).

2  
3 Comment: Revises Sections 14 and 15 of the present constitu-  
4 tion. Deletes Section 14 First because of obsolescence  
5 Stipulates the sources and apportionment of funds for  
6 public elementary and secondary schools. Sources: (1)  
7 The legislature shall appropriate funds, for free school  
8 books and materials of instruction, from the residue of  
9 the State Severance Tax Fund. The appropriation shall  
10 be made after a deduction of an amount annually dedi-  
11 cated from the first monies of the fund, and after a  
12 deduction of an amount, not in excess of \$500,000, for  
13 the costs of collecting the tax and administering the



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1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER 2  
3 Introduced by Robert Aertker on behalf of the Committee  
4 on Education and Welfare

5 A PROPOSAL

6 To require the legislature to provide for and maintain a  
7 retirement fund for public school employees.

8 PROPOSED SECTIONS:

9 Article \_\_\_\_\_, Section \_\_\_\_\_. Retirement Fund; Public School  
10 Employees

11 Section \_\_\_\_\_. The legislature shall provide for the  
12 retirement of teachers and other employees of  
13 the public schools through the establishment  
14 of a retirement system or systems for public  
15 school employees. The rights of each member  
16 in the contribution made by the member and by  
17 the employer to such systems shall be main-  
18 tained at all times. The state shall guarantee  
19 the benefits to which the members of such  
20 systems are entitled.

22 Source: La. Const. Art. XII, §23 (1921).

24 Comment: Revises the present constitutional provision by deleting  
25 the kinds of employees to be covered by the retirement fund.  
26 That provision requires the legislature to provide for a re-  
27 tirement fund for teachers, employees engaged in transporting  
28 students to and from schools, and those engaged as janitors,  
29 custodians, and maintenance employees.

30 The proposed provision requires the legislature to pro-  
31 vide a retirement fund for teachers and other employees of  
32 public schools. It requires that the rights of each member  
33 in the contributions made by the member and by the employer  
34 be maintained at all times.

35 Requires that the state guarantee the benefits to which  
1 members of such systems are entitled.

14 laws pertaining to the conservation of natural resources.  
15 The state treasurer shall set up a fund for the payment  
16 of the amounts set forth and shall establish the State  
17 Public School Fund. (This dedication of funds shall  
18 be removed if no dedications of funds are involved in  
19 the proposed constitution).

20 (2) Proceeds from taxes levied by the legislature,  
21 dedicated, appropriated, or otherwise made available to  
22 and for the support of public schools.

23 (3) Other funds provided by the legislature, or other  
24 sources. This provision revises that portion of Article  
25 XII, §8 of the present constitution which says that the  
26 legislature shall prescribe the terms under which funds  
27 offered for educational purposes shall be received  
28 and disbursed. The funds set forth in Paragraph A hereof  
29 shall be apportioned by the formulas, procedures, and  
30 manner established by the State Board of Elementary and  
31 Secondary Education except as otherwise specifically  
32 provided by the law or sources of the funds.

33 (4) Local funds shall be derived in the manner pre-  
34 scribed by law allowing the levy of taxes for that pur-  
35 pose in the parishes and municipalities.

-20-

1 Retains the present provision which regards Bogalusa  
2 and Monroe on the same basis and gives them the same  
3 authority in respect to this Section as though they were  
4 separate parishes.

5 Retains the present provision, Art. XII, Section 15  
6 Seventh, which exempts Ouachita Parish from the payment  
7 of per capita contributions for children living in the  
8 parish but attending city schools.

10 Section 16. Tulane University

11 Section 16. The Tulane University of Louisiana,  
12 located in New Orleans, is hereby recognized as created  
13 and to be developed in accordance with provisions of  
14 the Legislative Act No. 43 approved July 5, 1884.

16 Source: La. Const. Art. XII, §24 (1921).

18 Comment: Retains the present provision without change.

CC-212

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by Robert Aertker on behalf of the Committee on

4 Education and Welfare

5 A PROPOSAL

6 To prohibit the leasing of convicts and the employment of

7 convicts in competition with private enterprise.

8 PROPOSED SECTION:

9 Article \_\_\_\_, Section \_\_\_\_\_. Convict Labor

10 Section \_\_\_\_\_. No convict sentenced to the state

11 penitentiary shall ever be leased, or hired to any person

12 or persons, or corporation, private or public, or quasi-

13 public. No convict sentenced to the state penitentiary

14 shall ever be employed in any enterprise in competition

15 with private enterprise.

16

17 Source: La. Const. Art. IV, §33 (1921).

18

19 Comment: Prohibits the leasing of convicts and the employment

20 of convicts in competition with private enterprise.

21 The source provision prohibits leasing of convicts

22 to any private, public, quasi-public person, corporation

23 or board. The legislature may authorize employment, under

24 state supervision, of convicts on public roads or other

25 public works, convict farms or manufacturies owned or

26 controlled by the state.

27 The proposed provision retains the prohibition of con-

28 vict leasing. Additionally, prohibits the employment of convicts

29 in competition with private enterprise.

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CC-321

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by Robert Aertker on behalf of the Committee

4 on Education and Welfare

5 A PROPOSAL

6 To require the legislature to provide for and maintain a

7 retirement system for state officers and employees.

8 PROPOSED SECTIONS:

9 Article \_\_\_\_, Section \_\_\_\_\_. Retirement System; State

10 Officers and Employees

11 Section \_\_\_\_\_. The legislature shall provide for

12 the retirement of officers and employees of the State

13 of Louisiana or its political corporations, including

14 persons employed jointly by state and federal agencies

15 other than the military service, through the establish-

16 ment of a retirement system or systems. Membership in

17 any retirement system of the state or of a political

18 corporation thereof shall be a contractual relationship,

19 the accrued benefits of which shall not be diminished

20 nor impaired.

21

22 Source: La. Const. Art. XVIII, §§9, 9.1 (1921).

23

24 Comment: Combines the source provisions. Deletes the

25 enumeration of specific boards, commissions, and corp-

26 oration and political subdivision, municipality, or

27 parish referred to in the source provisions.

28 Deletes the second unnumbered paragraph from Section

29 9 and 9.1.

30 The proposed provision requires the legislature

31 to provide a system or systems for the retirement of

32 officers and employees of the state or its political

33 corporations, including persons employed jointly by

34 state and federal agencies other than the military

35 service.

CC-3213

1 Declares that membership in such system or sys-

2 tems is a contractual relationship for which the

3 accrued benefits shall not be diminished nor impaired.

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CC-322

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by Robert Aertker on behalf of the Committee  
 4 on Education and Welfare  
 5 A PROPOSAL  
 6 To require the legislature to provide for and maintain a  
 7 retirement system for state officers and employees.  
 8 PROPOSED SECTION:  
 9 Article \_\_\_\_, Section \_\_\_\_. Retirement System; State  
 10 Officers and Employees  
 11 Section \_\_\_\_\_. The legislature shall provide for  
 12 the retirement of officers and employees of the State  
 13 of Louisiana or its political corporations, including  
 14 persons employed jointly by state and federal agencies  
 15 other than the military service, through the establish-  
 16 ment of a retirement system or systems. The state shall  
 17 guarantee the benefits to which the members of such  
 18 system or systems are entitled.

20 Source: La. Const. Art. XVIII, §59, 9.1 (1921).

21  
 22 Comment: Combines the source provisions. Deletes the  
 23 enumeration of specific boards, commissions, and cor-  
 24 porations and political subdivision, municipality, or  
 25 parish referred to in the source provisions.

26 Deletes the second unnumbered paragraph from Section  
 27 9 and 9.1.

28 The proposed provision requires the legislature  
 29 to provide a system or systems for the retirement of  
 30 officers and employees of the state or its political  
 31 corporations, including persons employed jointly by  
 32 state and federal agencies other than the military  
 33 service.

34 Requires that the state guarantee the benefits to  
 35 which members of such system or systems are entitled.

CC-323

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by Robert Aertker, on behalf of the Committee  
 4 on Education and Welfare  
 5 A PROPOSAL  
 6 To provide for the office of consumer counsel.  
 7 PROPOSED SECTION:  
 8 Article \_\_\_\_, Section \_\_\_\_. Office of Consumer  
 9 Counsel  
 10 Section \_\_\_\_\_. The legislature shall provide  
 11 for an office of consumer counsel which shall have  
 12 the duty of representing consumer interests in the  
 13 hearings of any public regulatory or licensing board,  
 14 commission, department, or agency.

16 Source: New

17  
 18 Comment: Require the legislature to establish an office  
 19 of consumer counsel to represent consumer interests  
 20 in hearings before any public regulatory or licensing  
 21 board, commission, department, or agency.

CC-324

1 Constitutional Convention of Louisiana of 1973  
 2 COMMITTEE PROPOSAL NUMBER  
 3 Introduced by Robert Aertker on behalf of the Committee  
 4 on Education and Welfare  
 5 A PROPOSAL

6 To require notice of intention to propose amendment  
 7 or change in retirement systems.

8 PROPOSED SECTION:

9 Article \_\_\_\_, Section \_\_\_\_. Retirement Systems;  
 10 Notice of Intention to Proposed Amendments  
 11 or Change; Publication

12 Section \_\_\_\_\_. No proposal to amend or effect  
 13 any change in existing laws or provisions of the  
 14 constitution relating to any retirement system in  
 15 this state shall be introduced into the legislature  
 16 unless notice of intention to introduce such pro-  
 17 posal shall have been published, without cost to  
 18 the state, in the official state journal on three  
 19 separate days, the last day of which is at least  
 20 thirty days prior to the convening of the legis-  
 21 lature in regular session. This notice shall state  
 22 the substance of the contemplated law or proposal  
 23 to amend the constitution. Evidence of publication  
 24 of the notice shall be exhibited in the legis-  
 25 lature before the bill is passed, and every such  
 26 bill shall contain a recital that the notice has  
 27 been given.

29 Source: La. Const. Art. XIX, §25 (1921).

31 Comment: Retains present provision without substantive  
 32 change.

## B. Subcommittee Proposals

2nd Draft

CC-147

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER 2

3 Introduced by Norman Carmouche on behalf of the Subcommittee

4 on Elementary and Secondary Education

5 A PROPOSAL

6 To require the legislature to provide for and maintain a

7 retirement fund for public school employees.

8 PROPOSED SECTIONS:

9 Article \_\_\_\_\_, Section \_\_\_\_\_. Retirement Fund; Public School

10 Employees

11 Section \_\_\_\_\_. "The legislature shall provide for the

12 retirement of teachers and other employees of

13 the public schools through the establishment

14 of a retirement system or systems for public

15 school employees. The rights of each member

16 in the contribution made by the member and by

17 the employer to such systems shall be main-

18 tained at all times. The state shall guarantee

19 the benefits to which the members of such

20 systems are entitled."

21

22 Source: La. Const. Art. XII, §23 (1921).

23

24 Comment: Revises the present constitutional provision by deleting

25 the kinds of employees to be covered by the retirement fund.

26 That provision requires the legislature to provide for a re-

27 tirement fund for teachers, employees engaged in transporting

28 students to and from schools, and those engaged as janitors,

29 custodians, and maintenance employees.

30 The proposed provision requires the legislature to pro-

31 vide a retirement fund for teachers and other employees of

32 public schools. It requires that the rights of each member

33 in the contributions made by the member and by the employer

34 be maintained at all times.

35 Requires that the state guarantee the benefits to which

1 members of such systems are entitled.

CC-147 *h*

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER 2

3 Introduced by Norman Carmouche on behalf of the Subcommittee

4 on Elementary and Secondary Education

5 A PROPOSAL

6 To require the legislature to provide for and maintain re-

7 tirement plans for public school employees.

8 PROPOSED SECTIONS:

9 Article \_\_\_\_\_, Section \_\_\_\_\_. Retirement Funds; Public School

10 Employees

11

Section \_\_\_\_\_. The legislature shall provide ~~for and main-~~

12

tain one or more retirement plans covering public school

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employees. The rights of individual members in ~~any plan~~

14

so established and maintained shall be preserved and the

15

state shall guarantee the ~~payment of the~~ benefits to which

16

the members of such plans are entitled.

17

18

Source: La. Const. Art. XII, §23 (1921).

19

20

Comment: The present constitutional provision requires the

21

legislature to provide for a retirement fund for aged and

22

incapacitated teachers, employees engaged in transporting

23

students to and from schools and employees engaged as

24

janitors, custodians, and maintenance employees.

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The proposed provision requires the legislature to

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provide for retirement plans and to maintain those in

27

existence which cover public school employees.

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The rights of individual members in any plan shall be

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preserved, and the state shall guarantee the payment of

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the benefits to which the members of such plans are en-

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titled.

32

It is noted that La. R.S. 17: 571 as amended by Acts

33

1971, No. 5 and Acts 1972, No. 589 §1 defines teachers.

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La. R.S. 17:881, added by Act 1966, No. 359, §1 and amend-

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ed by Act 1970, No. 401 §1 defines employee to include

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school bus drivers, janitors, school custodians, school

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maintenance employees, or other regular, full-time school

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employees.

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CC-218

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by Anthony M. Rachal, Jr., on behalf of the

4 Subcommittee on Public Welfare

5 A PROPOSAL

6 To establish city civil service.

7 PROPOSED SECTIONS:

8 Article \_\_\_\_, Section 1. City Civil Service

9 Section 1. "City service or civil service of the  
10 city" means all offices and positions of trust or  
11 employment in the employ of the city and every board,  
12 commission, department, or agency thereof, except as  
13 otherwise specifically provided in this constitution.

14 Source: La. Const. Art. XIV, §15, ¶(A) (3), (1921).

15 Comment: Defines city civil service to include all offices  
16 and positions of trust or employment in the employ of  
17 the city and every board, commission, department, or  
18 agency thereof, except as otherwise specifically pro-  
19 vided in this constitution.

20 Section 2. City Civil Service Commission

21 Section 2. (A) Membership. A city civil service  
22 commission is created for each city having a population  
23 exceeding four hundred thousand. The city civil service  
24 commission shall be composed of five members, who are  
25 citizens and qualified electors of the city. Three  
26 members of the commission shall constitute a quorum.  
27 The five members shall serve overlapping terms of six  
28 years as hereinafter provided. The domicile of the  
29 commission shall be in the city which it serves.

30 (B) Nominations. In the city of New Orleans, the  
31 presidents of Tulane University of Louisiana, Loyola  
32 University of the South at New Orleans, and Dillard

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1 University at New Orleans, each shall nominate three  
2 persons, in the order of their preference, and from the  
3 three persons so nominated by each, the governing  
4 authority of the city shall appoint one to serve as a  
5 member of the commission. One member shall be appointed  
6 by the governing authority of the city. One member  
7 shall be an employee within the classified service of  
8 the city, elected by classified city employees.

9 If for any reason nominations are not submitted  
10 to the governing authority of the city by any of the  
11 college presidents herein named within the time herein  
12 designated, the vacancy on the commission for the term  
13 or the unexpired term resulting from such failure to  
14 nominate shall be filled by a majority vote of the other

15 members of the city civil service commission.

16 In other cities subject to the provisions of Section \_\_  
17 three members of the commission shall be nominated by  
18 the presidents of any three universities mentioned in  
19 Section \_\_ and Section \_\_ in accordance with the pro-  
20 cedure therein provided. Commissioners appointed by the  
21 governing authority of the city and the classified city  
22 employees shall be appointed in accordance with the  
23 procedure specified in Section \_\_.

24 (C) Vacancies. Vacancies for any cause shall be  
25 filled by appointment or election in accordance with  
26 the procedure for the original appointment and from the  
27 same source. Within thirty days after a vacancy occurs,  
28 the university president concerned shall submit the  
29 required nominations. Within thirty days thereafter,  
30 the governing authority of the city shall make the appoint-  
31 ment. Should the governing authority of the city fail  
32 to appoint within the thirty days, the nominee whose  
33 name is first on the register shall automatically become  
34 a member of the commission.

35 The election of the member representing classified

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1 city employees shall be called by the governing authority  
2 and held at least sixty days prior to the expiration of  
3 that term. In the case of a vacancy prior to the expira-  
4 tion of a term in the office of the member representing  
5 classified employees, an election to fill the vacancy  
6 for the unexpired term shall be held within thirty days  
7 after the vacancy occurs.

8 (D) Transition. Each person who, on the effective  
9 date of this constitution, was nominated by Tulane University,  
10 Loyola University, or the governing authority of the city  
11 on the New Orleans City Civil Service Commission shall  
12 continue in such position for the remainder of the term  
13 to which he was appointed. Within thirty days after  
14 the effective date of this constitution, the president  
15 of Dillard University shall submit three names to the  
16 governing authority of the city for appointment to the  
17 commission as herein provided. The initial term  
18 of this appointee shall be three years. Within thirty  
19 days after the effective date of this constitution, the  
20 governing authority of the city shall call and hold an  
21 election for the member to represent classified city  
22 employees. The initial term of the classified employee  
23 shall be five years.

24 In other cities, each member serving on the effective  
25 date of this constitution, shall continue in office  
26 until the expiration of his term. The governing  
27 authorities of such cities shall provide for the election  
28 or appointment of additional members and for the imple-  
29 mentation of this Section in accordance with provisions  
30 hereof.

31 (E) Removal. A member of the city civil service  
32 commission may be removed by the city governing authority  
33 for just cause after a copy of the charges against him  
34 has been served on him and an opportunity for a public  
35 hearing thereon is afforded by his appointing authority.

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1 (F) Compensation. Members of the commission each  
2 shall be paid fifty dollars for each day devoted to the  
3 work of the commission but not more than four thousand  
4 dollars in any year.

6 Source: La. Const. Art. XIV, §15 ¶ (D), (E), (K) (1921).

8 Comment: Paragraph (A) establishes a civil service commission  
9 in cities having a population exceeding 400,000 rather  
10 than the present 250,000. Increases the membership of  
11 the City Civil Service Commission from three to five mem-  
12 bers. Retains existing six-year overlapping terms.

13 Paragraph (B) requires the governing authority of New  
14 Orleans to select one commissioner from each of three  
15 lists submitted by three university presidents. Adds  
16 Dillard to the current nominating universities, Tulane and  
17 Loyola. Retains one member directly appointed by the  
18 governing authority of New Orleans. Adds one member who  
19 is an employee in the classified service of the city,  
20 elected by classified city employees.

21 Requires that other cities subject to this provision  
22 constitute civil service commissions in the same manner  
23 as New Orleans, except that the three lists of university  
24 nominees may be submitted by the presidents of any three  
25 of the following universities: Tulane, Loyola, Dillard,  
26 Louisiana State University, Xavier, Louisiana College,  
27 and Centenary.

28 Paragraph (C) retains the requirement that vacancies  
29 be filled in accordance with procedures governing the  
30 original appointment and from the same source. Requires  
31 that university presidents submit nominees within 30 days  
32 after a vacancy occurs and that the city governing authority  
33 make the appointment within 30 days thereafter. Retains  
34 the requirement that the first name appearing on a list  
35 of university nominees shall become a member if the city

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1 governing authority fails to appoint within the specified  
2 time. Requires the city governing authority to call and  
3 hold an election for the member representing classified  
4 city employees at least 60 days prior to the expiration  
5 of that term and 30 days after the occurrence of a  
6 vacancy in an unexpired term.

7 Paragraph (D) provides that on the effective date of

8 this constitution, members of the New Orleans City Civil  
9 Service Commission, nominated by Tulane, Loyola, or the  
10 city governing authority, shall complete their respective  
11 terms. Requires the president of Dillard to submit three  
12 nominees to the city governing authority within 30 days  
13 after the effective date of this constitution. Requires  
14 the city governing authority to call and hold an election  
15 for the member representing classified employees within  
16 the same 30 days. Provides initial terms of three years  
17 for the Dillard nominee and five years for the classified  
18 employee.

19 Provides that members serving in other cities shall  
20 complete their respective terms. Requires the governing  
21 authorities of such cities to provide for the election  
22 or appointment of additional members in accordance with  
23 the provisions of this section.

24 Paragraph (E) retains the existing constitutional  
25 provision that a commissioner may be removed for cause  
26 after being given a copy of the charges against him and  
27 an opportunity for a public hearing by the governing  
28 authority. The new provision inserts the word "just"  
29 before "cause".

30 Paragraph (F) retains the \$50 per diem for members  
31 and increases the maximum annual per diem compensation  
32 from \$2,000 to \$4,000.

### 34 Section 3. Department of City Civil Service

35 Section 3. A department of city civil service is

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1 created in the city government of each city having a  
2 population exceeding four hundred thousand.

4 Source: La. Const. Art. XIV, §15, ¶(B) (1921).

6 Comment: Section 3 creates a department of city civil  
7 service in cities having a population exceeding  
8 400,000, rather than the present 250,000.

### 10 Section 4. Director of City Civil Service

11 Section 4. The commission shall appoint a director  
12 of city civil service, who shall be the administrative  
13 head of the service and who shall be in the classified  
14 service. The director shall be appointed by the commis-  
15 sion from a list of persons determined to be eligible for  
16 the position on the basis of merit, efficiency, and  
17 fitness, which shall be ascertained by competitive  
18 examination in so far as practicable, and such other  
19 factors as the commission deems advisable. The director  
20 shall appoint personnel and exercise powers and duties  
21 to the extent prescribed by the commission.

23 Source: La. Const. Art. XIV, §15, ¶(F) (1) (1921).  
24  
25 Comment: Section 4 changes the title of the administrative  
26 head of the city civil service from director of personnel  
27 to director of city civil service. Retains the director's  
28 appointment by the commission and inclusion in the classi-  
29 fied service, but deletes existing provision that the  
30 director may be appointed with or without competitive  
31 examination. Requires appointment from a list of eligibles  
32 qualifying on the basis of merit, efficiency, and fitness,  
33 ascertained in so far as is practicable by competitive  
34 examination, and such other factors as deemed advisable  
35 by the commission. Retains provision for the director

7

1 to exercise power and appoint personnel to the extent  
2 prescribed by the commission.

3  
4 Section 5. Classified Civil Service

5 Section 5. The classified city civil service shall  
6 include all officers and employes in the city civil  
7 service except (1) elected officers and persons appointed  
8 to fill vacancies in elective offices; (2) heads of  
9 principal departments appointed by the mayor or the  
10 governing authority; (3) city attorneys; (4) members  
11 of city boards, commissions, and agencies; (5) one  
12 principal assistant or deputy to any officer, board,  
13 commission, department, or agency mentioned in (1),  
14 (2), and (4), except the city civil service department;  
15 (6) officers and employees of the office of the mayor,  
16 (7) election commissioners and watchers, (8) one chief  
17 deputy selected by sheriffs, clerks of court and courts  
18 of record except those presently in the classified  
19 service.

20  
21 Source: La. Const. Art. XIV, §15, ¶(G) (1921).

22  
23 Comment: Retains the existing requirement that all officers  
24 and employees in the city civil service be in the  
25 classified service except for the following (who will  
26 comprise the unclassified service): (1) elected offi-  
27 cers and persons appointed to fill vacancies in  
28 elective offices; (2) heads of principal departments  
29 appointed by the mayor or city governing authority;  
30 (3) city attorneys; (4) members of city boards,  
31 commissions, and agencies; (5) one principal assistant  
32 or deputy to any officer, board, commission, etc.,  
33 mentioned in (1), (2), and (4) except the city civil  
34 service department; (6) officers and employees of the  
35 mayor's office; (7) election commissioners and

8

1 watchers; (8) one chief deputy selected by sheriffs,  
2 clerks of court and courts of record except those

3 presently in the classified service.

4 Deletes from the unclassified service, as stated  
5 in the existing provision, the following: one attorney  
6 and one person holding a confidential position to any  
7 officer, board or commission mentioned in (1), (2),  
8 or (4) above; officers and employees of the office of  
9 city attorney; custodians and deputy custodians of  
10 voting machines; all deputies and employees selected  
11 by sheriffs, clerks of courts, and courts of record  
12 (the proposal retains only one chief deputy for each);  
13 persons employed to make or conduct a special inquiry,  
14 investigation, examination or installation if the  
15 governing body of the city certifies that such employ-  
16 ment is temporary and the work should not be performed  
17 by employees in the classified service, and the com-  
18 mission approves such certifications; special counsel  
19 and special prosecutors; notaries public; referees;  
20 receivers; and jurors; patient or inmate help in city  
21 institutions; persons temporarily retained or employed  
22 to conduct or assist in civil service examinations;  
23 hourly, daily, or piece-work laborers and other  
24 workers, if their inclusion in the unclassified ser-  
25 vice is requested and approved; persons employed to  
26 make or conduct a special inquiry, investigation,  
27 examination, or installation for any agency of the  
28 city, if their inclusion in the unclassified service  
29 is approved; and independent contractors rendering  
30 services on a contractual basis.

31  
32 Section 6. Appointment and Promotion

33 Section 6. (A) Certification. Permanent appoint-  
34 ments and promotions in the classified city civil service  
35 shall be made only after certification by the Department

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1 of Civil Service under a general system based upon  
2 merit, efficiency, length of service, and fitness,  
3 which shall be ascertained by competitive examinations  
4 in so far as practicable, and employees and officers  
5 in the classified service shall be employed from those  
6 eligible under such certification. The number to be  
7 certified shall be not less than three; however, if  
8 more than one vacancy is to be filled, the name of one  
9 additional eligible for each vacancy may be certified.  
10 The commission shall adopt rules for the method of  
11 certification of persons eligible for appointment and  
12 promotion and shall provide for appointments defined  
13 as emergency and temporary appointments.

14 A classified employee detailed to a position above  
15 his job classification shall be compensated at the rate  
16 of the higher classification.

17 When a vacancy exists within the classified service,  
18 it shall be filled within sixty days after the vacancy

21 (B) Veterans. A department of city civil service  
 22 shall accord a five-point preference in original appoint-  
 23 ment to each person honorably discharged, or discharged  
 24 under honorable conditions, from the armed forces of  
 25 the United States, after having served between the war-  
 26 time dates of April 6, 1917, and November 11, 1918,  
 27 both dates inclusive, or between September 16, 1940, and  
 28 July 25, 1947, both dates inclusive, or between June 27,  
 29 1950, and January 31, 1955, both dates inclusive, or  
 30 who served in the Viet Nam Theater between July 1, 1958,  
 31 and the date the government of the United States  
 32 declares to be the date of termination of service for  
 33 members of the armed forces to receive credit for the  
 34 award of the Viet Nam Service Medal, both dates inclu-  
 35 sive, or who served in the peacetime campaigns or

1 expeditions for which campaign badges have been  
 2 authorized, and a ten-point preference in original  
 3 appointment to each honorably discharged veteran who  
 4 served either in peace or in war and who has one or  
 5 more disabilities recognized by the Veterans Administra-  
 6 tion as service-connected, or to the wife of each  
 7 veteran who is in such poor physical condition as to  
 8 preclude his or her appointment to a civil service  
 9 job in his or her usual line or work, or to the unre-  
 10 married widow of each deceased veteran who served in a  
 11 war period as defined above or in a peacetime campaign  
 12 or expedition, or to the unremarried widowed mother of  
 13 any person who died in active wartime or peacetime  
 14 service or who suffered total and permanent disabil-  
 15 ities in active wartime or peacetime service, or the  
 16 divorced or separated mother of any person who died  
 17 in wartime or peacetime service or who became totally  
 18 and permanently disabled in wartime or peacetime ser-  
 19 vice. However, only one ten-point preference shall be  
 20 allowed at any one time to any of the persons enumerated  
 21 above, and if the ten-point preference is not being  
 22 utilized by the veteran, either because of the veteran's  
 23 physical or mental incapacity which precludes his  
 24 appointment to a civil service job in his usual line  
 25 of work or because of his death, the preference shall  
 26 be available to his wife, unremarried widow, or eligible  
 27 mother as defined above, in the order specified, but  
 28 all such preferences may be given only to persons who  
 29 have attained marks on the tests which meet at least  
 30 the minimum requirements imposed for each test and who  
 31 have received at least the minimum rating required for  
 32 eligibility.

34 Source: La. Const. Art. XIV, §15 ¶(A) (1), (I), (I)(a) (1921).

1 Comment: Paragraph (A) retains the requirement that permanent  
 2 appointments and promotions in the classified civil  
 3 service be made after certification under a general  
 4 system based upon merit, efficiency, and fitness as  
 5 ascertained by competitive examination. Adds length  
 6 of service to the considerations for appointment and  
 7 promotion. Retains the provision that the number to  
 8 be certified be not less than three, except if more  
 9 than one vacancy exists, one additional name may be  
 10 certified for each additional vacancy. Retains the  
 11 commission's authority to provide for emergency and  
 12 temporary appointments. Adds the requirement that an  
 13 employee detailed to a higher classification be paid at  
 14 the rate of the higher classification. Adds the require-  
 15 ment that vacancies within the classified service be  
 16 filled within sixty days.

17 Paragraph (B) retains the existing provision for  
 18 five-point preferences on original appointments to  
 19 veterans who served in designated wartime periods and  
 20 ten-point preferences on original appointments to  
 21 veterans with service-connected disabilities, or their  
 22 wives, unremarried widows, or eligible mothers.

23 Deletes the three-point preference to veterans on  
 24 promotions.

26 Section 7. Disciplinary Action

27 Section 7. No person who has gained permanent civil  
 28 service status in the classified city civil service  
 29 shall be subjected to disciplinary action except for  
 30 just cause after a copy of the charges against him  
 31 have been served on him and an opportunity for a public  
 32 hearing is afforded by his appointing authority. Only  
 33 one penalty may be assessed for the same offense. No  
 34 classified employee shall be discriminated against by  
 35 reason of his political or religious beliefs, sex, or race.

1 Any classified employee so discriminated against or  
 2 subjected to such disciplinary action shall have a right  
 3 of appeal to the city civil service commission. The  
 4 burden of proof on appeal, as to the facts, shall be  
 5 on the employer. The appeal to the city civil service  
 6 commission shall be suspensive unless otherwise  
 7 determined by the commission. The rulings of the com-  
 8 mission are subject to review by the court of appeal  
 9 wherein each commission is located.

11 Source: La. Const. Art. XIV, §15 ¶ (A) (1), (N) (1), (N) (1)  
 12 (a), (O) (2) (1921).



14 Comment: Retains the prohibition of disciplinary action  
15 against any classified employee except for cause after  
16 the employee has received a copy of the charges against  
17 him and been afforded an opportunity for a public hear-  
18 ing on such charges by his appointing authority. Inserts  
19 the word "just" before "cause." Adds a prohibition of  
20 more than one penalty for the same offense. Retains  
21 prohibition against discrimination against a classified  
22 employee because of his political beliefs. Adds a  
23 prohibition against discrimination on the basis  
24 of sex or race. Retains the right of appeal to any  
25 classified employee so discriminated against. Changes  
26 the burden of proof on appeal from the employee to the  
27 employer. Adds the provision that the civil service  
28 hearing shall be a suspensive hearing unless otherwise  
29 determined by the commission. Changes the jurisdiction  
30 for review of the commission's rulings from the supreme  
31 court to the court of appeal, wherein the commission  
32 is located. The jurisdiction of the court of appeal  
33 is, however, presently invoked on questions of law, not  
34 fact.

13

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1 Section 8. Collective Bargaining

2 Section 8. Permanent employees in the classified  
3 service shall have the right to form and join labor  
4 organizations and shall have the right to bargain  
5 collectively with the respective governing authorities  
6 of the cities subject to this Article. The governing  
7 authority may enter into collective bargaining agree-  
8 ments.

10 Source: New

12 Comment: Authorized permanent employees in the classified  
13 service to form and join labor organizations; authorizes  
14 employees to bargain collectively with the governing  
15 body of the city. Authorizes city governing authorities  
16 to enter into collective bargaining agreements.

18 Section 9. Rules and Regulations

19 Section 9. The commission is vested with general  
20 rule-making powers and subpoena powers for the admin-  
21 istration of the classified city civil service, including  
22 but not limited to rules and regulations relating to  
23 employment, promotion, demotion, suspension, reduction  
24 in pay, removal, certification, uniform pay plans,  
25 classification plans, employment conditions, compen-  
26 sation disbursements to employees, and generally to  
27 carry out and effectuate the objectives and purposes  
28 of the merit system of civil service as herein established.  
29 These rules and regulations shall have the effect of law.

30 Any matter affecting wages and hours shall become effect-  
31 ive and shall have the force of law only after approval  
32 of the governing body of the city.

34 Source: La. Const. Art. XIV, §15, ¶ (I), (I) (a), (I) (b),  
35 (I) (c), (J) (1), (J) (2) (1921).

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1 Comment: Retains the general rule-making and subpoena  
2 powers of the commission, including its authority to  
3 administer rules and regulations regarding employment,  
4 promotion, demotion, suspension, reduction in pay,  
5 removal, certification, uniform pay plans, classification  
6 plans, employment conditions, compensation, and dis-  
7 bursements to employees. Retains the provision that  
8 the rules of the commission have the effect of law.  
9 Requires the approval of the governing authority of the  
10 city on any matter affecting wages and hours of  
11 employees. The existing provision requires the approval  
12 of the governing authority for pay plans and amendments  
13 thereto. Deletes the commission's specific authoriza-  
14 tion or obligation to provide: public notice prior to  
15 promulgation of rules; establish work test periods; pro-  
16 vide for leaves of absence, sick and annual leaves,  
17 layoffs, reinstatements, reemployment, transfers,  
18 and abolition of positions; fill vacancies from within  
19 and without the classified service; compile attend-  
20 ance records; establish training programs; and fix the  
21 appeal procedure.

22 The new provision also omits mention of the procedure  
23 for implementing job allocation lists, authorization  
24 for providing salary differentials in different sections  
25 of the state, and the assignment of preference ratings  
26 to employees affected by economic layoffs.

28 Section 10. Political Activity

29 Section 10. No member of the city civil service  
30 commission and no officer or employee in the classi-  
31 fied service shall participate or engage in political  
32 activity or be a candidate for nomination or election  
33 to public office or be a member of any national, state,  
34 or local committee of a political party or faction or  
35 make or solicit contributions for any political party,

15

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1 faction, or candidate, nor take active part in the  
2 management of the affairs of a political party, faction,  
3 or candidate or any political campaign except to exer-  
4 cise his right as a citizen to privately express his  
5 opinion, to serve as a commissioner or as an official  
6 watcher at the polls and to cast his vote as he desires.  
7 No person shall solicit contributions for political

8 purposes from any classified employee or official, nor  
9 use or attempt to use his position in city civil ser-  
10 vice to punish or coerce the political action of such  
11 person.

12 Political activity is defined as an effort made to  
13 insure the election of a nominee for political office  
14 or the support of a particular political party in an  
15 election. There shall be no prohibition against sup-  
16 port of issues involving bonded indebtedness, tax  
17 referenda, or constitutional amendments, or the  
18 participation or membership in an organization which  
19 is not a political organization but which may from time  
20 to time express its opinion on a political issue.

21  
22 Source: La. Const. Art. XIV, §15, ¶ (E), (N) (3) (6) (7)  
23 (8) (9) (1921).

24 Comment: Retains prohibition against civil service com-  
25 missioners and employees in the classified service  
26 participating in political activity, seeking election  
27 to public office, being a member of any political  
28 committee, soliciting political contributions, or  
29 using a position in the civil service to exert politi-  
30 cal coercion. Adds the definition of political activity  
31 as an effort to insure the election of a nominee for  
32 political office or the support of a particular  
33 political party in an election. Retains provision  
34 that classified employees may privately express an  
35 opinion, serve as poll commissioners or watchers, and

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1 cast votes as they desire. Adds a provision allowing  
2 the support of issues involving bonded indebtedness, tax  
3 referenda, or constitutional amendments, or the parti-  
4 cipation or membership in an organization which is not  
5 a political organization but which from time to time  
6 expresses its opinion on a political issue.

7 Deletes a provision prohibiting civil service  
8 commissioners from holding any position of public  
9 employment, the office of notary public, military or  
10 naval office, or dean or member of the faculty of any  
11 educational institution excepted.

### 13 Section 11. Violations; Appeals

14 Section 11. The commission may investigate viola-  
15 tions of this Article and the rules or regulations  
16 adopted pursuant hereto. It may impose penalties for  
17 violation of this Article or the rules and regula-  
18 tions adopted pursuant hereto in the form of demotion,  
19 or suspension, or discharge from the classified service  
20 with attendant loss of pay. The rulings of the com-  
21 mission are subject to review in the court of appeal  
22 wherein each commission is located.

23

24 Source: La. Const. Art. XIV, §15, ¶ (O) (1) (3) (5) (6) (7)  
25 (8), (P) (1) (2) (3) (4) (5) (1921).

26

27 Comment: Retains the commission's authority to investigate  
28 violations of this Article and the rules and regula-  
29 tions adopted hereto. Retains the commission's power  
30 to impose penalties in the form of demotion, suspension,  
31 or removal with attendant loss of pay.

32 Deletes specific authorization for the appointment  
33 of referees to take testimony, administer oaths, and  
34 exercise the power of subpoena. Deletes specific  
35 mention of procedures relating to reinstatement pay

17

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1 for lost time, employees' failure to testify, costs,  
2 eligibility for reemployment and withholding compensa-  
3 tion from persons illegally employed.

4 Provides for review of the commission's rulings  
5 in the court of appeal wherein the commission is  
6 located. The existing provision allows an appeal  
7 to the supreme court, however, the jurisdiction of the  
8 court of appeal is invoked on questions of law, but not  
9 on questions of fact.

10

### 11 Section 12. Penalties

12 Section 12. Any person who willfully violates any  
13 provision of this Article or of any law enacted  
14 pursuant hereto shall be guilty of a misdemeanor and  
15 upon conviction shall be punished by a fine of not  
16 more than five hundred dollars or by imprisonment for  
17 not more than six months, or both.

18

19 Source: La. Const. Art. XIV, §15, ¶ (P)(3) (1921).

20

21 Comment: Retains definition of willful violation of any  
22 provision of this Article as a misdemeanor. Changes  
23 the punishment upon conviction for a violation from  
24 a fine of not less than \$100, nor more than \$1,000,  
25 or, by imprisonment for a term of not less than one  
26 month nor more than six months or, both, to a fine of  
27 not more than \$500 or by imprisonment for not more than  
28 six months, or both.

29

### 30 Section 13. Acquisition of Permanent Status

31 Section 13. Each officer and employee of a city who  
32 has civil service status in the classified service of  
33 the city on the effective date of this constitution  
34 shall retain such status in the position, class, and  
35 rank held on such date and thereafter shall be subject

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1 to and be governed by the provisions of this Article

2 and the rules and regulations adopted under the authority  
3 hereof.

4  
5 Source: La. Const. Art. XIV, §15, ¶ (Q) (1) (2) (1921).

6  
7 Comment: Provides that classified employees in the city  
8 civil service shall, on the effective date of this  
9 constitution, retain their status in the civil service  
10 system and thereafter be subject to the provisions of  
11 this section and the rules and regulations adopted  
12 pursuant hereto.

13  
14 Section 14. Existing Laws

15 Section 14. All existing laws relating to employees  
16 in the classified civil service system not inconsistent  
17 with this Article are continued in force. Neither the  
18 commission of each city nor the governing authority of  
19 each city shall exercise any power or authority which  
20 is inconsistent or in conflict with any general law.

21  
22 Source: La. Const. Art. XIV, §15, ¶ (Q) (1) (2), (P)  
23 (6) (1921).

24 Comment: Provides that existing laws relating to civil  
25 service employees shall continue in force. Adds the  
26 provision prohibiting the city civil service commission  
27 and the governing authority of the city from exercising  
28 any power which is inconsistent or in conflict with  
29 any general law. The existing provision recognizes the  
30 validity of civil service laws and the authority of the  
31 legislature to adopt or repeal civil service laws so long  
32 as these laws are not in conflict with constitutional  
33 provisions regarding civil service.

34  
35  
Second Draft

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1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER 1

3 Introduced by Norman Carmouche on behalf of the Subcommittee  
4 on Elementary and Secondary Education

5 A PROPOSAL

6 To require the legislature to provide for education and to  
7 establish an educational system.

8 PROPOSED SECTIONS:

9 Article \_\_\_\_\_, Section 1. Public Educational System

10 Section 1. The legislature shall provide for the edu-  
11 cation of the people of the state and shall establish and  
12 maintain a public educational system consisting of all  
13 public schools and all institutions of learning supported  
14 in whole or in part by state funds, the funds of any po-  
15 litical subdivision thereof, or both.

17 Source: La. Const. Art. XII, §1 (1921).

18

19 Comment: Requires the legislature to provide for the educa-  
20 tion of the people of the state by establishing and main-  
21 taining a system of public education. Changes the lan-  
22 guage of the first unnumbered paragraph by deleting school  
23 children and adding people.

24 Deletes the third paragraph of the present provision  
25 with respect to age at which children may enter public  
26 school and kindergarten.

27  
28 Section 2. Elementary and Secondary Schools; Purposes

29 Section 2. The purpose of the public educational  
30 system shall be to provide at all stages of human devel-  
31 opment, learning environments and experiences that are  
32 humane, just, and designed to promote excellence in the  
33 elementary and secondary levels of education, in order  
34 that every individual may be afforded the opportunity  
35 to develop to his full potential.

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1 Source: La. Const. Art. XII, §3 (1921).

2

3 Comment: Revises the present provision by defining the pur-  
4 pose of education. Changes the present requirement that  
5 there be taught only fundamental branches of study.

6  
7 Section 3. State Board of Elementary and Secondary Edu-  
8 cation

9 Section 3. There is created a body corporate, known  
10 as the State Board of Elementary and Secondary Education.  
11 The board shall supervise, control, and have budgetary  
12 responsibility for all public elementary and secondary  
13 schools and special schools under its jurisdiction, as  
14 provided by law. The board shall have such other spe-  
15 cific powers, duties, and responsibilities as are provided  
16 by law, but shall have no control over the business  
17 affairs of parish and municipal school boards or the  
18 selection or removal of their officers and employees.

19 The board shall consist of seven members who shall be  
20 appointed by the governor from the state at large, and  
21 an additional number of members equal to the number of  
22 congressional districts into which the state is divided,  
23 one of whom shall be elected from each of such districts,  
24 as provided by law. All members shall serve overlapping  
25 terms of six years, following the initial terms which  
26 shall be determined by the governor or the legislature,  
27 as the case may be, in a manner as to effectuate this  
28 purpose. Vacancies occurring for any cause prior to the  
29 expiration of the term shall be filled by appointment of  
30 the governor for the remainder of the unexpired term.  
31 Members shall serve without pay except for such per diem  
32 and expenses as shall be fixed by the legislature.

34 Source: La. Const. Art. XII, §54, 6 (1921).

1 Comment: Changes the composition of the board. Requires  
2 the governor to appoint 7 members of the board. Re-  
3 quires an election for an additional number of members,  
4 equal to the number of congressional districts into  
5 which the state is divided. All members shall serve  
6 overlapping terms of 6 years, following the initial  
7 terms which shall be determined by the governor or leg-  
8 islature. The present provision requires that the mem-  
9 bership of the board be composed of 11 members; 3 elec-  
10 ted from the Public Service Commission for terms of 6  
11 years, and 8 members elected from districts correspond-  
12 ing to the congressional districts, for terms of 8 years.

13 Continues the existing authorization to the legis-  
14 lature to prescribe the duties and specific powers of  
15 the board. The board may not control the business  
16 affairs of parish school boards or the selection or re-  
17 moval of officers and employees.

18 Authorizes the board to supervise, control, and  
19 assume budgetary responsibility for all schools under its  
20 jurisdiction.

22 Section 4. State Superintendent of Public Elementary  
23 and Secondary Education

24 Section 4. (A) There shall be a state superintendent  
25 of public education for elementary and secondary educa-  
26 tion, who shall be elected for a term of four years. He  
27 shall be the ex officio secretary of the State Board of  
28 Elementary and Secondary Education and shall serve as its  
29 chief executive officer.

30 (B) The state superintendent shall possess the qualif-  
31 ications required of parish school superintendent and  
32 such additional qualifications as may be fixed by law.  
33 However, any person serving as state superintendent of  
34 public education on the effective date of this constitu-  
35 tion, shall continue to be eligible to hold or to be re-

1 elected to that office.

2 (C) The powers, duties, responsibilities, and salary  
3 of the state superintendent of public education shall be  
4 prescribed by law.

5 (D) A vacancy in the office of state superintendent  
6 of public education for any cause except expiration of  
7 the term ~~of the superintendent~~, shall be filled by the State  
8 Board of Elementary and Secondary Education for the re-

9 remainder of the unexpired term.

11 Source: La. Const. Art. XII, §5 (1921).

13 Comment: Establishes that there shall be an elected state  
14 superintendent of public education for elementary and  
15 secondary schools. Retains the term of office of 4  
16 years and the superintendent shall be the ex officio  
17 secretary of the Board of Elementary and Secondary Edu-  
18 cation.

19 Deletes the salary of the superintendent and autho-  
20 rizes the legislature to prescribe the salary, powers,  
21 duties, and responsibilities.

22 Requires that the superintendent possess the same  
23 qualifications as required of parish superintendents and  
24 additional qualifications as may be fixed by law. Pro-  
25 vides that any person serving in the office, on the  
26 effective date of this constitution, shall continue to  
27 be eligible to hold or to be reelected to that office.

28 Specifies that a vacancy in the office shall be  
29 filled by the board.

31 Section 5. Qualifications and Certification of Teachers

32 Section 5. The board shall prescribe ~~the~~ qualifica-  
33 tions to be met by teachers and for the certification of  
34 teachers of public elementary and secondary and special  
35 schools.

1 Source: La. Const. Art. XII, §7B (1921).

3 Comment: Retains the authority of the board to determine  
4 the qualifications of teachers and for the certification  
5 of teachers in public elementary and secondary and  
6 special schools.

8 Section 6. Approval of Private Schools; Effect

9 Section 6. The board may approve private schools  
10 whose sustained curriculum is of a ~~grade~~ equal to that  
11 prescribed for similar public schools. The certificate  
12 issued by private schools so approved shall carry the  
13 same privileges as those issued by the state public  
14 schools.

16 Source: La. Const. Art. XII, §7B (1921).

18 Comment: Retains the power of the board to approve private  
19 schools. The certificates issued by private schools ap-  
20 proved by the board shall carry the same privileges as  
21 those issued by state public schools.

23 Section 7. Parish School Boards; Parish Superintendents

24 Section 7. (A) Parish school boards. The legislature

25 shall create parish school boards and shall provide for  
26 the election of the members of such boards.  
27 (B) Parish superintendents. Each parish board shall  
28 elect a superintendent of parish schools. The State  
29 Board of Elementary and Secondary Education shall fix the  
30 qualifications and prescribe the duties of the parish su-  
31 perintendent, who need not be a resident of the parish in  
32 which he serves.  
33  
34 Source: La. Const. Art. XII, §10 (1921).  
35

1 Comment: Rewords the present provision. Deletes the last  
2 sentence which provides that where parishes contain a  
3 municipality with a population in excess of one-half of  
4 the population of the entire parish, it shall have repre-  
5 sentation proportionate to its population on the parish  
6 board.

8 Section 8. Recognition of Existing Boards and Systems;  
9 Consolidation

10 Section 8. (A) Recognition of boards and systems.  
11 Parish and city school boards and systems, in existence  
12 on the effective date of this constitution, by virtue  
13 of special or local legislative acts or previous consti-  
14 tutional provisions, are hereby recognized, subject to  
15 control by and supervision of the State Board of Elemen-  
16 tary and Secondary Education and the power of the legis-  
17 lature to enact laws affecting them.

18 (B) Consolidation. Two or more school systems may be  
19 consolidated under procedures enacted by the legislature,  
20 subject to approval of a majority of the qualified elec-  
21 tors in each system affected in an election called for  
22 the purpose.

24 Source: La. Const. Art. XII, §11 (1921).

26 Comment: Rewords the present provision without substantive  
27 change.

28 Provides for the consolidation of two or more  
29 school systems: subject to procedures prescribed by the  
30 legislature and approval of a majority of the electors  
31 affected.

33 Section 9. Funding; State Board of Elementary and Sec-  
34 ondary Education

35 Section 9. The legislature shall appropriate funds

1 for the administration and operating expenses of the  
2 State Board of Elementary and Secondary Education.

3  
4 Source: La. Const. Art. XII, §8 (1921).

6 Comment: Revises the present provision by requiring the  
7 legislature to provide funds for the operation and ad-  
8 ministration of the board.

9 The present provision prohibits the board to create  
10 or maintain administrative departments in which salaries  
11 or expenses are payable from state funds, unless autho-  
12 rized by the legislature.

13 Deletes the legislature shall prescribe the terms  
14 under which funds offered for educational purposes shall  
15 be received and disbursed.

17 Section 10. Public Funds for Private or Sectarian Schools;  
18 Prohibition

19 Section 10. No public funds shall be used for the  
20 support of any private or sectarian school. This section  
21 shall not apply to funds from federal sources provided  
22 to the state, its political subdivisions, or the agencies  
23 of either, for nonpublic education.

25 Source: La. Const. Art. XII, §13 (1921).

27 Comment: The language of the present provision is retained  
28 adding the exclusion for use of funds from federal  
29 sources.

31 Section 11. Funding; Elementary and Secondary Schools;  
32 Apportionment

33 Section 11. (A) State funds. State funds for the  
34 support of the public schools of elementary and second-  
35 ary levels shall be derived from the sources and shall

1 be apportioned to the parish and city school boards in  
2 the manner hereinafter set forth:

3 First: After deduction of annual amounts required by  
4 this constitution to be deducted from the first monies  
5 available to the State Severance Tax Fund, and after de-  
6 duction of not to exceed five hundred thousand dollars  
7 per annum to pay for the costs of collecting this tax and  
8 administering the laws pertaining to the conservation of  
9 the natural resources of the state, out of the first monies  
10 comprising the residue then existing in the fund, the leg-  
11 islature shall appropriate funds to supply free school  
12 books and other materials of instruction prescribed by  
13 the State Board of Elementary and Secondary Education.  
14 After July first of each year, the state treasurer shall  
15 set up a fund for the payment of the amounts set forth  
16 in Paragraph (A) of this section. When sufficient funds  
17 have accumulated in the fund for the payment of the monies

18 required for the purposes above mentioned including school  
19 books and materials of instruction, then, before the  
20 tenth day of each month, the state treasurer shall trans-  
21 fer to a fund in the state treasury designated as the  
22 State Public School Fund such balances as have accrued.

23 Second: The proceeds of particular taxes now or here-  
24 after levied by the legislature and dedicated, appropriat-  
25 ed or otherwise made available to the state public school  
26 fund or for the support of public schools.

27 Third: Such other funds as the legislature has provid-  
28 ed or hereafter provides for the support of public schools.

29 (B) Allocation of funds. The funds specified in Para-  
30 graph (A) hereof shall be apportioned as follows:

31 (1) Minimum Program. There shall be appropriated  
32 from the State Public School Fund and from the State  
33 General Fund sufficient funds to insure a minimum program  
34 of education in all public elementary and secondary  
35 schools. The minimum program of education to be maintain-

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1 ed in all parish and city school systems shall be  
2 established by the State Board of Elementary and Second-  
3 ary Education. ~~Funds for the support of the minimum~~  
4 ~~educational program shall be paid to the parish and city~~  
5 ~~school boards in twelve monthly installments.~~ The board  
6 shall adopt formulas and procedures for the distribution  
7 of these funds to the several school boards.

8 (2) Other State Funds. Any other funds provided by  
9 the legislature for the support of public schools shall  
10 be apportioned and distributed in accordance with a for-  
11 mula established by the State Board of Elementary and  
12 Secondary Education, except as otherwise specifically  
13 provided for by the law appropriating the funds.

14 (3) Other Funds. Any funds for public education  
15 from any other source shall be distributed in the manner  
16 determined by the State Board of Elementary and Secondary  
17 Education, subject, however, to the terms of the laws  
18 governing such funds or the lawful stipulations of the  
19 source of the funds.

20 (C) Local Funds. The local funds for the support of  
21 elementary and secondary public schools shall be derived  
22 from the following source:

23 First: Each parish school board, the parish of Orleans  
24 excepted, and no other parochial or municipal authority  
25 except as otherwise specifically provided for in this con-  
26 stitution, shall levy annually an ad valorem maintenance  
27 tax of five mills, or as much thereof as is necessary, on  
28 all property subject to such taxation within the parish.

29 Second: The provisions of Paragraph (C) First above  
30 shall not apply to property within a municipality which is  
31 exempt from parochial taxation. In lieu of that tax the  
32 governing authority of each of these municipalities shall  
33 levy a tax annually and shall collect and pay, to the

34 parish school board in which such municipality is situated,  
35 out of the proceeds of the general ad valorem tax for munici-

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1 pal purposes, such an amount as shall equal the rate of  
2 five mills levied hereunder by the parish school board.

3 The provisions of Paragraph (C) First shall not apply  
4 to municipalities which under constitutional or legisla-  
5 tive authority are actually operating, maintaining, and  
6 supporting a separate city system of public schools. In  
7 lieu of such tax, however, the school board in each such  
8 municipality shall levy an annual tax of five mills on the  
9 dollar on the assessed valuation of all property within  
10 the municipality. The proceeds thereof shall be used  
11 exclusively for the support of the public schools.

12 Third: The Orleans Parish School Board shall levy  
13 annually a tax not to exceed thirteen mills on the dollar  
14 on the assessed valuation of all property within the city  
15 of New Orleans assessed for city taxation and shall certify  
16 the fact to the governing authority of the city. The  
17 governing authority shall cause said tax to be entered on  
18 the tax rolls of the city and collected in the manner and  
19 under the conditions and with the interest and penalties  
20 prescribed by law for city taxes. The money thus collected  
21 shall be paid daily to the Orleans Parish School Board.

22 Fourth: For giving additional support to the public  
23 elementary and secondary schools, any parish, school district,  
24 or subschool district, or any municipality which supports  
25 a separate city system of public schools may levy ad  
26 valorem taxes for specific purposes or incur debt and issue  
27 bonds for specific purposes, when authorized by a majority  
28 of the electors ~~qualified to vote~~ in the parish, municipality,  
29 district or subdistrict, in an election called for the pur-  
30 pose. The amount, duration, and purpose of such proposals  
31 shall be in accord with any limitations imposed by the  
32 legislature. No such tax shall be levied for a period long-  
33 er than ten years, ~~and~~ <sup>except that</sup> any tax levied to pay the costs of  
34 bonds or other debt incurred shall be levied and collected  
35 until the principal and interest on the bonds or other debt

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1 have been paid.

2 Fifth: The legislature may provide for additional  
3 sources of local support for elementary and secondary  
4 schools.

5 (D) Monroe, Bogalusa; Treatment as Parishes; Orleans  
6 Parish. For the effects and purposes of the provisions of  
7 this entire section and for the purpose of ascertaining  
8 and determining the maximum allowable millage as may be  
9 imposed by the legislature, and levying the taxes herein  
10 authorized, the municipalities of Monroe, in Ouachita

11 Parish, and Bogalusa, in Washington Parish, and no other,  
12 shall be regarded as, and treated upon the same basis and  
13 shall have the same authority in respect to this section  
14 as though they were separate parishes instead of municipal-  
15 ities.

~~The provisions of this entire section shall apply to the  
16 parish of Orleans just as it does to other parishes except  
17 as it may specially exempt or may otherwise be provided  
18 for in this constitution.~~

(E) Ouachita Parish. The school board of Ouachita Parish  
21 shall not be required to pay to the city of Monroe out of  
22 the public funds any per capita for children residing with-  
23 out the limits of said city and who may attend the schools  
24 maintained by the city of Monroe under its legislative  
25 charter.

27 Source: La. Const. Art. XII, §§14, 15 (1921).

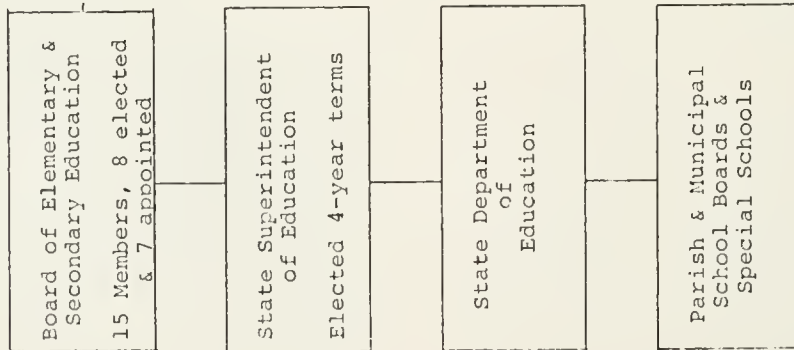
29 Comment: Rewords the present provisions of the constitution.

30 Stipulates the sources and apportionment of funds for  
31 public elementary and secondary schools. Sources: (1)  
32 The legislature shall appropriate funds, for free school  
33 books and materials of instruction, from the residue of  
34 the State Severance Tax Fund. The appropriation shall  
35 be made after a deduction of an amount annually dedica-

1 ed from the first monies of the fund, and after a  
2 deduction of an amount not in excess of \$500,000, costs  
3 of collecting the tax and administering the laws per-  
4 taining to the conservation of natural resources. The  
5 state treasurer shall set up a fund for the payment of  
6 the amounts set forth and shall establish the State  
7 Public School Fund. (2) Proceeds from taxes levied by  
8 the legislature, dedicated, appropriated or otherwise  
9 made available to and for the support of public schools.  
10 (3) Other funds provided by the legislature. The funds  
11 set for in Paragraph A hereof shall be apportioned by  
12 the formulas, procedures, and manner established by the  
13 State Board of Elementary and Secondary Education  
14 except as otherwise specifically provided by the law or  
15 sources of the funds. Local funds shall be derived by  
16 the manner prescribed by law allowing the levy of taxes  
17 for that purpose in the parishes and municipalities.

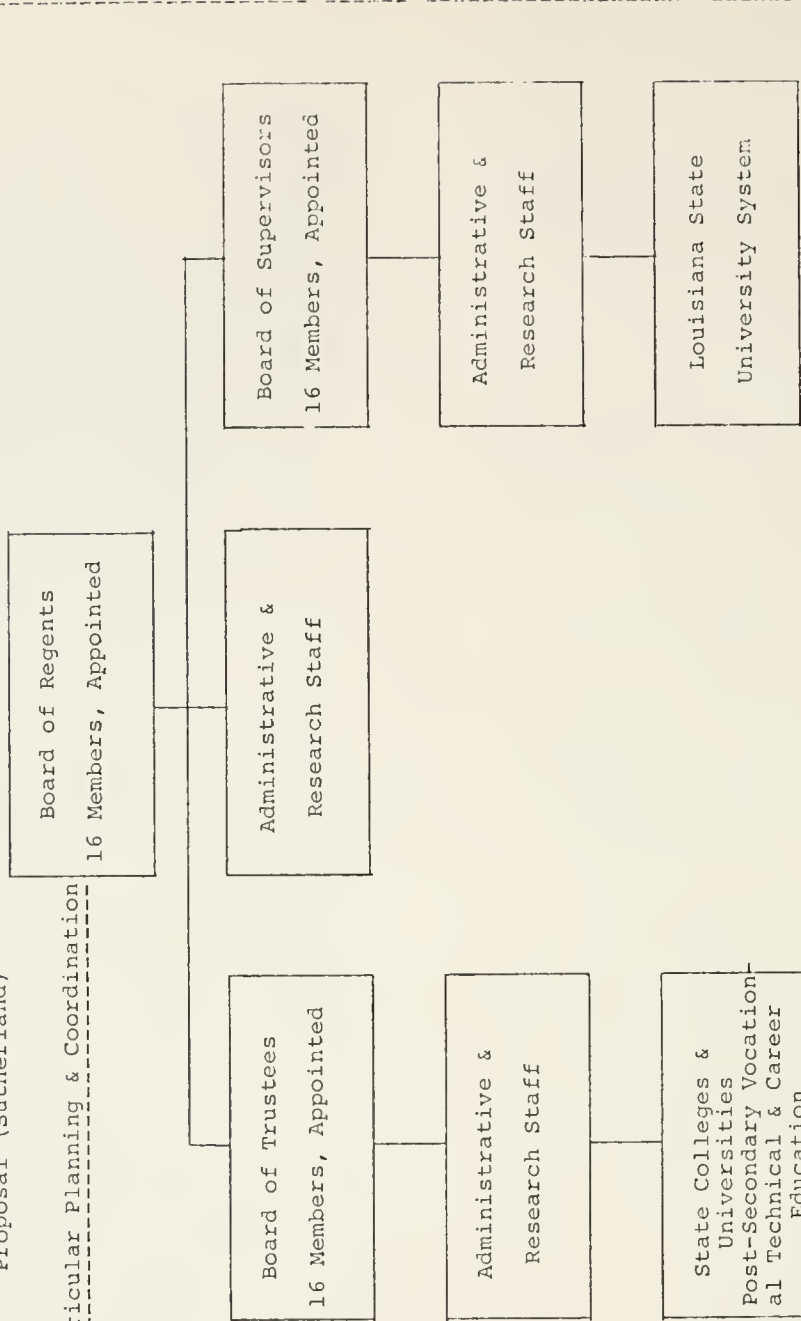
18 Retains the present provision relating to Bogalusa  
19 and Monroe.

Elementary & Secondary Education Proposal



NOTE: See Higher Education Proposal (Sutherland)

Curricular Planning & Coordination



Higher Education Sub-Committee Proposal (Sutherland)



CC-240

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER 1  
3 Introduced by Norman Carmouche on behalf of the  
4 Subcommittee on Elementary and Secondary  
5 Education

6 A PROPOSAL

7 To require the legislature to provide for education  
8 and to establish an educational system.

9 PROPOSED SECTIONS:

10 Article \_\_\_\_\_, Section 1. Public Educational  
11 System

12 Section 1. The legislature shall provide for  
13 the education of the people of the state and shall  
14 establish and maintain a public educational system  
15 consisting of all public schools and all institu-  
16 tions of learning supported in whole or in part by  
17 state funds, the funds of any political subdivision  
18 thereof, or both.

19  
20 Source: La. Const. Art. XII, §1 (1921).

21  
22 Comment: Requires the legislature to provide for the  
23 education of the people of the state by establish-  
24 ing and maintaining a system of public education.  
25 Changes the language of the first unnumbered  
26 paragraph by deleting school children and adding  
27 people.

28 Deletes the second unnumbered paragraph which  
29 was declared unconstitutional in Poindexter v.  
30 Louisiana Financial Assistance Commission, 275F.  
31 Supp.833, (1968).

32 Deletes the third paragraph of the present  
33 provision with respect to age at which children  
34 may enter public school and kindergarten.

CC-248 page two

1 Section 2. Elementary and Secondary Schools;  
2 Purposes

3 Section 2. The purpose of the public  
4 educational system shall be to provide at all  
5 stages of human development, learning environ-  
6 ments and experiences that are humane, just,  
7 and designed to promote excellence in the  
8 elementary and secondary levels of education, in  
9 order that every individual may be afforded the  
10 opportunity to develop to his full potential.

11  
12 Source: La. Const. Art. XII, §3 (1921).

13  
14 Comment: Revises the present provision by defining

15 the purpose of education. Changes the present  
16 requirement that there be taught only fundamental  
17 branches of study, including instruction upon the  
18 constitutional system of state and national  
19 government and the duties of citizenship.

21 Section 3. State Board of Elementary and Second-  
22 ary Education

23 Section 3. (A) Creation; function. There is  
24 created a body corporate, known as the State  
25 Board of Elementary and Secondary Education. The  
26 board shall supervise, control, and have budgetary  
27 responsibility for all public elementary and  
28 secondary schools and special schools under its  
29 jurisdiction, as provided by law. The board shall  
30 have such other specific powers, duties, and res-  
31 ponsibilities as are provided by law, but shall  
32 have no control over the business affairs of parish  
33 and municipal school boards or the selection or  
34 removal of their officers and employees.

35 (B) Membership; terms. The board shall consist

CC-248 page three

1 of seven members who shall be appointed by the  
2 governor from the state at large, and an ad-  
3 ditional number of members equal to the number  
4 of congressional districts into which the state  
5 is divided, one of whom shall be elected from  
6 each of such districts, as provided by law. All  
7 members shall serve overlapping terms of six  
8 years, following the initial terms which shall  
9 be determined by the governor or the legislature,  
10 as the case may be, in a manner as to effectuate  
11 this purpose.

12 (C) Vacancies. Vacancies occurring for any  
13 cause prior to the expiration of the term shall  
14 be filled by appointment by the governor for the  
15 remainder of the unexpired term. Members shall  
16 serve without pay except for such per diem and  
17 expenses as shall be fixed by the legislature.

18  
19 Source: La. Const. Art. XII, §§4, 6 (1921).

20  
21 Comment: Changes the composition of the board. Re-  
22 quires the governor to appoint 7 members of the  
23 board. Requires an election for an additional  
24 number of members, equal to the number of  
25 congressional districts into which the state is  
26 divided. All members shall serve overlapping  
27 terms of 6 years, following the initial terms which  
28 shall be determined by the governor or legislature.  
29 The present provision requires that the membership  
30 of the board be composed of 11 members; 3 elected

31 from the Public Service Commission for terms of  
32 6 years, and 8 members elected from districts  
33 corresponding to the congressional districts, for  
34 terms of 8 years.

35 Continues the existing authorization to the

CC-248 page four

1 legislature to prescribe the duties and  
2 specific powers of the board. The board may  
3 not control the business affairs of parish  
4 school boards or the selection or removal of  
5 officers and employees.

6 Authorizes the board to supervise, control,  
7 and assume budgetary responsibility for all  
8 schools under its jurisdiction.

9  
10 Section 4. State Superintendent of Public  
11 Elementary and Secondary Education

12 Section 4. (A) Term. There shall be a  
13 state superintendent of public education for  
14 elementary and secondary education, who shall  
15 be elected for a term of four years. He shall  
16 be the ex officio secretary of the State Board  
17 of Elementary and Secondary Education and shall  
18 serve as its chief executive officer.

19 (B) Qualifications. The state superintendent  
20 shall possess the qualifications required of  
21 parish school superintendents and such additional  
22 qualifications as may be fixed by law. However,  
23 any person serving or having served as state  
24 superintendent of public education on the effective  
25 date of this constitution shall continue to be  
26 eligible to hold or to be reelected to that office.

27 (C) Functions. The powers, duties, responsi-  
28 bilities, and salary of the state superintendent of  
29 public education shall be prescribed by law.

30 (D) Vacancy. A vacancy in the office of state  
31 superintendent of public education for any cause  
32 except expiration of the term shall be filled by  
33 the State Board of Elementary and Secondary Edu-  
34 cation for the remainder of the unexpired term.

35

CC-248 page five

1 Source: La. Const. Art. XII, §5 (1921).

2

3 Comment: Establishes that there shall be an  
4 elected state superintendent of public education  
5 for elementary and secondary schools. Retains  
6 the term of office of 4 years and the superin-  
7 tendent shall be the ex officio secretary of the  
8 Board of Elementary and Secondary Education.

9 Deletes the salary of the superintendent and  
10 authorizes the legislature to prescribe the

11 salary, powers, duties, and responsibilities.

12 Requires that the superintendent possess the  
13 same qualifications as required of parish  
14 superintendents and additional qualifications as  
15 may be fixed by law. Provides that any person  
16 serving or having served in the office, on the  
17 effective date of this constitution, shall con-  
18 tinue to be eligible to hold or to be reelected  
19 to that office.

20 Specifies that a vacancy in the office shall  
21 be filled by the board.

22

23 Section 5. Qualifications and Certification of  
24 Teachers

25 Section 5. The board shall prescribe and pro-  
26 vide for the qualifications to be met by teachers  
27 and for the certification of teachers of public  
28 elementary and secondary and special schools.

29

30 Source: La. Const. Art. XII, §7B (1921).

31

32 Comment: Retains the authority of the board to de-  
33 termine the qualifications of teachers and for  
34 the certification of teachers in public  
35 elementary and secondary and special schools.

CC-248 page six

1 Section 6. Approval of Private Schools;  
2 Effect

3 Section 6. The board may approve private  
4 schools whose sustained curriculum is of a  
5 quality equal to that prescribed for similar  
6 public schools. The certificates issued by  
7 private schools so approved shall carry the  
8 same privileges as those issued by the state  
9 public schools.

10

11 Source: La. Const. Art. XII, §7B (1921).

12

13 Comment: Retains the power of the board to approve  
14 private schools. The certificates issued by  
15 private schools approved by the board shall  
16 carry the same privileges as those issued by  
17 state public schools.

18

19 Section 7. Parish School Boards; Parish  
20 Superintendents

21 Section 7. (A) Parish school boards. The  
22 legislature shall create parish school boards and  
23 shall provide for the election of the members of  
24 such boards.

25 (B) Parish superintendents. Each parish board  
26 shall elect a superintendent of parish schools.

27 The State Board of Elementary and Secondary Edu-  
28 cation shall fix the qualifications and prescribe  
29 the duties of the parish superintendent, who need  
30 not be a resident of the parish in which he serves.

31  
32 Source: La. Const. Art. XII, §10 (1921).

33  
34 Comment: Rewords the present provision. Deletes the  
35 last sentence which provides that where parishes

CC-248 page seven

1 contain a municipality with a population  
2 in excess of one-half of the population of  
3 the entire parish, it shall have representation  
4 proportionate to its population on the parish  
5 board.

6  
7 Section 8. Recognition of Existing Boards and  
8 Systems; Consolidation

9 Section 8. (A) Recognition of boards and  
10 systems. Parish and city school boards and  
11 systems, in existence on the effective date of  
12 this constitution, by virtue of special or local  
13 legislative acts or previous constitutional pro-  
14 visions, are hereby recognized, subject to control  
15 by and supervision of the State Board of Element-  
16 ary and Secondary Education and the power of the  
17 legislature to enact laws affecting them.

18 (B) Consolidation. Two or more school systems  
19 may be consolidated under procedures enacted by  
20 the legislature, subject to approval of a majority  
21 of the qualified electors voting in each system  
22 affected in an election called for that purpose.

23  
24 Source: La. Const. Art. XII, §11 (1921).

25  
26 Comment: Rewords the present provision without sub-  
27 stantive change.

28 Provides for the consolidation of two or more  
29 school systems subject to procedures prescribed by  
30 the legislature and approval of a majority of the  
31 electors affected.

32  
33 Section 9. Funding, State Board of Elementary and  
34 Secondary Education

35 Section 9. The legislature shall appropriate

CC-248 page eight

1 funds for the administration and operating  
2 expenses of the State Board of Elementary and  
3 Secondary Education.

4  
5 Source: La. Const. Art. XII, §8 (1921).

6

7 Comment: Revises the present provision by re-  
8 quiring the legislature to provide funds for  
9 the operation and administration of the board.

10 The present provision prohibits the board  
11 to create or maintain administrative departments  
12 in which salaries or expenses are payable from  
13 state funds, unless authorized by the legislature.

14 Deletes the requirement that the legislature  
15 shall prescribe the terms under which funds  
16 offered for educational purposes shall be received  
17 and disbursed.

18  
19 Section 10. Public Funds for Private or Sectarian  
20 Schools; Prohibition

21 Section 10. No public funds shall be used for  
22 the support of any private or sectarian school.  
23 This section shall not apply to funds from federal  
24 sources provided to the state, its political subdi-  
25 visions, or the agencies of either, for nonpublic  
26 education.

27  
28 Source: La. Const. Art. XII, §13 (1921).

29  
30 Comment: The language of the first sentence of the  
31 present provision is retained. The second  
32 sentence concerning interstate and intrastate  
33 education agreements is deleted. In the proposed  
34 provision a second sentence is added that excludes  
35 federal funds from the prohibitions of the first

CC-248 page nine

1 sentence.

2  
3 Section 11. Funding; Elementary and Secondary  
4 Schools; Apportionment

5 Section 11. (A) State funds. State funds for  
6 the support of the public schools of elementary  
7 and secondary levels shall be derived from the  
8 sources and shall be apportioned to the parish  
9 and city school boards in the manner hereinafter  
10 set forth:

11 First: After dedication of annual amounts  
12 required by this constitution to be deducted from  
13 the first monies available to the State Severance  
14 Tax Fund, and after deduction of not to exceed  
15 five hundred thousand dollars per annum to pay  
16 for the costs of collecting this tax and adminis-  
17 tering the laws pertaining to the conservation of  
18 the natural resource of the state, out of the  
19 first monies comprising the residue then existing  
20 in the fund, the legislature shall appropriate  
21 funds to supply free school books and other ma-  
22 terials of instruction prescribed by the State

23 Board of Elementary and Secondary Education.  
24 After July first of each year, the state treasurer  
25 shall set up a fund for the payment of the amounts  
26 set forth in Paragraph (A) of this section. When  
27 sufficient funds have accumulated in the fund for  
28 the payment of the monies required for the pur-  
29 poses above mentioned including school books and  
30 materials of instruction, then, before the tenth  
31 day of each month, the state treasurer shall trans-  
32 fer to a fund in the state treasury designated as  
33 the State Public School Fund such balances as have  
34 accrued.

35 Second: The proceeds of particular taxes now or

CC-248 page ten

1 hereafter levied by the legislature and dedi-  
2 cated, appropriated or otherwise made available  
3 to the State Public School Fund or for the support  
4 of public schools.

5 Third: Such other funds as the legislature  
6 has provided or hereafter provides for the support  
7 of public schools.

8 (B) Allocation of funds. The funds specified  
9 in Paragraph (A) hereof shall be apportioned as  
10 follows:

11 (1) Minimum Program. There shall be ap-  
12 propriated from the State Public School Fund and  
13 from the State General Fund sufficient funds to  
14 insure a minimum program of education in all  
15 public elementary and secondary schools. The  
16 minimum program of education to be maintained in  
17 all parish and city school systems shall be es-  
18 tablished by the State Board of Elementary and  
19 Secondary Education. The board shall adopt  
20 formulas and procedures for the distribution of  
21 these funds to the several school boards.

22 (2) Other State Funds. Any other funds  
23 provided by the legislature for the support of  
24 public schools shall be apportioned and dis-  
25 tributed in accordance with a formula established  
26 by the State Board of Elementary and Secondary  
27 Education, except as otherwise specifically pro-  
28 vided for by the law appropriating the funds.

29 (3) Other Funds. Any funds for public  
30 education from any other source shall be dis-  
31 tributed in the manner determined by the State  
32 Board of Elementary and Secondary Education,  
33 subject, however, to the terms of the laws  
34 governing such funds or the lawful stipulations  
35 of the source of the funds.

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1 (C) Local Funds. The local funds for  
2 the support of elementary and secondary public

3 schools shall be derived from the following  
4 sources:

5 First: Each parish school board, the parish  
6 of Orleans excepted, and no other parochial or  
7 municipal authority except as otherwise spe-  
8 cifically provided for in this constitution,  
9 shall levy annually an ad valorem maintenance  
10 tax of five mills, or as much thereof as is  
11 necessary, on all property subject to such  
12 taxation within the parish.

13 Second: The provisions of Paragraph (C)  
14 First above shall not apply to property within  
15 a municipality which is exempt from parochial  
16 taxation. In lieu of that tax the governing  
17 authority of each of these municipalities shall  
18 levy a tax annually and shall collect and pay,  
19 to the parish school board in which such muni-  
20 cipality is situated, out of the proceeds of the  
21 general ad valorem tax for municipal purposes,  
22 such an amount as shall equal the rate of five  
23 mills levied hereunder by the parish school board.

24 The provisions of Paragraph (C) First shall  
25 not apply to municipalities which under consti-  
26 tutional or legislative authority are actually  
27 operating, maintaining, and supporting a separate  
28 city system of public schools. In lieu of such  
29 tax, however, the school board in each such  
30 municipality shall levy an annual tax of five mills  
31 on the dollar on the assessed valuation of all  
32 property within the municipality. The proceeds  
33 thereof shall be used exclusively for the support  
34 of the public schools.

35 Third: The Orleans Parish School Board shall  
CC-248 page twelve

1 levy annually a tax not to exceed thirteen  
2 mills on the dollar on the assessed valuation  
3 of all property within the city of New Orleans  
4 assessed for city taxation and shall certify  
5 the fact to the governing authority of the city.  
6 The governing authority shall cause said tax to  
7 be entered on the tax rolls of the city and  
8 collected in the manner and under the conditions  
9 and with the interest and penalties prescribed  
10 by law for city taxes. The money thus collected  
11 shall be paid daily to the Orleans Parish School  
12 Board.

13 Fourth: For giving additional support to the  
14 public elementary and secondary schools, any  
15 parish, school district, or subschool district, or  
16 any municipality which supports a separate city  
17 system of public schools may levy ad valorem taxes  
18 for specific purposes or incur debt and issue bonds  
19 for specific purposes, when authorized by a

20 majority of the electors voting in the parish,  
21 municipality, district or subdistrict, in an  
22 election called for the purpose. The amount,  
23 duration, and purpose of such proposals shall be  
24 in accord with any limitations imposed by the  
25 legislature. No such tax shall be levied for a  
26 period longer than ten years, except that any tax  
27 levied to pay the costs of bonds or other debts  
28 incurred shall be levied and collected until the  
29 principal and interest on the bonds or other  
30 debts have been paid.

31 Fifth: The legislature may provide for addi-  
32 tional sources of local support for elementary  
33 and secondary schools.

34 (D) Monroe, Bogalusa; Treatment as Parishes.  
35 For the effects and purposes of the provisions of

CC-248 Large Urban

1 this entire section and for the purpose of ascer-  
2 taining and determining the maximum allowable  
3 millage as may be imposed by the legislature, and  
4 levying the taxes herein authorized, the  
5 municipalities of Monroe, in Ouachita Parish,  
6 and Bogalusa, in Washington Parish, and no  
7 other, shall be regarded as, and treated upon  
8 the same basis and shall have the same authority  
9 in respect to this section as though they were  
10 separate parishes instead of municipalities.

11 (E) Ouachita Parish. The school board of  
12 Ouachita Parish shall not be required to pay to  
13 the city of Monroe out of the public funds any  
14 per capita for children residing without the  
15 limits of said city and who may attend the  
16 schools maintained by the city of Monroe under  
17 its legislative charter.

19 Source: La. Const. Art. XII, §§ 14, 15 (1921).

20  
21 Comment: Revises Sections 14 and 15 of the present  
22 constitution. Deletes Section 14 First because of  
23 obsolescence. Stipulates the sources and apportion-  
24 ment of funds for public elementary and secondary  
25 schools. Sources: (1) The legislature shall ap-  
26 propriate funds, for free school books and materials  
27 of instruction, from the residue of the State  
28 Severance Tax Fund. The appropriation shall be  
29 made after a deduction of an amount annually dedi-  
30 cated from the first monies of the fund, and after  
31 a deduction of an amount, not in excess of \$500,000,  
32 for the costs of collecting the tax and administering  
33 the laws pertaining to the conservation of natural  
34 resources. The state treasurer shall set up a fund  
35 for the payment of the amounts set forth and shall

CC-218 Page Four

1 establish the State Public School Fund. (This dedi-  
2 cation of funds shall be removed if no dedications  
3 of funds are involved in the proposed constitution).  
4 (2) Proceeds from taxes levied by the legislature,  
5 dedicated, appropriated or otherwise made available  
6 to and for the support of public schools. (3) Other  
7 funds provided by the legislature, or other sources.  
8 The funds set forth in Paragraph A hereof shall be  
9 apportioned by the formulas, procedures, and manner  
10 established by the State Board of Elementary and  
11 Secondary Education except as otherwise specifi-  
12 cally provided by the law or sources of the funds.  
13 (4) Local funds shall be derived in the manner  
14 prescribed by law allowing the levy of taxes for  
15 that purpose in the parishes and municipalities.

16 Retains the present provision which regards  
17 Bogalusa and Monroe upon the same basis and gives  
18 them the same authority in respect to this section  
19 as though they were separate parishes.

20 Retains the present provision, Art. XII, §15  
21 Seventh, which exempts Ouachita Parish from the  
22 payment of per capita contributions for children  
23 living in the parish but attending city schools.

CC/262 Second Draft

1 Constitutional Convention of Louisiana of 1973  
2 SUBCOMMITTEE PROPOSAL NUMBER 1  
3 Introduced by Mathew R. Sutherland on behalf of the  
4 Subcommittee on Higher Education  
5 A PROPOSAL

6 To establish a system of higher education.

7 PROPOSED SECTIONS:

8 Article \_\_\_\_, Section 1. Board of Regents

9 Section 1. (A) Board of regents; establishment.

10 There is created a body corporate known as the Board of  
11 Regents. The board shall plan, coordinate, and have  
12 budgetary responsibility for all public higher education  
13 and shall have such other powers, duties, and responsi-  
14 bilities as are provided in this section and by law.

15 (B) Board membership; terms. The members of the

board shall be appointed by the governor with the consent of the Senate for overlapping terms of six years, following initial terms which shall be fixed by law. ~~At least~~ Two of the members shall be residents of each of the congressional districts into which the state is divided, and one member shall be from the state at large.

(C) Minority representation. An appropriate number of citizens from the predominant minority race of the state shall be included on the Board of Regents, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Trustees for State Colleges and Universities, and any other board created pursuant to this article.

(D) Board members; per diem and expenses. The members of the Board of Regents, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Board of Trustees for State Colleges and Universities, and any other board created pursuant to this article shall serve without pay, but the

2

legislature shall fix the per diem and expenses to be paid to them.

(E) Vacancies; how filled. A vacancy for any cause occurring prior to the expiration of the term of any member, when less than two years of the term remains when the vacancy occurs, shall be filled by appointment by the governor for the remainder of the unexpired term. If two or more years of the term remains when the vacancy occurs, it shall be filled for the remainder of the unexpired term by appointment by the governor, with the consent of the Senate.

(F) Powers of board. The board shall have the following powers, duties, and responsibilities with respect to all public institutions of higher education and post-secondary vocational-technical training and career education:

1. To revise or eliminate any existing degree program, department of instruction, division, or similar subdivision.

2. To approve, disapprove, or modify any proposed degree program, department of instruction, division, or similar subdivision.

3. To study the need for and feasibility of any new institution of post-secondary education. If the creation of a new institution is proposed, or an additional management board for an institution or group of institutions is proposed, or a proposal is made to transfer an existing institution from one board to another, the board shall report its findings and recommendations within one year to

the legislature, ~~the governor, and the public.~~ Only after this written report has been filed, or if no report is filed within one year, the legislature may take affirmative action on such a proposal by vote of two-thirds of the membership of each house.

3

(~~This subparagraph shall apply to~~) branches of institutions and conversion of two-year institutions to institutions offering longer courses of study.

4. To formulate and make timely revision of a master plan for higher education and post-secondary vocational-technical training and career education. As a minimum, the plan shall include a formula for the equitable distribution of funds to the institutions of higher education of the state.

5. To require the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Trustees for State Colleges and Universities, and any other board hereafter created pursuant to this section to submit to it, at times specified by it, their annual budget proposals for the operational and capital needs of each institution under the control of each. The Board of Regents shall submit to the legislature, not later than the first day of each regular session, its recommendations on budgets for all institutions of higher education and post-secondary vocational-technical training and career education in the state. It shall recommend priorities for capital construction and improvements.

(G) Responsibilities; planning and coordinating.

The board shall have planning and coordinating responsibilities with respect to elementary and secondary educational curricula, which shall be exercised in cooperation with the State Board of Elementary and Secondary Education.

(H) Appropriations. Appropriations for the institutions of higher education and post-secondary vocational-technical training and career education shall be made to their respective governing boards. The appropriations

4

shall be administered by the governing boards and used solely for the operations of the institution for which designated in the appropriations.

(I) Appropriations; staffs. The legislature shall appropriate funds for the operations and administrative expenses of the Board of Regents, the Board of Supervisors of Louisiana State University and Agricultural and

8 Mechanical College, the Board of Trustees for State Colleges  
9 and Universities, and any other board created pursuant to  
10 this article, and for the administrative and research staff  
11 of each.

12 (J) Powers not vested. ~~All~~ powers over public insti-  
13 tutions of higher education and post-secondary vocational-  
14 technical training and career education not specifically  
15 vested in the Board of Regents by this section are  
16 reserved to the Board of Supervisors of Louisiana State  
17 University and Agricultural and Mechanical College and to  
18 the Board of Trustees for State Colleges and Universities  
19 as to the institutions under the control of each or to any  
20 board created pursuant to this section.

21  
22 Source: La. Const. Art. XII, Sections 7, 8, 9 (1921).

23  
24 Comment: The proposed provision creates and substitutes the  
25 Board of Regents for the Louisiana Coordinating Council  
26 for Higher Education provided for in Article XII, Section  
27 7C, and provides that the Board of Supervisors of Louisiana  
28 State University and Agricultural and Mechanical College and  
29 the Board of Trustees for State Colleges and Universities  
30 be subordinate to it. Requires the governor to appoint,  
31 with senatorial consent, the members of the board con-  
32 sisting of two from each congressional district and one  
33 from the state at large. All members shall serve overlap-  
34 ping terms of six years, following the initial terms  
35 which shall be fixed by law. Provides for minority

5

1 representation on all boards aforementioned. Prescribes the  
2 manner of filling vacancies by the governor.

3 Retains the provision that the legislature shall fix the  
4 per diem and expenses to be paid to members of the board.

5 Authorizes the board to plan, coordinate, and assume  
6 budgetary responsibility for all public higher education and  
7 post-secondary vocational-technical training and career  
8 education, and to have such other powers, duties, and  
9 responsibilities as provided by law. ~~All~~ powers not  
10 specifically vested in the Board of Regents are reserved  
11 to the boards aforementioned.

12 The board ~~is given responsibility, in cooperation with~~  
13 ~~the State Board of Elementary and Secondary Education, for~~  
14 the planning and coordination ~~with respect to~~ elementary and  
15 secondary educational curricula.

16 Provides ~~that~~ appropriations for the institutions of  
17 higher education and post-secondary vocational-technical  
18 training and career education be made to their respective  
19 board for the use of the institution for which designated.  
20 Provides that the legislature appropriate funds for the  
21 operations and administrative expenses of the boards  
22 aforementioned.

24 Article     , Section 2. Board of Trustees for State Colleges  
25 and Universities

26 Section 2. (A) Creation; powers. There is created a body  
27 corporate known as the Board of Trustees for State Colleges  
28 and Universities which, subject to the powers vested in the  
29 Board of Regents by this article, shall have:

30 1. Supervision and ~~control~~ of all state colleges  
31 and universities except those included under the  
32 control of the Board of Supervisors of Louisiana  
33 State University and Agricultural and Mechanical  
34 College, and any other board hereafter created pur-  
35 suant to this article.

6

2. Unless and until the legislature shall  
provide otherwise, supervision and ~~control~~ of  
all public institutions of vocational-technical  
training and career education at post-secondary  
levels.

(B) Board membership; terms. The members of  
the board shall be appointed by the governor, with  
the consent of the Senate, for overlapping terms  
of six years following initial terms which shall be  
fixed by law. ~~At least~~ <sup>Two</sup> of the members shall be  
residents of each of the congressional districts into  
which the state is divided, and one member shall be  
from the state at large.

(C) Board members; graduates of institutions.  
Except as otherwise required by this section, at least  
nine members of the board shall be graduates of the  
institutions under the control of the board.

(D) Vacancies; how filled. A vacancy ~~for any~~  
cause occurring prior to the expiration of the term  
of any member when ~~less than two years of the term~~  
remains when the vacancy occurs, shall be filled  
by appointment by the governor for the remainder of  
the unexpired term. If two or more years of the term  
remains when the vacancy occurs, ~~it~~ shall be filled  
for the remainder of the unexpired term by appoint-  
ment by the governor, with the consent of the Senate.

27  
28 Source: La. Const. Art. XII, §§ 4, 7, 9, 26 (1921).

29  
30 Comment: The proposed provision creates and substitutes the  
31 Board of Trustees for State Colleges and Universities  
32 for the State Board of Education as it relates to its  
33 responsibility for higher education. Deletes that part  
34 of Section 9 of Article XII as it relates to listing the  
35 institutions declared to be institutions of higher

7

1 learning subject to the direct supervision of the State  
2 Board of Education and as it relates to appropriation *of*

3 not less than \$700,000, for the support and maintenance of  
4 said institutions being recommended by the State Board of  
5 Education. Deletes that part of Section 26 of Article  
6 XII that requires that the New Orleans Branch of Southern  
7 University be under the direct supervision, control, and  
8 management of the Louisiana State Board of Education.  
9 The proposed provision provides that subject to the  
10 powers vested in the Board of Regents, the board shall  
11 have supervision and ~~control~~ over higher education not  
12 including under the supervision of the Board of Supervisors  
13 of Louisiana State University and Agricultural and Mechan-  
14 ical College, and supervision and ~~control~~ over post-secondary  
15 vocational-technical training and career education unless  
16 the legislature provides otherwise.

17 Requires the governor to appoint, with senatorial  
18 consent, the members of the board consisting of two from  
19 each congressional district and one from the state at  
20 large. All members shall serve overlapping terms of six  
21 years, following the initial term which shall be fixed  
22 by law.

23 Requires ~~that at least nine members of the board be~~  
24 ~~graduates of institutions under the control of the board.~~

25 Provides that the governor fill vacancies ~~occurring~~  
26 ~~on the board.~~

27  
28 Article       , Section 3. Board of Supervisors of Louisiana  
29 State University and Agricultural and Mechanical  
30 College

31 Section 3. (A) Creation; powers. There is created a  
32 body corporate, known as the Board of Supervisors of Louisiana  
33 State University and Agricultural and Mechanical College,  
34 which, subject to the powers vested in the Board of Regents,  
35 shall ~~govern, direct, control,~~ supervise, and manage the

8

1 institutions and statewide agricultural, ~~medical,~~ and other  
2 programs administered through the Louisiana State University  
3 and Agricultural and Mechanical College system.

4 (B) Membership; terms. The members of the board shall  
5 be appointed by the governor, with the consent of the  
6 Senate, for overlapping terms of six years following

7 initial terms which shall be fixed by law. ~~At least two~~  
8 of the members shall be residents of each of the congres-  
9 sional districts into which the state is divided, and one  
10 member shall be from the state at large.

11 (C) Board members; graduates of institutions.  
12 Except as otherwise required by this section, at least  
13 nine members of the board shall be graduates of the  
14 Louisiana State University and Agricultural and Mechanical  
15 College system.

16 (D) Vacancies; how filled. A vacancy ~~for any cause,~~  
17 occurring prior to the expiration of the term of any  
18 member, when less than two years of the term remains when  
19 the vacancy occurs, shall be filled by appointment by the  
20 governor for the remainder of the unexpired term. If  
21 two or more years of the term remains when the vacancy  
22 occurs, it shall be filled for the remainder of the un-  
23 expired term by appointment by the governor, with the  
24 consent of the Senate.

25  
26 Source: La. Const. Art. XII, Sections 7, 25 (1921).

27  
28 Comment: <sup>Revised</sup> ~~Revised~~ section 7A of Article XII. Changes the term  
29 of office of members of the board from fourteen years to  
30 six years and provides that all members shall serve over-  
31 lapping terms of that duration following the initial terms  
32 which shall be fixed by law. Deletes the provision that  
33 the governor shall be an ex officio member of the board.

34 Provides that the board shall, subject to power vested  
35 in the Board of Regents, ~~govern, direct, control,~~ supervise,

9

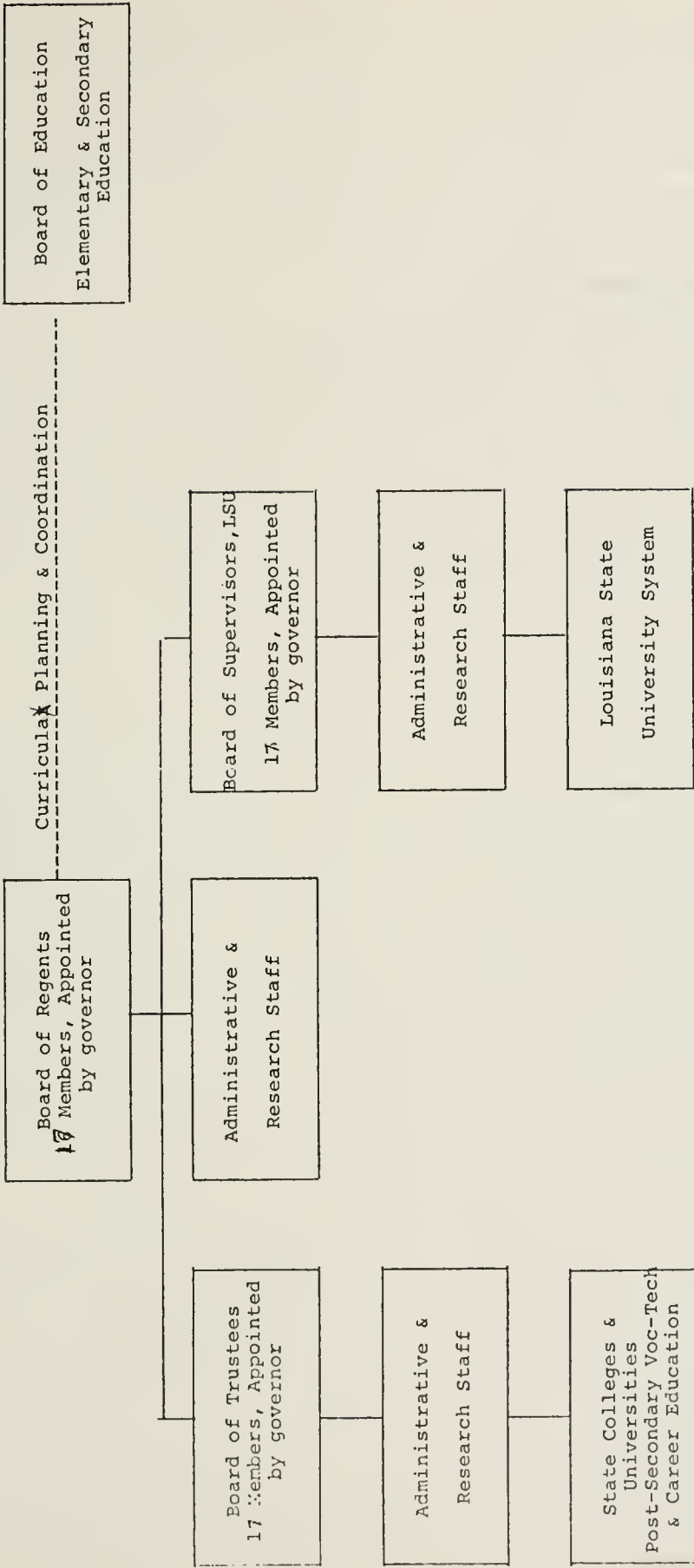
1 and manage the LSU system.

2 Requires the governor to appoint, with senatorial  
3 consent, the members of the board consisting of two from  
4 each congressional district and one from the state at  
5 large.

6 Provides ~~that at least nine members of the board~~  
7 ~~be graduates of the LSU system.~~ The present provision  
8 required seven members to be graduates of the LSU system.

9 Provides that the governor fill vacancies, ~~occurring~~  
10 ~~on the board.~~





1 Constitutional Convention of Louisiana of 1973  
 2 SUBCOMMITTEE PROPOSAL NUMBER 1  
 3 Introduced by Mathew R. Sutherland on behalf of the  
 4 Subcommittee on Higher Education

5 A PROPOSAL

6 To establish a system of higher education.

7 PROPOSED SECTIONS:

8 Article     , Section   1  . Board of Regents

9 Section 1. (A) Board of regents; establishment.

10 There is created a body corporate known as the Board of  
 11 Regents. The board shall plan, coordinate, and have budget-  
 12 ary responsibility for all public higher education and  
 13 shall have such other powers, duties, and responsibilities  
 14 as are provided in this section and by law.

15 (B) Board membership; terms. The members of the  
 16 board shall be appointed by the governor with the consent  
 17 of the Senate for overlapping terms of six years, following  
 18 initial terms which shall be fixed by law. Two of the mem-  
 19 bers shall be residents of each of the congressional districts  
 20 into which the state is divided, and one member shall be  
 21 from the state at large.

22 (C) Minority representation. An appropriate number  
 23 of citizens from the predominant minority race of the  
 24 state shall be included on the Board of Regents, the  
 25 Board of Supervisors of Louisiana State University and  
 26 Agricultural and Mechanical College, the Board of Trustees  
 27 for State Colleges and Universities, and any other board  
 28 created pursuant to this article.

29 (D) Board members; per diem and expenses. The  
 30 members of the Board of Regents, Board of Supervisors  
 31 of Louisiana State University and Agricultural and  
 32 Mechanical College, Board of Trustees for State Colleges  
 33 and Universities, and any other board created pursuant  
 34 to this article shall serve without pay, but the legis-  
 35 lature may fix the per diem and expenses to be paid to them.

2

1 (E) Vacancies; how filled. A vacancy occurring  
 2 prior to the expiration of the term shall be filled for  
 3 the remainder of the unexpired term by appointment by  
 4 the governor, with the consent of the Senate.

5 (F) Powers of board. The board shall have the  
 6 following powers, duties, and responsibilities with  
 7 respect to all public institutions of higher education  
 8 and post-secondary vocational-technical training and  
 9 career education:

10 (1) To revise or eliminate any existing degree  
 11 program, department of instruction, division, or  
 12 similar subdivision.

13 (2) To approve, disapprove, or modify any pro-

14 posed degree program, department of instruction,  
 15 division, or similar subdivision.

16 (3) To study the need for and feasibility of  
 17 any new institution of post-secondary education,  
 18 including branches of institutions and conversion  
 19 of two-year institutions to institutions offering  
 20 longer courses of study. If the creation of a new  
 21 institution is proposed, or an additional management  
 22 board for an institution or group of institutions  
 23 is proposed, or a proposal is made to transfer  
 24 an existing institution from one board to another,  
 25 the board shall report its findings and recommenda-  
 26 tions within one year to the legislature. Only after  
 27 this written report has been filed, or if no report  
 28 is filed within one year, the legislature may take  
 29 affirmative action on such a proposal by vote of  
 30 two-thirds of the membership of each house.

31 (4) To formulate and make timely revision of a  
 32 master plan for higher education and post-secondary  
 33 vocational-technical training and career education.  
 34 As a minimum, the plan shall include a formula  
 35 for the equitable distribution of funds to the

3

1 institutions of higher education of the state.

2 (5) To require the Board of Supervisors of  
 3 Louisiana State University and Agricultural and  
 4 Mechanical College, the Board of Trustees for State  
 5 Colleges and Universities, and any other board  
 6 hereafter created pursuant to this section to submit  
 7 to it, at times specified by it, their annual  
 8 budget proposals for the operational and capital  
 9 needs of each institution under the control of  
 10 each. The Board of Regents shall submit its recom-  
 11 mendations on budgets for all institutions of higher  
 12 education and post-secondary vocational-technical  
 13 training and career education in the state. It  
 14 shall recommend priorities for capital construction  
 15 and improvements.

16 (G) Responsibilities; planning and coordinating.

17 The board shall have planning and coordinating responsi-  
 18 bilities as it relates to the elementary and secondary  
 19 educational curricula.

20 (H) Appropriations. Appropriations for the insti-  
 21 tutions of higher education and post-secondary vocational  
 22 technical training and career education shall be made to  
 23 their respective managing boards. The appropriations  
 24 shall be administered by the managing boards and used  
 25 solely for the operations of the institution for which  
 26 designated in the appropriations.

27 (I) Appropriations; staffs. The legislature shall

appropriate funds for the operations and administrative expenses of the Board of Regents, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Trustees for State Colleges and Universities, and any other board created pursuant to this article, and for the administrative and research staff of each.

(J) Powers not vested. Powers of management over

4

public institutions of higher education and post-secondary vocational-technical training and career education not specifically vested in the Board of Regents by this section are reserved to the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College and to the Board of Trustees for State Colleges and Universities as to the institutions under the control of each or to any board created pursuant to this section.

Source: La. Const. Art. XII, Sections 7, 8, 9 (1921).

Comment: Restructures and seeks to strengthen the governance of higher education. Deletes the Louisiana Coordinating Council for Higher Education provided for in Article XII, Section 7C. Creates the Board of Regents and provides that the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College and the Board of Trustees for State Colleges and Universities be subordinate to it. Requires the governor to appoint, with senate consent, the members of the board consisting of two from each congressional district and one from the state at large. All members shall serve overlapping terms of six years, following the initial terms which shall be fixed by law. Provides for minority representation on all boards aforementioned. Prescribes the manner of filling vacancies by the governor.

Retains the provision that the legislature may fix the per diem and expenses to be paid to members of the board.

Authorizes the board to plan, coordinate, and assume budgetary responsibility for all public higher education and post-secondary vocational-technical training and career education, and to have such other powers, duties, and responsibilities as provided by law. All management powers not specifically vested in the Board of Regents are

5

reserved to the boards aforementioned.

The board shall have planning and coordinating responsibility as it relates to the elementary and secondary educational curricula.

Requires appropriations for the institutions of higher education and post-secondary vocational-technical training and career education to be made to their respective board for the use of the institution for which designated. Requires the legislature to appropriate funds for the operations and administrative expenses of the boards aforementioned.

Article \_\_\_\_, Section 2. Board of Trustees for State Colleges and Universities

Section 2. (A) Creation; powers. There is created a body corporate known as the Board of Trustees for State Colleges and Universities which, subject to the powers vested in the Board of Regents by this article, shall have:

(1) Supervision and management of all state colleges and universities except those included under the management of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and any other board hereafter created pursuant to this article.

(2) Unless and until the legislature shall provide otherwise, supervision and management of all public institutions of vocational-technical training and career education at post-secondary levels.

(B) Board membership; terms. The members of the board shall be appointed by the governor, with the consent of the Senate, for overlapping terms of six years following initial terms which shall be fixed by law. Two of the members shall be residents of each of the congressional districts into which the state is divided,

6

and one member shall be from the state at large.

(C) Vacancies. A vacancy occurring prior to the expiration of the term shall be filled for the remainder of the unexpired term by appointment by the governor, with the consent of the Senate.

Source: La. Const. Art. XII, Sections 4, 7, 9, 26 (1921).

Comment: The proposed provision creates and substitutes the Board of Trustees for State Colleges and Universities for the State Board of Education and gives it the responsibility now exercised by the State Board of Education as it relates to higher education. Deletes that part of Section 9 of Article XII as it relates to listing the institutions declared to be institutions of higher learning subject to the direct supervision of the State Board of Education and as it relates to appropriation of not less than \$700,000, for the support and maintenance of said institutions being recommended by the State Board of

20 Education. Deletes that part of Section 26 of Article  
21 XII that requires that the New Orleans Branch of Southern  
22 University be under the direct supervision, control, and  
23 management of the Louisiana State Board of Education.

24 The proposed provision provides that, subject to the  
25 powers vested in the Board of Regents, the board shall  
26 have supervision and management over higher education not  
27 included under the supervision and management of the Board  
28 of Supervisors of Louisiana State University and Agricultural  
29 and Mechanical College, and supervision and management  
30 over post-secondary vocational-technical training and  
31 career education unless the legislature provides otherwise.

32 Requires the governor to appoint, with senate consent,  
33 the members of the board consisting of two from each  
34 congressional district and one from the state at large.  
35 All members shall serve overlapping terms of six years,

7

1 following the initial term which shall be fixed by law.  
2 Provides that the governor fill vacancies.

3  
4 Article \_\_\_\_\_, Section 3. Board of Supervisors of  
5 Louisiana State University and Agricultural and  
6 Mechanical College

7 Section 3. (A) Creation; powers. There is created  
8 a body corporate, known as the Board of Supervisors of  
9 Louisiana State University and Agricultural and Mechanical  
10 College, which subject to the powers vested in the Board  
11 of Regents, shall supervise, and manage the institutions  
12 and statewide agricultural and other programs administered  
13 through the Louisiana State University and Agricultural  
14 and Mechanical College system.

15 (B) Membership; terms. The members of the board  
16 shall be appointed by the governor, with the consent of  
17 the Senate, for overlapping terms of six years following  
18 initial terms which shall be fixed by law. Two of the  
19 members shall be residents of each of the congressional  
20 districts into which the state is divided, and one member  
21 shall be from the state at large.

22 (C) Vacancies. A vacancy occurring prior to the  
23 expiration of the term shall be filled for the remainder  
24 of the unexpired term by appointment by the governor,  
25 with the consent of the Senate.

26  
27 Source: La. Const. Art. XII, Sections 7, 25 (1921).

28  
29 Comment: Revises Section 7A of Article XII. Changes the term  
30 of office of members of the board from fourteen years to  
31 six years and provides that all members shall serve over-  
32 lapping terms of that duration following the initial

33 terms which shall be fixed by law. Deletes the provision  
34 that the governor shall be an ex officio member of the  
35 board.

8

1 Provides that the board shall, subject to power  
2 vested in the Board of Regents, supervise and manage  
3 the LSU system.

4 Requires the governor to appoint, with senate  
5 consent, the members of the board consisting of two from  
6 each congressional district and one from the state at  
7 large.

8 Provides that the governor fill vacancies.

For consideration on June 29, 1973

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1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by Anthony M. Rachal, Jr., on behalf of the  
4 Subcommittee on Public Welfare

5 A PROPOSAL

6 To establish state and city civil service.

7 PROPOSED SECTIONS:

8 Article \_\_\_\_\_, Section 1. Civil Service System; State;  
9 Cities

10 Section 1. (A) State civil service. "State  
11 civil service" means all offices and positions of  
12 trust or employment in the employ of the state, or  
13 any board, commission, department, independent  
14 agency or other agency thereof, except as otherwise  
15 specifically provided in this constitution, and all  
16 offices and positions of trust or employment in the  
17 employ of joint state and federal agencies administer-  
18 ing state or federal funds, or both; joint state and  
19 municipal agencies financed by state or municipal funds,  
20 or both, except municipal boards of health; joint  
21 state and parochial agencies financed by state or  
22 parochial funds, or both; irrespective of whether the  
23 pay for such offices and positions of trust or employ-  
24 ment is to be paid with state, municipal, or parochial  
25 funds or with funds contributed jointly by the state  
26 and municipalities or parishes involved.

27 (B) City civil service. "City civil service" means  
28 all offices and positions of trust or employment in the  
29 employ of the city and every board, commission, depart-  
30 ment, or agency thereof, except as otherwise specifically  
31 provided in this constitution.

32  
33 Source: La. Const. Art. XIV, §15, ¶(A)(2)(3) (1921).

34  
35 Comment: (A) Repeats the constitutional definition of

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1 state civil service as all offices and positions of  
2 trust or employment in the employ of the state, or any  
3 board, commission, department, independent agency  
4 thereof, and all joint state and federal agencies,  
5 joint state and municipal agencies, and joint state  
6 and parochial agencies, except as otherwise provided  
7 in this constitution.

8 (B) Repeats the definition of city civil service  
9 as all offices and positions of trust or employment  
10 in the employ of the city and every board, commission,  
11 department, or agency thereof, except as otherwise  
12 specifically provided in this constitution.

13  
14 Section 2. State Civil Service Commission

15 Section 2. (A) Membership. A State Civil Service  
16 Commission is created to be composed of seven members,  
17 who are citizens and qualified electors of the state.  
18 Four members of the commission shall constitute a  
19 quorum. The seven members shall be appointed by the  
20 governor for overlapping terms of six years as here-  
21 inafter provided. The domicile of the commission  
22 shall be in the city of Baton Rouge, Louisiana.

23 (B) Nominations. The presidents of Loyola Univer-  
24 sity of the South, Centenary College, Tulane University  
25 of Louisiana, Louisiana College, Louisiana State Univer-  
26 sity and Agricultural and Mechanical College, and  
27 Xavier University of Louisiana each shall nominate  
28 three persons, in the order of their preference, and  
29 from the three persons so nominated by each, the  
30 governor shall appoint one to serve as a member of the  
31 commission. The governor shall appoint one member who  
32 is an employee within the classified service of the  
33 state.

34 (C) Vacancies. Vacancies for any cause shall be  
35 filled by appointment in accordance with the procedure

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1 governing the original appointment and from the  
2 same source. Within thirty days after a vacancy  
3 occurs, the university president concerned shall  
4 submit the required nominations. Within thirty days  
5 thereafter, the governor shall make his appointment.  
6 Should the governor fail to appoint within thirty  
7 days, the nominee whose name is first on the register  
8 shall automatically become a member of the commission.

9 If for any reason nominations are not submitted  
10 to the governor by any of the college presidents  
11 herein named, within the time herein designated, the  
12 vacancy on the commission for the term or the unexpired  
13 term resulting from such failure to nominate shall be

14 filled by a majority vote of the other members of the  
15 State Civil Service Commission.

16 Within thirty days after a vacancy occurs in the  
17 office held by the classified state employee, the  
18 governor shall make the required appointment.

19 (D) Transition. Each person who, on the effective  
20 date of this constitution, is a member of the State  
21 Civil Service Commission shall continue in such  
22 position for the remainder of the term to which he was  
23 appointed. Within thirty days after the effective  
24 date of this constitution, the president of Xavier  
25 University of Louisiana shall submit three names to  
26 the governor for appointment to the commission as  
27 herein provided. The initial term of this Xavier  
28 nominee shall be six years. Within thirty days  
29 after the effective date of this constitution, the  
30 governor shall appoint an employee, who is within  
31 the classified service of the state, to membership  
32 on the commission. The initial term of the clas-  
33 sified employee shall be four years.

34 (E) Removal. A member of the State Civil Service  
35 Commission may be removed by the governor for just

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1 cause after a copy of the charges against him has  
2 been served on him and an opportunity for a public  
3 hearing thereon is afforded by his appointing  
4 authority.

5 (F) Compensation. Members of the commission  
6 each shall be paid fifty dollars for each day de-  
7 voted to the work of the commission but not more  
8 than four thousand dollars in any year.

9  
10 Source: La. Const. Art. XIV, §15, ¶(C), (E), (K) (1921).

11  
12 Comment: Paragraph (A) retains provision for a State  
13 Civil Service Commission and increases its membership  
14 from five to seven members. Retains existing  
15 six-year overlapping terms.

16 Paragraph (B) requires the governor to select  
17 one member from each of six lists submitted by  
18 six university presidents. Retains Loyola,  
19 Centenary, Tulane, Louisiana College, and Louisiana  
20 State University as nominating universities. Adds  
21 Xavier University as a nominator. Adds classified  
22 employee nominated by the governor to the commission.

23 Paragraph (C) retains the requirement that va-  
24 cancies be filled in accordance with procedures gov-  
25 erning the original appointment and from the same  
26 source. Requires that university presidents submit

27 nominees within 30 days after a vacancy occurs.  
28 Retains the requirement that the first name appearing  
29 on a list of university nominees shall become a member  
30 if the governor fails to appoint within the specified  
31 time. Retains the provision that if any university  
32 president fails to submit the required nominations,  
33 the vacancy thereby created shall be filled by  
34 majority vote of the State Civil Service Commission.  
35 Requires the governor to appoint a classified state

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1 employee within thirty days after a vacancy occurs  
2 in that office.  
3 Paragraph (D) provides that members of the State  
4 Civil Service Commission, on the effective date of this  
5 constitution, shall complete their respective terms.  
6 Requires the president of Xavier to submit three  
7 nominees to the governor within 30 days after the effec-  
8 tive date of this constitution. Requires the governor  
9 to appoint the member representing classified state  
10 employees within the same 30 days. Provides initial  
11 terms of six years for the Xavier nominee and four years  
12 for the classified state employee.

13 Paragraph (E) retains the existing constitutional  
14 provision that a commissioner may be removed for cause  
15 after being given a copy of the charges against him  
16 and an opportunity for a public hearing by the appoint-  
17 ing authority. The new provision inserts the word  
18 "just" before "cause".

19 Paragraph (F) retains the \$50 per diem for members  
20 and increases the maximum annual per diem compensation  
21 from \$2,000 to \$4,000.

22  
23 Section 3. City Civil Service Commission

24 Section 3. (A) Membership. A city civil service  
25 commission is created for each city having a population  
26 exceeding four hundred thousand. The city civil service  
27 commission shall be composed of five members, who are  
28 citizens and qualified electors of the city. Three  
29 members of the commission shall constitute a quorum.  
30 The five members shall serve overlapping terms of six  
31 years as hereinafter provided. The domicile of the  
32 commission shall be in the city which it serves.

33 (B) Nominations. In the city of New Orleans, the  
34 presidents of Tulane University of Louisiana, Loyola  
35 University of the South at New Orleans, and Dillard

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1 University each shall nominate three persons, in the  
2 order of their preference, and from the three persons

3 so nominated by each, the governing authority of the  
4 city shall appoint one to serve as a member of the  
5 commission. One member shall be appointed by the  
6 governing authority of the city. One member shall be  
7 an employee within the classified service of the city,  
8 elected by classified city employees.

9 If for any reason nominations are not submitted  
10 to the governing authority of the city by any of the  
11 college presidents herein named within the time herein  
12 designated, the vacancy on the commission for the term  
13 or the unexpired term resulting from such failure to  
14 nominate shall be filled by a majority vote of the other  
15 members of the city civil service commission.

16 In other cities subject to the provisions of this  
17 Article three members of the commission shall be nominated  
18 by the presidents of any three universities mentioned  
19 in Section \_\_\_ and Section \_\_\_ in accordance with the  
20 procedure therein provided. Commissioners appointed  
21 by the governing authority of the city and the class-  
22 ified city employees shall be appointed in accordance  
23 with the procedure specified in Section \_\_\_.

24 (C) Vacancies. Vacancies for any cause shall be  
25 filled by appointment or election in accordance with  
26 the procedure for the original appointment and from the  
27 same source. Within thirty days after a vacancy occurs,  
28 the university president concerned shall submit the  
29 required nominations. Within thirty days thereafter,  
30 the governing authority of the city shall make the appoint-  
31 ment. Should the governing authority of the city fail  
32 to appoint within the thirty days, the nominee whose  
33 name is first on the register shall automatically become  
34 a member of the commission.

35 The election of the member representing classified

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1 city employees shall be called by the governing authority  
2 and held at least sixty days prior to the expiration of  
3 that term. In the case of a vacancy prior to the expira-  
4 tion of a term in the office of the member representing  
5 classified employees, an election to fill the vacancy  
6 for the unexpired term shall be held within thirty days  
7 after the vacancy occurs.

8 (D) Transition. Each person who, on the effective  
9 date of this constitution, was nominated by Tulane Univer-  
10 sity, Loyola University, or the governing authority of the  
11 city on the New Orleans City Civil Service Commission  
12 shall continue in such position for the remainder of the  
13 term to which he was appointed. Within thirty days after  
14 the effective date of this constitution, the president  
15 of Dillard University shall submit three names to the  
16 governing authority of the city for appointment to the

17 commission as herein provided. The initial term  
18 of this appointee shall be three years. Within thirty  
19 days after the effective date of this constitution, the  
20 governing authority of the city shall call and hold an  
21 election for the member to represent classified city  
22 employees. The initial term of the classified employee  
23 shall be five years.

24 In other cities, each member serving on the effective  
25 date of this constitution, shall continue in office  
26 until the expiration of his term. The governing  
27 authorities of such cities shall provide for the election  
28 or appointment of additional members and for the imple-  
29 mentation of this Section in accordance with provisions  
30 hereof.

31 (E) Removal. A member of the city civil service  
32 commission may be removed by the city governing authority  
33 for just cause after a copy of the charges against him  
34 has been served on him and an opportunity for a public  
35 hearing thereon is afforded by his appointing authority.

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1 (F) Compensation. Members of the commission each  
2 shall be paid fifty dollars for each day devoted to the  
3 work of the commission but not more than four thousand  
4 dollars in any year.

5  
6 Source: La. Const. Art. XIV, §15, ¶(D), (E), (K) (1921).

7  
8 Comment: Paragraph (A) establishes a civil service commission  
9 in cities having a population exceeding 400,000 rather  
10 than the present 250,000. Increases the membership of  
11 the city civil service commission from three to five mem-  
12 bers. Retains existing six-year overlapping terms.

13 Paragraph (B) requires the governing authority of the  
14 city of New Orleans to select one commissioner from each  
15 of three lists submitted by three university presidents.  
16 Adds Dillard to the current nominating universities, Tulane  
17 and Loyola. Retains one member directly appointed by the  
18 governing authority of New Orleans. Adds one member who  
19 is an employee in the classified service of the city,  
20 elected by classified city employees.

21 Requires that other cities subject to this provision  
22 constitute civil service commissions in the same manner  
23 as New Orleans, except that the three lists of university  
24 nominees may be submitted by the presidents of any three  
25 of the following universities: Tulane, Loyola, Dillard,  
26 Louisiana State University, Xavier, Louisiana College,  
27 and Centenary.

28 Paragraph (C) retains the requirement that vacancies  
29 be filled in accordance with procedures governing the  
30 original appointment and from the same source. Requires

31 that university presidents submit nominees within 30 days  
32 after a vacancy occurs and that the city governing authority  
33 make the appointment within 30 days thereafter. Retains  
34 the requirement that the first name appearing on a list  
35 of university nominees shall become a member if the city

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1 governing authority fails to appoint within the specified  
2 time. Requires the city governing authority to call and  
3 hold an election for the member representing classified  
4 city employees at least 60 days prior to the expiration  
5 of that term and within 30 days after the occurrence of  
6 a vacancy in an unexpired term.

7 Paragraph (D) provides that on the effective date of  
8 this constitution, members of the New Orleans City Civil  
9 Service Commission, nominated by Tulane, Loyola, or the  
10 city governing authority, shall complete their respective  
11 terms. Requires the president of Dillard to submit three  
12 nominees to the city governing authority within 30 days  
13 after the effective date of this constitution. Requires  
14 the city governing authority to call and hold an election  
15 for the member representing classified employees within  
16 the same 30 days. Provides initial terms of three years  
17 for the Dillard nominee and five years for the classified  
18 employee.

19 Provides that members serving in other cities shall  
20 complete their respective terms. Requires the governing  
21 authorities of such cities to provide for the election  
22 or appointment of additional members in accordance with  
23 the provisions of this section.

24 Paragraph (E) retains the existing constitutional  
25 provision that a commissioner may be removed for cause  
26 after being given a copy of the charges against him and  
27 an opportunity for a public hearing by the governing  
28 authority. The new provision inserts the word "just"  
29 before "cause".

30 Paragraph (F) retains the \$50 per diem for members  
31 and increases the maximum annual per diem compensation  
32 from \$2,000 to \$4,000.

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1 Section 4. Departments; State; City

2 Section 4. (A) Department of State Civil Service.  
3 A Department of State Civil Service is created in the  
4 state government.

5 (B) Department of City Civil Service. A department  
6 of city civil service is created in the city government  
7 of each city having a population exceeding four hundred  
8 thousand.

10 Source: La. Const. Art. XIV, §15, ¶(B) (1921).

11  
12 Comment: Paragraph (A) creates a Department of State Civil  
13 Service in the state government.

14 Paragraph (B) creates a department of city civil  
15 service in cities having a population exceeding  
16 400,000, rather than the present 250,000.

17  
18 Section 5. Directors; State Service; City Service

19 Section 5. The State Civil Service Commission and  
20 the city civil service commission shall appoint a direc-  
21 tor of civil service, who shall be the administrative  
22 head of his respective department and who shall be in  
23 the classified service. The director shall be appointed  
24 by the appropriate commission from a list of persons de-  
25 termined to be eligible for the position on the basis of  
26 merit, efficiency, and fitness, which shall be ascertained  
27 by competitive examination in so far as practicable, and  
28 such other factors as the commission deems advisable. The  
29 director shall appoint personnel and exercise powers and  
30 duties to the extent prescribed by the commission.

31  
32 Source: La. Const. Art. XIV, §15, ¶(F) (1) (1921).

33  
34 Comment: Changes the title of the administrative head of  
35 the Department of State Civil Service and any city

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1 department of civil service from director of personnel  
2 to director of civil service. Retains the director's  
3 appointment by the appropriate commission and his inclu-  
4 sion in the classified service, but deletes existing  
5 provision that the director may be appointed with or  
6 without competitive examination. Requires appointment  
7 from a list of eligibles qualifying on the basis of merit,  
8 efficiency, and fitness, ascertained in so far as is  
9 practicable by competitive examination, and such other  
10 factors as deemed advisable by the commission. Retains  
11 provision for the director to exercise power and appoint  
12 personnel to the extent prescribed by the commission.  
13

14 Section 6. Unclassified and Classified Service

15 Section 6. The state civil service and the city  
16 civil service are divided into the classified service and  
17 the unclassified service. The classified service shall  
18 include all officers and employees in the state civil  
19 service and the city civil service except:

- 20 (1) elected officers and persons appointed to fill  
21 vacancies in elective offices; (2) heads of principal  
22 departments appointed by the governor, the mayor, or

governing authority of the city; (3) city attorneys;  
24 (4) members of state and city boards, commissions, and  
25 agencies; (5) one principal assistant or deputy to any  
26 officer, board, commission, department, or agency men-  
27 tioned in (1), (2), and (4), except the Department of  
28 State Civil Service and the departments of city civil  
29 service; (6) members of the military or naval forces;  
30 (7) the teaching and professional staffs, and ad-  
31 ministrative officers of the schools, colleges, and  
32 universities of the state, and bona fide students of  
33 such institutions employed by any state agency; (8) ad-  
34 ministrative officers and employees of courts of record,  
35 of the legislature, of the offices of the governor, of the

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1 lieutenant governor, of the attorney general, of the  
2 office of the mayor of the several cities, of police  
3 juries, and of school boards; (9) registrars of voters,  
4 the state tax collector for the city of New Orleans, and  
5 one chief deputy selected by each; (10) commissioners  
6 of elections and watchers; custodians and deputy cus-  
7 todians of voting machines.

8  
9 Source: La. Const. Art. XIV, §15, ¶(6) (1921).

10  
11 Comment: Retains the provision for a classified service and

12 an unclassified service. Retains the existing require-  
13 ment that all officers and employees in the state and  
14 city civil service be in the classified service except  
15 for the following (who will comprise the unclassified  
16 service): (1) elected officers and persons appointed  
17 to fill vacancies in elective offices; (2) heads of  
18 principal departments appointed by the governor, the  
19 mayor, or governing authority of the city; (3) city  
20 attorneys; (4) members of state and city boards, commissions,  
21 and agencies; (5) one principal assistant or deputy to  
22 any officer, board, commission, etc., mentioned in (1),  
23 (2), and (4) except the state and city civil service  
24 departments; (6) members of the military or naval forces;  
25 (7) the teaching and professional staffs, and administrative  
26 officers of the schools, colleges, and universities of  
27 the state, and bona fide students of such institutions em-  
28 ployed by any state agency; (8) administrative officers and  
29 employees of courts of record, of the legislature, of the  
30 offices of the governor, of the lieutenant governor, of the  
31 attorney general, of the office of the mayor of the several  
32 cities, of police juries, and of school boards; (9) regis-  
33 trars of voters, the state tax collector for the city of  
34 New Orleans, and one chief deputy selected by each;  
35 (10) election commissioners and watchers; custodians and

*Appointed by the Commission*  
*to the Department of State Civil Service*  
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1 deputy custodians of voting machines.  
 2 Deletes from the unclassified service as stated in  
 3 the existing provision, the following: one attorney  
 4 and one person holding a confidential position to any  
 5 officer, board, or commission mentioned in (1), (2), or  
 6 (4) above; officers and employees of the office of city  
 7 attorney; all deputies and employees selected by sheriffs,  
 8 clerks of courts, coroners, assessors, district attorneys,  
 9 recorders of mortgages, registers of conveyances, con-  
 10 stables of city courts, and state tax collector of the  
 11 city of New Orleans (the proposal retains only one chief  
 12 deputy for each); persons employed to make or conduct a  
 13 special inquiry, investigation, examination, or installa-  
 14 tion if the governing body of the city certifies that such  
 15 employment is temporary and the work should not be per-  
 16 formed by employees in the classified service, and the com-  
 17 mission approves such certifications; special counsel and  
 18 special prosecutors; notaries public; referees; receivers;  
 19 and jurors; patient or inmate help in city institutions;  
 20 persons temporarily retained or employed to conduct  
 21 or assist in civil service examinations; hourly, daily,  
 22 or piece-work laborers and other workers, if their  
 23 inclusion in the unclassified service is requested and  
 24 approved; persons employed to make or conduct a special  
 25 inquiry, investigation, examination, or installation  
 26 for any agency of the city, if their inclusion in the  
 27 unclassified service is approved; and independent con-  
 28 tractors rendering services on a contractual basis.

*delete*

*in the Dept. of...*

*in the Dept. of...*

Section 7. Appointment and Promotion

Section 7. (A) Certification. Permanent appoint-  
 ments and promotions in the classified state service  
 and classified city service shall be made only after  
 certification by the appropriate department of civil  
 service under a general system based upon merit, efficiency,

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length of service, and fitness, which shall be ascer-  
 tained by competitive examinations in so far as prac-  
 ticable, and employees and officers in the classified  
 service shall be employed from those eligible under  
 such certification. The number to be certified shall  
 not be less than three; however, if more than one  
 vacancy is to be filled, the name of one additional  
 eligible for each vacancy may be certified and special  
 and different lists may be established in the case of  
 reemployment and reinstatement. The commission shall

11 adopt rules for the method of certification of persons  
 12 eligible for appointment and promotion and shall pro-  
 13 vide for appointments defined as emergency and temporary  
 14 appointments.

15 A classified employee detailed to a position above  
 16 his job classification shall be compensated at the rate  
 17 of the higher classification *as if the employee had been*  
*promoted to said h.p.c.*

18 When a vacancy exists within the classified service,  
 19 it shall be filled within sixty days after the vacancy  
 20 occurs.

*omit budget*

(B) Veterans. The Department of State Civil Service  
 and a department of city civil service shall accord a  
 five-point preference in original appointment to each  
 person honorably discharged, or discharged under honorable  
 conditions from the armed forces of the United States,  
 after having served between the wartime dates of April 6,  
 1917, and November 11, 1918, both dates inclusive, or  
 between September 16, 1940, and July 25, 1947, both dates  
 inclusive, or between June 27, 1950, and January 31, 1955,  
 both dates inclusive, or who served in the Viet Nam Theater  
 between July 1, 1958, and the date the government of the  
 United States declares to be the date of termination of  
 service for members of the armed forces to receive credit  
 for the award of the Viet Nam Service Medal, both dates  
 inclusive, or who served in the peacetime campaigns or

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1 expeditions for which campaign badges have been authorized,  
 2 ten-point preference in original appointment to each  
 3 honorably discharged veteran who served either in peace  
 4 or in war and who has one or more disabilities recognized  
 5 by the Veterans Administration as service-connected, or to  
 6 the wife of each veteran who is in such poor physical  
 7 condition as to preclude his or her appointment to a civil  
 8 service job in his or her usual line of work, or to the  
 9 unmarried widow of each deceased veteran who served in a  
 10 war period as defined above or in a peacetime campaign or  
 11 expedition, or to the unmarried widowed mother of any  
 12 person who died in active wartime or peacetime service  
 13 or who suffered total and permanent disabilities  
 14 in active wartime or peacetime service, or the divorced  
 15 or separated mother of any person who died in a wartime  
 16 or peacetime service or who became totally and permanently  
 17 disabled in wartime or peacetime service. However, only  
 18 one ten-point preference shall be allowed at any one time  
 19 to any of the persons enumerated above, and if the ten-  
 20 point preference is not being utilized by the veteran,  
 21 either because of the veteran's physical or mental in-  
 22 capacity which precludes his appointment to a civil service  
 23 job in his usual line of work or because of his death,  
 24 the preference shall be available to his wife, unmarried

25 widow, or eligible mother as defined above, in the order  
26 specified, but all such preferences may be given only to  
27 persons who have attained marks on the tests which meet  
28 at least the minimum requirements imposed for each test  
29 and who have received at least the minimum rating required  
30 for eligibility.

31  
32 Source: La. Const. Art. XIV, §15 ¶(A)(1), (I), (I)(a)(1921).

33  
34 Comment: Paragraph (A) retains the requirement that per-  
35 manent appointments and promotions in the classified

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1 civil service be made after certification under a general  
2 system based upon merit, efficiency, and fitness as  
3 ascertained by competitive examination. Adds length  
4 of service to the considerations for appointment and  
5 promotion. Retains the provision that the number to  
6 be certified be not less than three, except if more  
7 than one vacancy exists, one additional name may be  
8 certified for each additional vacancy. Retains the  
9 provision that special lists may apply for reemployment  
10 and reinstatement. Retains the commission's authority  
11 to provide for emergency and temporary appointments.  
12 Adds the requirement that an employee detailed to a  
13 higher classification be paid at the rate of the higher  
14 classification. Adds the requirement that vacancies  
15 within the classified service be filled within sixty days.

16 Paragraph (B) retains the existing provision for  
17 five-point preferences on original appointments to  
18 veterans who served in designated wartime periods and  
19 ten-point preferences on original appointments to  
20 veterans who served in designated wartime periods and  
21 ten-point preferences on original appointments to  
22 veterans with service-connected disabilities, or their  
23 wives, unremarried widows, or eligible mothers.

24 Deletes the three-point preference to veterans on  
25 promotions.

26  
27 Section 8. Disciplinary Action

28 Section 8. No person who has gained permanent civil  
29 service status in the classified state civil service  
30 or the classified city civil service shall be subjected  
31 to disciplinary action except for just cause after a  
32 copy of the charges against him have been served on  
33 him and an opportunity for a public hearing is afforded  
34 by his appointing authority. Only one penalty may be  
35 assessed for the same offense. No classified employee

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1 shall be discriminated against by reason of his

2 political or religious beliefs, sex, or race.

3 Any classified employee so discriminated against or  
4 subjected to such disciplinary action shall have a right  
5 of appeal to the appropriate civil service commission.  
6 The burden of proof on appeal, as to the facts, shall be  
7 on the employer. The appeal to the civil service com-  
8 mission shall be ~~suspensive unless~~ otherwise determined  
9 by the commission. <sup>governing law</sup> The rulings of the commission are  
10 subject to review by the court of appeal wherein each  
11 commission is located.

12  
13 Source: La. Const. Art. XIV, §15, ¶(A)(1), (N)(1), (N)(1)(a),  
14 (O)(2) (1921).

15  
16 Comment: Retains the prohibition of disciplinary action  
17 against any classified employee except for cause after  
18 the employee has received a copy of the charges against  
19 him and been afforded an opportunity for a public hear-  
20 ing on such charges by his appointing authority. Inserts  
21 the word "just" before "cause". Adds a prohibition of  
22 more than one penalty for the same offense. Retains pro-  
23 hibition against discrimination against a classified  
24 employee because of his political or religious beliefs.  
25 Adds a prohibition against discrimination on the basis  
26 of sex or race. Retains the right of appeal to any  
27 classified employee so discriminated against. Omits  
28 rights of appeal to job applicants who allege discrimina-  
29 tion. Changes the burden of proof on appeal from the  
30 employee to the employer. Adds the provision that the  
31 civil service hearing shall be a suspensive hearing  
32 unless otherwise determined by the commission. Changes  
33 the jurisdiction for review of the commission's rulings  
34 from the supreme court to the court of appeal, wherein  
35 the commission is located. The jurisdiction of the cou-

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1 of appeal is, however, presently invoked. Under existing  
2 provisions, the court may only review questions of law,  
3 not of fact. The proposal allows review of the commission's  
4 rulings, including questions of fact.

5  
6 Section 9. Collective Bargaining

7 Section 9. Employees in the state and city classified  
8 service shall have the right to form and join labor  
9 organizations. Classified employees in the city service  
10 shall have the right to bargain collectively with  
11 the respective governing authorities of the cities  
12 subject to this Article. Classified employees in the  
13 state service shall have the right to bargain collectively  
14 with their respective appointing authorities. The  
15 governing authorities and the appointing authorities

herein specified may enter into collective bargaining agreements.

Source: New

Comment: Authorizes classified employees in the state and city classified service to form and join labor unions. Authorizes employees to bargain collectively with city governing authorities and state appointing authorities. Authorizes the governing authorities of affected cities and state appointing authorities to enter into collective bargaining agreements.

Section 10. Rules and Regulations

Section 10. The State Civil Service Commission and a city civil service commission are vested with ~~general~~ rule-making powers and subpoena powers for the administration of the classified civil service, including but not limited to rules and regulations relating to employment, promotion, demotion, suspension, reduction

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in pay, removal, certification, uniform pay plans, classification plans, 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. These rules and regulations shall have the effect of law. Any matter affecting wages and hours shall become effective and shall have the force of law only after approval of the governor or the governing authority of the city.

Source: La. Const. Art. XIV, §15, ¶(I), (I)(a), (I)(b), (I)(c), (J)(1), (J)(2) (1921).

Comment: Retains the general rule-making and subpoena powers of the State Civil Service Commission and the city civil service commission, including the authority to administer rules and regulations regarding employment, promotion, demotion, suspension, reduction in pay, removal, certification, uniform pay plans, classification plans, employment conditions, compensation, and disbursements to employees. Retains the provision that the rules of the commission have the effect of law. Requires the approval of the governor or the governing authority of the city on any matter affecting wages and hours of employees. The existing provision requires the approval of the governor or the governing authority of the city for pay plans and amendments thereto. Deletes the commission's specific authorization or obligation to provide public notice prior to promulgation of rules; establish work-test periods,

provide for leaves of absence, sick and annual leaves, layoffs, reinstatements, reemployment, transfers, and abolition of positions; fill vacancies from within and without the classified service; compile attendance records; establish training programs; and fix the appeal procedure. Deletes requirement to fill vacancies from lower classes.

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so far as practicable, following open, competitive tests. The new provision also omits mention of the procedure for implementing job allocation lists, authorization for providing salary differentials in different sections of the state, and the assignment of preference ratings to employees affected by economic layoffs.

Section 11. Political Activity

Section 11. No member of the State Civil Service Commission or a city 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 or 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 privately express his opinion, to serve as a commissioner or as an 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 ~~city~~ civil service to punish or coerce the political action of such person.

Political activity is defined as an effort made to insure the election of a nominee for political office or the support of a particular political party in an election. There shall be no prohibition against support of issues involving bonded indebtedness, tax referenda, or constitutional amendments, or the participation or membership in an organization which is not a political organization but which may from time

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to time express its opinion on a political issue. Source: La. Const. Art. XIV, §15, ¶(E), (N)(3)(6)(7)(8)(9) (1921). Comment: Retains prohibition against civil service com-

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6 missioners and employees in the classified service  
7 participating in political activity, seeking election  
8 to public office, being a member of any political  
9 committee, soliciting political contributions, or  
10 using a position in the civil service to exert politi-  
11 cal coercion. Retains provision that civil service  
12 commissioners and classified employees may privately  
13 express an opinion, serve as poll commissioners or  
14 watchers, and cast votes as they desire. Adds the definition  
15 of political activity as an effort to insure the election  
16 of a nominee for political office or the support of  
17 a particular political party in an election. Adds  
18 a provision allowing the support of issues involving  
19 bonded indebtedness, tax referenda, or constitutional  
20 amendments, or the participation or membership in  
21 an organization which is not a political organization  
22 but which from time to time expresses its opinion on a  
23 political issue.

24 Deletes a provision prohibiting civil service  
25 commissioners from holding any position of public  
26 employment, the office of notary public, military or  
27 naval office, or dean or member of the faculty of any  
28 educational institution excepted.

29  
30 Section 12. Violations; Appeals

31 Section 12. The State Civil Service Commission  
32 and the city civil service commission may investigate  
33 violations of this Article and the rules or regulations  
34 adopted pursuant hereto. ~~Retains the commission's power  
35 to impose penalties in the form of demotion, or sus-~~

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1 ~~ension, or discharge from the classified service with~~  
2 ~~the commission's power to impose penalties in the form of demotion, or sus-~~ The rulings of the commission  
3 are subject to review in the court of appeal wherein  
4 each commission is located.

5 Source: La. Const. Art. XIV, §15, ¶(O) (1) (3) (5) (6) (7) (8),  
6 (P) (1) (2) (3) (4) (5) (1921).

7  
8 Comment: Retains the civil service commission's authority  
9 to investigate violations of this Article and the rules  
10 and regulations adopted hereto. Retains the commission's  
11 power to impose penalties in the form of demotion, sus-  
12 pension, or removal with attendant loss of pay.

13 Deletes specific authorization for the appointment  
14 of referees to take testimony, administer oaths, and  
15 exercise the power of subpoena. Deletes specific  
16 mention of procedures relating to reinstatement pay  
17 for lost time, employees' failure to testify, costs,  
18 eligibility for reemployment and withholding compensation  
19 from persons illegally employed.

20 Provides for review of the commission's rulings  
21 in the court of appeal wherein the commission is  
22 located. The existing provision allows an appeal  
23 to the supreme court, however, the jurisdiction of the  
24 court of appeal is now invoked. Existing provisions  
25 allow court review on questions of law, but not on  
26 questions of fact. In that sense, the proposal that  
27 "the rulings of the commission" are subject to court  
28 review, is new.

29  
30 Section 13. Penalties

31 Section 13. Any person who willfully violates any  
32 provision of this Article or of any law enacted pursuant  
33 hereto shall be guilty of a misdemeanor and upon con-  
34 viction shall be punished by a fine of not more than  
35 five hundred dollars or by imprisonment for not more

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1 than six months, or both.

2  
3 Source: La. Const. Art. XIV, §15, ¶(P) (3) (1921).

4  
5 Comment: Retains definition of willful violation of any  
6 provision of this Article as a misdemeanor. Changes  
7 the punishment upon conviction for a violation from  
8 a fine of not less than \$100, nor more than \$1,000,  
9 or, by imprisonment for a term of not less than one  
10 month nor more than six months or, to a fine of  
11 not more than \$500 or by imprisonment for not more than  
12 six months, or both.

13  
14 Section 14. Acquisition of Permanent Status

15 Section 14. Each officer and employee of a city who  
16 has civil service status in the classified service of  
17 the state or city on the effective date of this constitu-  
18 tion shall retain such status in the position, class, and  
19 rank held on such date and thereafter shall be subject  
20 to and be governed by the provisions of this Article and  
21 the rules and regulations adopted under the authority  
22 hereof.

23  
24 Source: La. Const. Art. XIV, §15, ¶(Q) (1) (2) (1921).

25  
26 Comment: Provides that classified employees in the state  
27 and city civil service shall, on the effective date of  
28 this constitution, retain their status in the civil  
29 service system and thereafter be subject to the pro-  
30 visions of this Article and the rules and regulations  
31 adopted pursuant hereto.

32  
33 Section 15. Existing Laws

34 Section 15. All existing laws relating to employees

35 in the classified civil service not inconsistent with

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1 this Article are continued in force. Neither the com-  
2 mission of each city nor the governing authority of  
3 each city shall exercise any power or authority which  
4 is inconsistent or in conflict with any general law.  
5 The State Civil Service Commission shall exercise no  
6 power or authority which is inconsistent or in conflict  
7 with any general law.

(existing)

9 Source: La. Const. Art. XIV, §15, ¶(Q) (1) (2), (P) (6) (1921).

11 Comment: Provides that existing laws relating to civil  
12 service employees shall continue in force. Adds the  
13 provision prohibiting the city civil service commission  
14 and the governing authority of the city from exercising  
15 any power which is inconsistent or in conflict with  
16 any general law. The existing provision recognizes the  
17 validity of civil service laws and the authority of the  
18 legislature to adopt or repeal civil service laws so  
19 long as these laws are not in conflict with constitutional  
20 provisions regarding civil service. Adds the provision  
21 prohibiting the State Civil Service Commission from  
22 exercising any power or authority which is inconsistent  
23 or in conflict with general law.

25 Section 16. Appropriations

26 Section 16. Beginning with the regular session  
27 that convenes in the year 197\_\_\_, the legislature of  
28 the state shall then, and at each regular session and  
29 fiscal session, thereafter, make an appropriation to the  
30 State Civil Service Commission and to the Department of  
31 Civil Service for ~~each~~ <sup>each</sup> succeeding fiscal year  
32 of a sum equal to not less than seven-tenths  
33 of one percent of the aggregate payroll of the  
34 state classified service for the twelve-month period  
35 ending on the first day of March preceding the next

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1 regular or fiscal session as certified to by the State  
2 Civil Service Commission.

3 Each city of the state subject to the provisions of  
4 this Article shall make adequate annual appropriations  
5 to enable the civil service commission and the civil  
6 service department of the city to carry out efficiently  
7 and effectively the provisions of this Article.

9 Source: La. Const. Art. XIV, §15, ¶(T) (1921).

11 Comment: Retains the requirement that the legislature  
12 appropriate for the annual operations of the State

13 Civil Service Commission and the Department of State  
14 Civil Service a sum equal to not less than seven-  
15 tenths of one percent of the aggregate payroll of the  
16 state classified service for the preceding year. The  
17 provision that this appropriation be made annually,  
18 rather than biennially, is new.

19 Requires each city subject to the provisions of this  
20 Article to make an adequate annual appropriation to the  
21 city civil service commission and city civil service  
22 department.

24 Section 17. Acceptance of Act; Other Cities, City  
25 and Parish Governed Jointly

26 Section 17. Any city, and any parish governed  
27 jointly with one or more cities under a plan of govern-  
28 ment, having a population exceeding ten thousand but  
29 not exceeding four hundred thousand, according to the  
30 last preceding decennial census of the United States  
31 for which the final report of population returns have  
32 been printed, published, and distributed by the Director  
33 of the Census may elect and determine to accept the  
34 provisions of this Article by a majority vote of its  
35 qualified electors voting at a general or special election

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1 for this purpose. This election shall be ordered and  
2 held by the city-parish as the case may be, upon

3 (a) The adoption of an ordinance by the governing  
4 body of the city or the parish governed jointly with  
5 one or more cities under a plan of government as the  
6 case may be, calling for such elections; of (b) the  
7 presentation to such governing body of a petition signed  
8 by qualified electors equal in number to five percent  
9 of the qualified registered voters of the city or city-  
10 parish, as the case may be, calling for such election.

11 If a majority of the legal votes cast in such election  
12 are in favor of the adoption of the provisions of this  
13 Article, then this Article and all the provisions thereof  
14 shall thereafter permanently apply to and govern the city  
15 or city-parish, as the case may be, in the same manner and  
16 to the same extent as if said Article and all its provisions  
17 had originally applied to such city or city-parish. In  
18 such instance, all officers and employees of the city or  
19 city-parish or any other subdivision of the state, as  
20 the case may be, except those coming within the provisions  
21 of Article \_\_\_, Section \_\_\_ of the Constitution of  
22 the State of Louisiana, who have acquired civil service  
23 status under a civil service system established by  
24 legislative act, city charter, or otherwise, shall retain  
25 such status and shall thereafter be subject to and  
26 governed by the provisions of this Article and the rules  
27 and regulations adopted under the authority of this

28 Article. If a majority of the legal votes cast in such  
29 election are against the adoption of the provisions of this  
30 Article, the question of adopting the provisions of  
31 this Article shall not be resubmitted to the voters of  
32 the city or the city-parish, as the case may be, within  
33 one year thereafter.

34  
35 Source: La. Const. Art. XIV, §15, ¶ (U) (1921).

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1 Comment: Retains provision for any city or any city and  
2 parish governed jointly, with a population exceeding  
3 10,000, but not exceeding 400,000, to accept the pro-  
4 visions of this Article by a majority vote of its qual-  
5 ified electors. This election shall be called upon the  
6 initiative of the city or city-parish governing authority  
7 or upon presentation to such governing authority of a  
8 petition signed by five percent of the qualified voters  
9 of the city or city-parish. If a majority of the votes  
10 cast in the referendum oppose the acceptance of this

11 Article, the question shall not be resubmitted to the  
12 city or city-parish within one year thereafter.

13

14 Section 18. City, Parish Civil Service System;  
15 Creation by Legislature

16 Section 18. Nothing in this Article shall prevent  
17 the establishment by the legislature in one or more  
18 parishes of a civil service system applicable to any or  
19 all parish employees, including those hereinabove  
20 exempted from the state classified service, or the es-  
21 tablishment by the legislature of a civil service system  
22 in one or more cities having a population of less than  
23 four hundred thousand, in any manner that may now or  
24 hereafter be provided by law.

25

26 Source: La. Const. Art. XIV, §15, ¶(6)(d) (1921).

27

28 Comment: Retains authority of the legislature to establish  
29 a civil service system in any city or any parish having  
30 a population less than four hundred thousand.

# C. Delegate Proposals

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23

1 Constitutional Convention of Louisiana of 1973

24 Source: New

2 DELEGATE PROPOSAL NUMBER

25

3 Introduced by Delegate Thistlethwaite

26 Comment: Requires representation of the predominant minority

4 A PROPOSAL

27 race on the State Board of Elementary and Secondary

5 To raise the maximum annual ad valorem parishwide

28 Education in proportion to their number in the total

6 maintenance tax required to be levied for school

29 population of the state. The governor is required to

7 purposes from five mills to seven mills.

30 appoint members of that race if a sufficient number

8 PROPOSED SECTION:

31 is not elected.

9 Article \_\_\_\_\_, Section \_\_\_\_\_. Local Funds

32 Retains this requirement in effect until cause reason-

10 Section \_\_\_\_\_. Each parish school board, the

33 ably to believe that people of that race will be deprived

11 parish of Orleans excepted, and no other parochial

34 or denied equitable representation because of race

12 or municipal authority except as otherwise specifi-

35 ceases.

13 cally provided for in this constitution, shall levy

14 annually an ad valorem maintenance tax of seven

1 Section 7. Board of Regents

15 mills, or as much thereof as is necessary, on all

2 Section 7. (C) Minority Representation. (1) The

16 property subject to such taxation within the parish.

3 membership of the Board of Regents, the Board of Super-

17 Source: La. Const. Art. XII, §15 (1921).

4 visors of Louisiana State University and Agricultural

19 Comment: Raises the maximum ad valorem parishwide

5 and Mechanical College, the Board of Trustees for State

20 maintenance tax required to be levied for school

6 Colleges and Universities, and any other board created

21 purposes by Section 15 from five mills to seven

7 pursuant to this section shall include members of the

22 mills on all property subject to such taxation

8 predominant minority race in a number equal to the

23 within the parish.

9 proportionate number of members of that race in the total

24

10 population of the state.

11 (2) This provision shall remain in effect until there

CC-

12 is no longer cause reasonably to believe that people

1 Constitutional Convention of Louisiana of 1973

13 of the predominant minority race will be deprived or

2 DELEGATE PROPOSAL NUMBER

14 denied equitable representation on account of race.

3 Introduced by Delegate Haynes

15

4 A PROPOSAL

16 Source: New

5 To require the inclusion of members of the predominant

17

6 minority race on education boards.

18 Comment: Requires the governor to appoint a number of members

7 PROPOSED SECTIONS:

19 of the predominant minority race to membership on the

8 Article \_\_\_\_\_, Section 3. State Board of Elementary

20 boards aforementioned equal to the proportionate number

9 and Secondary Education

21 of members of that race in the total population of the

10 Section 3. (C) Minority Representation. (1) The

22 state. Retains this requirement in effect until cause

11 membership of the State Board of Elementary and Secondary

23 reasonably to believe that persons of that race will be

12 Education shall include members of the predominant

24 deprived or denied equitable representation because of

13 minority race in a number equal to the proportionate

25 race ceases.

14 number of members of that race in the total population

COMBINATION OF SEGURA AND ROBINSON AMENDMENTS

15 of the state. Should an insufficient number of such

Section 16. Funding; Elementary and Secondary Education;

16 members be elected as provided for in Subsection (B)

Apportionment

17 above, then, the governor, in making his appointments,

Section 16. (A) State funds; sources and apportionment.

18 shall insure the representation required herein.

State funds for the education of school children of this state

19 (2) This provision shall remain in effect until

at the elementary and secondary levels shall be derived from the

20 there is no longer cause reasonably to believe that

sources determined by the legislature and shall be apportioned to

21 people of the predominant minority race will be deprived

the parish and city school boards in the manner hereinafter set

22 or denied equitable representation on account of race.

forth.

(1) Minimum program. There shall be appropriated from the State General Fund sufficient funds to insure a minimum program of education in all public elementary and secondary schools. The minimum program of education to be maintained in all parish and city school systems shall be established by the State Board of Elementary and Secondary Education. The board shall adopt formulas and procedures for the distribution of these funds to the several school boards.

(2) Other funds. Any other funds provided by the legislature for the support of public schools shall be apportioned and distributed in accordance with a formula established by the State Board of Elementary and Secondary Education, except as otherwise specifically provided for by the law appropriating the funds.

Any funds for the education of the school children of Louisiana from any other source shall be distributed in the manner determined by the State Board of Elementary and Secondary Education, subject, however, to the terms of the laws governing such funds or the lawful stipulations of the source of the funds.

(B) Local funds. Local funds for the support of public elementary and secondary schools shall be derived from the following sources:

(1) Each parish and city school board, the parish of Orleans excepted, shall levy annually an ad valorem maintenance tax of five mills, or as much thereof as is necessary, on all property subject to such taxation within the parish or city in the manner prescribed by law.

The Orleans Parish School Board shall levy annually a tax not to exceed thirteen mills on the dollar on the assessed valuation of all property within the city of New Orleans assessed for city taxation and shall certify the fact to the governing authority of the city. The governing authority shall cause said tax to be entered on the tax roles of the city and collected in the manner and under the conditions and with the interest and penalties prescribed by law for city taxes. The money thus collected shall be paid daily to the Orleans Parish School Board.

(2) For giving additional support to the public elementary and secondary schools, any parish, school district, or subschool district, or any municipality which supports a separate city system of public schools may levy ad valorem taxes for specific purposes, when authorized by a majority of the electors voting in the parish, municipality, district, or subdistrict, in an election called for the purpose. The amount, duration, and purpose of such taxes shall be in accord with any limitations imposed by the legislature. No such tax shall be levied for a period longer than ten years, except that any tax levied to pay the costs of bonds or other debts incurred shall be levied and collected until the principal and interest on the bonds or other debts have been paid.

(3) The legislature may provide for additional sources of local support for elementary and secondary schools.

(C) Monroe, Bogalusa; treatment as parishes. For the effects and purposes of the provisions of this entire Section, the municipalities of Monroe, in Ouachita Parish, and Bogalusa in Washington Parish, and no other, shall be regarded as, and treated upon the

same basis and shall have the same authority as though they were separate parishes instead of municipalities.

(D) Ouachita Parish. The school board of Ouachita Parish shall not be required to pay to the city of Monroe out of the public funds any per capita for children residing without the limits of said city and who may attend the schools maintained by the city of Monroe under its legislative charter.

Page 2

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Delegate Haynes

4

A PROPOSAL

5 To create and establish a system of education that provides for equal educational opportunity.

6 PROPOSED SECTIONS:

7 Article\_\_\_\_, Section\_\_\_\_. Public Educational System

8 Section\_\_\_\_. The legislature shall provide for an equal educational opportunity for the children of this state and shall establish and maintain a public educational system to consist of all public schools and all institutions of learning operated by state agencies.

9 Article\_\_\_\_, Section\_\_\_\_. Elementary and Secondary Schools; Sources of Funds; Apportionment

10 Delay action on paragraph "first" dealing with the severance tax fund until such time as the Committee on Revenue, Finance and Taxation makes its recommendation regarding revenue dedication. All other as in CC-248.

11 Source: New

12 Comment: This is Delegate Haynes' minority report that proposes to create and establish a system of education that provides for equal educational opportunity and delay action on that part of the section on sources of funds dealing with the severance tax fund until such time as the Committee on Revenue, Finance and Taxation makes its recommendation regarding revenue dedication.

CC-213

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Delegate Thistlethwaite

4

A PROPOSAL

5 To require the chief executive officer of the Board of Elementary and Secondary Education and the Board of Regents to be an ex officio member of



the other board for the purpose of facilitating curricula planning and coordination between the boards.

PROPOSED SECTION:

Article \_\_\_\_, Section \_\_\_\_. Curricula Planning and Coordination

Section \_\_\_\_. To facilitate curricula planning and coordination between the boards, the chief executive officer of the Board of Regents shall be an ex officio member of the State Board of Elementary and Secondary Education, and the chief executive officer of the State Board of Elementary and Secondary Education shall be an ex officio member of the Board of Regents.

Source: La. Const. Art. XII, §§2, 6 (1921).

Comment: Revises Sections 2 and 6, and provides

that the chief executive officer of the Board of Regents shall be an ex officio member of the State Board of Elementary and Secondary Education and that the chief executive officer of the State Board of Elementary and Secondary Education to be an ex officio member of the Board of Regents.

The purpose of this provision is to facilitate curricula planning and coordination between the boards.

CC-217

Constitutional Convention of Louisiana of 1973

DELEGATE PROPOSAL NUMBER

Introduced by Kenneth Gordon Flory

A PROPOSAL

To provide for the registration of corporate stockholders.

PROPOSED SECTIONS:

Article \_\_\_\_, Section \_\_\_\_. Registration of Corporate Stockholders

Section \_\_\_\_. The legislature shall require all corporations doing business in the State of Louisiana, but not registered with the United States Securities and Exchange Commission, to submit a list of its stockholders to the secretary of state. This register of stockholders shall be submitted annually, at the direction of the legislature, but the secretary of state may order supplemental delivery of the register at any time during a calendar year.

Source: New

Comment: Directs the legislature to require all corporations doing business in the State of Louisiana, but not registered with the United States Securities and Exchange Commission, to submit a list of stockholders to the secretary of state annually, as the legislature

may provide; permits the secretary of state to require a supplemental register of stockholders from these corporations at any time during the calendar year.

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1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Messers. Hernandez, Lennox, Grier, and Armentor

A PROPOSAL

5 For the creation of a State Civil Service Commission and the appointment of commissioners.

7 PROPOSED SECTIONS:

8 Article \_\_\_\_, Section 1. State Civil Service Commission  
9 Section 1 . (A) Membership. A State Civil Service

Commission is created. The State Civil Service Commission shall be composed of five members who are electors of this state. Three members of the commission shall constitute a quorum. The three members shall serve overlapping terms of six years as hereinafter provided. The domicile of the commission shall be in the City of Baton Rouge, Louisiana.

(B) Nominations. The presidents of Loyola University of the South at New Orleans, Centenary College at Shreveport, Tulane University of Louisiana at New Orleans, Louisiana College at Pineville, and Dillard University at New Orleans each shall nominate three persons, in the order of their preference, and from the three persons so nominated by each, the governor shall appoint one to serve as a member of the commission.

(C) Vacancies. Vacancies for any cause shall be filled by appointment in accordance with the procedure for the original appointment and from the same source. Within thirty days thereafter, the governor shall make his appointment.

If for any reason nominations are not submitted to the governor by any one of the college presidents herein named within the time herein designated, the vacancy on the commission for the term or the unexpired term resulting from such failure to nominate shall be filled by a majority vote of the other members of the State Civil Service Commission.

(D) Transition. Each person who, on the effective

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date of this constitution, is a member of the State Civil Service Commission shall continue in such position for the remainder of the term to which he was appointed. Within thirty days after the effective date of this constitution, the president of Dillard University shall submit three names to the governor for appointment to the commission as herein provided. The initial term of this Dillard nominee shall be six years.

(E) Removal. A member of the State Civil Service Commission may be removed by the governor for just cause

11 after a copy of the charges against him has been served  
12 on him and an opportunity for a public hearing thereon  
13 is afforded by his appointing authority.

14  
15 Source: La. Const. Art. XIV, §15, ¶(C), (E) (1921).

16  
17 Comment: Paragraph (A) retains provision for a State Civil  
18 Service Commission. Retains existing six-year over-  
19 lapping terms.

20 Paragraph (B) requires the governor to select one  
21 member from each of the five lists submitted by the five  
22 university presidents. Retains Loyola, Tulane, Louisiana  
23 College, and Centenary College as nominating universities.  
24 Adds Dillard University as a nominator. Removes Louisiana  
25 State University and Agricultural and Mechanical College  
26 as a nominator.

27 Paragraph (C) retains the provision that vacancies be  
28 filled in accordance with procedures governing the original  
29 appointment and from the same source. Requires the univer-  
30 sity presidents submit nominees within 30 days after a  
31 vacancy occurs. Retains the requirement that the first  
32 name appearing on a list of university nominees shall  
33 become a member if the governor fails to appoint within  
34 the specified time. Retains the provision that if any  
35 university president fails to submit the required nomin-

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1 ations, the vacancy thereby created be filled by a  
2 majority vote of the State Civil Service Commission.

3 Paragraph (D) provides the members of the State  
4 Civil Service Commission, on the effective date of this  
5 constitution, shall complete their respective terms.  
6 Requires the president of Dillard to submit three nominees  
7 to the governor within 30 days after the effective date  
8 of this constitution.

9 Paragraph (E) retains the existing constitutional  
10 provision that a commissioner may be removed for cause  
11 after being given a copy of the charges against him and  
12 an opportunity for a public hearing by the appointing  
13 authority. The new provision inserts the word "just"  
14 before "cause".

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1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Delegate Edward Lennox

4 A PROPOSAL

5 To establish state and city civil service.

6 PROPOSED SECTIONS:

7 Article \_\_\_\_, Section 1. Civil Service System; State;

8 Cities

9 Section 1. (A) State civil service. "State

10 civil service" means all offices and positions of  
11 trust or employment in the employ of the state, or  
12 any board, commission, department, independent  
13 agency or other agency thereof, except as otherwise  
14 specifically provided in this constitution, and all  
15 offices and positions of trust or employment in the  
16 employ of joint state and federal agencies administer-  
17 ing state or federal funds, or both; joint state and  
18 municipal agencies financed by state or municipal funds,  
19 or both, except municipal boards of health; joint  
20 state and parochial agencies financed by state or  
21 parochial funds, or both; irrespective of whether the  
22 pay for such offices and positions of trust or employ-  
23 ment is to be paid with state, municipal, or parochial  
24 funds or with funds contributed jointly by the state  
25 and municipalities or parishes involved.

26 (B) City civil service. "City civil service" means  
27 all offices and positions of trust or employment in the  
28 employ of a city and every board, commission, depart-  
29 ment, or agency thereof.

30  
31 Source: La. Const. Art. XIV, §15, ¶(A)(2)(3) (1921).

32  
33 Comment: (A) Repeats the constitutional definition of  
34 state civil service as all offices and positions of  
35 trust or employment in the employ of the state, or any

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1 board, commission, department, independent agency  
2 thereof, and all joint state and federal agencies,  
3 joint state and municipal agencies, and joint state  
4 and parochial agencies, except as otherwise provided  
5 in this constitution.

6 (B) Repeats the definition of city civil service  
7 as all offices and positions of trust or employment  
8 in the employ of a city and every board, commission,  
9 department, or agency thereof.

10  
11 Section 2. State Civil Service Commission

12 Section 2. (A) Membership. A State Civil Service  
13 Commission is created to be composed of five members,  
14 who are citizens and qualified electors of the state.  
15 Three members of the commission shall constitute a  
16 quorum. The five members shall be appointed by the  
17 governor for overlapping terms of six years as here-  
18 inafter provided. The domicile of the commission  
19 shall be in the city of Baton Rouge, Louisiana.

20 (B) Nominations. The presidents of Loyola Univer-  
21 sity of the South, Centenary College, Tulane University  
22 of Louisiana, Louisiana College, and Dillard University  
23 each shall nominate three persons, in the order of their  
24 preference, and from the three persons so nominated by  
25 each, the governor shall appoint one to serve as a member  
26 of the commission.

27 (C) Vacancies. Vacancies for any cause shall be  
28 filled by appointment in accordance with the procedure  
29 governing the original appointment and from the same  
30 source. Within thirty days after a vacancy occurs, the  
31 university president concerned shall submit the required  
32 nominations. Within thirty days thereafter, the governor  
33 shall make his appointment. Should the governor fail  
34 to appoint within thirty days, the nominee whose name  
35 is first on the register shall automatically become a

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1 member of the commission.

2 If for any reason nominations are not submitted  
3 to the governor by any of the college presidents  
4 herein named, within the time herein designated, the  
5 vacancy on the commission for the term or the unexpired  
6 term resulting from such failure to nominate shall be  
7 filled by a majority vote of the other members of the  
8 State Civil Service Commission.

9 (D) Transition. Each person who, on the effective  
10 date of this constitution, is a member of the State  
11 Civil Service Commission shall continue in such position  
12 for the remainder of the term to which he was appointed.  
13 Within thirty days after the expiration of the term of  
14 the commissioner nominated by L.S.U. and A&M College,  
15 the president of Dillard University of Louisiana shall  
16 submit three names to the governor for appointment to  
17 to the commission as herein provided. The initial term  
18 of this Dillard nominee shall be six years.

19 (E) Removal. A member of the State Civil Service  
20 Commission may be removed by the governor for just cause  
21 after a copy of the charges against him has been served  
22 on him and an opportunity for a public hearing thereon  
23 is afforded by his appointing authority.

24 (F) Compensation. Members of the commission  
25 each shall be paid fifty dollars for each day devoted  
26 to the work of the commission but not more than four  
27 thousand dollars in any year.

29 Source: La. Const. Art. XIV, §15, ¶(C), (E), (K) (1921).

31 Comment: Paragraph (A) retains provision for a State  
32 Civil Service Commission. Retains existing six-  
33 year overlapping terms.

34 Paragraph (B) requires the governor to select  
35 one member from each of five lists submitted by five

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1 university presidents. Retains Loyola, Centenary, Tulane,  
2 and Louisiana College, as nominating universities.  
3 Adds Dillard University as a nominator.

4 Paragraph (C) retains the requirement that va-  
5 cancies be filled in accordance with procedures gov-  
6 erning the original appointment and from the same  
7 source. Requires that university presidents submit  
8 nominees within 30 days after a vacancy occurs.  
9 Retains the requirement that the first name appearing  
10 on a list of university nominees shall become a member  
11 if the governor fails to appoint within the specified  
12 time. Retains the provision that if any university  
13 president fails to submit the required nominations,  
14 the vacancy thereby created shall be filled by  
15 majority vote of the State Civil Service Commission.

16 Paragraph (D) provides that members of the State  
17 Civil Service Commission, on the effective date of this  
18 constitution, shall complete their respective terms.  
19 Requires the president of Dillard to submit three  
20 nominees to the governor within 30 days after the  
21 expiration of the term of the commissioner nominated  
22 by L.S.U. and A&M College. Provides initial term of  
23 six years for the Dillard nominee.

24 Paragraph (E) retains the existing constitutional  
25 provision that a commissioner may be removed for cause  
26 after being given a copy of the charges against him  
27 and an opportunity for a public hearing by the appoint-  
28 ing authority. The new provision inserts the word  
29 "just" before "cause".

30 Paragraph (F) retains the \$50 per diem for members  
31 and increases the maximum annual per diem compensation  
32 from \$2,000 to \$4,000.

34 Section 3. City Civil Service Commission

35 Section 3. (A) Membership. A city civil service

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1 commission is created for each city having a population  
2 exceeding one hundred thousand. The city civil service  
3 commission shall be composed of three members, who are  
4 citizens and qualified electors of the city. Two  
5 members of the commission shall constitute a quorum.  
6 The three members shall serve overlapping terms of six  
7 years as hereinafter provided. The domicile of the  
8 commission shall be in the city which it serves.

9 (B) Nominations. In the city of New Orleans, the  
10 presidents of Tulane University of Louisiana, Loyola  
11 University of the South at New Orleans, and Dillard  
12 University each shall nominate three persons, in the  
13 order of their preference, and from the three persons  
14 so nominated by each, the governing authority of the  
15 city shall appoint one to serve as a member of the  
16 commission. Each commissioner shall serve until a  
17 successor is appointed.

18 If for any reason nominations are not submitted

19 to the governing authority of the city by any of the  
20 college presidents herein named within the time herein  
21 designated, the vacancy on the commission for the term  
22 or the unexpired term resulting from such failure to  
23 nominate shall be filled by a majority vote of the other  
24 members of the city civil service commission.

25 In other cities subject to the provisions of this  
26 Article, the three members of the commission shall be  
27 nominated by the presidents of any three universities  
28 mentioned in Section \_\_\_ and Section \_\_\_ as requested by  
29 governing authority of the respective city in accordance  
30 with the procedure therein provided.

31 (C) Vacancies. Vacancies for any cause shall be  
32 filled by appointment in accordance with the procedure  
33 for the original appointment and from the same source.  
34 Within thirty days after a vacancy occurs, the university  
35 president concerned shall submit the required nominations.

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1 Within thirty days thereafter, the governing authority  
2 of the city shall make the appointment. Should the  
3 governing authority of the city fail to appoint with-  
4 in the thirty days after the nominations are submitted,  
5 the nominee whose name is first on the register shall  
6 automatically become a member of the commission.

7 (D) Transition. Each person who, on the effective  
8 date of this constitution, was nominated by Tulane Univer-  
9 sity, Loyola University, or the governing authority of  
10 the city on the New Orleans City Civil Service Commission  
11 shall continue in such position for the remainder of the  
12 term to which he was appointed. Upon the expiration of  
13 the term of the commissioner nominated by the governing  
14 authority of the city, the president of Dillard Univer-  
15 sity shall submit three names to the governing authority  
16 of the city for appointment to the commission as herein  
17 provided.

18 In other cities, each member serving on the effective  
19 date of this constitution, shall continue in office  
20 until the expiration of his term. Governing authorities  
21 of such cities shall provide for the appointment of  
22 members and for the implementation of this Section in  
23 accordance with provisions hereof.

24 (E) Removal. A member of the city civil service  
25 commission may be removed by the city governing authority  
26 for just cause after a copy of the charges against him  
27 has been served on him and an opportunity for a public  
28 hearing thereon is afforded by his appointing authority.

29 (F) Compensation. Members of the commission each  
30 shall be paid fifty dollars for each day devoted to the

31 work of the commission but not more than four thousand  
32 dollars in any year.

33  
34 Source: La. Const. Art. XIV, §15, ¶(D), (E), (K) (1921).

35

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1 Comment: Paragraph (A) establishes a civil service commission  
2 in cities having a population exceeding 100,000 rather  
3 than the present 250,000. Retains the size of the civil  
4 service commission. Retains existing six-year over-  
5 lapping terms.

6 Paragraph (B) requires the governing authority of  
7 the city of New Orleans to select one commissioner from  
8 each of three lists submitted by three university pres-  
9 idents. Adds Dillard to the current nominating univer-  
10 sities, Tulane and Loyola.

11 Requires that other cities subject to this provision  
12 constitute civil service commissions in the same manner  
13 as New Orleans, except that the three lists of university  
14 nominees may be submitted by the presidents of any three  
15 of the following universities: Tulane, Loyola, Dillard,  
16 Louisiana College, and Centenary.

17 Paragraph (C) retains the requirement that vacancies  
18 be filled in accordance with procedures governing the  
19 original appointment and from the same source. Requires  
20 that university presidents submit nominees within 30 days  
21 after a vacancy occurs and that the city governing authority  
22 make the appointment within 30 days thereafter. Retains  
23 the requirement that the first name appearing on a list  
24 of university nominees shall become a member if the city  
25 governing authority fails to appoint within the specified  
26 time.

27 Paragraph (D) provides that on the effective date of  
28 this constitution, members of the New Orleans City Civil  
29 Service Commission, nominated by Tulane, Loyola, or the  
30 city governing authority, shall complete their respective  
31 terms. Upon the expiration of the term of the commissioner  
32 nominated by the governing authority of the city, the  
33 president of Dillard is required to submit three nominees  
34 to the city governing authority within 30 days after the  
35 effective date of this constitution.

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1 Provides that members serving in other cities shall  
2 complete their respective terms. Requires the governing  
3 authorities of such cities to provide for the appoint-  
4 ment of members in accordance with the provisions of this  
5 Section.

6 Paragraph (E) retains the existing constitutional

7 provision that a commissioner may be removed for cause  
8 after being given a copy of the charges against him and  
9 an opportunity for a public hearing by the governing  
10 authority. The new provision inserts the word "just"  
11 before "cause".

12 Paragraph (F) retains the \$50 per diem for members  
13 and increases the maximum annual per diem compensation  
14 from \$2,000 to \$4,000.

15  
16 Section 4. Departments; State; City

17 Section 4. (A) Department of State Civil Service.

18 A Department of State Civil Service is created in the  
19 state government.

20 (B) Department of City Civil Service. A department  
21 of city civil service is created in the city government  
22 of each city having a population exceeding one hundred  
23 thousand.

24  
25 Source: La. Const. Art. XIV, §15, ¶(B) (1921).

26  
27 Comment: Paragraph (A) creates a Department of State Civil  
28 Service in the state government.

29 Paragraph (B) creates a department of city civil  
30 service in cities having a population exceeding  
31 100,000, rather than the present 250,000.

32  
33 Section 5. Directors; State Service; City Service

34 Section 5. The State Civil Service Commission and  
35 the city civil service commission shall appoint a direc-

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1 tor of civil service, who shall be the administrative  
2 head of his respective department and who shall be in  
3 the classified service. The director shall be appointed  
4 by the appropriate commission from a list of persons de-  
5 termined to be eligible for the position on the basis of  
6 merit, efficiency, and fitness, which shall be ascertained  
7 by competitive examination in so far as practicable, and  
8 such other factors as the commission deems advisable.

9 The director shall appoint personnel and exercise powers  
10 and duties to the extent prescribed by the commission.

11  
12 Source: La. Const. Art. XIV, §15, ¶(F)(1) (1921).

13  
14 Comment: Changes the title of the administrative head of  
15 the Department of State Civil Service and any city  
16 department of civil service from director of personnel  
17 to director of civil service. Retains the director's  
18 appointment by the appropriate commission and his inclu-  
19 sion in the classified service, but deletes existing  
20 provision that the director may be appointed with or

21 without competitive examination. Requires appointment  
22 from a list of eligibles qualifying on the basis of  
23 merit, efficiency, and fitness, ascertained in so far  
24 as is practicable by competitive examination, and such  
25 other factors as deemed advisable by the commission. Re-  
26 tains provision for the director to exercise power and  
27 appoint personnel to the extent prescribed by the com-  
28 mission.

29  
30 Section 6. Unclassified and Classified Service

31 Section 6. The state civil service and the city  
32 civil service are divided into the classified service and  
33 the unclassified service. The classified service shall  
34 include all officers and employees in the state civil  
35 service and the city civil service except:

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1 (1) elected officers and persons appointed to fill  
2 vacancies in elective offices; (2) heads of principal  
3 departments appointed by the governor, the mayor, or  
4 governing authority of the city; (3) city attorneys;  
5 (4) members of state and city boards, commissions, and  
6 agencies; (5) one person holding a confidential position  
7 or, one principal assistant or deputy to any officer,  
8 board, commission, department, or agency mentioned in  
9 (1), (2), and (4), except the Department of State Civil  
10 Service and the departments of city civil service; (6)  
11 members of the military or naval forces; (7) the teach-  
12 ing and professional staffs, and administrative officers  
13 of the schools colleges, and universities of the state,  
14 and bona fide students of such institutions employed by  
15 any state agency; (8) administrative officers and employ-  
16 ees of courts of record, of the legislature, of the  
17 offices of the governor, of the lieutenant governor, of  
18 the attorney general, of the office of the mayor of the  
19 several cities, of police juries, and of school boards;  
20 (9) registrars of voters, and one chief deputy; (10)  
21 commissioners of elections and watchers; custodians and  
22 deputy custodians of voting machines.

23  
24 Source: La. Const. Art. XIV, §15, ¶(G) (1921).

25  
26 Comment: Retains the provision for a classified service and  
27 an unclassified service. Retains the existing require-  
28 ment that all officers and employees in the state and  
29 city civil service be in the classified service except  
30 for the following (who will comprise the unclassified  
31 service): (1) elected officers and persons appointed  
32 to fill vacancies in elective offices; (2) heads of  
33 principal departments appointed by the governor, the  
34 mayor, or governing authority of the city; (3) city  
35 attorneys; (4) members of state and city boards, commis-

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1 sions, and agencies; (5) one person holding a confi-  
 2 dential position or, one principal assistant or deputy  
 3 to any officer, board, commission, etc., mentioned in  
 4 (1), (2), and (4) except the state and city civil service  
 5 departments; (6) members of the military or naval forces;  
 6 (7) the teaching and professional staffs, and administra-  
 7 tive officers of the schools, colleges, and universities  
 8 of the state, and bona fide students of such institutions  
 9 employed by any state agency; (8) administrative officers  
 10 and employees of courts of record, of the legislature,  
 11 of the offices of the governor, of the lieutenant gover-  
 12 nor, of the attorney general, of the office of the mayor  
 13 of the several cities, of police juries, and of school  
 14 boards; (9) registrars of voters, and one chief deputy;  
 15 (10) election commissioners and watchers; custodians and  
 16 deputy custodians of voting machines.

17 Deletes from the unclassified service, as stated in  
 18 the existing provision, the following: one attorney  
 19 to any officer, board, or commission mentioned in (1),  
 20 (2), or (4) above; officers and employees of the office  
 21 of city attorney; all deputies and employees selected by  
 22 sheriffs, clerks of courts, coroners, assessors, district  
 23 attorneys, recorders of mortgages, registers of con-  
 24 veyances, constables of city courts, and state tax col-  
 25 lector of the city of New Orleans (the proposal retains  
 26 only one chief deputy for each); persons employed to  
 27 make or conduct a special inquiry, investigation, ex-  
 28 amination, or installation if the governing body of the  
 29 city certifies that such employment is temporary and  
 30 the work should not be performed by employees in the  
 31 classified service, and the commission approves such  
 32 certifications; special counsel and special prosecutors;  
 33 notaries public; referees; receivers; and jurors;  
 34 patient or inmate help in city institutions; persons  
 35 temporarily retained or employed to conduct or assist

1 in civil service examinations; hourly, daily, or  
 2 piece-work laborers, and other workers, if their in-  
 3 clusion in the unclassified service is requested and  
 4 approved; persons employed to make or conduct a special  
 5 inquiry, investigation, examination, or installation  
 6 for any agency of the city, if their inclusion in the  
 7 unclassified service is approved; and independent con-  
 8 tractors rendering services on a contractual basis.

9 Section 7. Appointment and Promotion

11 Section 7. (A) Certification. Permanent appoint-  
 12 ments and promotions in the classified state service  
 13 and classified city service shall be made after certi-

14 fication by the appropriate department of civil service  
 15 under a general system based upon merit, efficiency,  
 16 and fitness, which shall be ascertained by competitive  
 17 examinations in so far as practicable, and employees and  
 18 officers in the classified service shall be employed  
 19 from those eligible under such certification. The number  
 20 to be certified shall not be less than three; however,  
 21 if more than one vacancy is to be filled, the name of one  
 22 additional eligible for each vacancy may be certified and  
 23 special and different lists may be established in the case  
 24 of reemployment and reinstatement. The commission shall  
 25 adopt rules for the method of certification of persons  
 26 eligible for appointment and promotion, the establishment  
 27 of a working-test period, and shall provide for appoint-  
 28 ments defined as temporary appointments.

29 When a vacancy exists within the classified service,  
 30 it shall be filled within sixty days after the vacancy  
 31 occurs.

32 A classified employee temporarily detailed to fill  
 33 a vacancy above his job classification shall be compen-  
 34 sated at the rate of the higher classification after  
 35 completing ten working days.

1 (B) Veterans. The Department of State Civil Service  
 2 and a department of city civil service shall accord a  
 3 five-point preference in original appointment to each  
 4 person honorably discharged, or discharged under honor-  
 5 able conditions from the armed forces of the United States,  
 6 after having served between the wartime dates of April 6,  
 7 1917 and November 11, 1918, both dates inclusive, or  
 8 between September 16, 1940 and July 25, 1947, both dates  
 9 inclusive, or between June 27, 1950 and January 31, 1955  
 10 both dates inclusive, or who served in the Viet Nam  
 11 Theater between July 1, 1950 and the date the government  
 12 of the United States declares to be the date of termina-  
 13 tion of service for members of the armed forces to re-  
 14 ceive credit for the award of the Viet Nam Service Medal,  
 15 both dates inclusive, or who served in the peacetime cam-  
 16 paigns or expeditions for which campaign badges have  
 17 been authorized, ten-point preference in original appoint-  
 18 ment to each honorably discharged veteran who served  
 19 either in peace or in war and who has one or more dis-  
 20 abilities recognized by the Veterans Administration as  
 21 service-connected, or to the spouse of each veteran  
 22 who is in such poor physical condition as to preclude  
 23 his or her appointment to a civil service job in his or  
 24 her usual line of work, or to the unremarried widow  
 25 of each deceased veteran who served in a war period as  
 26 defined above or in a peacetime campaign or expedition,  
 27 or to the unremarried parents of any person who died in

28 active wartime or peacetime service or who suffered  
29 total and permanent disabilities in active wartime  
30 service, or the divorced or separated parent of any  
31 person who died in a wartime or peacetime service or  
32 who became totally and permanently disabled in war-  
33 time or peacetime service. However, only one ten-  
34 point preference shall be allowed in the original  
35 appointment to any of the persons enumerated above,

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1 and if the ten-point preference is not being utilized by  
2 the veteran, either because of the veteran's physical or  
3 mental incapacity which precludes his appointment to a civil  
4 service job in his usual line of work or because of his death,  
5 the preference shall be available to his spouse, unremarried  
6 widow, or eligible parent as defined above, in the order  
7 specified, but all such preferences may be given only to per-  
8 sons who have attained marks on the tests which meet at  
9 least the minimum requirements imposed for each test  
10 and who have received at least the minimum rating requir-  
11 ed for eligibility.

13 Source: La. Const. Art. XIV, §15, ¶(A)(1), (I), (I)(a) (1921).

15 Comment: Paragraph (A) retains the requirement that per-  
16 manent appointments and promotions in the classified  
17 civil service be made after certification under a  
18 general system based upon merit, efficiency, and fit-  
19 ness as ascertained by competitive examination. Retains  
20 the provision that the number to be certified be not  
21 less than three, except if more than one vacancy exists,  
22 one additional name may be certified for each additional  
23 vacancy. Retains the provision that special lists may  
24 apply for reemployment and reinstatement. Retains the  
25 commission's authority to provide for temporary appoint-  
26 ments and the establishment of working-test periods.  
27 Adds the requirement that an employee detailed to a  
28 higher classification be paid at the rate of the higher  
29 classification. Adds the requirement that vacancies  
30 within the classified service be filled within sixty days.

31 Paragraph (B) retains the existing provision for  
32 five-point preferences on original appointments to  
33 veterans who served in designated wartime periods and  
34 ten-point preferences on original appointments to  
35 veterans who served in designated wartime periods and

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1 ten-point preferences on original appointments to  
2 veterans with service-connected disabilities, or their

3 spouses, unremarried widows, or eligible parents.

4 Deletes the three-point preference to veterans on  
5 promotions.

6  
7 Section 8. Disciplinary Action

8 Section 8. No person who has gained permanent  
9 civil service status in the classified state civil  
10 service or the classified city civil service shall be  
11 subjected to disciplinary action except for just cause  
12 after a copy of the charges against him have been served  
13 on him. Only one penalty may be assessed by the appoint-  
14 ing authority for the same offense. No classified em-  
15 ployee shall be discriminated against by reason of his  
16 political or religious beliefs, sex, or race.

17 Any classified permanent employee so discriminated  
18 against or subjected to such disciplinary action shall  
19 have a right of appeal to the appropriate civil service  
20 commission. The burden of proof on appeal, as to the  
21 facts, shall be on the employer. It shall be at the  
22 discretion of the appointing authority to grant the  
23 employee either a suspensive or devolutive appeal.

24 The rulings of the commission are final as to the  
25 facts, however, questions of law are subject to review  
26 by the court of appeal wherein each commission is located.

27  
28 Source: La. Const. Art. XIV, §15, ¶(A)(1), (N)(1), (N)(1)  
29 (a), (0)(2) (1921).

30  
31 Comment: Retains the prohibition of disciplinary action  
32 against any classified employee except for cause after  
33 the employee has received a copy of the charges against  
34 him. Inserts the word "just" before "cause". Adds  
35 a prohibition of more than one penalty assessed by

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1 the appointing authority for the same offense. Re-  
2 tains prohibition against discrimination against  
3 discrimination against a classified employee because of  
4 his political or religious beliefs. Adds a prohibition  
5 against discrimination on the basis of sex or race.  
6 Retains the right of appeal to any permanent classified  
7 employee so discriminated against. Omits rights of  
8 appeal to job applicants who allege discrimination.  
9 Changes the burden of proof on appeal from the employee  
10 to the employer. Adds the provision that the civil  
11 service commission may grant the employee a suspensive  
12 or devolutive appeal. Changes the jurisdiction for re-  
13 view of the commission's rulings from the supreme court  
14 to the court of appeal, wherein the commission is located.  
15 Retains the provision that the court on appeal, may re-  
16 view questions of law, not of fact.

18 Section 9. Rules and Regulations  
19 Section 9. The State Civil Service Commission and  
20 a city civil service commission are vested with general  
21 exclusive rule-making powers and subpoena powers for  
22 the administration of the classified civil service, in-  
23 cluding but not limited to rules and regulations relat-  
24 ing to employment, promotion, demotion, suspension, re-  
25 duction in pay, removal, certification, uniform pay  
26 plans, classification plans, employment conditions, com-  
27 pensation and disbursements to employees, establishment  
28 of work-test periods, and generally to carry out and  
29 effectuate the objectives and purposes of the merit  
30 system of civil service as herein established. These  
31 rules and regulations shall have the effect of law. Any  
32 rule, regulation, or order of the civil service commission  
33 shall be enforceable in the courts of this state by a  
34 mandamus or injunctive suit brought for this purpose by  
35 the appropriate civil service commission. Any pay plan

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1 or amendment thereto shall become effective only after  
2 recommendation by the appropriate civil service com-  
3 mission and approved thereof by the governor or the  
4 governing authority of the city.

5  
6 Source: La. Const. Art. XIV, §15, ¶(I), (I) (a), (I) (b),  
7 (I) (c), (J) (1), (J) (2) (1921).

8  
9 Comment: Retains the general rule-making and subpoena powers  
10 of the State Civil Service Commission and the city civil  
11 service commission, including the authority to administer  
12 rules and regulations regarding employment, promotion,  
13 demotion, suspension, reduction in pay, removal, certifi-  
14 cation, uniform pay plans, classification plans, employ-  
15 ment conditions, compensation, work-test periods, and  
16 disbursements to employees. Retains the provision that  
17 the rules of the commission have the effect of law. Retains  
18 existing provision requiring the approval of the governor  
19 or the governing authority of the city for pay plans and  
20 amendments thereto. Deletes the commission's specific  
21 authorization or obligation to provide public notice prior  
22 to promulgation of rules; provide for leaves of absence,  
23 sick and annual leaves, layoffs, reinstatements, reemploy-  
24 ment, transfers, and abolition of positions; fill vacancies  
25 from within and without the classified service; compile  
26 attendance records; establish training programs; and fix  
27 the appeal procedure. Deletes requirement to fill vac-  
28 ancies from lower classes, so far as practicable, follow-  
29 ing open, competitive tests. The new provision also omits  
30 mention of the procedure for implementing job allocation  
31 lists, authorization for providing salary differentials  
32 in different sections of the state, and the assignment of

33 preference ratings to employees affected by economic  
34 layoffs.

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1 Section 10. Political Activity

2 Section 10. No member of the State Civil Service  
3 Commission or a city civil service commission and no  
4 officer or employee in the classified service shall  
5 participate or engage in political activity or be a  
6 candidate for nomination or election to public office or  
7 be a member of any national, state, or local committee  
8 of a political party or faction or make or solicit  
9 contributions for any political party, faction, or  
10 candidate, nor take active part in the management of  
11 the affairs of a political party, faction, or candidate  
12 or any political campaign except to exercise his  
13 right as a citizen to privately express his opinion, to  
14 serve as a commissioner or as an official watcher at  
15 the polls, and to cast his vote as he desires. No  
16 person shall solicit contributions for political  
17 purposes from any classified employee or official, nor  
18 use or attempt to use his position in civil service to  
19 punish or coerce the political action of such person.

20 No member of any civil service commission shall  
21 hold any public office or position of public employment,  
22 the office of notary public, or military or naval office,  
23 or dean or member of the faculty of any educational insti-  
24 tution excepted.

25 Political activity is defined as an effort made to  
26 insure the election of a nominee for political office  
27 or the support of a particular political party in an  
28 election. There shall be no prohibition against sup-  
29 port of issues involving bonded indebtedness, tax  
30 referenda, or constitutional amendments.

31  
32 Source: La. Const. Art. XIV, §15, ¶(E), (N) (3) (6) (7) (8)  
33 (9) (1921).

34  
35 Comment: Retains prohibition against civil service com-

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1 missioners and employees in the classified service  
2 participating in political activity, seeking election  
3 to public office, being a member of any political  
4 committee, soliciting political contributions, or  
5 using a position in the civil service to exert politi-  
6 cal coercion. Retains provision that civil service  
7 commissioners and classified employees may privately  
8 express an opinion, serve as poll commissioners or  
9 watchers, and cast votes as they desire. Adds the de-



10 finition of political activity as an effort to insure  
11 the election of a nominee for political office or the  
12 support of a particular political party in an election.  
13 Adds a provision allowing the support of issues in-  
14 volving bonded indebtedness, tax referenda, or consti-  
15 tutional amendments.

16 Retains the provision prohibiting civil service  
17 commissioners from holding any position of public  
18 employment, the office of notary public, military  
19 or naval office, or dean or member of the faculty of any  
20 educational institution excepted.

22 Section 11. Violations; Appeals

23 Section 11. The State Civil Service Commission  
24 and the city civil service commission may investigate  
25 violations of this Article and the rules or regulations  
26 adopted pursuant hereto. The commissions may impose  
27 penalties in the form of a fine or demotion, or sus-  
28 pension, or discharge from the classified service with  
29 attendant loss of pay upon findings of such a violation.  
30 The rulings of the commission as they relate to questions  
31 of law are subject to review in the court of appeal where-  
32 in each commission is located.

33 In any appeal to the commission, it may refer the  
34 taking of testimony to any duly appointed referee.

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1 Source: La. Const. Art. XIV, §15, ¶(0) (1) (3) (5) (6) (7) (8),  
2 (P) (1) (2) (3) (4) (5) (1921).

3  
4 Comment: Retains the civil service commission's authority  
5 to investigate violations of this Article and the rules  
6 and regulations adopted hereto. Retains the commission's  
7 power to impose penalties in the form of a fine, demotion,  
8 suspension, or removal with attendant loss of pay.  
9 Retains specific authorization for the appointment of  
10 referees to take testimony.

11 Deletes specific mention of procedures relating to  
12 reinstatement pay for lost time, employees' failure to  
13 testify, costs, eligibility for reemployment and with-  
14 holding compensation from persons illegally employed.

15 Provides for review of the commission's rulings on  
16 questions of law in the court of appeal wherein the  
17 commission is located. The existing provision allows  
18 an appeal to the supreme court on questions of law.

20 Section 12. Penalties

21 Section 12. Any person who willfully violates any  
22 provision of this Article or of any law enacted pursuant  
23 hereto shall be guilty of a misdemeanor and upon con-  
24 viction shall be punished by a fine of not more than

25 five hundred dollars or by imprisonment for not more  
26 than six months, or both.

28 Source: La. Const. Art. XIV, §15, ¶(P) (3) (1921).

29  
30 Comment: Retains definition of willful violation of any  
31 provision of this Article as a misdemeanor. Changes  
32 the punishment upon conviction for a violation from  
33 a fine of not less than \$100, nor more than \$1,000,  
34 or, by imprisonment for a term of not less than one  
35 month nor more than six months or, both, to a fine of

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1 not more than \$500 or by imprisonment for not more than  
2 six months, or both.

4 Section 13. Acquisition of Permanent Status

5 Section 13. Each officer and employee of a city who  
6 has civil service status in the classified service of  
7 the state or city on the effective date of this constitu-  
8 tion shall retain such status in the position, class, and  
9 rank held on such date and thereafter shall be subject to  
10 and be governed by the provisions of this Article and  
11 the rules and regulations adopted under the authority  
12 hereof.

14 Source: La. Const. Art. XIV, §15, ¶(Q) (1) (2) (1921).

16 Comment: Provides that classified employees in the state  
17 and city civil service shall, on the effective date of  
18 this constitution, retain their status in the civil  
19 service system and thereafter be subject to the pro-  
20 visions of this Article and the rules and regulations  
21 adopted pursuant hereto.

23 Section 14. Existing Laws

24 Section 14. All existing laws relating to employees  
25 in the classified civil service not inconsistent with  
26 this Article are continued in force. The State Civil  
27 Service Commission shall exercise no power or authority  
28 which is inconsistent or in conflict with any general  
29 law.

31 Source: La. Const. Art. XIV, §15, ¶(Q) (1) (2), (P) (6) (1921).

33 Comment: Provides that existing laws relating to civil  
34 service employees shall continue in force. The existing  
35 provision recognizes the validity of civil service laws

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1 and the authority of the legislature to adopt or repeal  
 2 civil service laws so long as these laws are not in  
 3 conflict with constitutional provisions regarding civil  
 4 service. Adds the provision prohibiting the State Civil  
 5 Service Commission from exercising any power or authority  
 6 which is inconsistent or in conflict with general law.

7  
 8 Section 15. Appropriations

9 Section 15. Beginning with the regular session  
 10 that convenes in the year 197\_\_\_, the legislature of  
 11 the state shall then, and at each regular session and  
 12 fiscal session, thereafter, make an appropriation to  
 13 the State Civil Service Commission and to the Department  
 14 of Civil Service for each succeeding fiscal year of  
 15 a sum equal to not less than seven-tenths of one per-  
 16 cent of the aggregate payroll of the state classified  
 17 service for the twelve-month period ending on the first  
 18 day of March preceding the next regular or fiscal ses-  
 19 sion as certified to by the State Civil Service Com-  
 20 mission.

21 Each city of the state subject to the provisions of  
 22 this Article shall make adequate annual appropriations  
 23 to enable the civil service commission and the civil  
 24 service department of the city to carry out efficiently  
 25 and effectively the provisions of this Article.

26  
 27 Source: La. Const. Art. XIV, §15, ¶(T) (1921).

28  
 29 Comment: Retains the requirement that the legislature  
 30 appropriate for the annual operations of the State  
 31 Civil Service Commission and the Department of State  
 32 Civil Service a sum equal to not less than seven-  
 33 tenths of one percent of the aggregate payroll of the  
 34 state classified service for the preceding year. The  
 35 provision that this appropriation be made annually,

1 rather than biennially, is new.

2 Requires each city subject to the provisions of  
 3 this Article to make an adequate annual appropriation to  
 4 the city civil service commission and city civil service  
 5 department.

6  
 7 Section 16. Acceptance of Act; Other Cities, City  
 8 and Parish Governed Jointly

9 Section 16. Any city, and any parish governed  
 10 jointly with one or more cities under a plan of govern-  
 11 ment, having a population exceeding ten thousand out  
 12 not exceeding one hundred thousand, according to the

13 last preceding decennial census of the United States  
 14 for which the final report of population returns have  
 15 been printed, published, and distributed by the director  
 16 of the census may elect and determine to accept the  
 17 provisions of this Article by a majority vote of its  
 18 qualified electors voting at a general or special election  
 19 for this purpose. This election shall be ordered and  
 20 held by the city-parish as the case may be, upon

21 (a) The adoption of an ordinance by the governing  
 22 body of the city or the parish governed jointly with  
 23 one or more cities under a plan of government as the  
 24 case may be, calling for such elections; of (b) the  
 25 presentation to such governing body of a petition signed  
 26 by qualified electors equal in number to five percent  
 27 of the qualified registered voters of the city or city-  
 28 parish, as the case may be, calling for such election.

29 If a majority of the legal votes cast in such election  
 30 are in favor of the adoption of the provisions of this  
 31 Article, then this Article and all the provisions thereof  
 32 shall thereafter permanently apply to and govern the  
 33 city or city-parish, as the case may be, in the same  
 34 manner and to the same extent as if said Article and all  
 35 its provisions had originally applied to such city or

1 city-parish. In such instance, all officers and  
 2 employees of the city or city-parish or any other sub-  
 3 division of the state, as the case may be, except those  
 4 coming within the provisions of Article\_\_\_, Section\_\_\_  
 5 of the Constitution of the State of Louisiana, who have  
 6 acquired civil service status under a civil service  
 7 system established by legislative act, city charter,  
 8 or otherwise, shall retain such status and shall there-  
 9 after be subject to and governed by the provisions of  
 10 this Article and the rules and regulations adopted under  
 11 the authority of this Article. If a majority of the  
 12 legal votes cast in such election are against the  
 13 adoption of the provisions of this Article, the question  
 14 of adopting the provisions of this Article shall not be  
 15 resubmitted to the voters of the city or the city-parish,  
 16 as the case may be, within one year thereafter.

17  
 18 Source: La. Const. Art. XIV, §15, ¶(U) (1921).

19  
 20 Comment: Retains provision for any city or any city and  
 21 parish governed jointly, with a population exceeding  
 22 10,000, but not exceeding 100,000, to accept the pro-  
 23 visions of this Article by a majority vote of its qual-  
 24 ified electors. This election shall be called upon  
 25 the initiative of the city or city-parish governing

26 authority or upon presentation to such governing authority  
27 of a petition signed by five percent of the qualified  
28 voters of the city or city-parish. If a majority of the  
29 votes cast in the referendum oppose the acceptance of this  
30 Article, the question shall not be resubmitted to the  
31 city or city-parish within one year thereafter.

32  
33 Section 17. City, Parish Civil Service System;  
34 Creation by Legislature

35 Section 17. Nothing in this Article shall prevent

-24-

CC-318

1 the establishment by the legislature in one or more  
2 parishes of a civil service system applicable to any  
3 or all parish employees, including those hereinabove  
4 exempted from the state classified service, or the  
5 establishment by the legislature of a civil service  
6 system in one or more cities having a population of less  
7 than one hundred thousand, in any manner that may now  
8 or hereafter be provided by law.

9  
10 Source: La. Const. Art. XIV, §15, ¶(6)(d) (1921).

11  
12 Comment: Retains authority of the legislature to establish  
13 a civil service system in any city or any parish having  
14 a population less than one hundred thousand.

-25-

CC-319

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Mr. Lennox

4 A PROPOSAL

5 To establish municipal fire and police civil service.

6 PROPOSED SECTIONS:

7 Article \_\_\_\_\_, Section 1. Municipal Fire and Police  
8 Civil Service

9 Section 1. There shall be a classified civil service  
10 for fire and police in municipalities which operate a  
11 regularly paid fire and police department and which have  
12 a population of not less than thirteen thousand nor more  
13 than one hundred thousand according to the latest regular  
14 federal census for which the official figures have been  
15 made public.

16 In cities where the population is greater than one  
17 hundred thousand a municipal fire and police civil  
18 service may be established by the appropriate governing  
19 authority.

20 The service shall embrace the positions of employment,  
21 the officers and employees of the municipal fire and  
22 police services.  
23

24 Section 2. Municipal Fire and Police Civil Service  
25 Boards

26 Section 2. (A) Composition. Where municipal fire and  
27 police civil service is established, it shall be  
28 governed by a municipal fire and police civil service  
29 board, composed of three members who shall serve without  
30 compensation.

31 (B) Selection. The presidents, of three private  
32 colleges or universities in or nearest to the municipal-  
33 ity, each shall nominate three persons, and from the  
34 three persons so nominated by each, the governing  
35 authority of the municipality shall appoint one to serve

-2-

CC-319

1 as a member of the board.

2  
3 Section 3. Board; Duties

4 Section 3. The duties of the board shall be to  
5 represent the public interest in matters of personnel  
6 administration in the fire and police services of the  
7 said municipal government. It shall exercise any and  
8 all power necessary to perform the duties and respon-  
9 sibilities prescribed by the legislature.

10  
11 Source: La. Const. Art. XIV, §15.1 ¶1, 6, 7 (1921).

12  
13 Comment:

CC-320

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Anthony M. Rachal

4 A PROPOSAL

5 To establish a city civil service.

6 PROPOSED SECTIONS:

7 Article \_\_\_\_\_, Section 3. City Civil Service Commission

8 Section 3. (A) Membership. A city civil service com-  
9 mission is created for each city having a population ex-  
10 ceeding one hundred thousand. The city civil service  
11 commission shall be composed of five members, who are  
12 citizens and qualified electors of the city. Three mem-  
13 bers of the commission shall constitute a quorum. The  
14 five members shall serve overlapping terms of six years  
15 as hereinafter provided. The domicile of the commission  
16 shall be in the city which it serves.

17 (B) Nominations. In the city of New Orleans, the  
18 presidents of Tulane University of Louisiana, Loyola  
19 University of the South, Dillard University and Xavier  
20 University of Louisiana each shall nominate three  
21 persons, in the order of their preference, and from the  
22 three persons so nominated by each, the governing author-  
23 ity of the city shall appoint one to serve as a member

24 of the commission. One member shall be appointed by the  
25 governing authority of the city.

26 If for any reason nominations are not submitted to the  
27 governing authority of the city by any of the college  
28 presidents herein named within the time hereindesignated,  
29 the vacancy on the commission for the term or the unexpir-  
30 ed term resulting from such failure to nominate shall be  
31 filled by a majority vote of the other members of the  
32 city civil service commission.

33 In other cities subject to the provisions of this  
34 Article, three members of the commission shall be nom-  
35 inated by the presidents of any four universities mentioned

CC-320

1 in Section \_\_\_\_\_ and Section \_\_\_\_\_ in accordance with the  
2 procedure therein provided. Commissioners appointed by  
3 the governing authority of the city shall be appointed in  
4 accordance with the procedure specified in Section \_\_\_\_\_.

5 (C) Vacancies. Vacancies for any cause shall be  
6 filled by appointment in accordance with the procedure  
7 for the original appointment and from the same source.  
8 Within thirty days after a vacancy occurs, the univer-  
9 sity president concerned shall submit the required  
10 nominations. Within thirty days thereafter, the govern-  
11 ing authority of the city shall make the appointment.  
12 Should the governing authority of the city fail to  
13 appoint within the thirty days, the nominee whose name  
14 is first on the register shall automatically become a  
15 member of the commission.

16 (D) Transition. Each person who, on the effective  
17 date of this constitution, was nominated by Tulane Univer-  
18 sity, Loyola University, or the governing authority of the  
19 city on the New Orleans City Civil Service Commission  
20 shall continue in such position for the remainder of the  
21 term to which he was appointed. Within thirty days after  
22 the effective date of this constitution, the presidents  
23 of Dillard University and Xavier University shall submit  
24 three names to the governing authority of the city for  
25 appointment to the commission as herein provided. The  
26 initial term of the appointee nominated by Xavier shall  
27 be three years. The initial term of the appointee nominat-  
28 ed by Dillard shall be five years.

29 In other cities, each member serving on the effective  
30 date of this constitution, shall continue in office until  
31 the expiration of his term. The governing authorities  
32 of such cities shall provide for the appointment of  
33 additional members and for the implementation of this  
34 Section in accordance with provisions hereof.

35 (E) Removal. A member of the city civil service

CC-320

1 commission may be removed by the city governing authority  
2 for just cause after a copy of the charges against him  
3 has been served on him and an opportunity for a public  
4 hearing thereon is afforded by his appointing authority.

5 (F) Compensation. Members of the commission each  
6 shall be paid fifty dollars for each day devoted to the  
7 work of the commission but not more than four thousand  
8 dollars in any year.

9  
10 Source: La. Const. Art. XIV, §15 (D), (E), (K) (1921).

11  
12 Comment: Paragraph (A) establishes a civil service commission  
13 in cities having a population exceeding 100,000 rather  
14 than the present 250,000. Increases the membership of  
15 the city civil service commission from three to five mem-  
16 bers. Retains existing six-year overlapping terms.

17 Paragraph (B) requires the governing authority of the  
18 city of New Orleans to select one commissioner from each  
19 of four lists submitted by four university presidents.  
20 Adds Dillard and Xavier to the current nominating univer-  
21 sities, Tulane and Loyola. Retains one member directly  
22 appointed by the governing authority of New Orleans.

23 Requires that other cities subject to this provision  
24 constitute civil service commissions in the same manner  
25 as New Orleans, except that the university nominees may  
26 be submitted by the presidents of any three of the follow-  
27 ing universities: Tulane, Loyola, Dillard, Louisiana  
28 State University, Xavier, Louisiana College, and  
29 Centenary.

30 Paragraph (C) retains the requirement that vacancies  
31 be filled in accordance with procedures governing the  
32 original appointment and from the same source. Requires  
33 that university presidents submit nominees within 30  
34 days after a vacancy occurs and that the city governing  
35 authority make the appointment within 30 days thereafter.

CC-320

1 Retains the requirement that the first name appearing on  
2 a list of university nominees shall become a member if  
3 the city governing authority fails to appoint within the  
4 specified time.

5 Paragraph (D) provides that on the effective date of  
6 this constitution, members of the New Orleans City Civil  
7 Service Commission, nominated by Tulane, Loyola, or the  
8 city governing authority, shall complete their respective  
9 terms. Requires the presidents of Dillard and Xavier to  
10 submit three nominees to the city governing authority  
11 within 30 days after the effective date of this con-  
12 stitution. Provides initial terms of three years

13 for the Xavier nominee and five years for the Dillard  
14 employee.

15 Provides that members serving in other cities shall  
16 complete their respective terms. Requires the governing  
17 authorities of such cities to provide for the appointment  
18 of additional members in accordance with the provisions  
19 of this section.

20 Paragraph (E) retains the existing constitutional  
21 provision that a commissioner may be removed for cause  
22 after being given a copy of the charges against him and  
23 an opportunity for a public hearing by the governing  
24 authority. The new provision inserts the word "just"  
25 before "cause".

26 Paragraph (F) retains the \$50 per diem for members  
27 and increases the maximum annual per diem compensation  
28 from \$2,000 to \$4,000.

CC-1216

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Delegate Lennox

4

5

A PROPOSAL

6

7 Making provisions for human resources by providing for  
8 municipal fire and police civil service.

9 Be it adopted by the Constitutional Convention of Louisiana  
10 of 1973:

11

12 ARTICLE VII. HUMAN RESOURCES

13 Section 1. Municipal Fire and Police Civil Service

14 Section 1. (A) The legislature may provide for a

15 classified civil service for fire and police employees in  
16 municipalities which operate a regularly paid fire and  
17 police department.

18 The service shall embrace the positions of employment,  
19 the officers and employees of the municipal fire and police  
20 department, subject first to the prior approval of the governing  
21 authority of the town or municipality involved and otherwise  
22 subject to any general law enacted by the legislature.

# IV. Selected Correspondence and Miscellaneous Documents

## A. Selected Correspondence

### Consumer Protection Center

TELEPHONE 344-8505  
AREA CODE 504

109 RIVERSIDE MALL  
BATON ROUGE, LOUISIANA 70801

April 4, 1973

Dear Mrs. LeBlanc:

Enclosed is our testimony presented to the Subcommittee on Public Welfare last week. Please let us know if we can provide any other information or any assistance to you.

Thank you again for allowing consumers this opportunity.

Sincerely,  
Roberta Madden  
Director

TESTIMONY BY GLENN DUCOTE FOR THE CONSUMER PROTECTION CENTER  
before the Subcommittee on Public Welfare of the Constitutional  
Convention's Committee on Education and Welfare - March 29, 1973

Thank you for providing this opportunity for consumer representatives to testify before this subcommittee. I am Glenn Ducote, representing the Baton Rouge Consumer Protection Center. I serve on its Policy Advisory Committee and was involved in helping to found this consumer agency last June. Roberta Madden, director of the Consumer Protection Center, was to be here today, but she had to be out of town. I thank her for her assistance in preparation of these remarks.

Louisiana consumers want a constitution that protects the consumer--the average man or woman whose role in the marketplace is as a buyer, not a seller or producer of goods and services. Often it is forgotten that people are "consumers" of government services, too. Consumers are voters.

Everyone seems to agree that Louisiana's old constitution is a bad bargain. This body has a great opportunity to give consumers their money's worth in a new state constitution. We don't mean more for our money; in this case, "Less is more." The new Louisiana constitution will provide us with many years of service if it is a brief and simple document. A durable new state constitution will not be the kind of "laundry list" we now have. We strongly recommend that the new document be unencumbered with any detailed provisions--whether pro-consumer or otherwise. Therefore our recommendations will deal with principles rather than specifics. We have four basic suggestions.

- 2 -

1. First, we would like to offer for your consideration a model consumer provision in Montana's recently passed state

constitution. It is only two sentences, and I would like to pass it on to you--the full text of it. It is Article XIII, Section 2: "The legislature shall provide for an office of consumer counsel which shall have the duty of representing consumer interests in hearings before the public service commission or any other successor agency. The legislature shall provide for the funding of the office of consumer counsel by a special tax on the net income or gross revenues of regulated companies." This Montana provision requires a state office to represent consumers at hearings before the Public Service Commission. Utility companies would be taxed to support the office. In the case of Louisiana, this function could ideally be served by an attorney within the new Governor's Office of Consumer Protection. This attorney should represent consumer interests before all state commissions, boards, and agencies as issues arise.

2. Our second suggestion concerns the makeup of the numerous state boards, agencies, and commissions. Regulatory agencies--such as insurance boards, pharmacy, cosmetology, radio and TV repair, and morticians--are generally controlled by those within the profession being regulated. Of course, experts in each field are needed--but so are consumers. We urge that the new constitution not deal with each such board but simply require that all such agencies have at least 51 percent consumer membership so that the consumers of these regulated service professions will be protected.

- 3 -

As an example of what our present lack of consumer representation can mean to consumers, consider the recent action of the Louisiana Milk Commission. This body raised milk prices to a new fixed-price minimum of 67 cents per half-gallon--which is about eight cents higher than the national average, and as much as 15 cents higher than the average price in many states. The Louisiana Milk Commission--by law--is stacked with dairy interests. Four of its six members are producers or dairy owners. Of the other two, one member was recently chosen "Cattleman of the Year"! Consumers feel that this commission was less than objective and they believe their interests were ignored in the recent price increase.

3. It has been reported that consideration is being given to including in the new constitution a prohibition against class actions. Class actions are a valuable tool of consumer protection and we feel there should be no prohibition--frankly no statement--in the constitution relative to class action. Since this relates to the judiciary rather than your responsibility, I will say no more on this matter at this time.

4. Finally, we would like to ask your favorable consideration of a clause guaranteeing equal protection in the marketplace in the new constitution. The Consumer Protection Center has received numerous complaints from women who have been denied credit simply because they are women and for no other reason. Existing laws back up merchants and lenders who discriminate against women. We urge that discrimination in the marketplace for any reason--race, sex, creed, or any other--be specifically

- 4 -

prohibited in this constitution. The Consumer Protection Center's experience in this area was the basis for a resolution by members of the Louisiana Consumers' League at its last annual meeting. The League went on record as strongly opposed to sex discrimination in the granting of credit to consumers. The Consumer Protection Center has found evidence that this kind of discrimination is widespread and we urge you to help put an end to it in Louisiana.

The Consumer Protection Center is prepared to work closely with this subcommittee or any other committee of the Constitutional Convention for fair treatment for all Louisiana consumers. Its director, Roberta Madden, and its staff welcome an opportunity to share any statistical or other information from its files which may be helpful to this body in its work. We look forward to future contacts with you.

Thank you very much.

In the first instance, it is my feeling that the policy should be broad enough in scope to guarantee an education for all of our young people on the Elementary and Secondary levels. You naturally run into the problems of "freedom of choice", coupled with State aid. I personally feel that a well staffed, well funded Board for Secondary and Elementary Education should be provided for as a Constitutional Board. At this particular time it would be my opinion that this Board should be independent of one that would deal with Higher Education since the vastness of our public education system, coupled with the thrust of programs for Career Education incorporated in the Secondary and Elementary levels are certainly complex enough to justify a Single Board only for this element of education.

It would be my thinking that a combination of an elective and appointive membership would guarantee both public participation and educational expertise. I would also favor an appointive Superintendent to be the Chief Administrative officer of the Board.

Enough flexibility of verbage should be allowed so that both the Board and the Legislature can make contemporary changes of curriculum and general policy without an amendment of the document.

Regarding the financing of Education, I no longer see any reason for dedicated revenues in the Constitution. While this will meet with strong opposition from the "Old Guard" it is my feeling that in recent years education has become of sufficient importance to this State that it will be funded from the general fund on a priority basis. This should include the elimination of deduction of tax measures for teacher's pay. Again, I feel that the profession of teaching has gained such stature with citizens and elected officials alike, that their pay scale and the method of funding their pay scale will be handled governmentally by appropriations from the general fund. The single greatest hindrance to effectual use of revenues of the State of Louisiana is the fact that of one billion dollars only three hundred fifty million dollars is subject to appropriations free of dedication. This not only destroys flexibility in use of revenues but prohibits the proper funding of programs in keeping with changing times and changing needs.

\* Underlining added by the Coordinator of Research for your convenience.

SENATE  
STATE OF LOUISIANA

Page 3

In this same area, coupled with general policy, the problem of partially funding private education with public funds must be faced. I am of the belief that when a competent certified Secondary system can complement to some extent, the public system at a savings generally of tax dollars in the field of education, consideration should be given to such funding. Naturally, if it will cost the State forty million to obtain fifty million dollars in private school relief, it is bad government and bad economics, but when the State for a figure of ten to twenty million dollars can save an expenditure of fifty to sixty million dollars, exclusive of capital outlay, certainly this avenue of "freedom of choice" should be explored. However, in no event should the future of a true public school system be jeopardized since it is the backbone of the future of this State. Its importance is magnified even more so with the proposed incorporation of Career Education which hopefully will transform the "Academic Vegetable" into a useful and purposeful student who will contribute to the economy of the State as a skilled worker in our labor market should he not enter Higher Education. In summary, financing of education is the responsibility of the Legislature and should be left to the Legislature free of dedication, free of restrictions so that that sovereign body can accept its responsibility and discharge it without constant appeals for amendments and the complexities of a restricted Constitution.

The foundation of the total school system rests upon the teaching profession. It is therefore imperative to build into the document some safeguard that will give them a feeling of security as well as guaranteed excellence in the profession itself. Needless to say, the Board and the Legislature should have controls over the credentials of the teacher to certify as to his ability to be a part of the system. However, job security must be removed from politicalization and while many condemn tenure and while tenure may or may not be long in the Constitution I believe some thought should be given to making certain that the tenure laws of this State are given full support, if not in the Constitution,

[421]



GAR G. MOUTON, JR.  
State Senator

Post Office Drawer Z  
Lafayette Louisiana 70501  
Phone (318) 234-8371

COMMITTEES  
Education, Health and Welfare,  
Chairman  
Judiciary B  
Senate and Governmental Affairs  
Intergovernmental Relations  
Committee

April 11, 1973

Mr. Norman E. Carmouche  
Research Coordinator for the  
Subcommittee on Secondary  
and Elementary Education  
Constitutional Convention  
of 1973  
State Capitol  
Baton Rouge, Louisiana 70804

Dear Mr. Carmouche:

My deepest apologies for not having been able to appear personally before your committee, but unfortunately illness would not permit my attending the meeting on the day scheduled.

In reviewing the problem of education in the Constitution, I feel there are three basic areas of concern: (1) the public policy of Louisiana towards its obligation to educating the youth of the State, (2) what portion of funding of public education should be tied down by dedicated revenues in the Constitution, and (3) what guaranty should be given to the teaching profession regarding their rules in Secondary and Elementary Education.

All three questions posed are many sided and you will naturally find conflicting views and philosophies.

It is my personal belief that the document itself should set out in the simplest and most direct language the rights under all three of these categories leaving broad statutory revision in the hands of the Legislature and a Board of Education.

atleast by the Constitutional provisions that to amend, alter or eliminate tenure would require a two-thirds vote of the elected membership of both Houses.

Without adequate pay, sound retirement, and professional security, the public school system cannot hope to attract and retain in Louisiana competent and dedicated professional teachers.

I will be most happy at any future time at your convenience to discuss many of the propositions submitted by me to the Convention and I wish you well in a most difficult and most important undertaking.

With warmest regards and best wishes, I am,

Very truly yours,

*Edgar G. Mouton, Jr.*  
EDGAR G. MOUTON, JR.

EGM,JR:mac

dance with productivity and programs of duplication and mediocrity be eliminated and establish in their place programs of excellence since the system of education is for our young people and our young people have not been well and truly served with this dual system.

I respectfully request that full consideration be given to a true Single Board concept that deals solely with all Higher Education as a single entity and with a single program of soundness and excellence.

Any consideration to this concept will be greatly appreciated by myself and by the many individuals in Louisiana who feel as I do.

With warmest regards and best wishes, I am,

Very truly yours,

EDGAR G. MOUTON, JR.

EGM,JR:mac

cc: Mr. Jim Baronet  
Mr. Bob Hamm  
Mr. Jim Bradshaw



SENATE  
STATE OF LOUISIANA

EDGAR G. MOUTON, JR.  
State Senator  
District 23  
Parish of Lafayette

Post Office Drawer Z  
Lafayette, Louisiana 70501  
Phone (318) 234-8371

COMMITTEES  
Education, Health and Welfare,  
Chairman  
Judiciary 8  
Senate and Governmental Affairs  
Intergovernmental Relations  
Committee

April 13, 1973

Mr. Norman E. Carmouche  
Research Coordinator for the  
Subcommittee on Secondary  
and Elementary Education  
Constitutional Convention  
of 1973  
State Capitol Building  
Baton Rouge, Louisiana 70804

Dear Mr. Carmouche:

I have recently read where the State Board, the L. S. U. Board of Supervisors and the Coordinating Council is recommending a compromise on a Single Board for Higher Education which seems to keep in existence the L. S. U. Board over that system and the State Board over all other Universities.

I am firmly convinced that one of the major contributions to the difficulties in Higher Education in Louisiana has been the dual system which has resulted in an inequitable distribution of appropriations over the years and has not provided for our young people a single University of academic excellence in our State. I would strongly urge that the Committee look beyond tradition and personalities and place Higher Education under the supervision of one Single Board of appointive and elected members that will establish programs and recommend appropriations for all Universities equally. There is little doubt in my mind that if the present proposal is accepted within a very short span of years one or the other of the Advisory Boards will gain supremacy with the Board of Regents and will insure inequities in Higher Education for years to come. Either we change the

Page 2

system or we don't. It is senseless to be hypocritical and to mislead the public with a compromise that is no compromise whatsoever. This Convention has the only opportunity it will ever have to provide for a sound single system of education and should look beyond political expediency and pressures and either submit to the public a real change or leave matters as they are with no change at all.

I recognize completely the pressures and the difficulties in this particular area. However, my concern is not for the prestige of the State Board or the L.S.U. Board of Supervisors or for the Council. My concern is not for the tradition behind each University and the programs it has established. My concern is for the future and the future should dictate that every University in this State be re-evaluated, be funded in accor-

Louisiana Troopers' Association

DIAL (318) 738-5487  
DRAWER AO  
KINDER LOUISIANA 70648



BRUCE LAFARGUE, PRESIDENT RAY RIBODEAUX, VICE PRESIDENT CLIFF MADSEN, SECRETARY GEORGE WAGNER, TREASURER

April 13, 1973

Mr. Gordon Flory  
P. O. Box 3477  
Baton Rouge, La. 70821

Dear Mr. Flory:

In 1971, the Louisiana Troopers' Association, which represents 90% of all uniformed state police personnel, requested that Civil Service consider eliminating point preferences in promotional exams presently given to veterans and graduates of various training schools.

Your attention to this matter (Constitutional Convention) would be greatly appreciated by the Louisiana Troopers' Association.

If we can be of help to you in the future.

Sincerely,

*Bruce LaFarge*  
Sgt. Bruce LaFarge  
L.T.A. President

BL:ch



STATE OF LOUISIANA  
EDWARD A. MCCORMICK  
SECRETARY TREASURER  
SCHOOL EMPLOYEES RETIREMENT SYSTEM  
BATON ROUGE 70801

150 THIRD SUITE 2

April 18, 1973

Mr. Norman E. Carmouche, Chairman  
Subcommittee on Elementary-Secondary Education  
Post Office Box 217  
Napoleonville, Louisiana 70390

Dear Mr. Carmouche:

The attached is a suggested constitutional provision to provide for retirement



of aged and incapacitated employees of the State Public School System. This problem was discussed when I appeared before the committee on April 3, 1973. This is submitted as an addendum to the report given on that date.

Your and the committee's consideration of the attached with a view to recommending its inclusion in the new constitution will certainly be appreciated.

Sincerely yours,

*E. A. McCormick*  
Edward A. McCormick  
Secretary - Treasurer

ma  
enclosure

copies - Mr. Aertker, Chairman  
Committee on Education & Welfare  
Members of Subcommittee on  
Elementary-Secondary Education

ARTICLE XII, Section 23

§ 23. Retirement funds; teachers; school employees

Section 23. The Legislature shall provide for a retirement fund for aged and incapacitated teachers in the State Public Schools. The Legislature shall also provide for a retirement fund for aged and incapacitated employees engaged as school bus drivers, janitors, custodians, maintenance employees and those engaged in non-teaching positions.

The rights to and equities in benefits provided at eligibility for retirement for members of retirement systems provided by law, or by the retirement systems, 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.

April 23, 1973

# 7  
Educ.

for the sources of local school funds which the several school boards may now levy by vote of the boards or subject to approval by the people.

6. That you will support fair and equitable treatment of public education in any action which the Constitutional Convention may take relative to the dedication of state revenues.
7. That you support the election of the state superintendent of public education by vote of the people.
8. In the event the office of state superintendent of education should be made an appointive rather than an elective office, with the appointment being made by an elected state board of education, there should be a simultaneous reduction in the terms of the members of the state board of education to four years in order that the board might be frequently accountable to the people for the conduct of its affairs and for the actions of its appointed superintendent of education.
9. That you support a constitutional requirement that the state superintendent of education meet a minimum standard as to his educational and professional qualifications.
10. That you maintain in the constitution provisions which authorize the distribution of state school funds under a minimum foundation program which will assure that every parish or city school system can offer an adequate education to its school children.
11. That you maintain a constitutional requirement that a retirement fund or system be maintained for teachers and school employees.
12. That you give, in your deliberations as a member of the Constitutional Convention, full weight and consideration to the studies, reports, and recommendations previously made by the Louisiana Constitutional Revision Commission.
13. That you consult with officers of the Louisiana Teachers' Association relative to constitutional issues affecting public education.

# 6  
Educ



*Isa High School*

R. J. Bruchez, Principal  
Box 38  
Phone 318-779-2534  
Iota, Louisiana 70543

April 24, 1973

The Composite Committee of the Louisiana Constitutional Convention

Favorable consideration of the three issues considered hereafter is requested by the committee.

The superintendent of education continue to be an elective officer.

This is particularly true in this period of turmoil when all you need do to get centerstage billing is to devise another gimmick to discredit our American system of government. To eliminate the elective nature of this office shall be to admit that the elective process is taboo. This could, in time, develop the spirit of anarchy and nihilism which would destroy all sense of community and common purpose in our state. I want no part of that tragedy and I am certain you likewise want no part of it. With the enlightened electorate we have today along with the tremendous advances in our communicative processes the effectiveness of the elective system has been greatly enhanced. It could possibly be made a bit more effective by requiring all elected administrative officials present an annual progress report, by means of electronic news media, on his campaign commitments. The foregoing are personal feelings to which I have subscribed all of my adult life. However, more importantly do I repeat them today when although people are not looking for us educators with guns they are certainly shooting down public education every way possible. But that is not surprising when you consider that public education forms a very large and stationary target for the disgruntled taxpayer and the jaundiced social critics. The educator thus draws the mainstream of abuse from the frustrated anger characteristic of a confused and irritable era. Therefore, we in education need a full time elected official who can separate himself from the appointive process and devote all of his energy, all of his knowledge, and all of his enthusiasm to this very important job to the satisfaction of the electorate alone.

Since I am in the twilight of my service in education the following is prompted by no personal advantage of my own. First; all teacher welfare provisions now included in our state constitution and statutes should be continued and safeguarded in future

TO: Composite Committee, CC 73  
FROM: Gene Alcock, President Jeff Davis LTA Unit  
W. F. Whitford, Political Action Chairman, Jeff Davis LTA Unit, P.A.C. Chairman 7th District, Committee Member STATE L.T.A.  
Committee Members,

We respectfully request that the following issues concerning public education be considered:

1. That you maintain in the constitution of Louisiana the requirement that a public school be established for the education of the school children.
2. That you maintain in the constitution provisions which prohibit the use of public funds to any private or sectarian school.
3. That you maintain in the constitution provisions for the creation and election of parish or city school boards to supervise the normal school system.
4. That you maintain in the constitution provisions which creates an elected state board of education with such powers to supervise the public school system as may be prescribed by the Legislature, subject to the restrictions that the state shall not control the business affairs of the school boards nor the selection or removal of officers and directors.
5. That you maintain authorization in the constitution



*Iota High School*

R. J. Bruchez, Principal  
Box 38  
Phone 316-779-2534  
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May 1, 1973

provisions. This is imperative to insure the stability and dedication which shall be of primary importance to the survival of an educational system to meet the present and future demands of our society.

Second, but equally as important, we should all recognize that during the past 50 years that our present constitution has been developing we have grown from the social order of the frontier into a modern, urban, industrial, technical state, but our schools, in terms of support, remain frontier with all the attendant problems. The old plantation/sharecropper system is simply inadequate. We know that part of the voter resistance, through rejection of school bond issues, stems from the fact that tax sources are being tapped to the limit. The severance tax, long the mainstay of our education system, simply cannot be depended upon much longer. It is therefore imperative that provisions be constitutionally provided to insure that the recurring needs of a sound educational system are met. I realize that money alone will not solve our school problem; yet none of our school problems can be solved without money. This is also another reason we need an elective superintendent of education whose sole advocacy and principal concern would be the cause of education and <sup>not</sup> filtered through other elected persons.

*Respectfully submitted by  
R. J. Bruchez*

Oak Grove, La.  
April 26, 1973

71 7  
4 2  
Educ

Mrs. Norma Duncan  
Research Director  
Constitutional Convention  
Law School Building, LSU  
Baton Rouge, Louisiana 70803

Dear Mrs. Duncan:

I want to thank you personally and on behalf of the LSU Alumni Federation for allowing us to appear before your Composite Committee and explain the plan we are proposing for the governance of higher education. Some have said it is self-serving, proposed by the Alumni Federation, for the LSU Board of Supervisors. I firmly believe that those on the education committee who have spent much time studying all proposals, realize that this plan provides the checks and balances which are necessary, will save the tax payers money, and is good for all of higher education.

There was a need for someone or some group to take the time, expense and effort to do the research and gather the facts on the best type of governing bodies being used in education throughout the United States today. The Executive Committee of the Alumni Federation appointed a committee of honorable citizens who would give untiringly of their time and service, just as you are doing in your important job as a delegate now. They interviewed hundreds of people from within Louisiana and from other states and, in fact, reviewed the program of all fifty states. The recommendations of the Committee to the Convention represents the best thinking and best ideas in use in states with similar situations. I honestly believe that this program is as good for Southern University or Louisiana Tech as it is for LSU.

We sincerely hope that the delegates will consider the proposal carefully, taking advantage of all the research that has been done on this very complex problem. We are proud of the recommendations because they are all supported with research data and with transcripts and notes from people who made the recommendations. It strengthens what has been good about our system in the past and corrects some deficiencies. We know it is not perfect but believe it to be a move in the right direction and will appreciate your serious consideration and hopefully, your wholehearted support. If we can answer any questions or cover any part that is not completely clear to you, please feel free to contact me.

Sincerely yours,

*Ragan*  
Ragan  Nelson  
President  
LSU Alumni Federation

*Rec'd  
5/2/73*

Mr. Robert H. Aertker  
Chairman, Education and Welfare Subcommittee  
of the Louisiana State Constitutional  
Convention Committee

Dear Mr. Aertker:

The West Carroll Parish LSU alumni strongly recommend that the Louisiana education system be coordinated and administered so our state education system will be second to none in the nation.

We strongly recommend that the proposed LSU alumni plan for education be adopted.

The highlights of the LSU alumni plan for education are as follows:

1. A Board of Regents for post-secondary education, appointed by Governor, has constitutional responsibility and authority for state-wide planning and coordination, mission, role and scope of institutions, curricula and degree programs, and allocation of resources.
2. The LSU system to be governed by LSU Board of Supervisors, appointed by Governor. A constitutional body subject to planning authority of Regents.
3. The other post-secondary institutions to be governed by a Board of Trustees, appointed by Governor. A constitutional body subject to planning authority of Regents.
4. Career education governance to be prescribed by the legislature.
5. A State Board of Education, elected by people, a constitutional body to supervise and coordinate education at Grade 12 and below.

Yours truly,  
*Mika Kovac*  
Mika Kovac  
L.S.U. Alumnus  
St. 4, Oak Grove, La. 71263

*Mrs. Stewart*

JEFFERSON PARISH, LOUISIANA  
MAY 27, 1973

The Honorable Members  
Committee on Education and Welfare  
Constitutional Convention of 1973  
State Capitol  
Baton Rouge, Louisiana 70804

Ladies and Gentlemen:

I sincerely appreciate the opportunity afforded me to express my thoughts to you concerning civil service in Louisiana, and its place in the Constitution. Earlier, in response to an invitation, Mr. Charles P. Roth, Jr. and I attended a meeting of the Sub-committee on Public Welfare and submitted our thoughts and ideas.

At this time, I would like to reaffirm our ideas previously expressed; but, more importantly, I will address my remarks to more specific areas of concern which I understand may be uppermost in the minds of your committee members.

First, "What is the place of civil service in the Constitution?":  
The basic purpose of the Constitution, certainly, is to provide for and to preserve the fundamental rights of all citizens of the State. A basic, fundamental right of every citizen is to receive efficient, impartial, non-partisan government service at all levels of government. Impartial, non-partisan service can be guaranteed only if the employees hired to render the services are hired on the basis of merit, without regard to political affiliation, race, religion, sex, or other considerations not validly related to the services to be per-

formed. Impartial, non-partisan service can be rendered only by employees whose career tenure is not dependent upon political allegiance.

There should be retained in the Constitution all of the basic provisions for a merit system of employment that are now contained in Section 15, Article XIV of the present Constitution which has so effectively preserved the State civil service system for the last twenty years. In addition, it should be provided that all sub-divisions of the State must provide within their respective "home rule" jurisdictions merit systems of employment patterned after the structure and organization of the State Civil Service system.

- 2 -

Second, "Who should administer the merit system of employment?" and more specifically, "Should there be employer representation on the Civil Service Commission?"

If it is conceded that the objective of "civil service" is to provide impartial, efficient, non-partisan services for the citizenry at large (and I have never heard it said that this is not the objective), then it goes without saying that those who administer the system must have a primary interest in the general public welfare -- they must be as free as possible of selfish interest motivations. No matter how well intentioned, no matter how conscientious an employee may be, he is still inescapably an employee with an inherent personal interest in compensation, hours of work, and all other emoluments of employment. He is also a day-to-day associate of the employee community, subject to all of the pressures of group membership to conform to the wishes of the group. His thoughts and desires are bound to be those of the employee rather than the employer, and the "employer" in this case are the citizens who provide the money to pay him to render the services they desire.

The Civil Service Commissions as currently constituted in the Constitution have operated impartial merit systems of employment for more than twenty years without any serious criticism. In fact, the only criticisms that have been leveled against these bodies is that they have been "unresponsive" -- but, when analysed, it is clear that the term "unresponsive" means resistance to the wishes of partisan or selfish interest groups who make demands which are frequently not compatible with the best interests of the citizenry at large.

The present structure concept of Civil Service Commissions should be retained and, if it is possible, should be strengthened to provide even greater non-partisan objectivity.

Third, "Should Firefighting and Police personnel be segregated from other classes of public employees?" "Should they be placed in a special, statewide civil service system?"

Firefighting and Police personnel, quite understandably, argue that they are engaged in unique occupations, different from other classes of government workers, and that they are members of a homogeneous group with functions, duties, and responsibilities that are similar throughout the State, regardless of the level of

- 3 -

government in which they work. These statements are true (if we mean those persons who fight fires and arrest people, as opposed to supportive personnel). However, the very same statements are true of Truck Drivers, Nurses, Stenographers, Water Purification Operators, Engineers, Laborers, and infinitum. What we must recognize and remember is that, while individual differences do clearly exist, all government workers have the same, identical, basic function and responsibility -- to furnish essential services to the citizenry. Certainly, each of these individual groups has its own unique needs and problems; but, in providing solutions for these individual problems, the needs and problems of all others must be considered -- priorities must be determined and proper balance must be maintained. The broad, objective consideration needed can only be provided by an administrative body -- a civil service commission -- with responsibility to give consideration to all government services in the context of the relationship of the individual to the group as a whole.

To the extent that the present Municipal Fire and Police Civil Service system provides a limited merit system of employment in some areas of government where merit systems do not otherwise exist, I think it should be retained and even strengthened to make it more comparable to the "general" civil service system. However, it is my strong feeling that in those subdivisions of government having Home Rule authority, the Fire and Police classes of work should be included in the general, "Home Rule" civil service system of each individual jurisdiction. Decisions regarding structure of departments, class levels of work, hours of work, pay, fringe benefits, and other similar considerations are clearly dependent upon available resources and needs in

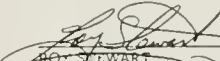
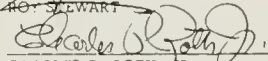
various local areas -- the same conditions do not prevail throughout all areas of the State.

There is one further thought which I think worthy of pursuit. If the idea of a special civil service system for fire and police personnel throughout the State is pursued, what are its limitations? Will the State Police be included? Will various Levee Board, Dock Board, and Port Authority police and fire personnel be included? Will Sheriff's Deputies in all parishes be included? If there are no limitations, should there be? If there are limitations, how can they be justified?

- 4 -

It is unfortunate that Mr. Charles P. Roth, Jr. was unable to attend your committee meeting today. However, he joins me in the thoughts expressed above and we jointly and respectfully re-urge your committee not only to retain constitutional civil service in its present basic form, but to expand it to serve equally all citizens of our State. Also joining us in these representations to you is the Chairman of the Jefferson Parish Personnel Board, Mr. Philip S. DeAmo.

Sincerely,

  
ROY STEWART  
  
CHARLES F. ROTH, JR.

RS/CPR/alv



LOUISIANA PTA  
P. O. Box 2950  
Baton Rouge, La.


August 23, 1973

Mrs. Audrey LeBlanc  
Research Coordinator  
CC/73  
Education and Welfare Committee  
P.O. Box 44473, Capitol Station  
Baton Rouge, Louisiana 70804

Dear Audrey:

You will recall my appearance before the Education and Welfare Committee of the Constitutional Convention at one of your meetings in the LTA building. At that time, I left with you copies of the State PTA platform through 1971-72. Here are recent resolutions from the April, 1973 convention which you should have for your files in connection with the PTA's concerns about education.

Kindest personal regards,

  
William E. Noonan, Jr.  
State Legislative Chairman

WEN:dwd

Enclosures



ALLEN R BARES  
DISTRICT 44

STATE OF LOUISIANA  
HOUSE OF REPRESENTATIVES  
BATON ROUGE

Phone Office 234 5023  
Phone Home 222 7899  
P. O. BOX 2400  
LAFAYETTE, LA. 70501

COMMITTEES  
EDUCATION  
COMMERCE

To: Constitutional Convention 1973

I have comments on two particular areas of the Constitution which I would like to make to your committee.

I.  
THE LEGISLATURE AND POWERS

The constitution should establish broad powers and duties for the legislature as well as for the Executive and Judiciary. If the legislature is to take its place in Louisiana Government as an equal partner, the constitution and statutes must permit it to do so. In my short tenure in office, I observe that the legislature is almost completely at the mercy of the Governor. When we meet once a year in Baton Rouge, practically no one knows for sure "Whats-up" except for a privileged few in the Governor's Office and a few legislators known as the "Governor's Floor Leaders". The major legislation is prepared and sponsored by the Governor and without his prior blessing and consent it becomes almost impossible to proceed. Although the current legislature exhibited a bit of "Independence" by making some "Surface Changes", we are still stifled by the system and schedule of events. The real test of an efficient legislature should be the quality not quantity of legislation that is passed

Page 2

each year. Very few important pieces of legislation introduced and passed in the 1972 session were prepared and adequately studied by "Legislators". cursory hearings were given to each with little time for preparation, research and questioning being given to the committee hearing the question.

RECOMMENDATION: I urge the convention to consider the following:

(1) establish an annual sixty (60) day session of the legislature unlimited as to subject matter, with options available to the legislature to extend sessions by vote of both Houses, or to choose non-concurrent days.

(2) Provide adequate compensation, expenses and staff to the legislature in order to permit more flexibility and mobility.

(3) Provide for a system of pre-filing of bills and an organization session to permit pre-filing of bills and assignments to committees so that committees can schedule hearings prior to the regular session.

II.  
EDUCATION

Your committee on Education and Welfare is considering various recommendations for changes to the Governing boards on education. Without enumerating all that you already know about the present structure of the State Board of Education,

Page 3

the LSU Board of Supervisors and the Coordinating Council for Higher Education, I suggest to you that what I have heard and read about those recommendations for change being made to your committee by LSU, the Council and some members of the State Board are not really changes but rather a continuation

of the same old system. I have even heard that they would recommend additional Boards. Personally, I cannot conceive of acceptance of a document by a majority of the people of this State which would not only make no changes in the structure of the governing Boards of Education, but which would create additional Boards. A subcommittee of the Education Committee recently tentatively approved such a plan.

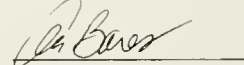
RECOMMENDATION: Any meaningful plan of Education should create at the very least "One State Board of Education for Higher Education" and another Board for Elementary, Secondary, Vocational-Technical and Career Education Centers. I personally prefer abolishing all present boards and creating "One Board for all of Education". Education cost the citizens of our State approximately 38% to 40% of the total State Budget. Competition for the Education Dollar is immense and one way to save and be more efficient is by consolidation.

I recognize that those members of the Education Governing Bodies are not anxious to lose their jobs and position which they may have labored long and hard for, however, that's the price we must all pay for progress.

Page 4

The only objection I have heard to the above proposal is by LSU and supporters of LSU. They seem to feel that somehow this consolidation will adversely affect the LSU System. My answer to that objection is that any worthwhile program should stand the test of an examination and those not worthwhile or needed will fall. I believe the LSU System will stand the test, but I also believe that every student supported by Louisiana Taxpayers should receive equal treatment under the law, and the best and only way to assure us that that happens is to place the responsibility where it can be traced, and that is to One Board of Education.

Respectfully submitted



TO CONSTITUTIONAL CONVENTION DELEGATES  
FOR  
THE GREAT STATE OF LOUISIANA

I would like to see some form of the following legislation be adopted by your committee and become a permanent part of our new constitution for the well-being and prosperity of our children the citizens of tomorrow.

We need legislation introduced in the new constitution which would grant parents the right to have complete control and custody over all their children until they reach age eighteen.

We need legislation introduced which would hold our local school boards responsible for any and all programs and textbooks brought into the parish, especially the programs which are funded by the Federal Government. We need someone accountable to

us locally for the results of such programs as the drug education, sex education, and career education.

We need legislation which would ban the teaching of ecology, secular humanism, witchcraft, and any behavioral changing techniques such as sensitivity training.

We need legislation to prevent teachers and councilors from being permitted to administer drugs to our children. Drugs such as Ritalin are being used to control behavior, improve memory, and change personality.

We need legislation to preserve our democratic form of government. We need to keep all our officials elected, where as they will remain accountable to the voters. This specifically applies to the superintendent of education's office. I also prefer our present form of legislature which consists of two houses, senate and representatives all who are elected.

We need legislation to restore the death penalty

for certain crimes in our state, we also need a law against abortion in the state. I object to having any form of the Equal Rights Amendment and property tax equalization becoming a permanent part of our new constitution.

In closing I want to remind you of the Master Plan for Education which is on the drawing boards of every state in the Union. The basic issue is Federal control versus local control. These Master Plans are usually set up when enough sentiment has been secured to have a new State Constitution. This is a clever way to get what cannot be gotten by the way of the ballot box. The Master Plans are all alike, they call for an appointed Education Commissioner or an appointed State Board of Education with total power. This we do not want or need.

Let's adopt a constitution which will place our Great State of Louisiana free from Federal control and a sovereign beacon to all.

Neil W. Duhon  
Route 2, Box 146  
Lake Charles, La. 70601

## B. Miscellaneous Documents



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 P. O. BOX 17740 A BATON ROUGE LOUISIANA 70803  
TELEPHONE 389 5014

July 19, 1973

E. J. MENRI  
Chairman  
L. RMA M. LUNGAN  
Secretary

TO: Mrs. Audrey LeBlanc

FROM: Gail S. Sandle

RE: Introduction of bills during regular sessions and extra sessions of the legislature for the State of Louisiana on the "Right to Work" law since 1952 to date.

The attached chart indicates Senate and House bills introduced since 1952 to date during the regular sessions and extra sessions of the legislature on the "Right to Work" law for the State of Louisiana. Also indicated are titles of the bills introduced and the action taken on the introduction of the bills by the legislature.

INTRODUCTION OF BILLS DURING REGULAR SESSION  
OF LEGISLATURE FOR THE YEAR 1952 ON  
"RIGHT TO WORK" LAW

NO. BILL	TITLE OF BILL INTRODUCED	ACTION TAKEN ON BILLS INTRODUCED BY LEGISLATURE ON "RIGHT TO WORK" LAW
H-1219	An act to amend and reenact Sections 215 and 331 of Title 23 of the Louisiana Revised Statutes of 1950, relative to employment of boys between 16 and 18, girls under 18, prohibited hours, maximum work week, and application of provisions.	On June 1, read first time by title; June 2, read second time by title and referred to the Committee on Labor and Capital; June 19, reported unfavorably; June 20, withdrawn from files of the House.
H-50	An act to create Sections 881 et. seq. as Part IV of Chapter 8 of Title 23 of the Louisiana Revised Statutes to interpret and effectuate public policy in employment in accordance with the enunciation of such policy in Section 882 of said Chapter 8 insofar as it is to apply the principles thereof to employees of the state of subordinate jurisdiction of the state.	May 12, read first time by title; May 14, read second time by title and referred to the Committee on Labor and Capital.
H-649	An act to prohibit any department of the state from hiring any employee who is not a legal resident of the state, who having reached his or her majority is not a registered voter in the State of Louisiana; providing certain exceptions; and repealing all laws or parts of law in conflict herewith; and fixing penalty for violation of this act.	May 27, read first time by title; May 28, read second time by title and referred to the Committee on Judiciary, Section B.
H-1053	An act to repeal Section 331 of Chapter 3 of Sub-Part C of Title 23 of the Louisiana Revised Statutes of 1950, relative to maximum hours for women in certain occupations.	June 1, read first time by title; June 2, read second time by title and referred to the Committee on Labor and Capital; June 12, reported favorably; June 16, read by title, ordered engrossed and passed to its third reading; June 19, returned to the calendar subject to call.

INTRODUCTION OF BILLS DURING REGULAR SESSION  
OF LEGISLATURE FOR THE YEAR 1952 ON  
"RIGHT TO WORK" LAW

1-A

NO. BILL	TITLE OF BILL INTRODUCED	ACTION TAKEN ON BILLS INTRODUCED BY LEGISLATURE ON "RIGHT TO WORK" LAW
H-675	An act to amend and reenact Section 2 of Act No. 284 of 1950, entitled "An Act to Declare the Policy of Preventing Subversive Activities by Public Employees".	May 27, read first time by title; May 28, read second time by title and referred to the Committee on Judiciary, Section B; June 16, reported favorably; June 22, read by title, ordered engrossed and passed to its third reading; June 24, read third time in full, roll called on final passage, yeas-69, nays-0, finally passed, title adopted, ordered to Senate; July 9, received from Senate, with amendments, roll call, yeas-69, nays-0, amendments concurred in, enrolled, signed by the speaker of the house, and lieutenant governor and president of the senate and taken to governor for executive approval.
	The following are a list of Senate and House bills included in the index on the above subjects referred to, but eliminated in the House calendar:  S-256            S-361            S-292 S-226            S-294            S-136 H-5                S-291	



SENATE AND HOUSE BILLS INTRODUCED ON  
 "RIGHT TO WORK" LAW SINCE 1954  
 TO DATE FOR THE STATE OF LOUISIANA

No. (s) Bill	Year	Action Taken On Bills Introduced by Legislature on "Right-To-Work" Law
S-127	1954	Approved by the Governor, July 2, 1954. All laws or parts of laws in conflict or inconsistent herewith be, and the same are, hereby repealed.
H-255	1956	July 10, Notice Senate adopted Conference Committee report.
H-250	1956	Act 1956, No. 250, repealed Sections 881-888 of Title 23 of the Louisiana Revised Statutes of 1950.
H-1512	1956	Joint resolution proposing an amendment to Article XIX of the Constitution for the State of Louisiana to add a new section to be designated as Section 20 relative to the right to work. June 5, read first time by title; June 7, read first time in full and referred to Committee on Labor and Industry.
S-8, and S-7	1958	Unavailable in the Louisiana House Calendar of 21st Regular Session. Included in Calendar's index only.
H-465; and S-258	1968	Joint resolution proposing an amendment to the Bill of Rights, being Section 2 of Article 1 of the Constitution of Louisiana, to add thereto a provision that the freedom of and freedom for employment shall not be denied to any person in the State of Louisiana on account of membership or non-membership in any labor union or labor organization, and to provide that all contracts in abnegation of such right shall be null, void, and unenforceable. June 21, withdrawn from the files of the House.

SENATE AND HOUSE BILLS INTRODUCED ON  
 "RIGHT TO WORK" LAW SINCE 1954  
 TO DATE FOR THE STATE OF LOUISIANA

No. (s) Bill	Year	Action Taken on Bills Introduced by Legislature on "Right-To-Work" Law
SCR-38	1969	<p>A Concurrent Resolution to request the Attorney General, the District Attorney for East Baton Rouge Parish and the district attorneys for any other parishes that may be involved, to thoroughly investigate the recent report of the legislative auditor of apparent misconduct on the part of certain employees in the Department of Labor and to take any appropriate action such investigation indicates.</p> <p>June 10, by a vote of 71 yeas and 3 nays, indefinitely postponed.</p>
S-125; and S-126	1960	<p>S-125-A joint resolution proposing an amendment to Article XIX of the Constitution of Louisiana to add a new section thereto, to be designated as Section 27 thereof, relative to the right to work. June 8, 1960. Reported unfavorably. R.S. withdrawn from the files of the Senate. S-126 - An act to declare the public policy of Louisiana with respect to membership or non-membership in labor organizations as affecting the right to work; to declare unlawful certain acts, conduct, agreements, understanding, practices or combinations which are contrary to public policy. June 8, 1960. Reported without action. R.S. withdrawn from the files of the Senate.</p>
S-108; S-240; H-257; H-556; and H-614	1966	<p>S-108 - An Act to declare the public policy of the state with respect to collective bargaining contracts with labor organizations relating to wages, hours or conditions of employment of public employees; to render null and void any such contracts entered into after the effective date of this Act; to declare the public policy of the state with respect to recognition by any official or group of officials of labor organizations as the bargaining agent for any group of public employees; to declare the public policy of the state against strikes or organized work stoppages by public employees against the state or against the governing authority of any parish, municipality or other public subdivision of the state and to provide the effect of participation by any employee in such strikes or organized work stoppages; to declare the public policy</p>

SENATE AND HOUSE BILLS INTRODUCED ON  
 "RIGHT TO WORK" LAW SINCE 1954  
 TO DATE FOR THE STATE OF LOUISIANA

2-B

No. (s) Bill	Year	Action Taken on Bills Introduced by Legislature on "Right-To-Work" law
H-257	1966	<p>of the state that no person shall be denied public employment by reason of membership or non-membership in a labor organization; and to stipulate that the provisions of this Act shall not impair existing rights of public employees to present grievances individually or through a representative that does not claim the right to strike; to define the term "labor organization" as used in the Act, and otherwise to provide with respect to such subject. June 9 - Reported unfavorably. Rules suspended. Withdrawn from the files of the Senate. S-240 - To amend and re-enact Section 215 of Title 23 of the Louisiana Revised Statutes of 1950, relating to the hours of work for minors under seventeen years of age, and to repeal all laws or parts of laws in conflict herewith. Senate: Read in full and finally passed. Yeas 31, nays 0. Title read and adopted and Bill ordered to the House. House: July 1 - Read third time in full, roll called on final passage, yeas 97, nays 3. Finally passed, title adopted, ordered to Senate. Senate: July 6 - Enrolled, signed in open session and without delay by the Lieutenant Governor and President of the Senate, Speaker of the House, and sent to the Governor for Executive approval. House: July 6 - Read, signed by the Speaker of the House in open session and without delay. H-614. June 1 - Withdrawn from the files of the House. H-556 - May 18 - Read by title and referred to the Committee on Labor and Industry.</p>
H-257	1966	<p>An Act providing for collective bargaining rights of Parish and Municipal employees and the method of arbitration of disputes; declaring the public policy of the State and obliging Parish and Municipal authorities to bargain in good faith with their employees; providing for the selection of arbitrators, the conducting of the proceedings, the award of the arbitrators and the enforcement thereof. May 10 - Read by title and referred to the Committee on Municipal-Parochial Affairs.</p>

SENATE AND HOUSE BILLS INTRODUCED ON  
 "RIGHT TO WORK" LAW SINCE 1954  
 TO DATE FOR THE STATE OF LOUISIANA

No. (s) Bill	Year	Action Taken on Bills Introduced by Legislature on "Right-To-Work" Law
H-2	1967	<p>An Act to amend Chapter 8 of Title 23 of the Louisiana Revised Statutes of 1950, to add thereto a new part, to be designated as Part III-A thereof and containing R.S. 23:880.1 through R.S. 23:880.15, both inclusive, to create the Labor-Management Commission of Inquiry; to provide with respect to its composition, selection and other matters relating to the organization and functioning thereof; to fix the powers, duties and functions of said Commission in connection with the investigation and finding of facts relating to violations or possible violations of criminal laws of the State of Louisiana or of the United States arising out of or in connection with matters in the field of labor-management relations, including the exercise of the subpoena power; to authorize the commission to hold executive and public hearings; to provide with respect to the rights, privileges and duties of witnesses; to define certain misdemeanors and fix penalties therefor; to provide with respect to contempt committed before the commission or in connection with its process; to require cooperation with the commission by all public officials, boards, commissions, departments and agencies of the state and all political subdivisions thereof. Amendments adopted. Bill was read in full, as amended. Mr. Johnston moved the final passage of the Bill.</p>
H-1597	1970	<p>A Joint Resolution proposing an amendment to the Bill of Rights, Section 2 of Article I of the Constitution of Louisiana, to add thereto a provision that the freedom of and freedom for employment shall not be denied to any person in the State of Louisiana on account of membership or non-membership in any labor union or labor organization, and that all contracts in abnegation or such right shall be null, void, and unenforceable. June 18, withdrawn from the files of the House.</p>
	1971	<p>No legislation introduced on "Right-to-Work" Law.</p>

SENATE AND HOUSE BILLS INTRODUCED ON  
 "RIGHT TO WORK" LAW SINCE 1954  
 TO DATE FOR THE STATE OF LOUISIANA

No. (s) Bill	Year	Action Taken on Bills Introduced by Legislature on "Right-to-Work" Law
S-240; and S-241	1972	To repeal Section 880.1 through 880.18, both inclusive, of Title 23 of the Louisiana Revised Statutes of 1950, relative to the Labor-Management Commission of Inquiry to abolish said commission. July 4, Rules suspended. Enrolled, signed in open session and without delay by the Lieutenant Governor and President of the Senate, Speaker of the House, and sent to the Governor for Executive approval. To repeal Sections 861 through 876, both inclusive, of Title 23 of the Louisiana Revised Statutes of 1950, relative to the Louisiana Labor Mediation Board to abolish said board. July 4, Rules suspended. Enrolled, signed in open session and without delay by the Lieutenant Governor and President of the Senate, Speaker of the House, and sent to the Governor for Executive Approval. Read, signed by the Speaker of the House in open session without delay.
	1973	No new legislation introduced on "Right-to-Work" Law to date.



June 19, 1973

MEMORANDUM

E L HENRY  
Chairman  
NORMA M DUNCAN  
Director of Research

TO: Audrey LeBlanc  
FROM: Gail S. Sandle  
RE: How the word "appropriate" has been interpreted by the courts as it relates to minorities serving on Boards of Higher and Elementary Education

Introductory Statement

In view of research as it concerns itself with the courts' interpretation of the word "appropriate" in its relation to minorities serving on boards of higher and elementary education, we find that several federal court decisions have held that the mandate of Brown v. Board of Education, 347 U.S. 483 (1954) applies not only to the integration of students in the public schools, but also to the integration of faculties, within both a single school and a school system, and of administrators within a system.

Attacking the constitutional validity of this matter, the issue to be determined is whether or not the courts have found it feasible to have an appropriate number of minorities serving on boards of education. There are numerous opinions indicating that schools need not be found guilty of intentional racial discrimination before being subject to a constitutional duty to take affirmative action to relieve the racial imbalance. In Porcelli v. Titus, 302 F. Supp. 726 (D.N.J. 1969), the principal issue

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raised by the complaint was the constitutional limitation on the power of a state agency to consider color in the selection and promotion of its employees. The district court in New Jersey dismissed the complaint and the Court of Appeals for the Third Circuit affirmed per curiam. In this particular case, it was clear that racial imbalance did exist, and that it was the existence of the imbalance, not the manner in which it came about, which was constitutionally impermissible.

Sources: Porcelli v. Titus, 302 F. Supp. 726, (D.N.J.1969), 431 F.2d 1254 (3d Cir. 1970). On May 4, 1971, the Supreme Court denied certiorari. 39 U.S.L.W. 3486 (U.S. May 4, 1971). 49 N.C.L. Rev. 769-770 (1971).

Exploring further into this area, there is ample psychological data to indicate that black students dealing with only whites in positions of authority tend to identify all whites with authority. The result of this identification process is a serious psychological impairment for the black child. And as a result it could be argued that through this impairment could lose confidence in his race in general as well as in himself. Viewing the problem from this standpoint-of-view, it becomes evident that the focus must

be on the equal protection of the students, not the boards of education and administrators. It is this emphasis that was recognized in Kemp v. Beasley and Barksdale v. Springfield School Committee.

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Sources: See, H. Bond, The Education of the Negro in the American Social Order (1966); Kemp v. Beasley, 389 F. 2d 178 (8th Cir. 1968); Barksdale v. Springfield School Committee, 237 F. Supp. 543 (D.Mass.), vacated and remanded on other grounds, 348 F. 2d 261 (1st Cir. 1965).

A number of studies have been made of the economic and social status of school board members and their basic social outlook. In general these surveys have shown that members of school boards are drawn almost entirely from the upper economic business and professional classes. Rarely are members of minority groups, or lower income groups, chosen to serve on boards of higher and elementary education. From this factor, we find that it has been argued increasingly that an absolute rule mandating equal treatment will not in fact lead to racial equality.

Source: See, Tenth Yearbook of the John Dewey Society (Benjamin, ed.), Democracy in the Administration of Higher Education, ch. IX (1950).

Summary Statement

Once a court assumes that proportional racial involvement in a selected activity, such as the one discussed concerning an appropriate number of minorities serving on boards of education, both on the higher and elementary levels, is the appropriate constitutional standard, then scrutinizing a particular scheme becomes a simple exercise in head counting. If the scheme results

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in integration or the proportional inclusion of all racial minorities that have suffered discrimination, it will be permitted if it accentuates racial imbalance it will be struck down as discriminatory; and as a result, there is no similar standard of measurement available for a constitutional standard in proportionate racial involvement.



E L HENRY  
Chairman  
NORMA M DUNCAN  
Director of Research

August 23, 1973

TO: Delegate Grier  
FROM: Research Staff

Included in this memorandum is the data requested regarding

state income and expenditure for education and information regarding proposed accountability program for education.

ACCOUNTABILITY COMPONENTS  
of  
CAREER EDUCATION

1. Per capita personal income in Louisiana, based on 1972 figures, was three thousand five hundred twenty-eight dollars (\$3,528.00). Louisiana ranked forty-seventh among the states (see appendix).

Source: Survey of Current Business  
U.S. Department of Commerce  
Bureau of Economic Analysis  
April, 1973

2. Per capita expenditure for education in Louisiana, based upon 1970-71 figures, was two hundred thirty-seven dollars and seventy-seven cents (237.77). Louisiana ranked forty-fourth among the states (see appendix).

Source: Government Finances in 1970-71  
U.S. Department of Commerce  
Social and Economic Statistics Administration  
Bureau of the Census

3. Expenditures and percentage of the total budget of the state for education for the last four fiscal years are as follows:

Fiscal Year 1972-73		
Total Expenditures	\$682,327,260	36.981%
State Funds	\$579,162,691	42.587%

Fiscal Year 1971-72		
Total Expenditures	\$680,960,906	36.905%
State Funds	\$579,368,033	42.131%

Fiscal Year 1970-71		
Total Expenditures	\$559,786,933	32.827%
State Funds	\$483,560,954	37.797%

Fiscal Year 1969-70		
Total Expenditures	\$553,766,084	33.594%
State Funds	\$463,888,473	38.337%

It should be noted that this tabulation does not include total funds received by Educational State Agencies from National Defense Education Act (NDEA); Educational Opportunity Grants (EOG); College Work Study; Louisiana Higher Education Assistance Commission or aid to students from other sources. Also excluded are Capital Outlay, Federal Grants and Contract Funds and private donations of people, corporations, and foundations to educational institutions.

Source: State of Louisiana  
Executive Budget  
and  
Data compiled by  
State of Louisiana  
Department of Education  
Bureau of the Budgets

4. Accountability is built into all federally funded educational program. A program of accountability is being incorporated into the Career Education Program. It should be noted that (1) accountability was not written into the state wide plan by the legislature and (2) this proposed accountability program is not being imposed upon the individual regions or parishes. However, this effort is significant in that (according to our source) all regions have accepted the program and the Department of Education views Career Education as including all of education. (see appendix for brief outline of the accountability components of career education).

Source: Ms. Katherine Finley, Deputy Associate  
Superintendent and Director of the Office  
of Planning and Evaluation  
Department of Education  
State of Louisiana

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NOTES

The following attachments to the memo were omitted as they can be found at U.S. Dept. of Commerce, Survey of Current Business, p.16; and U.S. Dept. of Commerce, Governmental Finances in 1970-71, p.46.

Accountability requires that it is not enough to know how the money was spent, but also if it were spent wisely. The following questions are designed to help answer that question:

Were the programs designed for the betterment of students?

Did school systems achieve the maximum benefit of funds?

Is there evidence of success in these programs? If so, what are the instruments of measurement?

The State Department of Education expects and requires that a system of accountability for the Career Education program be instituted. It will be required to cover the following fiscal and program components:

Curriculum Writing Teams

In-Service Training at the Elementary and Secondary level

In-Service Training at the College and University level

Teacher Competency Model

Communication Skills Development

Elementary and Secondary Program Development

Vocational-Technical Schools Allocations

The pre-evaluation accountability design on Career Education is attitudinal-based. It is designed to measure:

- Concept (What is Career Education?)

- Status (Where are you now?)

- Procedure (How will you get there?)

- Achievement (How will you know when you get there?)

- Attitude (What is your opinion of Career Education?)

STATEWIDE TESTING  
of  
CURRICULUM GUIDES

The following is proposed for the continuous, statewide testing of the academically-based, career-oriented curriculum guides.

Objectives:

To involve and inform all concerned of the academic and career needs of children and adults in the state of Louisiana.

To encourage self-monitoring; personally and professionally.

To develop a deep commitment to accountability, a sense of responsibility to ourselves and to our profession.

Organization:

Each of the Regional Advisory Councils will be responsible for the following:

- Insuring the involvement of parents in the assessment of the curriculum guides.

- Insuring the involvement of minority groups in the assessment of the curriculum guides.

- Reviewing, revising, and editing the curriculum guide for one discipline.

- Coordinating the Parish Advisory Councils, the Superintendents, their local school boards and staff.

- Submitting coordinated evaluation forms to the State Superintendent of Education via the Office of Planning and Evaluation.

PROPOSED CALENDAR FOR ACCOUNTABILITY  
of  
CAREER EDUCATION

May 17, 1973

Curriculum Development and Revision

	<ul style="list-style-type: none"> <li>- Appointment of steering committee: Joseph Davies, Chairman The remainder of the committee shall be as follows: Five other parish superintendents, one college dean of education, one counselor, one vocational-technical school director, one representative from business, and five State Department of Education staff members.</li> <li>- Selection of the Curriculum Writing Teams by the steering committee.</li> </ul>	November 15, 1973	<ul style="list-style-type: none"> <li>- First meeting of the Regional Advisory Council on Career Education to analyze and report on the pre-evaluation. Submit directly to the Office of Planning and Evaluation for the State Superintendent's attention.</li> <li>- Audit of pre-evaluation by Certified Program Auditors.</li> </ul>
	<ul style="list-style-type: none"> <li>- Appointment of forty-five teachers to write the curriculum guides for grades K-12.</li> <li>- Appointment of twenty-nine teachers to write the curriculum guides for the vocational education area.</li> <li>- Appointment of four teachers to write the curriculum guides for the special education area.</li> <li>- Endorsement of the existing committee previously assigned to the revision of Bulletin 741.</li> </ul>	December 5, 1973	<ul style="list-style-type: none"> <li>- Distribution of the interim evaluation designs to the State Department of Education staff.</li> <li>- Distribution of interim evaluation designs for Career Education to local school board members, parish superintendents, principals, teachers, guidance counselors, supervisors, vocational-technical school directors and instructional staff, students, parents labor-business-community members, and education professional leaders.</li> </ul>
June 1 - July 31, 1973	Curriculum Development and Revision	January 16, 1974	<ul style="list-style-type: none"> <li>- Second meeting of Parish Advisory Council on Career Education to coordinate the collection of the interim evaluation designs and send to the Data Processing Center.</li> </ul>
	<ul style="list-style-type: none"> <li>- Writing of the working draft of Louisiana's first academically-based, career-oriented curriculum guides.</li> <li>- Critiquing of the curriculum guides by professional groups.</li> <li>- First printing of one hundred fifty copies of each guide. Eleven parishes volunteered to print and mail one copy of the printed discipline to each parish superintendent, one copy to the Deans of the Colleges of Education, with the remainder to be sent to the Curriculum Guide Depository in the State Department of Education. The goal is to have one complete set of guides in each school of the state when school opens in September, 1973. Each parish superintendent is then responsible for printing, distributing, and implementing the guides.</li> </ul>	February 13, 1974	<ul style="list-style-type: none"> <li>- Second meeting of the Regional Advisory Council on Career Education to analyze and report on the interim evaluation designs. Submit directly to the Office of Planning and Evaluation for the State Superintendent attention.</li> <li>- Audit of interim evaluation by Certified Program Auditors.</li> </ul>
		February 21-22, 1974	<ul style="list-style-type: none"> <li>- State meeting of the eight regional liaison superintendents and curriculum chairmen in Baton Rouge with State Superintendent and his Advisory Council for interim evaluation and program audit for curriculum revision.</li> </ul>
August 6 & 7, 1973	Accountability for Curriculum Development and Revision	April 1, 1974	<ul style="list-style-type: none"> <li>- Distribution of post-evaluation designs for Career Education to local school board members, parish superintendents, principals, teachers, guidance counselors, supervisors, vocational-technical school directors and instructional staff, students, parents, labor-business-community members, and educational professional leaders.</li> <li>- Distribution of post-evaluation designs to the State Department of Education supervisory staff.</li> </ul>
	<ul style="list-style-type: none"> <li>- Presentation of working draft of Career Education Curriculum Guides, proposed system of accountability, and pre-evaluation designs to the Superintendents and Task Force Conference.</li> </ul>		
August 13, 1973	<ul style="list-style-type: none"> <li>- Presentation of working draft of Career Education Curriculum Guides, proposed system of accountability, and pre-evaluation designs to the participants of the Louisiana Educational Leadership Conference on Career Education.</li> </ul>	April 15 - June 1, 1974	Revision of Curriculum Guides.
August 15-22, 1973	<ul style="list-style-type: none"> <li>- Presentation of working draft of Career Education Curriculum Guides, proposed system of accountability, and pre-evaluation designs to the teachers of the In-Service Training Program.</li> <li>- Distribution of the Curriculum Guides to each Local School System Superintendent.</li> </ul>	May 1, 1974	<ul style="list-style-type: none"> <li>- Third meeting of Parish Advisory Council on Career Education to coordinate the collection of the post-evaluation designs and send to the Data Processing Center.</li> </ul>
		May 24, 1974	<ul style="list-style-type: none"> <li>- Third meeting of the Regional Advisory Council on Career Education to analyze and report on the post-evaluation designs. Submit directly to the Office of Planning and Evaluation for the State Superintendent attention.</li> </ul>
August 27, 1973	Accountability System for Career Education	May - July, 1974	<ul style="list-style-type: none"> <li>- Audit of post-evaluation designs by Certified Program Auditors.</li> <li>- Presentation of the results of the Accountability Program on Career Education to State Superintendent Louis J. Michot for approval.</li> <li>- Presentation of the results of the Accountability Program on Career Education to the State Legislature and to the Governor.</li> <li>- Presentation of the results of the Accountability Program on Career Education to the United States Office of Education.</li> </ul>
	<ul style="list-style-type: none"> <li>- Distribution of pre-evaluation accountability designs for Career Education to local school board members, parish superintendents, principals, teachers, guidance counselors, supervisors, vocational-technical school directors and instructional staff, students, parents, labor-business-community members, and educational professional leaders.</li> <li>- Implementation of academically-based, career-oriented curriculum in every local school system.</li> </ul>		
September 27, 1973	Accountability System for Career Education	August 20, 1974	Distribution of the Revised Curriculum Guides.
	<ul style="list-style-type: none"> <li>- First meeting of Parish Advisory Council on Career Education to coordinate the collection of the pre-evaluation designs and send to the Data Processing Center.</li> </ul>		



FUNDS DISTRIBUTED BY LOUISIANA STATE DEPARTMENT OF EDUCATION FOR NON-PUBLIC SCHOOLS AND  
 VALUE OF TEXTBOOKS, LIBRARY BOOKS AND SCHOOL SUPPLIES FOR NON-PUBLIC SCHOOLS - 1972-1973

	State School Lunch Program	Salary Adjustments for School Lunch Employees*	Transportation**	Value of Textbooks Library Books and School Supplies***	Total State Funds	Federal School Lunch
Alexandria Diocese	\$ 107,804.79	\$ 84,429.06	\$ 249,970.00	\$ 158,585.96	\$ 600,789.81	\$ 224,987.34
Baton Rouge Diocese	173,132.73	113,661.03	603,879.00	144,541.88	1,035,214.64	457,567.12
Lafayette Diocese	234,315.63	193,772.79	629,473.00	158,266.48	1,215,827.90	657,154.43
Orleans Archdiocese	662,767.38	417,477.16	1,208,732.00	569,359.00	2,858,335.54	1,337,301.44
Other Non-Public Schools	48,216.60	28,279.64			76,496.24	96,404.27
Total	<u>\$1,226,237.13</u>	<u>\$837,619.68</u>	<u>\$2,692,054.00</u>	<u>\$1,030,753.32</u>	<u>\$5,786,664.13</u>	<u>\$2,773,454.60</u>

\*Act 2 of 1966 and Act 713 of 1972.

\*\*Estimate based on percent of non-public school students of the total transported by the public parish and city school districts in each diocese multiplied by the total state allotment for the districts in the diocese.

\*\*\*Textbooks, Library Books and School Supplies are allotted to public parish and city school boards for distribution to non-public schools; no record is available in the State Office as to the breakdown into parochial and other private schools.

Source: Mr. Al Landry  
 Bureau of School Finance and Statistics  
 State Department of Education  
 Baton Rouge, Louisiana

CONSTITUTIONAL PROVISIONS FOR THE SELECTION OF STATE HIGHER EDUCATION AUTHORITIES:

Alabama	State university board, self-perpetuating; Alabama Polytechnic Institute, appointed by governor
Alaska	Appointed by governor
Arizona	Appointed by governor
Arkansas	----
California	Appointed by governor
Colorado	Appointed by governor
Connecticut	----
Delaware	----
Florida	----
Georgia	Appointed by governor
Hawaii	Appointed by governor
Idaho	----
Illinois	----
Indiana	----
Iowa	----
Kansas	----
Kentucky	----
Louisiana	State university board, appointed; state education board, elected
Maine	----
Maryland	----
Massachusetts	----
Michigan	Various boards for higher education, elected and appointed; community and junior college governing board, appointed by state education board
Minnesota	----
Mississippi	Appointed
Missouri	Appointed
Montana	Appointed
Nebraska	University regents, elected; normal schools board, appointed
Nevada	Elected
New Hampshire	----
New Jersey	----
New Mexico	Appointed
New York	----
North Carolina	----
North Dakota	----
Ohio	----
Oklahoma	Appointed
Oregon	----
Pennsylvania	----
Rhode Island	----
South Carolina	----
South Dakota	Appointed
Tennessee	----
Texas	----
Utah	----
Vermont	----
Virginia	----
Washington	----
West Virginia	----

Wisconsin ----  
Wyoming Appointed

METHODS OF SELECTING GOVERNING BODIES OF STATE EDUCATION SYSTEMS:

State	Elected By People	Appointed By Governor	Other
Alabama	*		
Alaska		*	
Arizona		*	
Arkansas		*	
California		*	
Colorado	*		
Connecticut		*	
Delaware		*	
Florida			Ex officio
Georgia		*	
Hawaii	*		
Idaho		*	
Illinois			No state board
Indiana		*	
Iowa		*	
Kansas	*		
Kentucky		*	
Louisiana	*		
Maine		*	
Maryland		*	
Massachusetts		*	
Michigan	*		
Minnesota		*	
Mississippi			Ex officio
Missouri		*	
Montana		*	
Nebraska	*		
Nevada	*		
New Hampshire		*	
New Jersey		*	
New Mexico	*		
New York	*		
North Carolina		*	
North Dakota		*	
Ohio	*		
Oklahoma		*	
Oregon		*	
Pennsylvania		*	
Rhode Island		*	
South Carolina			Elected by legislative delegations
South Dakota		*	
Tennessee		*	
Texas			
Utah			
Vermont		*	
Virginia		*	
Washington			Elected by school boards
West Virginia		*	
Wisconsin			No state board
Wyoming		*	

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METHODS OF SELECTING SUPERINTENDENT OF EDUCATION OR CHIEF STATE SCHOOL OFFICER:

State	Elected By People	Appointed By State Board	Appointed By Governor
Alabama			*
Alaska			*
Arizona	*		
Arkansas			*
California	*		
Colorado			*
Connecticut			*
Delaware			*
Florida	*		
Georgia	*		

Hawaii	*	*
Idaho	*	
Illinois	*	
Indiana	*	
Iowa		*
Kansas		*
Kentucky	*	
Louisiana	*	
Maine		*
Maryland		*
Massachusetts		*
Michigan		*
Minnesota		*
Mississippi	*	
Missouri		*
Montana	*	
Nebraska		*
Nevada		*
New Hampshire		*
New Jersey		*
New Mexico		*
New York		*
North Carolina	*	
North Dakota	*	
Ohio		*
Oklahoma	*	
Oregon	*	
Pennsylvania		*
Rhode Island		*
South Carolina	*	

STATE	CONSTITUTION PROHIBITS AID TO PRIVATE AND SECTARIAN SCHOOLS:
Massachusetts	Yes
Michigan	Sectarian <sup>6</sup>
Minnesota	Sectarian
Mississippi	Yes
Missouri	Sectarian <sup>7</sup>
Montana	Sectarian
Nebraska	Yes
Nevada	Sectarian
New Hampshire	Sectarian
New Jersey	Yes <sup>8</sup>
New Mexico	Yes
New York	Sectarian <sup>8</sup>
North Carolina	No
North Dakota	Sectarian
Ohio	Sectarian
Oklahoma	Sectarian
Oregon	Sectarian <sup>9</sup>
Pennsylvania	Sectarian <sup>10</sup>
Rhode Island	No <sup>11</sup>
South Carolina	Sectarian

<sup>6</sup>Prohibits public appropriation to a religious sect or seminary.

<sup>7</sup>Allows state distribution of federal funds that are provided to the state for the express purpose of allocation to nonpublic education.

<sup>8</sup>Allows the use of state funds for the transportation of children to and from any school.

<sup>9</sup>Allows the use of state credit for loans to construct buildings for higher education.

<sup>10</sup>Requires two-thirds vote of the general assembly to appropriate public funds for nonpublic education.

<sup>11</sup>Requires two-thirds vote of the general assembly to appropriate public funds for a private purpose.

State	Elected By People	Appointed By State Board	Appointed By Governor
South Dakota	*		
Tennessee			*
Texas		*	
Utah		*	
Vermont		*	
Virginia			*
Washington	*		
West Virginia		*	
Wisconsin	*		
Wyoming	*		

STATE	CONSTITUTION PROHIBITS AID TO PRIVATE AND SECTARIAN SCHOOLS:
South Dakota	Sectarian
Tennessee	Yes
Texas	Sectarian
Utah	Sectarian
Vermont	No
Virginia	Sectarian <sup>12</sup>
Washington	Sectarian
West Virginia	No
Wisconsin	Sectarian <sup>13</sup>
Wyoming	Yes

<sup>12</sup>Allows interstate educational agreements; allows appropriations to further the education of Virginia students in nonsectarian private schools (elementary, secondary, collegiate, or graduate); allows counties, towns, cities, and districts to aid nonsectarian technical, industrial, and manual schools; allows higher education loans to students in institutions whose primary purpose is to provide collegiate education, not religious training; allows assistance to such institutions in borrowing funds so long as the credit of Virginia is not pledged.

<sup>13</sup>Prohibits public appropriation to benefit religious societies or seminaries.

STATE CONSTITUTIONS PROHIBITING PUBLIC AID TO PRIVATE AND SECTARIAN SCHOOLS

STATE	CONSTITUTION PROHIBITS AID TO PRIVATE AND SECTARIAN SCHOOLS:
Alabama	Sectarian
Alaska	Yes
Arizona	Sectarian <sup>1</sup>
Arkansas	No
California	Yes
Colorado	Yes
Connecticut	No
Delaware	Yes
Florida	Yes
Georgia	Sectarian <sup>2</sup>
Hawaii	Yes
Idaho	Sectarian
Illinois	Sectarian <sup>3</sup>
Indiana	Sectarian
Iowa	No
Kansas	Sectarian

Kentucky	Yes <sup>4</sup>
Louisiana	Yes <sup>5</sup>
Maine	Yes
Maryland	No

- <sup>1</sup>Prohibits public appropriation to a religious institution.
- <sup>2</sup>Allows grants to citizens for educational purposes.
- <sup>3</sup>Prohibits public appropriation to a religious institution.
- <sup>4</sup>Prohibits appropriation of educational funds to other than public schools unless voters approve a tax for that purpose.
- <sup>5</sup>Allows state educational institutions to enter into interstate and intrastate agreements with public and private agencies and institutions; allows financial assistance to children attending private nonsectarian elementary and secondary schools. The latter section, however, has been invalidated by federal courts.

INCOME FROM RENT OR LEASE OF SCHOOL LANDS  
1972-1973

Parish School Board	Amount Received	Amount Charged in Support (\$07)
Acadia	\$ 84,637.55	\$ 42,318.78
Allen	0	0
Ascension	0	0
Assumption	123,040.15	61,520.07
Avozelles	24,499.20	12,249.60
Beauregard	3,190.00	1,595.00
Bienville	200.43	100.21
Bossier	1,043.40	521.70
Caddo	19,924.25	9,962.13
Calcasieu	20,552.63	10,276.31
Caldwell	16.56	8.28
Cameron	817,674.51	408,837.26
Catahoula	6,434.62	3,217.31
Claiborne	684.87	342.43
Concordia	18,284.37	9,142.18
OeSoto	1,204.10	602.05
East Baton Rouge	0	0

East Carroll	50,136.96	25,068.48
East Feliciana	545.00	272.50
Evangeline	11,240.72	5,620.36
Franklin	3,538.74	1,769.37
Grant	3,140.00	1,570.00
Iberia	157,836.99	78,918.50
Iberville	33,957.46	16,978.73
Jackson	1,013.58	506.79
Jefferson	33,386.72	16,693.36
Jefferson Davis	14,186.50	7,093.25
Lafayette	72,425.92	36,212.96
Lafourche	407,162.81	203,581.40
LaSalle	899.94	449.97
Lincoln	47.80	23.90
Livingston	0	0
Madison	7,783.85	3,891.93
Morehouse	3,223.50	1,611.75
Natchitoches	184,787.63	92,393.82
Orleans	670.04	335.02
Ouachita	36,875.93	18,437.96
Plaquemines	5,882.49	2,941.25
Pointe Coupee	1,447.72	723.86
Rapides	3,000.00*	1,500.00
Red River	1,327.09	663.54
Richland	13,992.40	6,996.20
Sabine	0	0
St. Bernard	1,013.66	506.83
St. Charles	9,656.30	4,828.15
St. Helena	0	0
St. James	226.11	113.05
St. John	1,406.11	703.05
St. Landry	1,469.89	734.95
St. Martin	183,283.37	91,641.69
St. Mary	583,052.98	291,526.49
St. Tammany	1.00	.50
Tangipahoa	0	0
Tensas	542.92	271.46
Terrebonne	327,085.71	163,542.86
Union	3,129.69	1,564.85
Vermilion	2,042,614.02	1,021,307.01
Vernon	0	0
Washington	0	0
Webster	438.38	219.19
West Baton Rouge	5,962.35	2,981.17
West Carroll	0	0
West Feliciana	150.00	75.00
Winn	0	0
City of Monroe	0	0
City of Bogalusa	0	0
<b>Total</b>	<b>\$5,329,928.92</b>	<b>\$2,664,964.46</b>

\* Estimate at end of 1st 30 school days - Annual Report not received.

### Welfare

No man or woman that I represent is against helping the old - the blind - the sick - or the young. We have demonstrated this through our giving to the United Givers campaign that we want to help people. We are leaders in this area. However, there are areas now in the welfare field we do object to and to which answers are needed. We object first to the use of the word "welfare". This should be changed to the word "work fair". If there is anything that enrages a man or woman who works and pays taxes it is to see a perfectly appearing able-bodied man or woman drawing money from the State for doing nothing. Running a close second to this is to see a perfectly young and healthy woman with 3 or 4 illegitimate babies drawing money for having illegitimate children. Running a close third is where there are husbands who refuse their responsibility of the children they sire; and the fourth thing to me is that the present system absolutely prevents people on welfare from working and punishes those who did work and are now on the old age assistance plan.

To solve these problem areas I have mentioned, I believe the rules need to be changed. For the able-bodied who are on welfare, and I don't believe there are many of these, but there are some, the State should either provide a job or find a job for him. If he is untrained then let's see to it that his is trained. In the end, if he refuses training or refuses a job, let's take him off the rolls. I believe the State of California has embarked on a program similar to this.

For the woman who has illegitimate children with no mate - Here again I think the State has to provide a way for her to change her life style either through a voluntary free operation to prevent future happenings, or furnish her with the necessary equipment and knowledge to prevent pregnancy, or through job training so that she can go to work with State nurseries to handle her children so they can get a decent start in life; or in the final analysis, let her work and earn at least as much as the State gives her. Today the rules almost prohibit her from working by deducting almost every thing she makes from her welfare check. This is

wrong and should be changed. Welfare today, under its rules, practically prohibits work, is resulting in a large number of children growing up never seeing a member of their family working. I think this is bad for America and our capitalistic system.

- 2 -

As for the husbands who hide when the welfare lady comes because to show himself will mean the check is cut off is ridiculous. If the husband has no job then let us provide one for him. If he is untrained, then let us train him. If none of these can be done, then let us overlook him. Every family needs a father - to have one who works is the ideal situation, but where he works for little or nothing and to eke out a living for his family he has to have welfare, it is wrong to make him hide when the "lady" comes by. The children are learning a fact of life - to deceive and this is bad. In this situation it is again reasonable to allow the father to work and bring home at least as much as the welfare check before the "lady" starts deducting. As a matter of fact, a ceiling ought to be put on a family - a realistic ceiling according to today's conditions and we should continue to give the minimum welfare but allow the parents to work to supplement their income to the realistic ceiling.

As for the old age assistance program, I think it is a disgrace that some folks who work some in their life and receive the minimum from Social Security, have this amount deducted from their old age check. If you've never worked you can draw the entire old age check, but if you did work some you are punished. I believe this is an injustice that should be corrected.

All in all, what I am saying is that under the present system we punish people on welfare who can work at small odd jobs with minimum wages. I believe work - the will to work - is necessary for our country to survive under the capitalistic system. I believe welfare as it is now administered is breaking down the will to work of some of our people, and this should be stopped. If we continue welfare in its present form, then we should allow people to work and earn while on welfare without cutting their checks from the "lady". Of course there should be a realistic maximum

We just can't afford to continue to hand out checks and expect nothing in return. At least under my thoughts the children will see their parents working and will want to work when they grow up, and when working they become taxpayers and the State will get back far more than it put in.

JRMcdowell  
3/28/73

### REMARKS OF

Hermann Moyses, Jr.

President, City National Bank, Baton Rouge

in behalf of

the LOUISIANA BANKERS ASSOCIATION

to the Subcommittee on the Public Welfare

of the Committee on Education and Welfare

State of Louisiana Constitutional Convention of 1973

Wednesday, March 28, 1973

Governor's Press Room

State Capitol

Baton Rouge, Louisiana

I am appearing in response to your invitation extended to the Louisiana Bankers Association, an organization that I served as president about five or six years ago, to present, in brief form, the general attitude of the banking industry towards the revision of our State constitution.

Before I get into my statement, let me say that I have not had the opportunity to attend any previous committee hearings, although I have attended many legislative hearings, and I am, therefore, presenting myself as a non-expert, but at least I am representing, I hope, the views of our bankers association.

The banks are governed primarily by Title 6 of the Revised Statute. There are a few references to the banks in Title 47, dealing with taxation. As an industry we rate little mention in the constitution and we would prefer to remain that way. We would prefer to be governed by the statutory law and the administrative law of the State rather than constitutional law. There are many changes taking place within our industry. As the economy changes, as communications change, as the areas that businesses cover change, our industry is finding needs for new methods and new authorities. National banks are finding their powers extended primarily through administrative interpretations. Washington has given the banks authorities and responsibilities which they have not had before. State banks in any given state are generally free to exercise these powers where no restrictive provisions exist. Because our industry is in a state of rapid change, we feel that we have progressed in serving our State and our communities in being able to change our functions within the framework of administrative and statutory law. We can be more flexible this way than if we were given privileges and restrictions in the constitution and then had to go back for amendments as our functions as financial institutions change. For example, at present there is a study which has been submitted to the Congress, advocating that banks should have statewide branching or the right of bank ownership throughout a state through multi-bank holding companies. This is a question which concerns the bankers of the State at present and which is governed by our statutory law. The present law restricts banks to branching in the parish in which they are domiciled and prohibits a multibank holding company. The Association itself is divided on the need for change, but the law still may be changed - but the change will come through the legislature. We think that this is better than having to change the provision by constitutional amendment.

The whole philosophy of our industry towards the new constitution is for simplification and elimination, not addition to the constitution. We believe that the recent history of constitutional amendments bears out the difficulty of creative action through amendments. The more there is in the constitution, the more amendments we are going to have proposed. The more amendments there are proposed, the less likely that any given amendment is going to pass and the harder, therefore, it will be to accomplish reform and needed changes through constitutional amendments.

We hope that the new constitution will be a simplified document, setting forth certain ground rules, certain fundamental protections for the general public and certain provisions for the general public welfare and not a detailed document attempting to write a new body of law. For example, taxation laws - I know these concern most of us. I hope that any needed tax reform is accomplished by legislative action and not through the constitution, because today's reforms become obsolete next year or in the next decade. The consumer field affects banking greatly. This area is in a rapid state of change, and because it is changing so rapidly, I would hate to see too many rules which are difficult to change set up in the constitution. I am afraid that we could ossify our status by incorporating detailed coverage in the constitution when next year we may want something different. Changes are more easily accomplished if a constitutional amendment is not required.

There is one specific area where we bankers and other members of the financial community are deeply concerned, and that is regarding the status of the State debt and the State bond issues. I would believe that the Federal constitution protects the status quo of any contract between the State and the bondholders on existing issues. However, for the benefit of the present and future issues it would be well to reiterate or to incorporate into the constitution the necessary language to recognize and to protect the status of our present indebtedness.

I hope that we can have a document that does not attempt to be all things to all people. I would be afraid that if we make a document too detailed to please too many people that we would also have to incorporate ideas into the constitution which would displease too many people, and so many of our bond issues or so many of our efforts to change, as, for example,

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the recent efforts at constitutional amendment, fall on points which people criticize rather than on positive features that are sometimes difficult to sell. We hope that the convention writes a simple, understandable document that deals with broad issues, broad areas and broad definitions and that you give us a document that we can support, so that we can give you our help when you go to the voters for their approval. If we end up with a document that is too long, too detailed, too difficult to comprehend, we would then be likely to see a repeat of the voter attitude in the recent elections on amendments. If we are asked to vote on too much, it will be easier to vote "no" and put up with what we have than to vote for something we know nothing about in the hope that it will be better than what we are already living with.

JAMES R. McDOWELL  
BATON ROUGE OIL AND CHEMICAL WORKERS UNION

#### LABOR AND THE STATE CONSTITUTION:

There should be nothing in the States constitution that hinders the working man or woman in their right to organize into a group to bargain for wages, hours and working conditions.

Why do I say this when there are many who clamor that Labor is too big - that it is stifling our economy, and, in effect, running the country. Well, I look at our economy. I look at our country and I see the things you see - the greatest country in the world with a humming business atmosphere which is getting better all the time.

What makes this? I think it is our system which includes the right of people to organize themselves into unions, federations, societies, or what have you - to see to it that each segment gets a fair shake from government, business, and the general economy.

From the beginning of history, common people were downtrodden, and it was not until the American Labor Movement began that a common man could rise to a position where he could feed, house, clothe, and educate his children. The right to speak out - to vote - to change jobs - the right to live as a real citizen was denied us until the labor movement got the working people together in a body and used its power and influence to turn the tides of history from one of oppression to one of acceptance.

No man or woman in this room comes from a more humble background than I, but through the efforts of the labor unions I have risen to the position today

as a - I think - respected member of society. There are millions like me in this country, and all of it came about because labor unions have the right to organize, to represent the people in matters pertaining to wages, hours, and working conditions.

- 2 -

If I had the right to place into the Louisiana constitution one thing pertaining to Labor Unions, all I would say is that "The people of this state have the guaranteed right to organize themselves into organizations for the purpose of free collective bargaining with their employers in all matters pertaining to wages, hours and working conditions." I know there are many other things which have to be added to guard against the working people being taken advantage of in this convention, but I will leave this to the AFL-CIO. They are far more knowledgeable in this area than I, and have far more resources than we have. We will leave these matters in their hands and pray for the best.

I do know this - In general, big business will not give a working man a fair shake unless that working man has a stick big enough to fight back with. If you want people - just plain people - to continue to get a fair shake from this state - then let us continue to have the right to organize ourselves into organizations with the right to bargain with management in a free atmosphere.

March 28, 1973

Statement by Dr. Homer L. Hitt, Chancellor, LSUNO, to the Composite Committee of the Constitutional Convention at New Orleans, Louisiana, April 19, 1973

I should like to publicly endorse and express support for the Louisiana State University organizational proposal for the governance of higher education in Louisiana. This plan was developed in a deliberate and careful manner by a responsible committee headed by Judge Hood of Lake Charles, after extensive hearings over a period of several weeks. Along with numerous interested individuals, I testified before this committee. The resulting plan is a carefully researched and thoroughly documented proposal which has much to be said in its favor.

Some of the advantages which have impressed me are as follows:

1. The LSU plan calls for the establishment of a Board of Regents, which would make the more basic and fundamental coordinating and planning decisions for all public institutions. Strict and knowledgeable coordination at the top is essential.

2. The plan provides for the continuation of the LSU Board of Supervisors as the governing board for the Louisiana State University System, which would remain intact. As to this provision, I would add that the LSU Board over a period of decades has demonstrated its commitment to higher education and its effectiveness in overseeing the emergence and the operation of a well-run, highly-regarded quality University System. The Board and the System have earned a vote of confidence from the state.

3. The LSU plan, while providing some important needed change in the governance of higher education, nevertheless is a relatively conservative proposal in that it continues tried and proven general arrangements, rather than resorting to drastic wholesale realignments and rearrangements as some other plans would require.

In summary, while I am of the opinion that no plan is a panacea for all the problems of higher education, I feel that all things considered the LSU plan offers the best hope.

Homer L. Hitt

The Alumni Association of Louisiana State University in New Orleans (LSUNO) agrees with the concept of making the proposed Constitution of Louisiana a <sup>short</sup> concise (and yet a complete) document. The support of public education, including public higher education, by the state of Louisiana is vital to the orderly management of state government and that support should be so stated in the Constitution.

Having <sup>said</sup> stated that the proposed Constitution of Louisiana should, at the same time, be concise and support public higher education, the Alumni Association of LSUNO recommends the following guidelines for consideration by the Constitutional Convention in their deliberations of the content of higher education in the proposed Constitution:

1. A Single Board of Regents should be established in the Constitution to guide and plan the course of higher education in Louisiana. This Board of Regents should be responsible for making policy for all institutions of higher learning in Louisiana, and formulating a master plan, both in capital and operating budget areas, to eliminate the duplication of efforts and resources which have plagued the state in the past.

- Plans pertaining to this compromise do not perpetuate the status quo since the status quo is not what the Constituents are called. It is imperative that it be changed.

The Board of Regents should not become involved in the day to day administration of college campuses, but instead should delegate that responsibility to the administrative heads of individual campus units.

Through its own determination, the Constitutional Convention should recommend the exact composition (in number) of the Board of Regents and whether the Board of Regents will be elective or appointive. However, equitable representation for all geographical areas of the state must be insured in whatever method of selection or election is taken.

→ and minority groups

2. The support of a fair and systematic allocation of funds on a formula basis should be included in the proposed Constitution.

While we do not wish that a particular formula be written into the Constitution, we do feel that the concept of a fair and uniform method of formula allocation needs to be included in the Constitution. The Constitution should stipulate that state funding for higher education be granted on the basis of a systematic formula with the appropriate state agencies handling the administrative duties subject to approval of the legislature.

The basis of the guidelines presented here are simple, and yet we feel that they are essential to the future success of higher education in Louisiana. They represent a change in the status quo, and this is necessary if colleges and universities are to be indeed coordinated and funded by the state on an equitable basis.

There have been many "plans" which have thus far been presented for inclusion in the document which will govern Louisiana in the future. Obviously, all plans cannot be incorporated into the Constitution although there is some merit in all. Our purpose in this presentation is to insure that the principles enumerated above be given the highest priority in the final document of the Constitution which will be voted upon by the citizens of Louisiana.

Respectfully submitted,

Wayne A. Collier  
President  
LSUNO Alumni Association

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First. The present system is not satisfactory. Louisiana has outgrown its present system and change is needed.

Second. A single board, both to govern and to plan all of education for the state, will be both unworkable and unsatisfactory. In my judgment, a single board cannot both govern effectively and plan effectively all education in this state. Instead, when the time pressures come, educational planning will, of necessity, be put aside in the interest of solving short-term problems dealing with the day-to-day matters involving institutions subject to the boards control. Hence, it is important to separate the planning and governing functions.

Finally. Probably as a recognition of the failure of single boards to do a good job of both governing and planning, the clear trend in recent years has been away from the concept of a single governing board to the concept of co-ordination and planning. Of the 19 states having single governing boards, 15 were established before 1945, most of them in states having slow growth and few colleges. In contrast, 28 states have co-ordinating boards, 25 of which were established between 1950 and 1970 in growing states having many colleges and universities. Therefore, it is clear that the wave of the future - the modern approach - is separation of the planning and governing functions of citizen boards that deal with education. The reason is, I believe, clear: the emphasis on education in the future must be on planning - how most wisely to spend the taxpayers' dollars.

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Divorcing planning from governance appears to be the best way to accomplish this objective, and I trust that the convention and the people of the state will adopt this approach when they structure the future governance of education for the important years ahead.

SOME PROBLEMS CONCERNING  
HIGHER EDUCATION IN LOUISIANA

by

Dr. Manuel P. Berri  
Professor of Mathematics, LSUNO  
and Chairman, State of Louisiana Ethnic Minorities  
Studies Task Force

There is an ancient chinese saying. "If you are planning for one year, plant rice; if you are planning for ten years, plant a tree; and if you are planning for one hundred years, plant education."

In this era of change for Louisiana, two directions present themselves as far as education is concerned, one for the worse and one for the better. I believe we are all aware of the enormous pressures to maintain the status quo in education particularly from some members of the old establishment political, philosophical, business, labor, professional. Many of these individuals owe their existence and prosperity to holding down the many citizens with right-ful aspirations particularly among lower socio-economic

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However, I do think it is important to keep in mind several very crucial facts.

workers, white, black, and other minority groups. These useless parasites of our state institutions have managed to entrench themselves in our public institutions most noteworthy being our educational institutions. Of all our public agencies, it seems to me that the educational institutions must become an example to our citizens and particularly to our children which reflects a genuine concern to be responsive to the needs of our state and to improve the quality of life of its citizens.

Unfortunately in these institutions we have administrators and board members who are primarily interested in satiating their uncontrolled craving for power and money without regard to satisfying the current and future needs of the people of this state. Evidence exists to demonstrate that

- 2 -

in some of our state educational institutions that incompetent or corrupt administrators and staff members occupy key, policy-making positions and they use their positions to intimidate, harass and bribe their subordinates to accomplish their objectives. Thus one of the accomplishments of a new constitution is to reform or change the present system of education which will purge from our educational system of those who have so shamefully or criminally discredited our educational system. In their place must be appointed professionally competent and respected administrators and staff members with unquestionable integrity who will put service to the people above their own personal ambitions in the conduct of their offices.

Another reflection of our inadequate and inferior educational system is the preserving of two university systems, one for Whites and one for Blacks. I think it is an insult to the intelligence of the people of our state to say that such a distinction is necessary in order to preserve the identity of one race or the other, in order to serve one race or the other.

Indeed it seems to me that an obvious solution is a plan to integrate various institutions so that for example in the LSU System, a truly representative appointment of Competent Black professionals in various capacities (administrators, staff members, and faculty) particularly in decision-making and policy-making positions. Admittedly, many problems are present in effective integration.

- 3 -

However, unless we face these problems and try to solve them in a genuinely equitable manner, we are just compounding our present problems, and the same old way of doing education will continue in our state to the detriment of current and future generations of citizens.

How then do we transform our educational system as an agency genuinely working for the betterment of our citizens?

I will now dwell on a few suggestions and recommendations.

1. The establishment of a Coordinating Board for Higher Education. This board would assume the powers of the LSU Board of Supervisors and the State Board of Education. I personally find disgusting any attempt by either of these boards to perpetuate themselves in some other form. These boards have contributed to the deteriorating image of higher education in this state and I have very little confidence in recent expressions of concern by these boards about the future relevance of Higher Education.

The Coordinating Board proposed would consist of both elected and appointed officials, the latter being selected by the Governor. All members would be concerned with all State Higher Educational Institutions. The elected officials would each represent a given district of the state. The appointed members would be individuals with a statewide outlook. Judicious appointment of the latter group ought

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to break up efforts to establish domains of influence among the Board Members.

2. Do not constitutionally perpetuate any of the current university systems or colleges. Otherwise as previously mentioned we will just be kidding ourselves by preserving the type of university systems which will continue to serve as a divisive force for the citizens of this State.
3. Financial Accountability and Formula for Distribution of Instructional funds.

The man who controls the purse strings has most of the power. This certainly applies to some of the administrative officials in our various institutions of higher education.

In some cases these officials have used the power to intimidate, harass, and bribe subordinates. I know of situations where salaries of productive tenured faculty members have been frozen for one or more years because a Dean or higher administrative officer has a personal vendetta to wield, and economic pressure along with harassment and intimidation is used to get rid of the faculty member. When appealed to the Board of Supervisors, they simply ignored the appeal.

Also examples exist of other mismanagement or misuse of state funds on the part of administrators or the issuing of fraudulent documents which conceal the existence or misuse of certain funds.

Another major problem is the inferior quality of new buildings on university campuses.

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These matters even after brought to the attention of responsible individuals at the highest levels have been routinely ignored.



Thus a system of checks and balances is needed which will insure the scrupulous <sup>U.S.L.</sup> rise and accounting of state funds in education.

As a corollary to this last remark, a formula for the distribution of instructional funds is needed. Such a formula should not be merely applied on a campus level, or college level on a given campus, but on departmental levels within colleges. Thus a Chancellor, Vice-Chancellor, or Dean will be in less of a powerful position to misuse instructional funds and will have to cooperate with individual departments to make sure the funds are spent in these departments as they should be. This will also make it hard for a higher administrative official to pad a departmental payroll with some useless employees. Up until recent years, the Colleges of the California State College System had a formula for distribution of funds. I believe such a formula will be especially necessary to guarantee the viability of a successful career education program.

I have mentioned these various problems and matters hoping that you will consider them in revision our constitution. I realize that a new constitution may not solve all these problems, but perhaps the above recommendations will be a guide to the type of provisions needed to make Louisiana a better place to live and prosper for all its citizens.

Statement by Ragan K. Nelson to the Composite Committee of the Constitutional Convention at Alexandria, Louisiana, April 25, 1973.

In addition to myself, I have appearing with me today in support of the Alumni Plan for the governance of higher education, Mr. Lucien Branch, Mr. Robin Gilliland, Mr. Buzzy Graham, Mr. Roane Hathorn, Mr. Lloyd Teekell, Mr. Bill Terry, and Mr. Buddy Tudor, from Alexandria and other interested citizens from surrounding areas whose names I will list on the attached sheet.

While my prepared statement to your committee is quite brief, I will be happy to discuss the matter of governance of higher education in as much detail as you desire and will be happy to answer any questions that you may have. I realize that this matter has been brought before your committee and discussed in much detail in similar meetings, particularly in Baton Rouge, New Orleans, and Lake Charles, and while I do not wish to take anything away from this very important matter, I do not want to burden you with many details with which you are perhaps already quite familiar.

Considering that no two states in this Union approach the governance of higher education in precisely the same way, it should come as no surprise to the delegates to the Constitutional Convention that there are several different views as to how to go about it in Louisiana.

Passage of the Super board bill and the calling of the Constitutional Convention in 1972 prompted a lot of homework on the subject. I have done my share, and as President of the LSU Alumni Federation, I am pleased to report that the homework done by the Federation's Constitutional Revision Study Committee has resulted in a document I consider to be of surpassing importance as Louisiana seeks the best answer to this perplexing problem.

At latest count, 19 states had single boards; 28 had coordinating agencies. The Alumni study revealed that the single (super) boards were generally present in states with slow growth and few colleges. Coordinating boards were found in states having many people and many institutions of higher learning.

The Alumni committee concluded that higher education in Louisiana should have a strong coordinating board to plan for all higher education, and two governing boards, one for the LSU system, the other for the colleges and universities presently under the State Board of Education.

The report further recommended that these boards, all of whose members would be appointed by the Governor, be given shelter in the Constitution. This is an important point. Colleges and universities, I have learned, require special care and consideration, and Constitutional autonomy is highly prized.

LSU has used its autonomy well. The development of the LSU system is viewed with a special pride here in Rapides where LSU first saw the light of day in 1860, and where since 1960 we have watched the birth and growth of LSU at Alexandria.

LAMAR Jefferson  
Fuller Williams  
Bill Simpson  
Lloyd Lee  
Joe Milby  
Tom Milliken

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Educ

Educ # 3  
4/25



LOUISIANA TEACHERS' ASSOCIATION  
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I am Parks W. Sanders, representing the 8th District of the L. T. A. This professional org. has been in existence since 1892 and has been continually striving for a better educational system for the children of Louisiana.

We in the teaching profession are for no change in laws pertaining to the following: Teacher Tenure, Sabbatical Leave, Leave Without Pay, Sick Leave, Maternity Leave, Military Leave, Substitute Teachers and Group Insurance.

We feel that the teacher pay schedule should be fully implemented immediately based on the cost of living index as passed last summer in the legislature. In higher education I feel that the University presidents are receiving adequate pay. I do not feel that a \$ 4,000.00 raise is in order at this time.

We feel that the Louisiana Teachers' System must be made actuarially sound. This is a must if there is to be anything left when the younger teachers are ready to retire.

1973-74



LOUISIANA TEACHERS' ASSOCIATION

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Statement of W.D. Cotton, Rayville Attorney Monroe, La., April 26, 1973

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THE CONSTITUTIONAL REVISION STUDY COMMITTEE OF THE LSU ALUMNI FEDERATION ON HIGHER EDUCATION

We feel that the laws pertaining to discipline should be further strengthened. Without discipline in our schools the learning process is impaired. At this point I would like to question the statement made in Baton Rouge by Rep. Alphonse Jackson of Shreveport to the Elementary and Secondary Subcommittee of the Constitutional Convention yesterday. Mr. Jackson cited the high rate of suspensions in the schools, saying that 100,000 students were suspended in the state last year. I would like to know how Mr. Jackson obtained this figure and to please substantiate it. When a student does not abide by the rules and policies set up by the school administrators and school boards I feel that suspension is the last resort.

I am an alumnus of Louisiana State University Law Class of 1927. Having arrived at the time of life when I might be excused for thinking about my alma mater in the light of its illustrious past, I must confess that I am daily becoming more and more concerned about its future.

DOES ONE STUDENT HAVE THE RIGHT TO DISRUPT THE LEARNING PROCESS OF ALL THE STUDENTS IN THE CLASSROOM ?

Those of us who lived through that era - and, I see quite a number of those present here today, vividly recall that era which was originally denominated - "The LSU Scandals". Of course, there later developed scandals on all fronts, but those of us close to LSU, felt most keenly the shame and degradation which was brought to LSU by willful men for political spoils. As a member of the Legislature in 1940, it was my privilege to assist in the reconstruction of a system of government for LSU which, hopefully, we thought, and we said, would remove LSU from the spoils of politics and would give it a system of government free from political domination and so constituted that it would be a perpetually independent governing board. I shall not go into those details, because you are familiar with them. However, I do say, with great pride, that the creation of the LSU Board of Supervisors by Act 397 of 1940 was one of the most effective and most significant pieces of legislation ever adopted by the Legislature of Louisiana, and which, of course, was ratified by the people, by an overwhelming vote in November of 1940. LSU has operated under that system from

3.



LOUISIANA TEACHERS' ASSOCIATION

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I would like to refer you to an article in the Education Digest. (November, 1972) The title of the article is What Are Schools For ? I would like to quote the author Robert Ebel "What are a schools for ? I believe that schools are for learning, and that what ought to be learned mainly is useful knowledge".

that date to this, and by and large, its operations have been successful and effective. I am not saying, that the system is perfect nor that it should not be amended. In fact, the LSU Alumni Federation, in 1970 did try to amend it so as to shorten the terms of the members of the Board of Supervisors; to provide for fair geographical distribution, and to limit the eligibility for re-appointment, and to prohibit the right to hold other offices while serving as a member of the LSU Board of Supervisors. That amendment failed, along with fifty-two others, not on its merits, or because of its demerits, but because of the rebellion of the people who were demanding that a new constitution be written, and that the amending process be changed.

We of the L. T. A. recommend that a separate governing board for elementary and secondary education. This board should be a 13 member board with eight elected for overlapping six year terms and five appointed by the governor. We strongly urge for the continuation of an elective superintendent.

By Act 712 of 1972, the Legislature has created what has become to be known as the Super Board of Higher Education and in so doing, has taken away the constitutional safeguards which protect the LSU system which have worked so effectively since 1940. Taking advantage of an obscure provision in the Constitution, the Legislature has done this, without a vote of the people, although, the present LSU Board of Supervisors is imbedded in the Constitution, as Section 7 of Article XII. Unless the Legislature in the May session suspends the operation of Act 712, pending the work of your <sup>CONVENTION</sup> ~~commission~~, this act will become effective on January 1, 1974 and in so doing, the Board of Regents, as it is formally designated, will apparently take over the LSU system and all other colleges and universities on that date. It will, unless the people,

In higher education I would like to make one recommendation. I feel that in order to teach in any of the state universities the instructor should have a teacher's certificate and three years experience teaching in the elementary or secondary schools.

In the preparation of this constitution let us place first things first. THE FUTURE OF OUR CHILDREN.

by their vote on the proposed new constitution use another course. That is why we bring our case to you gentlemen representing the Constitutional Convention Committees here today.

I fully realize that the plan which I advocate here today has been discussed before your committee on several other occasions and I shall not undertake to go into those details again. Let me say however, if you will pardon the personal reference, that I was a member of the committee that perfected this report, and I know something of the study and research that went into it. I know that representatives from the State Board of Education, the LSU Board of Supervisors, the State Superintendent of Education, many, many college presidents and deans, of practically all of the schools and colleges of the State of Louisiana, and many other outstanding authorities from without the state, were consulted and freely gave of their advice. We believe that we have presented a plan which is a fair cross section of the thinking of those experts and people who know higher education. I commend the full study to you as you prepare to write the New Constitution.

In brief, the alumni plan calls for four boards; <sup>an elected</sup> a board for elementary and secondary schools; an appointive coordinating board for all post secondary education; an appointed governing board for the LSU system and a similar governing board for those colleges and universities now under the State Board of Education. All would be in the Constitution and protected by its provisions. The plan calls for a Board of Regents. This would be a fourteen member board whose duties would be solely planning and co-ordination. It would an appointive board. It would have substantially greater powers than the present Louisiana co-ordinating Council for Higher Education which was created in 1968. It would be required to formulate a master plan for higher education and post secondary vocational technical training and career education in the state. It will have power to revise or eliminate any existing degree programs, departments of instruction in any of our institutions of higher learning. Among its new powers would be the power to approve or disapprove or modify any new existing degree program or department of instruction which may be sought to be inaugurated in any state university or college. The Board is required to study and submit written reports on the feasibility of any proposed new institutions of higher education. And, finally, the Board is given the power to study the annual budget proposals of all institutions of higher learning and to submit to the Legislature its recommendation with reference thereto. And, at the same time, to make recommendations <sup>for</sup> to the Legislature of priorities/capital construction and improvements.

The results of our study indicate clearly to us, and we had the experience of a number of other states, that it is necessary, where there are complex higher educational systems, to separate the functions of long range planning from the day-to-day governing. A single board, simply cannot successfully administer the affairs of more than ten or twelve institutions, leaving no time for long range planning. In conclusion, I respectfully submit to you that our experience in Louisiana points to the conclusion that constitutional protection is highly important in

developing a university of the first class. With all due modesty, I refer you to the growth and position that LSU has attained since 1940.

There are over 50,000 living alumni of LSU in the State of Louisiana. All of them are concerned about its future. They do not want any possible plan which might return LSU to ~~become a part~~ of the spoils system of partisan politics. I tell you in all frankness, they will not buy a constitution that does not fully protect the LSU system and guarantee its independence from political interference. History and the growth and accomplishment of the University since 1940 bear out this statement. I urge you, therefore, to give serious consideration to the plan of creating a board of regents, a separate board of LSU supervisors and a board of trustees of state colleges and universities. We respectfully suggest that you talk to the individual members of these existing boards, and you will learn first hand from them, the problems which they have from day to day, and whether or not they believe that a single, super board is the answer to all of the problems of higher education in Louisiana.

In conclusion, may I quote from a very recent editorial contained in the CROWLEY DAILY SIGNAL:

"The LSU Alumni Association Plan is much more palatable, one the people of this state are more apt to take to. In total effect, it utilizes what is good about the present system and it also makes progressive changes. \* \* \* Here, we have control at several levels, not one. Planning is separated from day to day operation of education. Public voice is maintained, yet political maneuvering is excluded. Super-anything scares. This so-called super board is a scaring thing. The LSU Federation Plan is more understanding one to the people of the state. You don't have to back away from it.

Statement of W. D. Cotton,  
Rayville Attorney  
Monroe, La., April 26, 1973

#### SOME GENERAL OBSERVATIONS ON CONSTITUTIONAL REVISION

I feel that the greatest decision the Constitutional Convention will have to make, is to decide what type of government we want. Do we want to retain such power in the people that we will destroy the effectiveness of representative government, or do we want to put trust and confidence in the Legislature, and remove those things from the Constitution which should never have been put there in the first place?

I am, of course, referring to the hundreds of articles found in the present Constitution relating to local government and political subdivisions. If we are ever going to achieve constitutional stability in Louisiana, and obviate the annual amending processes, we are going to have to put more trust and authority in the Legislature.

I think that the people of the State of Louisiana have politically matured sufficiently to do this. I think the members of the Legislature accept the responsibility that is theirs and

well knowing that they are accountable at every election, will govern themselves accordingly and will not abuse any confidence which your Constitution may place in them.

More specifically, I urge you to return more power to local government, our Police Juries, our cities and towns and other political subdivisions. This can be done, in an orderly manner, by acts of the Legislature, with provisions protecting the rights of the people, with particular reference to taxation. Certainly a constitution can be written that gives local, political subdivisions the right to levy a reasonable millage, to conduct the affairs of its government, but at the same time, provide that any additional taxes must be submitted to the people and by them approved. If this is done, the amending process as we have known it over the last fifty years will largely be eliminated. No longer will the people of Ouachita Parish be required to approve sanitary districts for the Parish of Jefferson and no longer will the citizens of Plaquemine Parish be required to approve the creation of a port facility for the town of Lake Providence, etc. and so on to many other examples of which you are all familiar.

I therefore, respectfully, urge you to adopt as a basic premise of your consideration of a new Constitution, that the people must give the Legislature sufficient power to legislate; the Legislature must give to the local governing units the power to operate, and neither should infringe upon the powers, duties and prerogatives of the other - and, at the same time, remove all of these provisions of the Constitution.

Harry R. Nelson  
201 Peck Building  
Shreveport, Louisiana  
422-0317

*Handwritten signature and initials*  
Educ

It is no secret that North Louisiana is conservative territory. People in this part of the state are inclined to approach any major change with caution. This would be particularly true of change in higher education.

Speaking for some of LSU's conservative alumni, I can say that while we favor the economies to be achieved through long range planning and careful coordination, we do not see the need for such a spectacular change in the control of higher education as a single, (super) board would bring about.

The people here know the value of LSU and an LSU education. Our children can get an LSU education in Shreveport, and that includes an LSU medical education. Add to our blessings the work being done by agricultural experiment stations, one just across the river, the other at nearby Homer, and you can readily understand that we want no violence done to LSU in the new Constitution.

I would like to call to your attention the recent report of the Constitutional Revision Study Committee of the LSU Alumni Federation. It is a careful, comprehensive study, the purpose of which was to provide the Constitutional Convention with honest information and sound recommendations.

The evidence obtained indicated that a single board works well in a state with few people and a handful of colleges, but that it is not

appropriate in a state, such as Louisiana, having many people and a complex system of higher education.

The LSU study recommends that the control of higher education be

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divided among three boards: A Board of Regents to coordinate and make long range plans for all post-secondary education; a Board of Supervisors to govern the LSU system; and a Board of Trustees to govern the other state colleges and universities. All would be in the Constitution, a protection which has meant so much to LSU these past 30 years. I am sure you will find this study of value as you approach the writing stage in your quest for a new Constitution.

1.

The present method of selecting the state superintendent of education by election on a statewide basis wherein all qualified voters have an opportunity to determine who will act for them and implement their will in the education of their children in the public schools is a tradition of representative government in Louisiana that should be rewritten into the new constitution of our state. It is one of the most significant and important ways that the people in our state can express their will concerning education in Louisiana. Those who advocate that we take away the right of the people in our state to elect a state superintendent of education, as far as I can determine, do not have faith in the people to elect a qualified person or educator to express their will. If this is the problem, I would suggest you establish qualifications for those who seek this office, not take away this means for the people to express their will concerning this area of their government; probably an area of government more important to them than any other.

In our state the elected state superintendent is directly responsible to all the people for the success and the progress of public education. He must answer to the people at least every four years for the services which he and his department of education are rendering. He cannot escape any of his responsibilities by "hiding behind" or "passing the buck" to a board or to any other group or individual. He is responsible. Our state and nation are now plagued with bureaucracy. We should certainly not move further in this direction educationally.

Our elected state superintendent is one of the chief public officials of the state. He is in a position to take all issues regarding public education directly to the people. He is also in a position to speak as an

2.

equal with other elected state officials about the welfare of our schools. He can go directly to the legislature or to any other organization and present the case for the schools without fear of intimidation or of losing his job. In fact he must do all of these things if he expects to continue office.

Our elected state superintendent of education is not subject to domination by selfish politicians as he might be if he were appointed by any kind of board. It will be far easier to inject partisan politics into the school system with an appointive superintendent than it is with an elective superintendent. Almost any governor finds it far easier to control a board

or a majority of a board than to control all of the people who are interested in the advancement of public education. Also, let me remind you that the presidents of our state colleges, in the past, were frequently changed when the state political administration changed. There is no reason to believe that the state superintendent of education in Louisiana would be an exception if he were appointive instead of being elected by the people.

It is far easier for the voters in our state to get rid of an inefficient and poorly qualified elected superintendent than it is to get rid of the same kind of individual who will have nothing to do except to cater to the wishes of a majority of a board which is responsible for giving him his job and determining his duties and pay.

An elective state superintendent and a department of education selected by him are responsible for the success of our educational program in La. No matter how good our state board of education may be, the members of that board do not have the time, the ability, or the training necessary to carry

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on a program of public education. Our state board of education at its best should devote its attention to policy making and to the general regulation of the school system under the legislative acts and the constitution of Louisiana pertaining to educational matters. Our elected superintendent is far more sensitive to the needs, interests and wishes of all of the people than our board with its appointive superintendent is likely to be.

If Louisiana changes from an elective to an appointive state superintendent of education, it will not solve either its political or its educational problems. To the schools will have more interference of an adverse nature and there will be a tendency to solve educational problems behind closed doors instead of in the full view of public opinion.

Few people of experience in Louisiana are convinced or knows that the state board of education members are the only good politicians and that all other elected officials are mean and selfish. But we do know there are influences and vested interests operating against public education in Louisiana which are harmful and are of a partisan political nature. These influences will be much more harmful and much more powerful if they can be brought to bear upon a few individuals on a board and never exposed to public examination.

More important, there will be few if any clear-cut opportunities to make educational matters a major political issue when people vote for state board members in eight congressional districts and three public service districts. We should all realize that when educational problems are not political issues, the will of the people will be effectively barred from determining what the public school programs and policies will be in our state. The basic problem in public education and in all areas of government is to enlist the sympathy and support of all the people.

4.

To take away the right of the people to elect their own state superintendent of education, who represents their will, is in my opinion a very poor solution to this problem. Presently, in a political statewide election, the elected state superintendent, his program and his services are issues and the people can and will do something about them at the polls every four years. This is the way it should remain in Louisiana.

In closing, the will of the people is the only legitimate foundation of any government. When the will of the people is exercised and made

known through exercise of their elective rights in our state, things that are wrong have been corrected in Louisiana. But, critics of freedom have always argued that men are not capable of governing themselves. It is my sincere belief that the people of Louisiana can be trusted with self-government and the right to elect their own state superintendent of education.

Thomas Jefferson once said " that the will of the people enounced by the majority is as sacred as it is unanimous. This is the first principle of representative democracy." It was his desire to see the republican element of popular control of government be pushed to its maximum. I believe Thomas Jefferson was right.

I know of no safer depository of the ultimate right of the people to elect a state superintendent of education in Louisiana than in the people themselves. It is my sincere hope and prayer that you agree.

Thank you for the opportunity to appear before you and voice my opinion in this matter.

Resolutions to be Presented  
Louisiana Parent Teacher Association Convention  
Business Session  
Friday, April 27th, 1973, 1:00 p.m.

Procedure for Submitting Resolutions according to:  
BYLAWS, Article XIV, Section 3.

One-third (1/3) of the voting members registered at any annual meeting shall constitute a quorum.

- a. Resolutions shall originate in and be approved by a local unit, or at a regular meeting of the Board of Managers, except an emergency resolution may be brought to the convention floor for action on a two-thirds (2/3) vote of the voting members of the convention. In case of an emergency sufficient copies for the voting members must be furnished by the member presenting the resolution. The resolution must be signed by twenty-five (25) voting delegates of the convention, with a majority of the districts represented by the signatures.
- b. Resolutions originating in a local unit shall be sent to the state office by March 10.
- c. All resolutions must be statewide in scope and conform to basic PTA policies and procedure.
- d. Before presentation to the convention resolutions that conform to the above criteria shall be edited, only for the purpose of combining resolutions of the same intent, by the Executive Committee, which shall serve as the resolutions committee.
- e. Copies of resolutions to be presented to the convention shall be sent to each local unit, the presidents of councils, and the Board of Managers on or before April 1.

Resolution #1

WHEREAS, School Systems in the United States have become more and more dependent upon federal funding in financing those educational needs which they themselves cannot provide, and  
WHEREAS, The Federal government is considering withdrawal of monetary support for many present educational programs, and  
WHEREAS, Louisiana PTA feels that such cutbacks in Federal spending will work to the detriment of our children, be it therefore  
RESOLVED, That the Louisiana PTA expresses its concern over any loss of educational funds as a result of any general reduction in government spending.

Submitted by  
Frederick Douglass Elem. PTA  
1400 Huey P. Long Avenue  
Gretna, La. 70053

Resolution #2 *passed*

WHEREAS, It seems that the present distribution of state funds to the parishes for education are now being distributed according to the 1960-64 student population,  
WHEREAS, This distribution creates an unfair formula in that the amount of money available for student education is not uniform for each student throughout the state.  
WHEREAS, This creates a hardship on parishes with a growing number of students, be it  
RESOLVED, That Louisiana PTA requests all state legislators exert their efforts toward equalizing the distribution of these funds on an equitable basis for all students throughout the state, based on the number of students now enrolled, and to be adjusted annually on current student population.

Submitted by  
Bonnabel High PTA  
400 Phlox Street  
Metairie, La. 70001

also recognizes that it is difficult to monitor programs in advance, and for many parents it may be unrealistic to control children's viewing by the procedure of "turning off the set"; therefore be it  
RESOLVED, That the Louisiana PTA urge a revised rating system be established for all television programs and motion pictures; that it urge local stations and sponsors to make known the applicable rating locally and nationally each time the program or the picture is advertised; and  
RESOLVED, That the Louisiana PTA urge the use of such a revised rating system in an effort to upgrade the level of network television shows and motion pictures.

Submitted by  
Westdale Junior High School PTA  
Baton Rouge, La.  
Approved at a regular unit meeting February 19, 1973

Resolution #3 *passed*

WHEREAS, The school boards of the State of Louisiana are constantly pressed to find the monies necessary to operate their systems, and  
WHEREAS, The present system of paying Assessor's expenses and Sheriff's commissions out of school board money has existed for many years, and  
WHEREAS, The Louisiana Parent Teachers Association feels that these commissions should be used to pay school expenses, and

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Resolution #3 (continued) *passed*

WHEREAS, Delegates have been elected to a Convention called for the purpose of re-writing the Constitution of the State of Louisiana, and  
WHEREAS, The Louisiana School Boards Association has approved the following position, now therefore be it  
RESOLVED, That the Louisiana Parent Teachers Association petition the membership of the Constitutional Convention to seek an alternate method of financing the tax assessment and collection system in the State of Louisiana, such method to be other than the expenses and commission systems presently being used.

Submitted by  
Tangipahoa, Mooney Avenue Unit  
Route 3, Box 28  
Hammond, La. 70401

Resolution #6 *passed*

WHEREAS, The history of our nation is founded upon freedom of choice, and  
WHEREAS, The local, state, and national PTA is committed to public schools offering quality education for all children and youth, and  
WHEREAS, It is our obligation to approach our many social, political and economic problems clearly and intelligently, and  
WHEREAS, Forced busing to achieve racial balance has created social and political upheaval among our nation's normally law-abiding citizens and placed a financial burden upon our public schools, and  
WHEREAS, Multiple school enrollment curtails parent involvement in the local PTA thereby impairing if not destroying one of public education's foremost allies, and  
WHEREAS, Forced busing to achieve racial balance has produced a waste of precious student and teacher hours and greatly reduced the availability of extra-curricular activities for students due to lack of long distance transportation for early and late hour meetings, and  
WHEREAS, The neighborhood school concept does give our children and youth a greater advantage for quality education and a closer relationship with home, school, church, and community, be it therefore

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Resolution #6 (continued)

RESOLVED, That our local, state, and national PTA work together with the representatives of government and education to improve the quality of education for all students in our nation's neighborhood schools, and be it further  
RESOLVED, That our local, state, and national PTA manifest its dedicated commitment to our nation's children and youth by taking immediate action to unite our local, state, and national representatives of government and education in the establishment and preservation of the neighborhood school concept of education, and be it further  
RESOLVED, That copies of this resolution be forwarded to the Louisiana members of the United States Congress, and the President of the United States.

Submitted by  
East Baton Rouge PTA District  
Baton Rouge, Louisiana  
Moss Bluff Elem. School PTA  
Sam Houston High School PTA  
Lake Charles, Louisiana

Resolution #4 *passed*

WHEREAS, The Louisiana PTA is concerned about the quality of education, and  
WHEREAS, The pupil-teacher ratio in the State of Louisiana is 27 to 1, and  
WHEREAS, Legislation was passed that pupil-teacher ratio would decline by one each year, and  
WHEREAS, This has not been done and has lowered the quality of education, therefore be it  
RESOLVED, That the Louisiana PTA reaffirm its stand to lower the pupil-teacher ratio; and be it further  
RESOLVED, That the Louisiana PTA urge that a new method of computing the pupil-teacher ratio be devised whereby only actual classroom teachers are used to determine the ratio, and be it further  
RESOLVED, That copies of this resolution be forwarded to the members of the Louisiana legislature, to the Governor and to the Superintendent of Education.

Submitted by  
Claiborne Elementary PTA  
Baton Rouge, La.  
Approved at its regular unit meeting, February 15, 1973

Resolution #7 *passed*

WHEREAS, The Louisiana PTA supports the voluntary attendance or official assignment of public school students to a particular school in their school district when it will assure his increased educational opportunity, provide for him a broadened curriculum or special services which would develop his individual potential, therefore be it  
RESOLVED, The Louisiana PTA opposes the assignment of any public school student to a particular school solely on the basis of his race, creed, or color; and be it further  
RESOLVED, That copies of this resolution be forwarded to the Louisiana members of the United States Congress, and the President of the United States.

Submitted by  
East Baton Rouge PTA District  
Baton Rouge, Louisiana

Resolution #5 *passed*

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WHEREAS, The Louisiana PTA is concerned about the quality and the effects upon children and youth of network television programs and motion pictures, and  
WHEREAS, The Louisiana PTA fully recognizes the responsibility parents have to control their children's viewing; it



WHEREAS, In many cases this type of food is not only a health hazard, but also a financial burden on the family.

RESOLVED that the Louisiana PTA does hereby voice its opposition to the provision of competitive foods that are frequently sold in vending machines, and which appear to be irresistible to children, may be served in schools where a federally supported school lunch program is in operation; and be it further

RESOLVED that this resolution be sent to the Louisiana Congressional Delegation, the Governor of Louisiana, the Louisiana State Superintendent of Education, and members of the Louisiana Legislature.

Submitted by  
Lafayette District PTA  
191 Mimosa Place  
Lafayette, Louisiana 70501

Whereas, the Louisiana PTA has recently conducted regional workshops on the subject of alcohol and other drug abuse, and

Whereas, the often-mentioned influence of television advertising and programming on our population, especially young people, frequently makes the use of alcohol and other mind-altering drugs glamorous and appealing, and

Whereas, the placement of such advertising and programs often is during the hours children view television, and

Whereas, alcohol is the nation's number one psychoactive drug problem producing the largest number of individual and social diseases, and

Whereas, it far overshadows other drugs in terms of mortality, morbidity, economic and social instability,

Therefore Be It Resolved, that the Louisiana PTA continue its theme of "Alcohol-A Family Affair" with follow-up parental and community re-education efforts while encouraging schools to include alcohol and other drug abuse in comprehensive school health education programs, and

Be It Further Resolved that a special task force be appointed by the State President to work with the mass media and the National Congress of Parents and Teachers in renewing specific efforts to minimize such TV advertising and programming which, in fact, projects alcohol use as glamorous and appealing.

Emergency Resolution to be Presented

Louisiana Parent Teacher Association Convention

Business Session

Resolution relative to competitive foods in the National School Lunch Act.

WHEREAS, The focus of the school nutrition program should be to make available to children well balanced and nutritious meals, and

WHEREAS, Competitive foods as usually sold in vending machines are irresistible to children who do not realize the importance of balanced meals and

WHEREAS, Poor nutrition adds to the dental problems of children, and

WHEREAS, All of our school systems have incurred much expense in order to furnish each child with a well balanced and prepared Type A lunch or sandwich, and

WHEREAS, In many cases this Type A lunch is the only proper meal that many children receive in a day; therefore be it

RESOLVED that the Louisiana PTA does hereby voice its opposition to the provision that competitive foods that are frequently sold in vending machines, and which appear to be irresistible to children, may be served in schools where a federally supported school lunch program is in operation; and be it further

RESOLVED that this resolution be sent to the Louisiana Congressional Delegation, the Governor of Louisiana, the Louisiana State Superintendent of Education, and members of the Louisiana Legislature.

Submitted by  
Lafayette District PTA  
191 Mimosa Place  
Lafayette, Louisiana 70501



**COMMITTEE ON  
NATURAL RESOURCES  
AND THE ENVIRONMENT**



# I. Minutes

## MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973

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

State Mineral Board Docket Room,  
Fourth Floor, Natural Resources Building, Baton Rouge, Louisiana,  
Friday, March 9, 1973, 11:00 A.M.

Presiding: Louis J. Lambert, Jr., Chairman of the Committee on Natural Resources and Environment

Present: Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Senator Louis F. Lambert, Jr.  
Representative Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Robert Munson  
Miss Lynn Perkins  
Alvin D. Singletary  
Representative Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Representative Lantz Womack

Absent: Richard P. Guidry

Sgt. at Arms: Glenn Koepp

Agenda: The following Agenda, as contained in the notice of the Secretary, was read: General organization of the committee; to hear testimony from Mr. Andrew Martin of the State Mineral Board.

Chairman Lambert introduced Mr. Lee Hargrave, Research Coordinator, and Mr. Scott Reis, Senior Research Assistant. These men have been assigned to work with this committee from the Research Staff.

Mr. C. J. Bonnecarre, Executive Secretary, State Mineral Board, discussed the history and functions of the Mineral Board, mentioning its creation by Act 93 of 1936, with four members. At present, Mr. Andrew Martin is Chairman of the Mineral Board and there are seventeen members. There are a total of 1500 bidders on the board's mailing list. A lease of state land is not valid until the Mineral Board has approved it. From 1915 to 1937, a total of six million dollars was derived from mineral resources. From 1937 to 1972 some three billion dollars were derived. The Mineral Board is a statutory board without constitutional status. It acts as an advisory agent to local agencies.

Mr. LeBleu questioned why the activities of the Mineral Board could not be included under the Conservation Department, to which Mr. Bonnecarre stated he would strongly not recommend

this. Mr. Velazquez then asked "why not put the Conservation Department under the Mineral Board"? Mr. Derbes asked Mr. Bonnecarre if he thought the Mineral Board should be a creature of state constitution and if he had a preference, to which Mr.

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Bonnecarre answered that he preferred it to be constitutional.

Mr. Andrew Martin, Chairman of the Mineral Board, was then introduced. He recommended that the chairman should be a full-time and salaried, rather than a part-time appointee. The Mineral Board has the duty of leasing all state-owned land and water bottoms and road beds. He felt that the Mineral Board should be put on the same level as the Conservation Department, the Wildlife and Fisheries Commission and such other constitutional bodies. Also, there is some overlapping between the State Land Office and the State Mineral Board. Mr. Martin introduced Mr. Jerry Hill, head of the Auditing Division, who discussed overlapping activities of the Land Office and the Mineral Board. A question was asked about the possibility of combining the State Mineral Board and the State Land Office. Mr. Martin did not feel this should be done.

Following a brief recess Mr. Martin continued his remarks. He reported that about five months ago a lease revision committee was appointed. A rider for interspersed water bottoms is being finalized and will be submitted to the Board next Wednesday for approval. This rider will be attached to the 1966 lease form, and will help to keep gas in Louisiana. It contains an environmental clause. The purpose of the rider is assure that the state will have first call on Louisiana gas.

With respect to environmental problems, Mr. Martin and Mr. Bonnecarre stated that the Mineral Board has a special committee working with Wildlife & Fisheries. There is a constant liaison between the two agencies.

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Mrs. Warren asked Mr. Martin if the Mineral Board could make any recommendations to this committee for consideration. Mr. Martin stated that he would be glad to submit a written statement.

\*\* Mrs. Warren moved; seconded by Mr. Thompson --

"That all groups, departments or bodies appearing before this committee, at the end of presentation, within a reasonable amount of time, submit a list of their recommendations as to what should be deleted or retained in the Constitution under their subject matter."

VOTE: No objection; motion carried.

Mr. Lambert introduced Mr. Paul Jones, U. S. Geological Survey (NASA), who spoke of the potential development of geothermal energy from sedimentary and water resources within the jurisdiction of Louisiana.

Discussion was had concerning scheduling of meetings. After consulting with Mrs. Norma M. Duncan, the next scheduled meeting of this committee was confirmed for Friday, March 23 and Saturday, March 24, at 9:00 A.M. The remaining dates for meetings to be scheduled will be left to the discretion of the chairman. It was decided that at this point the committee will not break into subcommittees. The subject matter before the committee was divided into five areas, as follows:

- A. Public Lands and Minerals
- B. Water
- C. Wildlife
- D. Environmental Concerns and Recreation
- E. Agriculture

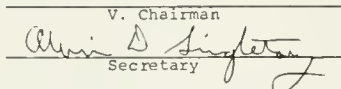
The reporter for the committee will be Scott Reis. The chairman assigned the topic "Public Lands and Minerals" for the meetings on March 23 and 24, to which different agencies will be

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invited to appear and make brief remarks. Mr. LeBleu suggested that a press release be issued notifying the public that this committee is going to hear testimony on that subject and anybody who wants to come before the committee can do so by calling the chairman and having his or her name placed on the Agenda. Chairman Lambert suggested that after testimony is heard on Friday, the next day be reserved for discussion, after which the members then would take some definitive action or give direction to research staff to begin drafting.

There being no further business to come before this committee, Mrs. Miller moved for adjournment and the meeting adjourned at 4:40 P.M.

  
Chairman

V. Chairman  
  
Secretary

\*\* Motion acted upon.

#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973  
Held pursuant to notice mailed by the Secretary of the Convention on March 15, 1973.

State Mineral Board Docket Room,  
Fourth Floor, Natural Resources  
Building, Baton Rouge, Louisiana,  
Friday, March 23, 1973, 9:00 A.M.

Presiding: Louis J. Lambert, Jr., Chairman of the Committee  
on Natural Resources and Environment

Present:

Donald T. Bollinger  
James G. Derbes

R. M. Elkins  
Senator Louis J. Lambert, Jr.  
Representative Conway LeBleu  
Mrs. Ruth Miller  
Representative Robert Munson  
Miss Lynn Perkins  
Alvin D. Singletary  
Representative Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren

Absent:

Representative Richard P. Guidry  
H. G. Hardee, Jr.  
Wellborn Jack  
Thomas W. Leigh  
Representative Lantz Womack

Sgt. at Arms: Glenn Koepp

Agenda: The Committee will direct itself to the issues of what the Constitution should contain in regard to public lands and minerals and will hear witnesses scheduled to appear and to present testimony regarding the above subject matter.

Following an opening prayer by Mrs. Warren and the Pledge of Allegiance, the committee adopted the minutes from the meeting of March 9, 1973. Chairman Lambert introduced research staff members Lee Hargrave and Scott Reis and explained the procedure that would be followed at each meeting; this procedure includes presentations by various witnesses of expertise in a particular area, complete analysis of the area by the research staff, and discussion among the committee. Prof. Hargrave noted that the research staff had prepared preliminary proposals with comments and a statement of issues (Attachment O) to be presented following testimony of the speakers scheduled for today's meeting. Chairman Lambert reminded all witnesses that a written statement should accompany each oral presentation.

The first witness was ELLEN BRYAN MOORE, Register of State Lands, who briefly spoke about the powers and functions of her office. Mrs. Moore advised against a constitution which provided for the election of only a governor and a lieutenant governor and suggested that all agencies related to natural resources and conservation be consolidated. Mr. Derbes asked Mrs. Moore what function of the State Land Office prompted its inclusion in the Constitution of 1921, and she replied that the functions were similar but that the custodian of over 31 million acres of state land deserves constitutional status. Following a

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discussion of discretionary powers of the State Land Office, reclamation, taxation, dedication of revenues, leasing of state lands, and alienation of navigable water bottoms (See Attachment 1 and 1A), Chairman Lambert asked Mrs. Moore if there were a need for a constitutional convention; she replied affirmatively, adding that many matters of a local nature should be included in statutes rather than in the constitution.

Chairman Lambert then recognized GEORGE W. HARDY, Professor of Law at L.S.U. and reporter on mineral for the Louisiana State Law Institute. Prof. Hardy stated that the first matter to consider is a definition of natural resources, which definition might include land, minerals, air, water, and all living resources. He then stated that dedication of revenues in the constitution

is very unwise and pointed out that approximately eighty-five per cent of all revenue generated in the state is dedicated by either statute or the constitution, leaving a very small percentage to meet the changing needs of our society; he further stated that a severance tax should be the only tax on natural resources. Finally, Prof. Hardy proposed that the new constitution should provide a single department of natural resources to include all state agencies dealing with public land and other resources, both living and non-living. At this point Mr. Derbes made a motion that Prof. Hardy prepare a draft creating such a department of natural resources and explain these recommendations to the committee; the motion carried with no objections. (See Attachment 2).

The next witness was AUSTIN W. LEWIS of the law firm Liskow and Lewis; he prefaced his remarks by stating that Constitution Article IV § 2 should be retained in some form.

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Mr. Lewis felt that some improvement could be made in the present system by providing some type of liaison between the State Land Office and other agencies and answered a couple of related questions. He concluded his remarks by noting that the tidelands matter should be settled during the 1974 term of the U. S. Supreme Court.

The chairman then recognized RAY SUTTON, Commissioner of Conservation; Mr. Sutton then introduced his chief engineer, Thomas W. Winfield. Mr. Sutton made it very clear that his department should remain as it is in the present constitution and independent from all other departments. He stated that his department could not be subservient to any other department because a conflict of interest would certainly arise. Mrs. Miller stated that perhaps the conservation department should be merged with some central regulatory agency rather than a central natural resources agency, and Mr. Sutton agreed. (Attachment 4).

When the meeting reconvened at 1:30 P.M., the chairman recognized JOHN W. SMITH, a businessman from Lockport, La. Mr. Smith made general comments concerning the energy crisis and stressed a need to analyze carefully the economic impact of all government regulatory actions. (See Attachment 5 and 5A).

The next speaker was R. H. "DUTCH" MEYER, Vice President of Sugar Bowl Gas Corporation; he was introduced by Elliot G. Flowers. Mr. Meyer stated that he would like to work out some equitable solution to the natural gas problem in Louisiana and that, perhaps, regulation of gas sold to industrial consumers might be an answer; he cited Texas as a prime example of this

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type of intrastate regulation. (See Attachment 6).

Chairman Lambert then recognized MARC J. HERSHMAN, Director of the Louisiana Coastal and Marine Resources Commission; he stated that his program was concerned with all environmental aspects of coastal areas in Louisiana. Mr. Hershman strongly recommended restriction on the reclamation exception found in Constitution Article IV § 2 and the deletion of constitutional provisions transferring the state's ownership of navigable water

bottoms to various local governing authorities for purposes of reclamation. Mr. Hershman further stated that reclamation should be authorized by the legislature only if it is for the benefit of the state and agreed to study this area and to provide the committee with substantive recommendations. (Att. 7).

DANIEL HURLEY, appearing on behalf of the southeast region of Texaco, stated that his major interest was to retain in a new constitution the provision prohibiting the Public Service Commission from regulating in any manner the sale of natural gas to industry since such would encourage further development of our resources and provide a solution to the natural gas shortage. Mr. Hurley also offered various statistics concerning Texaco's gas production. (See Attachments 8A, 8B, and 8C).

A. N. YIANNPOULOS, Professor of Law at L.S.U. and member of the Louisiana State Law Institute, limited his presentation to the sea, its shore, and navigable water bottoms. He recommended that Constitution Article IV § 2 be amended to preclude the alienation of the sea and its shores as well as the beds of navigable water bottoms. All of this is important so that public

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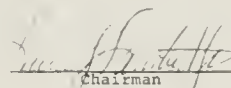
use can be maintained, regulation can be effected, and revenues can be derived for the state. He concluded that the state should allow reclamation only to the extent that public use would not be impaired, that is, reclamation for public purpose only. (See Attachment 8D).

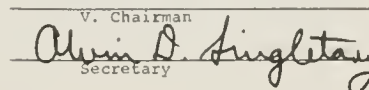
The chairman then recognized MILTON DUVIEILH, attorney for Gulf Oil Corporation and Chairman of Legislative Committee of the Mid-Continent Oil and Gas Association. Mr. Duvieilh stated that his Association essentially recommended that Article X § 21 be retained as presently written in the Constitution. (See Attachment 9).

The final speaker for the day was JAMES R. RENNER with the Ecology Center of Louisiana, a non-profit corporation designed for environmental education. Mr. Renner suggested that the new constitution contain a bill of rights type natural resources provision; he also very strongly recommended the deletion of all provisions in the present constitution which enable ownership in state land to be divested for the benefit of private individuals. (See Attachment 10).

The chairman stated that the committee would reconvene at 9:00 A.M. tomorrow to discuss matters in the present constitution relating to public lands and minerals.

The meeting adjourned at 5:00 P.M., on March 23, 1973.

  
Chairman

V. Chairman  
  
Secretary

NOTES

Staff Memo. No. 2, labeled "Attachment 0", may be found in Chapter II, Staff Memoranda, below.

Attachment 1

... THIS ADMITTED. ... HAVE BEEN ASKED TO APPEAR HERE TODAY TO DISCUSS 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 LISTING 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 ARTICLE 91 OF THE 1845 LOUISIANA CONSTITUTION.

THE STATE LAND OFFICE HAS GIVEN CONSTITUTIONAL STATUS TO THE LOUISIANA CONSTITUTION. SECTION 1, PROVIDES THAT THE POWERS OF THE STATE LAND OFFICE BE DERIVED FROM THE CONSTITUTION. ARTICLES 5 AND 91 PROVIDE FOR THE ESTABLISHMENT OF THE OFFICE AND THE POWERS WHICH SHOULD BE

Page 2 --

VACANCY TAKE PLACE.

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 INVOLVED?

A STATUTORY PROVISION REQUIRES THE LAND OFFICE 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 -- SOME 31 MILLION ACRES. 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?

THE RECORDS ON FILE IN THE STATE LAND OFFICE.

AS YOU WILL NOTE, MANY OF THE ARTICLES SET THE PACE FOR ADDITIONAL ARTICLES. FOR INSTANCE, ARTICLE 1, SECTION 2

Page 3 --

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.

OF COURSE, MANY STATUTORY LAWS HAVE IMPLEMENTED THE CONSTITUTIONAL ARTICLES JUST MENTIONED AND WILL BE DISCUSSED LATER.

THE THIRD MAJOR SOURCE OF ARTICLES IMPOSING DUTIES

OF THE REGISTER ARE THE ONES ON TAXATION.

Page 4 --

HOW AND HOW IS THE LAND OFFICE INVOLVED?

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

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.

NOW LET S BRIEFLY DISCUSS STATUTORY PROVISIONS:

THE STATUTORY PROVISIONS AFFECTING THE LAND OFFICE ARE NUMEROUS. ALL OF TITLE 41 IN THE REVISED STATUTES COVERING SOME 74 PAGES CONTAINS STIPULATIONS OF THE AUTHORITY AND RESPONSIBILITY OF THE LAND OFFICE AND ITS REGISTER IN RELATION TO STATE OWNED LANDS AND WATER BOTTOMS.

THESE STATUTORY PROVISIONS WOULD TAKE A WHOLE DAY OR MORE TO DISCUSS SO WE'LL JUST MENTION BRIEFLY EACH SUBJECT MATTER:

Page 5 --

(1) KEEPERS OF RECORDS GIVEN THE STATE LAND OFFICE BY THE UNITED STATES GOVERNMENT. THESE RECORDS CONSIST OF SURVEYS, PLATS, DOCUMENTS PERTAINING TO EARLY LAND GRANTS; AS WELL AS LISTINGS OF ALL LANDS GIVEN TO LOUISIANA BY THE UNITED STATES AND RECORDS OF THE LANDS DISPOSED OF BY THE STATE OF LOUISIANA. IT IS WITH THE HELP OF THESE RECORDS, THAT THE LAND OFFICE CAN DETERMINE WHERE AND WHAT ARE THE NAVIGABLE WATERS IN LOUISIANA. IT IS THESE NAVIGABLE WATER BOTTOMS THAT THE LEGISLATURE AUTHORIZES THE MINERAL BOARD TO LEASE. THESE ARE THE WATER BOTTOMS THAT THE DEPARTMENT OF WILD LIFE AND FISHERIES IS AUTHORIZED TO UTILIZE FOR FISHING AND OTHER RELATED ACTIVITIES. THESE ARE THE WATER BOTTOMS USED BY STATE PARKS AND RECREATION IN PLANNING RECREATIONAL ACTIVITIES; THESE ARE THE WATER BOTTOMS USED BY THE STATE PLANNING COMMISSION IN PLANNING FUTURE UTILIZATION FOR THE GOOD OF THE CITIZENS IN LOUISIANA. ACCESS TO THESE RECORDS PROVIDES VITAL BASIC TITLE INFORMATION TO EACH AND EVERY AGENCY - AS WELL AS TO THE PUBLIC.

(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.

Page 6 --

- C. ADMINISTRATION OF 16TH SECTIONS SCHOOL LANDS AND SCHOOL INDEMNITY LANDS IN COOPERATION WITH PARISH SCHOOL BOARDS.
- D. SELLING OF WIMBER 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.

STATUTORY PROVISIONS UNDER R.S. 47 RELATING TO ADMINISTRATION OF TAX ADJUDICATED LANDS COVER SOME 60 PAGES. EXTENSIVE RECORDS ARE KEPT ON TAX ADJUDICATED LANDS IN WHICH THE LAND OFFICE IS USED AS A CENTRAL LAND MANAGEMENT AGENCY ON TAX LANDS.

Page 7 --

USUALLY THE SHERIFF OF EACH PARISH WILL LIQUIDATE THE STATE TITLE 10 PROPERTIES IN WHICH DEBTS WERE NOT PAID BY THE OWNER. LISTINGS OF SUCH PROPERTIES ARE KEPT BY PARISH, YEAR AND NAME OF TAX DEBTOR. BY LAW, THIS 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, SUCH AS SCHOOL TAX, LEVEE TAX, CONFEDERATE VETERANS TAX, ETC. THIS REVENUE IS THEN TURNED OVER TO THE STATE TREASURER.

AFTER 3 YEARS, THE PROPERTY CAN BE SOLD. THESE SALES ARE ADMINISTERED BY THE STATE LAND OFFICE WITH A PERPETUAL RESERVATION OF MINERALS AS PROVIDED FOR BY THE CONSTITUTION.

STATUTORY PROVISIONS RELATING TO MINERAL LEASES AND THE DUTIES OF THE REGISTER UNDER R.S. TITLE 30 COVER AN ADDITIONAL 12 PAGES OF MOPE IN THE REVISED STATUTES.

AS THE SPOKESMAN FOR THE MINERAL BOARD MENTIONED LAST FRIDAY, OCT 93 OF 193 ESTABLISHED THE BASIC MINERAL LEASING LAWS OF THE STATE OF LOUISIANA. AS HE FURTHER STATED, IT WAS

Page 8 --

AN EXTREME GOOD NOW AND WRITTEN ONLY AFTER THOUGH ALL CONSIDERATION WAS GIVEN AS TO WHAT WAS GOING INTO THE ACT.

THE ACT PROVIDED THAT ALL REVENUE FROM LEASING OF STATE OWNED LANDS AND WATER BOTTOMS BE HANDLED BY THE STATE LAND OFFICE.

WHY WAS THE LAND OFFICE GIVEN THE SPECIFIC DUTY OF PROCESSING THE REVENUE?

ALMOST ALL OF THE REVENUES PRODUCED BY STATE LANDS, WHETHER BY MINERAL LEASE, SURFACE LEASE, RIGHT-OF-WAY, OR SALE, ARE CHANNLED THROUGH THE STATE LAND OFFICE, RECORDED, AND FORWARDED TO THE STATE TREASURER. REVENUE FROM MINERAL LEASES IS INCLUDED IN THIS PROCEDURE.

THE STATE LAND OFFICE HAS EXTENSIVE RECORDS OF THE STATE S LAND HOLDINGS. ACT 93 ALSO PROVIDES THAT THE REGISTER BE CUSTODIAN OF ALL MINERAL LEASE RECORDS WHICH INCLUDES ALL AIDS, PROPOSALS, ASSIGNMENTS OR TRANSFERS. THE LAND OFFICE MUST KEEP THESE RECORDS AS OPEN PUBLIC RECORDS IN ORDER THAT

Page 9 --

THE STATE'S LISTING OF ITS LAND HOLDINGS BE AS COMPLETE AND AS CENTRALIZED AS POSSIBLE.

IN LEASING STATE LANDS, THE RECORDS ON FILE IN THE LAND OFFICE ARE USED EXTENSIVELY. EITHER THE OIL COMPANIES OR THE MINERAL BOARD MUST CHECK RECORDS IN THE STATE LAND OFFICE TO ASCERTAIN IF THAT STREAM IS NAVIGABLE OR IF MINERALS ON A CERTAIN TRACT OF LAND ARE OWNED BY THE STATE -- THIS IS THE FIRST STEP THAT MUST BE TAKEN IN CONSIDERATION OF AN APPLICATION FOR ANY KIND OF LEASE -- WHETHER A MINERAL LEASE OR A SURFACE LEASE.

IF THE MINERAL BOARD LEASES PROPERTY IN A 16TH SECTION OR ON SCHOOL INDEMNITY LANDS, THE LAND OFFICE HAS TO INFORM THE MINERAL BOARD WHO OWNS THE LAND AND TO WHICH SCHOOL BOARD THE PROCEEDS ARE TO BE GIVEN. IF A LEASE COVERS A WILD LIFE GAME PRESERVE, THE LAND OFFICE HAS TO DELINEATE THAT PORTION OF LAND FOR THE WILD LIFE COMMISSION AND THAT PORTION FOR THE STATE PROPER. THE SAME HOLDS TRUE FOR LEASES IN THE ROCKEFELLER GAME PRESERVE, MARSH ISLAND AND MANY OTHER AREAS. THE LAND OFFICE HAS TO FURNISH A BREAKDOWN OF MINERAL REVENUE

Page 10 --

BY AGENCY, PARISH OR BY ANY OTHER DIRECTIVE OF THE LEGISLATURE.

WE COOPERATE WITH OTHER STATE DEPARTMENTS THROUGH OUR LAND MANAGEMENT PROGRAM. WE WORK CLOSELY WITH EVERY SCHOOL BOARD, POLICE JURY, PARISH ASSESSOR, SHERIFF, AND CLERK OF COURT; WITH THE DEPARTMENT OF PUBLIC WORKS, WILD LIFE AND FISHERIES, STATE PLANNING COMMISSION, MINERAL BOARD, STATE PARKS AND RECREATION, HIGHWAY DEPARTMENT, ETC. I COULD GO ON AND ON NAMING THE VARIOUS AGENCIES NOT TO MENTION ATTORNEYS AND TITLE RESEARCHERS WHO DAILY AND

CONTINUOUSLY NEED AND UTILIZE LAND TITLE OWNERSHIP RECORDS ON FILE IN THE LAND OFFICE.

ALL RECORDS OF THE 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, 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 EXTREMELY EFFICIENT MANNER.

Page 11 --

AS YOU CAN SEE, THE RELATIONSHIP AND DUTIES OF THE REGISTER TO PUBLIC LANDS ARE VARIED. IN THIS PRESENTATION I HAVE GIVEN MANY EXAMPLES OF DIFFERENT RECORDS THAT WE ARE BOTH CONSTITUTIONALLY AND STATUTORILY REQUIRED TO MAINTAIN. VIRTUALLY EVERY ASPECT OF STATE LAND ADMINISTRATION HAS BEEN PROVIDED FOR THROUGH THE YEARS WITH THE LAND OFFICE HAVING A MAJOR ROLE.

A CENTRAL LISTING OF ALL STATE PROPERTIES IS ON FILE IN THE LAND OFFICE UNDER ACT 150 OF 1962 WHICH, BY THE WAY, WAS ENACTED BY MR. BOB MUNSON. EVERY STATE AND PARISH AGENCY WAS REQUESTED TO FURNISH THE LAND OFFICE WITH A LISTING OF THEIR REAL PROPERTY -- WHETHER MINERAL ONLY OR FULL FEE OWNERSHIP. THIS LISTING IS ON FILE IN THE LAND OFFICE AND VERY FREQUENTLY USED BY VARIOUS STATE DEPARTMENTS.

OUR PLANS ARE TO EXTEND THIS LISTING TO INCLUDE AN APPRAISAL OF THIS PROPERTY WHICH IN TURN COULD GIVE THE TRUE WORTH OF OUR STATE LANDS IN LOUISIANA -- TOO OFTEN WE HEAR ONLY OF THE BONDED INDEBTEDNESS OF THE STATE -- KNOWING THE TRUE NET WORTH WOULD MAKE FOR BETTER PUBLIC RELATIONS FOR LOUISIANA AND ITS CITIZENS.

Page 12 --

THE LAND OFFICE HAS A LAND MANAGEMENT PROGRAM THAT INVOLVES THE ACCURATE LOCATION, IDENTIFICATION AND APPRAISAL OF VACANT STATE LANDS AND DRIED LAKE BEDS FOR REVENUE PRODUCING SUCH AS TIMBER GROWING OR FOR RECREATIONAL USES. MANY TRACTS ARE BEING CONSIDERED FOR STATE PARK OR GAME MANAGEMENT SITES. VACANT STATE LANDS ARE OPEN TO THE PUBLIC FOR HUNTING, FISHING AND RECREATIONAL USE.

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 CHAIRMAN OF THE  
 PUBLIC LAND LAW REVIEW COMMISSION AND STATE CHAIRMAN OF THE  
 STATUS OF WOMEN -- ALL OF THIS GOES WITH THE TASK OF BEING  
 REGISTER.

WE HAVE BEEN AND WILL CONTINUE COOPERATING VERY  
 CLOSELY WITH ALL AGENCIES THROUGHOUT THE STATE AND RENDERING  
 SERVICE TO THE TAXPAYERS OF LOUISIANA.

Page 13 --

MR. CHAIRMAN, I WONDER IF THERE ARE ANY QUESTIONS  
 AS OF NOW

AND NOW FOR THE RECOMMENDATIONS AS TO THE CHANGES  
 IN THE CONSTITUTION:

Attachment 1A

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 deputy, 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 re-claimed 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.

Page 2

- 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 RS47:1701).
- Art X Sec. 11 Sale of property for taxes due by Sheriff. Must be held three years.

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- 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 1890.
- Art XIX Sec. 19 Tax liens shall lapse in three years on redeemable property.

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 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 over \$,000.

- Art XIV Sec. 30.3 Legislature is able to create navigation and river improvement districts for improvement 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

- 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 redneaned 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) Art. 14, Section 5 (land offices) Special constitutional provisions authorizing the selling 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 transaction occurs.

Attachment 2

STATEMENT OF  
GEORGE W. HARDY, III  
PROFESSOR OF MINERAL LAW  
LOUISIANA STATE UNIVERSITY  
BATON ROUGE, LOUISIANA

TO:

THE COMMITTEE ON NATURAL RESOURCES  
AND THE ENVIRONMENT  
OF THE  
LOUISIANA CONSTITUTIONAL CONVENTION OF 1973

March 23, 1973

March 23, 1973

RECOMMENDED ADDITIONS TO THE CONSTITUTION

- 1) IN ORDER TO IMPROVE THE PROVISIONS OF ACT 159 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) ADEED 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 BURDEN ON INDUSTRY WHICH HAS BEEN LOUISIANA'S MAINSTAY.

STATEMENT OF GEORGE W. HARDY, III, PROFESSOR OF MINERAL LAW, LOUISIANA STATE UNIVERSITY, BATON ROUGE, LOUISIANA, TO THE COMMITTEE OF NATURAL RESOURCES AND THE ENVIRONMENT OF THE LOUISIANA CONSTITUTIONAL CONVENTION OF 1973.

INTRODUCTION

Initially, I would like to thank the Committee for inviting me to testify today. I consider it a privilege and hope that my remarks will be of value in shaping the Constitution. It is my understanding that the invitation to testify extends to the areas of public lands and natural resources. In the area of natural resources, I will include the present constitutional provisions concerning severance taxes since they are fundamentally related to the extraction and use of our natural resources.

In some respects the topics of public lands and natural resources are inseparable because our public lands are a resource in themselves and should be managed accordingly. I would like to turn first of all to a discussion of the constitutional provisions concerning natural resources.

## I. Natural Resources

### Definition of Natural Resources

The first thing which I think should be approached is some definition of what we mean when we use the term "natural resources". The present constitution in Article 6 specifically treats wildlife and fisheries and forestry resources as natural resources with special bodies for their management. It then contains the statement that "all other natural resources are hereby placed under a Department of Conservation, which is hereby created and established." We all know that the Department of Conservation has not evolved as a managing body for all other natural resources. Its functions are presently limited to the conservation of oil and gas, and as related to oil and gas operations the prevention of damage to environmental or other resources which result from such things as improper

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disposal of salt water produced with oil or gas. I will treat the problem of organizational structure for resource management later. My present point is that we need a definition of natural resources which extends beyond the simple phrase "natural resources." It is, of course, a subject upon which reasonable men can differ. However, I feel that it is of the utmost importance for the State of Louisiana to adopt a constitution which recognizes that all forms of nonliving and living resources are "natural resources" and should be managed as such. Nonliving resources would include land, both public and private, minerals, surface and ground water resources, and air. Living resources would include fish and wildlife and forests. I do not think that there would be argument over classification of minerals, water resources, fish and wildlife, and forest resources as natural resources. I feel that there might well be argument over whether land and air should be regarded as natural resources. However, I cannot see that we can fail to regard these things as natural resources. The reason I take this position is that I do not believe we can properly manage the utilization of nonliving resources such as minerals without regard for what mineral development does to the land, the water, and the living resources. On the other hand, the extraction of our mineral resources is of great importance to us, and we cannot adopt a policy which would preclude efficient utilization of mineral resources. We cannot use land resources for industrial development without regard for impact on the utilization of land in surrounding areas and on the quality of our air. In short, then, I feel that our constitution should recognize all of the classes of resources which I have mentioned as being within the meaning of the term "natural resources."

### Resource Management Policy

Having given some definition to the term "natural resources", I think it would then be important for the constitution to set forth a statement of policy concerning management of natural resources. The first element of any policy statement it seems to me should be that we give recognition to the fact that

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all of our natural resources are finite and should be managed accordingly. We have been made dramatically aware that our petroleum resources are finite. The past attitude of our nation toward these resources has regarded them almost as a public utility service which will go on forever. We know that this is not

true. Our lands are a finite resource. We can build and subdivide and pave and otherwise use our lands until they are in fact used up. The air as a resource is finite in the sense that it will tolerate only so much pollution without impact on human and other forms of life. Our living resources, though in some respects replenishable, are certainly finite. There could, perhaps, be no more dramatic example or symbol of this fact than the extinction of the brown pelican, our state bird. We can destroy our forest resources. We can use up or kill fish, oysters, and shrimp. Thus, I would recommend that the constitution specifically recognize the finite quality of all natural resources and specify that they should be developed, used, conserved, protected, and when possible, replenished with recognition of their finite character.

An important reason for recognizing the finite character of our natural resources is my belief that we have a responsibility to future generations. Historically, the United States has manufactured and consumed, in the belief that new resources can always be found when a particular supply is depleted. We can indeed manufacture and consume ourselves to death. I suggest that this is unwise. We speak repeatedly in this country of the wisdom and foresight of our forefathers. We will be derelict if we neglect that we, too, will become forefathers. We have a responsibility to future generations of no less magnitude than those who founded the country in the beginning. Some resources, such as certain types of mineral resources, may be doomed to be completely used up no matter what we do in a relatively short time. Others, however, such as land, air, fish and wildlife, and forests, could be used up, but can be preserved for those who will call us forefathers. The management policy of this state should

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protect the legitimate interests of future generations. The constitution should specify that natural resources should be so used, protected, conserved, and replenished, as to maximize their availability to future generations of the public of the state of Louisiana.

### Organization for Management

Ideally, a constitution probably should contain little more than what I have already suggested. That is, some indication of what is meant by the term natural resources and a management policy to be implemented by the Legislature. The ideal constitution would not contain an elaborate organizational framework for resource management. Our present constitution is certainly far from ideal. It contains a plethora of organizational provisions concerning the Wildlife and Fisheries Commission, the Forestry Commission, the Department of Conservation, the Office of the Register of State Lands, and other agencies or officers whose functions directly or indirectly relate to natural resource management. In addition to that, we have statutory agencies by the dozen. If we are to manage our resources well in keeping with whatever policy statement is inserted in the constitution, we cannot sustain the burden of the present organizational structure which is disorganized, disoriented, and far from achieving maximum effectiveness. In making this statement, I do not wish to be taken as being derogatory about any single agency or any personnel connected with any agency of the state. I am not. I think in many instances we have highly capable, dedicated personnel doing the best they can with a difficult situation. The principal problem lies with the fact that we cannot achieve an overall, goal oriented management policy organized, or rather disorganized, as we are today.

Therefore, I would suggest that the severity of the problem with our present organizational structure warrants inclusion in the constitution of some elements of an organizational structure for natural resource management in Louisiana. Toward the end of implementing the resource management policy to be

5. stated in the constitution, the constitution should further provide for a single Department of Natural Resources. Attached is a suggested organizational chart for such a department. I would suggest that at the top of the organizational chart there be a Council on Natural Resources or Commission of Natural Resources which is responsible only for making policy. I would suggest that the membership of this Council not exceed nine persons, including the Director of the Department of Natural Resources and the directors of the three divisions within the department which I have suggested, the Division of Public Lands, the Division of Living Resources, and the Division of Nonliving Resources. The remaining five members of such a Council or Commission should be appointed by the Governor. The constitution, though I do not believe it should specify specific group representation as being necessary, should contain some statement to the effect that the appointive members shall represent, insofar as is reasonable, affected interest groups. Enabling legislation could further specify groups from which individual members might be selected, if necessary. As a policy, let me say that I am not in favor of specifying group representation. I believe that what happens in such cases is that a person appointed to represent an interest group becomes no more than an advocate for and representative of a constituency with a particular point of view. Such members tend to be uncompromising, self-interested, and paralyzing to the deliberative and decision making process. Group representation, in the name of democracy, turns peoples eyes and thoughts and actions away from the public interest and toward self-interest.

The suggested Department of Natural Resources would be administered by the Director of the Natural Resources, responsible for implementing policies made by the Council or Commission. And within the Department, I suggest the possibility of establishing three divisions: the Division of Public Lands, the Division of Living Resources, and the Division of Nonliving Resources. This organizational breakdown may not be fully satisfactory. However, it is at least a start. I would recommend that the organizational structure inserted in the constitution

6. cease at this point and that wherever possible implementation and detail be left to enabling legislation subsequent to adoption of the constitution. I have, however, in order to demonstrate the functions I envision as being performed by the three divisions, indicated possible organization at another sublevel. Within the Division of Public Lands, there might be a Bureau of Parks and Recreation, the Bureau of Mineral Leasing, and the Register of State Lands. Within the Division of Living Resources, there might be a Bureau of Forestry and a Bureau of Wildlife and Fisheries. Within the Division of Nonliving Resources there might be a Bureau of Land and Coastal Resources charged with land use planning for the state, a Bureau of Water Resources exercising control over both surface and ground water, a Bureau of Mineral Resources performing essentially the functions of the present Department of Conservation, and a Bureau of Air Pollution Control.

I have not reduced this proposal to the form of specific language in constitutional form. If, however, the Committee is interested in a draft, I would be happy to work with your staff in providing one.

#### Conclusion Regarding Natural Resources

To summarize, I think it is important that the constitution broadly define natural resources. There must be a stated policy regarding resource management, and I believe that we would be irresponsible if we did not restrain the historical trend toward exploitation and consumption of our natural resources by means of

a forceful policy statement in this regard. Third, in view of the poor organizational structure existing for resource management presently, it may be wise to specify the elements of a management structure.

#### II. Public Lands

What I have already said concerning natural resources has obviously touched upon public land management. I would suggest that it is wise to regard our public lands as a natural resource even though management of them involves more than

7. conservatory activity. For example, the Mineral Board presently grants leases for the discovery and production of oil, gas and other minerals. To this extent, the Mineral Board is engaged in depleting or using up resources. Generally, I do not think it is a good idea to put a using agency or depleting agency together with a conserving agency for administrative purposes. In this case, however, I think it is feasible. The natural resources on and under state-owned lands should be developed and managed with an eye to conservation policy. For this reason, I think it is practical and desirable to have a Division of Public Lands within the Department of Natural Resources. As I have indicated to you, the Division of Public Lands would serve the functions of the present Register of State Lands and the function of developing and operating our state parks and recreational programs together with the functions of the present Mineral Board. I feel that this organizational format would permit efficient management of our public lands as a resource and would do away with the cumbersome array of boards and commissions and offices which we presently have.

Now I would like to turn to the provisions of the present Article 4, Section 2 of the Constitution. The present constitution prohibits legislative alienation or authorization of alienation of the bed of any navigable stream, lake or other body of water, except for purpose of reclamation. It requires that when property is sold by the state mineral rights shall be reserved except that where there is a redemption of property sold or adjudicated to the state for taxes, the redemption may include mineral rights on the land redeemed. Further, the present constitution provides that these prohibitions do not prevent the leasing of lands and rights for mineral or other purposes. My colleague, Professor Yiannopoulos, commented further on the area of water bottoms and alienation of them this afternoon, I understand. Let me say that I have discussed this matter with him and that I am in general agreement with his approach. He will provide you with some specific suggested language. However, let me briefly outline my views concerning what should be contained in a constitutional provision dealing with the substance of

8. the present Article 4, Section 2. I believe that it would be convenient and meaningful to utilize the concept of the "public domain", which is recognized as a part of our property law by the Louisiana Civil Code, in the constitution as a basis for dealing with these matters. I would recommend first of all, that the constitution contain a statement that property in the public domain of the state is inalienable, imprescriptible, and exempt from seizure. Second, I would specify certain classes of property as being within the public domain and require in the constitution that they remain so forever. In this category, I would place the sea and its shores, all navigable waters, and the beds and bottoms of all such waters. I would recommend that the constitution further specify that the legislature may declare other property to be within the public domain. This would mean, for example, that if land were acquired as a state park, although enabling legislation could provide that it would be within the

public domain, and it would therefore, automatically become inalienable, imprescriptible, and exempt from seizure. The present constitution contains an exception to the prohibition against alienation of the bed of any navigable body of water. I would ~~delete~~ delete this exception as presently written. I think that reclamation projects are a serious danger to the preservation of our waters as natural resources. For this reason I would recommend that the constitution provide that only the state may engage in reclamation and then only for public purposes. This would permit such activities as reclaiming the bed or bottom of a body of water for port or harbor facilities, or perhaps for an airport or for superport facilities. Certainly, it would be wise to preserve the possibility of leasing these lands for mineral development. I would, however, suggest some alteration in the phraseology of the present constitution. I would suggest that it be provided that the legislature may authorize the granting of special rights to utilize the named classes of property. However, no lease, permit, license, concession, or other right or use thereunder should substantially impair the public use of the lands and waters in question.

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I would retain the present requirement that mineral rights be reserved on all property sold by the state. Although the present constitution provides in Article 19, Section 16 that "prescription shall not run against the state in any civil matter, unless otherwise provided in this constitution or expressly by law," I feel that it might be wise to specify that minerals reserved by the state in the sale of public lands shall be imprescriptible. I feel it is just and desirable to maintain the present provision excepting redeemed lands which have been sold or adjudicated to the state for taxes from the requirement that minerals be reserved in sales of land by the state.

In summary, then, I feel that it is imperative that we guard public lands as natural resources. This is particularly true of our state waters and water bottoms. The right of the public to use the state waters is of great importance. The interest of the state in securing economic return from the utilization of its waters and water bottoms is important. The development of new uses of these waters and water bottoms can best be accomplished under the administrative aegis of the state. For all these reasons, this portion of the constitution must be well thought out and unmistakably clear.

### III. Severance Taxes

The present constitution deals with severance taxes in Article 10, Section 21. The fundamental idea of the present constitution is that severance taxes are to be the only taxes levied on natural resources. This means that those who own land with mineral content do not pay property taxes on an assessed basis which includes mineral values. This is a policy decision with which I can agree. It is a difficult and risky thing to estimate mineral values as a basis for assessment of property for tax purposes. Further, assessment of property taxes based upon mineral values as well as land values may require a landowner to pay tax on a value which he cannot now realize. The ordinary landowner cannot drill oil or gas wells or mine for salt or sulphur on his own. He does not

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have sufficient economic resources to do so. He must, therefore, await the advent of an entrepreneur willing to engage in exploratory and mining activities. Additionally, taxing mineral values for property tax purposes may result in taxing an assumed but nonexistent value. For example, a particular tract of land may be known to have oil under it. An assessor might fix the value of reserves based upon a current reasonable estimate. Taxes might be paid thereon.

In the final analysis, however, actual production might prove that the reserves were only a quarter, a third, or a half of the estimated amount. The state might also be hurt if mineral values were taxed in this fashion. Assume a similar situation in which the reserve estimate for tax purposes is far below the actual amount recovered. The state would have lost revenues through error. I therefore recommend a continuance of the severance tax as the only tax on natural resources. Regarding the severance tax on sulphur, I see no reason why the limitation in the present constitution of severance tax to \$1.03 per long ton of sulphur should be continued. It seems to me that the Legislature should be free to fix tax rates as economic necessity requires, considering the interest of the state and the economics of particular mineral industries. I would retain the present provision which permits the classification of natural resources for tax purposes and allows the tax to be based upon either the quantity or value of the products at the time and place of severance. Taxation of natural resources on a value basis has great advantages for the state. It permits the state's revenues to rise with the tide of inflation without requiring new tax legislation, which is always difficult to secure. The present prohibition against parishes or other subdivisions levying a severance tax should also be retained. As a housekeeping matter, there are some obsolete provisions in the current Section 21 which I am sure your staff will delete. Again, I would be happy to assist in these technical matters if it is desired.

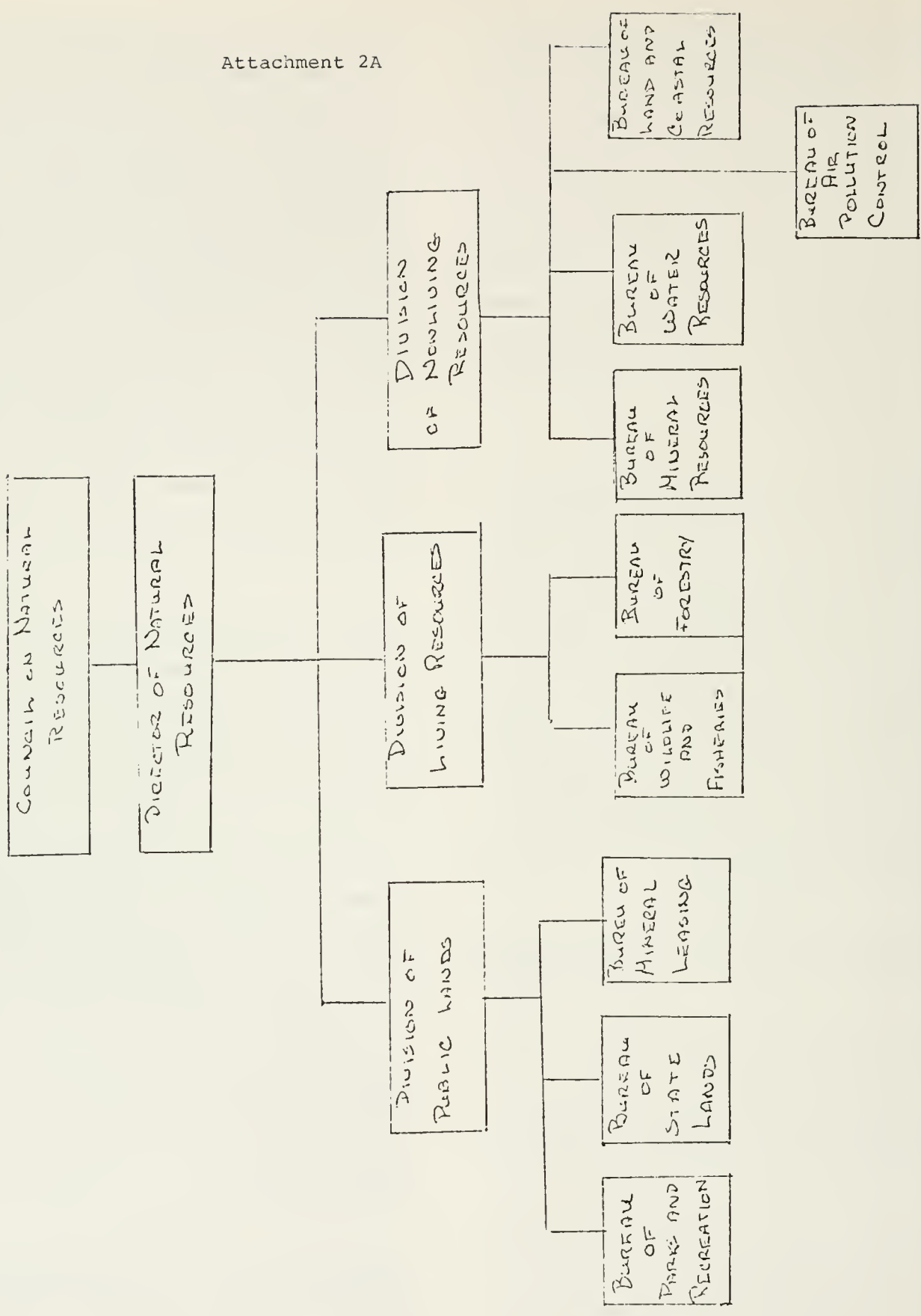
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Now, let me make one last observation on a topic which is raised by a consideration of the remainder of Section 21 of Article 10. In that section portions of the severance tax are dedicated for use by the parishes from which minerals are extracted. Also, all severance taxes on all forms of timber, turpentine and other forest products are dedicated to the Louisiana Forestry Commission. I did not discuss it in connection with the public lands topic. However, I might also point out that there are complex dedications of revenues from leasing and production of minerals on state lands in the present constitution. I would like to say in the strongest possible terms that I believe as a general policy these constitutional dedications of revenue are unwise and inefficient. I realize that many of them are imbedded in the constitution because of individuals or groups who benefit by them fear legislative tampering with a revenue source. There also may be some justification seen in the possibility that a constitutional dedication may permit issuance of certain kinds of bonds on a better market. Despite all this, I think constitutional dedications are unwise. Probably three quarters of our revenues are dedicated by the constitution. Another ten to fifteen percent are dedicated legislatively. This means that annually when our legislature meets it has the magnificent opportunity to distribute ten to fifteen percent of our state's revenues to meet current priorities and growing needs. I cannot say that I believe this to be sound fiscal management policy. Therefore, since these dedications do relate to the natural resource area, I hope you will pardon me if I express my opposition to constitutional revenue dedications.

### CONCLUSION

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I want to thank all of you for permitting me to appear here this morning. It has been a pleasure. I will be happy to answer any questions you may have. Let me say that I do not envy you your job but I wish you well in this undertaking for the feeling of achievement that it will give you as individuals and for the benefit that may accrue to the State of Louisiana.



NOTES

No Attachment No. 3 was made to committee minutes.

Attachment 4

Remarks of R. T. Sutton, Commissioner of Conservation  
before the  
Constitutional Convention Committee on Natural Resources and Environment  
March 23, 1973

The Department of Conservation, as presently constituted, is an independent department charged with and dedicated to the task of preventing waste of oil and gas -- Louisiana's most important asset. It should be placed in the new constitution in exactly the same manner it is found in the present constitution.

The Department of Conservation is responsible for the regulation of the industry developing the State's oil and gas resources. That regulation is related to three well-established and basic principles:

- 1) the prevention of waste,
- 2) maintaining efficient production practices, and
- 3) the protection of owners' rights.

In other words, the Department's efforts are directed toward assuring that only efficient and proper use is made of reservoir energy; assuring that only those production methods are used that tend to increase ultimate oil and gas recovery; assuring that only those methods tending to prevent waste or loss and destruction of oil and gas on the surface, in storage, and in transmission are used; assuring that only the best possible programs are followed in locating, spacing, and drilling oil and gas wells in the State. All of these things are done to accomplish the prevention of waste and maintain efficient production practices.

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The protection of owners' rights has been, in itself, a charge of prime concern ever since the first conservation law was passed back in 1906. The rights of every citizen in the State having an interest in minerals production, as well as the rights of those departments of the State charged with the responsibility of protecting the rights of Louisiana, as such rights relate to ownership, must be protected. That protective force must be able to protect the rights of all interests without having rights of its own to protect. Only in that way can the protection of rights be of paramount importance. It is easy to understand that if the Department had any rights of its own to protect, it could never place the protection of other people's rights in the position of prime concern.

I recognize, just as each of you do, that there are departments of state that are responsible for seeing that the State of Louisiana -- as an owner -- gets her fair share of whatever it is she owns. The Department of Conservation is not one of those agencies. Whenever the State of Louisiana

has an interest in any proceeding before the Department of Conservation, the State is recognized as an owner. And, just like all other owners, its rights must be protected. But never can those rights be considered more important than any other owner's rights. Because of this principle, the Department of Conservation has always looked away from property ownership. For instance, whenever our geologists draw a structure map showing subsurface geology, the structure is drawn on a blank piece of paper upon

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which they locate wells only in respect to each other -- there are no ownerships whatsoever. It is not until after the structure and related unit boundaries are drawn and approved that those lines are placed on maps that may or may not show ownership. In this way, all rights are protected -- including the rights of Louisiana, the owner.

The authority vested in the Commissioner of Conservation gives him jurisdiction over all persons and property necessary to enforce the laws relating to the conservation of oil and gas. "Person" is defined in the present statutes as meaning "any natural person, corporation, association, partnership," and so on; or "any representative of any kind." When the authority of the Commissioner is exercised -- through the Department of Conservation -- that authority does not discriminate. It applies to all interested owners as well as the State of Louisiana in reference to its ownership rights.

The present statutes -- commonly referred to as Title 30 of the Louisiana Revised Statutes of 1950 -- have been used by other states and by the Interstate Oil Compact Commission as a model statute. In its present form it is complete, strong, and flexible. It has been tested in court many times and has always been upheld. And, as I said, it is flexible -- a quality that allows the Department to fit it to changing technology.

One other particular provision of the present statutes is a functional charge of the Commissioner of Conservation -- that charge being to complete

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a geological survey of the State. That functional charge was established by Act 131 of 1934 and is presently considered to be included as part of Title 30 of the Louisiana Revised Statutes of 1950.

Again, completing a geological survey of the State must be accomplished within the three basic principles of conservation regulation -- and again the protection of owners' rights is of paramount importance. The geological bulletins published set forth in written form the results of survey studies. These studies reveal, for those who have need of the information, the location as well as economic geology and factual information on such important mineral deposits as oil, gas, limestone, sand, gravel, and sulphur. These bulletins, or reports, are published in the public interest in hopes that anyone interested may develop the mineral deposits surveyed.

For the reasons I have set before you, I feel very strongly that the Louisiana Department of Conservation must be a part of our new constitu-

tion; I feel very strongly that the new constitution must place as heavy a burden upon the Department of Conservation as the present constitution; and, I feel very strongly that the Department of Conservation must remain independent and unencumbered by even the slightest hint of having to protect its own direct or indirect interest. Only in this way will every citizen, every company, and every state department charged with ownership rights be assured the right to be heard. Only in this way can all owners' feelings be considered whether or not they are represented by legal counsel or technical assistants. Only in this way can the task of preventing waste of our most important asset be accomplished.

Why Conservation should not be combined with other State Agencies

If the Department of Conservation were merged with any other agency such as the Mineral Board or Land Office, there would be a conflict of interest in virtually every division of the Department.

The responsibility of the Commissioner of Conservation relates to all segments of the oil and gas interests, public as well as private. The Department of Conservation is a regulatory agency. Its regulations affect the oil and gas operations of all interests, public as well as private. It therefore would constitute a conflict of interest if it would also be representing one of the interests that it was regulating.

(Statement for CC-73 on 3/23/73)

Why Conservation should not be combined with other State Agencies

If the Department of Conservation were merged with any other agency such as the Mineral Board or Land Office, there would be a conflict of interest in virtually every division of the department. As an example: The Public Hearing Division is responsible for the complete coordination of the public hearing function -- from the receipt of a Pre-Application Notice, to the actual docketing of the public hearing, to the preparation of the order to be promulgated by the Commissioner of Conservation as a result of the hearing. Public hearings are the means by which the interests and rights of every landowner in the State of Louisiana are protected. The public hearing, as conducted by the Commissioner of Conservation and his staff, is the first "court of competent jurisdiction" for any matter related to the development and production of oil and gas in which the parties involved -- that is, all parties having an interest -- are not able to resolve their differences in a completely voluntary manner.

Being responsible for State Lands would place the Department of Conservation in the position of being both claimant and defendant, which is no doubt unconstitutional as well as unethical. It would further do violence to paragraph 10, Title 30, in every case where the Commissioner would have the right to force State acreage controlled by him into a producing unit with other landowners.

Similar problems would exist in the Development, Completion, Production, and Enforcement Division that is responsible for the day-to-day operations of the Department of Conservation as related to the administration of and compliance with the rules and regulations under which the oil

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and gas industry operates in Louisiana. There will be times in all of these areas where it will be impossible for the Department to do justice in its dual role as a State regulatory body which is also responsible for maintaining maximum revenue from State Lands.

Also in the Oil and Gas Geological Division, the personnel would have a two-fold purpose in making their evaluations -- one that would result in maximum participation of State-owned lands and the other to insure that all landowners received their fair and equitable share. In some cases there would be a conflict of interest since it would be impossible to carry out their duties to the fullest extent.

Attachment 5

JOHN W. SMITH  
P O BOX 339  
LOCKPORT, LOUISIANA 70374

MARCH 23, 1973  
BATON ROUGE, LOUISIANA  
CONSTITUTIONAL CONVENTION

CONSIDER ALL THE YAMMER WE HEAR TODAY ABOUT "BIG BUSINESS", OR "BIG CORPORATIONS". WHAT'S SO BAD ABOUT BIG? WHEN WE WERE 'YEA' HIGH AND WORE A BIB TO SUPPER, WE ATE THOSE VEGETABLES WHETHER WE LIKED THEM OR NOT SO WE WOULD GROW BIG AND STRONG LIKE DADDY. AS THE RESULT OF THIS YOUTHFUL RIGHTEOUSNESS, WE CAN PLUCK OUR HAT FROM THE HIGHEST CLOSET SHELF, OR CARRY THE BIGGEST WATERMELON IN THE HOUSE. WE ARE INCLINED, THEREFORE, TO VIEW BIGNESS AS A MANIFESTATION OF PAST GOOD DEEDS - LIKE EATING YOUR LIVER AND SPINACH. OUR APPROVAL OF GROWTH EXTENDS TO COMPANIES AND INDUSTRIES AS WELL AS TO INDIVIDUALS. WHEN WE SEE A BIG MAN OR A BIG COMPANY, OUR FIRST THOUGHT IS THAT - SOMEWHERE ALONG THE LINE - HE OR IT MUST HAVE DONE SOMETHING RIGHT. SO WE ARE DISMAYED BY THE SCORN AND SUSPICION TOO OFTEN DIRECTED AT COMPANIES AND INDUSTRIES SIMPLY BECAUSE THEY'RE BIG. WE'RE EVEN MORE DISMAYED BY THE PATHETIC EFFORTS OF SOME COMPANIES AND INDUSTRIES TO PROVE THEY AREN'T REALLY ALL THAT BIG; IN FACT, THEY ARE SORT OF CUDDLESOME. WHAT THE HELL'S SO BAD ABOUT BIG? WHY SHOULD A COMPANY OR AN INDUSTRY SCROOTCH UP AND TALK TINY TO CONCEAL THE EVIDENCE THAT IT DID A GOOD JOB, AND THEREFORE GREW? BY WHAT INANE LOGIC CAN SOCIETY ACCEPT AND NOURISH THE PIP-SQUEAKS INSINUATIONS THAT, BECAUSE A MAN GOT RICH, OR A COMPANY GOT BIG, THEY ARE EVIL? ISN'T IT AT LEAST AS LOGICAL THAT THEY GOT RICH OR BIG BECAUSE THEY WERE BETTER THAN MOST?

IT'S TIME WE RE-AFFIRMED THE VALUE - THE ABSOLUTE ESSENTIALITY - OF WEALTH, OF BIGNESS, OF INDUSTRIAL MIGHT IN THE WORLD. ON ANY EDITORS DESK AT ANY MOMENT IN TIME, YOU'LL FIND THE USUAL TUB-THUMPINGS OF PROXIMES,

1.

JOHN W. SMITH  
P O BOX 339  
LOCKPORT, LOUISIANA 70374

McGOVERNS, MARTIN LOBELS OF THIS EARTH - ALL BATTLING MIGHTILY AGAINST "BIG OIL", "BIG STEEL", AND "BIG WHAT-HAVE-YOU" BOGEYMEN. BUT ON THE SAME EDITORS DESK YOU WILL FIND SOME OTHER ITEMS THAT SHOULD BE WEIGHED AGAINST THOSE OUTCRIES. RANDOM SELECTIONS FROM THE STACK CURRENTLY IN THE CENTER OF "OUR" OWN DESK: HUMBLE VICE-PRESIDENT, JOHN L. LOFTIS, JR. TOLD THE WEST VIRGINIA OIL AND NATURAL GAS ASSOCIATION THAT ".....TO DRILL A DEEP



GAS WELL IN THE DELAWARE BASIN COSTS AROUND \$1 MILLION OR MORE...AND A SIMILAR EXPLORATORY WELL TO 20,000' IN SOUTH LOUISIANA WILL COST UP TO \$2 MILLION. NOW MANY LOVEABLE 'LITTLE MEN' CAN HANDLE THAT KIND OF ACTION? THE "COLONEL DRAKE", A NEW SELF-PROPELLED, SEMI-SUBMERSIBLE RIG BEING BUILT BY SUBSIDIARIES OF INDIANA STANDARD AND THE OFFSHORE COMPANY, WILL SET THEM BACK A COOL \$20 MILLION. CAN YOUR AUNT MATILDA PICK UP A TAB LIKE THAT? CONSIDERING THAT THE EKOFISK DISCOVERY WAS MADE IN LATE 1969, AND FULL SCALE PRODUCTION WILL NOT BE REALIZED UNTIL EARLY 1975, PHILLIPS PETROLEUM'S C.M. KITRELL FIGURES THAT - WITH CURRENT TECHNOLOGY - IT WILL TAKE UP TO 4 YEARS TO DEVELOP FULLY A NORTH SEA FIELD IN UP TO 230' OF WATER - <sup>ROCK</sup> FOR FIELDS IN DEEPER WATER. NOW MANY SMALL FRY CAN WAIT THAT LONG FOR PAYDAY? ANYBODY WANT TO BE THE FIRST KID IN HIS NEIGHBORHOOD TO FREEZE A BILLION ON THE ALASKAN NORTH SLOPE, OR TOSS HIS WAD OVERBOARD INTO THE SANTA BARBARA CHANNEL? DON'T YAMMER AT US ABOUT THE MENACING BIG RICH, AND THE GIANT CORPORATIONS. WE LIVE IN A WORLD WHERE GIANT ACCOMPLISHMENT TAKES GIANT INVESTMENT, HERCULEAN EFFORT, AND ALMOST UNLIMITED TALENT. IN A WORLD LIKE THAT, BIG IS BEAUTIFUL.

THERE IS A SERIOUS NEED FOR THE NATION TO ANALYZE ITS ENVIRONMENTAL PROBLEMS WITH GREATER OBJECTIVITY AND FAR LESS EMOTION. PATIENCE, PERSISTENCE AND WISDOM WILL ACHIEVE MORE ENDURING PROGRESS THAN CRUSADING ZEAL.

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JOHN W. SMITH  
P. O. BOX 222  
LOCKPORT, LOUISIANA 70374

THE NATION'S POLITICAL PARTIES, AND THEIR CANDIDATES FOR POLITICAL OFFICE, SHOULD SET THE EXAMPLE FOR THE REST OF US BY CANDIDLY PRESENTING TO THE PUBLIC THE COSTS, AS WELL AS THE BENEFITS, THAT ENVIRONMENTAL DECISIONS ENTAIL. WE ARE, FOR EXAMPLE, PERIOUSLY CLOSE TO THE POINT WHERE WE WILL BE UNABLE TO MEET OUR ENERGY NEEDS. MISGUIDED AND, IN SOME CASES, COUNTER PRODUCTIVE ACTION IN THE NAME OF THE ENVIRONMENT, IS ONE OF THE FACTORS CONTRIBUTING TO THIS IMPENDING CRISIS. TRUE FRIENDS OF THE ENVIRONMENT WOULD DO WELL TO CONSIDER THE POSSIBILITY OF A DISASTROUS BACKLASH AGAINST A WORTHY CAUSE, IF A GENERALLY UNAWARE PUBLIC IS SUDDENLY CONFRONTED WITH MASSIVE AND PROTRACTED POWER FAILURES. CLEAN AIR AND CLEAN WATER ARE IMPORTANT TO ALL OF US. BUT SO ARE FOOD, CLOTHING, AND SHELTER. WE MUST STRIVE TO MAXIMIZE BOTH, WITHOUT PAINTING OURSELVES INTO CORNERS THAT MANDATE THE PURSUIT OF ENVIRONMENTAL GOALS TO THE DETRIMENT OF SOCIAL GOALS, OR VICE-VERSA.

WE BELIEVE MANAGEMENT HAD BETTER SIT DOWN ONE DAY SOON AND EXAMINE WHETHER REGULATION IS TAKING RIGHTS FROM MANAGEMENT, OR IF MANAGEMENT IS GIVING THEM AWAY. FOR WHAT MANAGEMENT HAS BEEN DOING STANDS INDICTED: IT SIMPLY HAS NOT WORKED. WE KEEP TELLING YOUNGSTERS TO "WORK WITHIN THE SYSTEM", BUT HAS INDUSTRY FULLY TRIED TO UNDERSTAND AND WORK WITHIN THE SYSTEM TO BRING ABOUT CHANGE? ARE ELOQUENT SPEECHES AT MANAGEMENT GATHERINGS MORE OFTEN DIRECTED TO DESCRIBING HOW BAD THINGS ARE THAN AT PROPOSING ACTION TO BRING ABOUT CHANGE? TO BEGIN TO CONTROL REGULATION WE MUST HAVE:

- (1) ECONOMIC ASSESSMENT OF EVERY GOVERNMENT LEGISLATIVE AND REGULATORY ACTION.
- (2) REGULAR REVIEW OF THE EFFECTS OF EVERY REGULATORY ACTION ON THE ECONOMY.

3

JOHN W. SMITH  
P. O. BOX 222  
LOCKPORT, LOUISIANA 70374

- (3) THOROUGH CONSIDERATION OF THE PRIVATE ENTERPRISE ALTERNATIVES TO ACHIEVE A RESULT FOR WHICH REGULATORY OR LEGISLATIVE ACTION IS PROPOSED.
  - (4) FULL AND OPEN EVALUATION OF EVERY PROPOSED REGULATORY OR LEGISLATIVE ACTION BY ALL PARTIES THAT WILL BE AFFECTED.
  - (5) CLOSER CONGRESSIONAL AND EXECUTIVE BRANCH CONTROL OF EXISTING REGULATORY AGENCIES, AND THE ABOLITION OF NEARLY ALL OF THEM.
- BUT SUCH CHANGES WILL BE DIFFICULT ENOUGH TO BRING ABOUT IF THE PUBLIC

UNDERSTANDS AND DEMANDS THOSE CHANGES. AID IT WILL UNDERSTAND AND DEMAND THOSE CHANGES ONLY AS INDUSTRY BUILDS THAT UNDERSTANDING. THAT THE INDUSTRY WHICH IS THE SOURCE OF WEALTH, EMPLOYMENT, MILITARY SECURITY, AND A "WORLD ENVIEO" STANDARD OF LIVING SHOULD BE REGAUEDED BY NEARLY HALF OUR PEOPLE AS A "THREAT TO OUR EXISTANCE" SUGGESTS THAT INDUSTRY HAS FAILED TO AN INCREDIBLE DEGREE. IF INDUSTRY HAS BEEN WAITING FOR A CRISIS, THAT CRISIS IS AT HAND. COMPETITION RISING ABROAD, AND REGULATION RISING AT HOME, LEAVE NO DOUBT THAT THE SURVIVAL OF INDUSTRY IS ON THE LINE. THAT SURVIVAL IS IN YOUR HANDS, FOR NO ONE WILL SAVE PRIVATE ENTERPRISE BY REGULATION.

Attachment 5A

BUREAU OF LAND MANAGEMENT, DEPT. OF INTERIOR  
STATEMENT OF JOHN W. SMITH  
AUGUST 1972

MY NAME IS JOHN W. SMITH. I REPRESENT THE HOUMA-TERREBONNE CHAMBER OF COMMERCE, AND I AM AN OILWELL WORK-OVER AND DRILLING CONTRACTOR WITH HEADQUARTERS IN LOCKPORT, LOUISIANA. I AM HERE AT THE REQUEST OF THE HOUMA-TERREBONNE CHAMBER OF COMMERCE, BUT I ALSO PRESUME TO SPEAK AS A CONCERNED RESIDENT OF LOCKPORT, LOUISIANA. I HOPE THAT THIS PRESUMPTION IS ACCEPTABLE BECAUSE I THINK IT IS IMPORTANT, SOMETIMES, THAT WE FORGET THAT WE ARE OIL MEN, OR ECOLOGISTS, OR WHATEVER - AND REMEMBER FOR A LITTLE WHILE THAT WE ARE PEOPLE.

A GREAT DEAL HAS BEEN SAID, AND WILL BE SAID, TODAY ABOUT THE ENERGY CRISIS AND THE NEED TO TAP THE VAST OIL AND GAS RESERVES OF THE LOUISIANA CONTINENTAL SHELF. THESE STATEMENTS ARE VITALLY IMPORTANT AND VERY, VERY TRUE. THOSE TOPICS ARE BEING DISCUSSED BY SPEAKERS MORE ELOQUENT AND BETTER QUALIFIED THAN I. RATHER THAN REPEAT WHAT YOU HAVE HEARD AND WILL HEAR FROM OTHERS, LET ME INVITE YOUR ATTENTION TO AN AREA WE TEND TO OVERLOOK IN HEARINGS SUCH AS THIS.

IT IS SAD, I THINK, THAT WE IN THIS ROOM MUST BE CAST AS ADVERSARIES BECAUSE WE CAME TO CONSIDER THE POSSIBLE ADVANTAGES AND POSSIBLE DANGERS OF AN OFFSHORE LEASE SALE. THE VERY NATURE OF THE PROCEEDING UNDERSCORES OUR DIFFERENCES AND CONCEALS OUR LIKENESSES. IN THIS DEVISIVE ATMOSPHERE, THEN, WE FACE EACH OTHER LIKE OPPOSING ARMIES...ON THE ONE SIDE THOSE WHO WOULD LOUSE UP THE OCEAN OUT OF PERSONAL GREED; ON THE OTHER SIDE THOSE WHO WOULD STIFLE PROGRESS AND REDUCE THEIR COUNTRY TO A SECOND RATE POWER TO PROTECT A DUCK OR A SCHOOL OF PISH. I HARDLY THINK EITHER DESCRIPTION IS FAIR, AND I DON'T SEE HOW ANY REAL GOOD CAN COME FROM AN UTTERED OR IMPLIED EXCHANGE OF SUCH INSULTS. WE AREN'T, ANY OF US, THAT BAD - AND WE AREN'T ALL THAT FAR APART. ACTUALLY,

1.

EVERYONE OF US IS HERE TODAY BECAUSE WE SEEKS WHAT - IN HIS VIEW - IS BEST FOR THIS AREA, THIS STATE, THIS NATION, AND THE WORLD IN WHICH WE ALL MUST LIVE. WE BRING DIFFERENCES OF VIEWPOINT AND OPINION TO THIS MEETING, CERTAINLY. WE DO NOT AGREE 100% ON WHAT IS BEST, OR HOW TO ACHIEVE IT. BUT WE ARE ALL HERE FOR A COMMON OBJECTIVE: "A BETTER WORLD FOR OURSELVES AND THOSE THAT COME AFTER US". THE PURPOSES OF THIS HEARING WILL BE BETTER SERVED, I THINK, IF WE CONCENTRATE A LITTLE LESS ON OUR DIFFERENCES OF OPINION AND A LITTLE MORE ON OUR UNITY OF PURPOSE, FOR THE MOST VIGOROUS PROPONENTS OF AN OFFSHORE LEASE SALE, AND THE MOST DETERMINED OPPONENTS OF THAT OFFSHORE LEASE SALE HAVE MUCH MORE IN COMMON THAN THEY HAVE IN DISPUTE.

I'M AN OIL MAN AND PROUD OF IT. BUT I'M NO LESS PROUD THAT I'M A CITIZEN OF LOCKPORT, LOUISIANA. I SEE NO CONFLICT BETWEEN THE TWO ROLES. I LIVE IN LOCKPORT BY CHOICE. I'VE LIVED THERE FOR 24 YEARS, AND EXPECT TO LIVE THERE 'TILL I DIE. MY WIFE, MY SONS, MY GRAND-CHILDREN...MOST OF THE PEOPLE IN THIS WORLD WHO ARE REALLY IMPORTANT TO ME...LIVE IN LOCKPORT ON THE LOUISIANA COAST. THE LAST THING I WANT IN THIS WORLD IS ANY IMPAIRMENT OF LOCKPORT OR THE SURROUNDING LAND AND

OCEAN AREAS BY MAN, BY BEAST, OR BY ACT OF GOD. I KNOW THAT OIL FRIENDS IN LOCKPORT, THIBODAUX, RACELAND, GRAND ISLE, HOUMA, OR MORGAN CITY - AND SCORES OF OTHER TOWNS ALONG THE LOUISIANA COAST - FEEL EXACTLY AS I DO. CHANGE LOCKPORT TO WHATEVER TOWN YOU CALL HOME, AND I SPEAK FOR EVERYONE IN THIS ROOM...HOWEVER HE OR SHE MAY FEEL ABOUT AN OFFSHORE LEASE SALE. THE MORAL OF THE STORY ISN'T HARD TO SEE. WE ALL LIVE IN THIS WORLD. WE ALL HAVE PEOPLE WE LOVE IN THIS WORLD. NONE OF US WANT THE WORLD, OR THE PEOPLE IN IT, HARMED. WHATEVER WE DO FOR A LIVING, WE ARE IN SOLID AGREEMENT ON THAT.

NOW THE PEOPLE IN THIS WORLD, PARTICULARLY THE PEOPLE IN LOCKPORT

2.

AND THE REST OF THE UNITED STATES - CONSUME ENERGY IN ENORMOUS QUANTITIES. MOST OF THE ENERGY THEY CONSUME IS PROVIDED BY OIL AND GAS. I'M NOT GOING TO LAY DOWN A BARRAGE OF STATISTICS ON THE PRESENT AND PROSPECTIVE CONSUMPTION OF ALL ENERGY, OR OF OIL AND GAS (I DID THAT LAST YEAR). I'D JUST LIKE TO LOOK AT IT FROM A PERSONAL VIEWPOINT. I HAVE TRIED TO COOL MYSELF - WHEN I WAS A YOUNG MAN - WITH A PAPER FAN, AND I'D RATHER NOT DO IT AGAIN. I LIKE AIR CONDITIONING. I GRANT YOU, IT WON'T HURT ME TO WALK TO THE GROCERY STORE FOR A BOTTLE OF MILK AND A LOAF OF BREAD. BUT I DO NOT WANT TO WALK TO DALLAS, OR CHICAGO, OR ATLANTA. I DON'T WANT TO RIDE A BICYCLE TO ANY OF THESE PLACES - I WANT TO GO THERE IN A CAR OR A TRAIN, ON A GREYHOUND BUS OR AN AIRPLANE. MY WIFE HAS BOILED CLOTHES IN AN IRON POT IN THE BACK YARD AND SHE DOES NOT CONSIDER THIS AN ATTRACTIVE LIFE STYLE. SHE LIKES HAVING A WASHER AND DRIER. WE COULD GO ON FOR HOURS, RECALLING HALLMARKS OF THE GOOD OLD DAYS..... CHOPPING KINDLING, PUSHING A REEL-TYPE LAWN MOWER, ROCKING THE TREADLE ON A SEWING MACHINE, HANGING WET SHEETS IN THE WINDOW ON A SUMMER NIGHT, FOLLOWING A MULE DOWN A FURROW.....ALL THOSE FUN THINGS WE HOPE WE NEVER DO AGAIN. <sup>Again,</sup> THE MORAL IS EASY ENOUGH TO SEE. ABUNDANT ENERGY HAS CHANGED OUR LIVES IMMEASURABLY FOR THE BETTER. I LIKE IT THAT WAY. I LIKE IT VERY MUCH, AND I THINK EVERYBODY IN THIS ROOM FEELS MUCH AS I DO. I DOUBT THAT ANYONE WHO HAS EXPERIENCED THE COMFORTS, CONVENIENCES, AND PLEASURES OF ABUNDANT ENERGY WILL EVER WILLINGLY GIVE THEM UP...HOWEVER HE MAKES HIS LIVING.

I DON'T THINK WE HAVE ANY MAJOR DISAGREEMENT ON THE TWO POINTS WE HAVE DISCUSSED - THE TWO POINTS BASICALLY AT ISSUE IN AN ENVIRONMENTAL IMPACT HEARING LIKE THIS. ALL OF US WANT TO LIVE IN A CLEAN, HEALTHY, BEAUTIFUL WORLD. ALL OF US WANT THE COMFORTS, CONVENIENCES, AND PLEASURES OBTAINABLE ONLY WITH ABUNDANT ENERGY. WE DIFFER ONLY IN HOW

3.

TO ATTAIN THE GOALS WE ALL WANT. AND WE DIFFER PRIMARILY BECAUSE WE SHARE A GREAT DEAL OF IGNORANCE. THIS WHOLE ECOLOGY KICK IS NEW. OH, WE TRIED TO KEEP THE PICNIC GROUNDS CLEAN AND SMOKE AWAY FROM THE CLOTHES LINE, BUT THE WORLD OF PAST GENERATIONS WAS A GREAT BIG PLACE, AND IF ONE SPOT GOT A LITTLE MESSY, POLKS COULD MOVE ON TO ANOTHER. I DOUBT THAT ANY OF US KNOWS ANYONE WHO NEVER ABUSED THIS EARTH, NEVER SPRAYED ANYTHING LETHAL INTO THE ATMOSPHERE, NEVER SPIT ON THE SIDEWALK, NEVER KICKED AN ANT-HILL, CONTRIBUTED TO SOIL EROSION, POLLUTED SOME LITTLE PART OF A STREAM, OR GROUND A PLANT UNDER HIS HEEL. WE DID THOSE THINGS AND WE THOUGHT NOTHING OF IT 'TILL ALL OF A SUDDEN OUR WIDE OPEN WORLD WAS CRAMMED WITH PEOPLE, AND WE WERE ABOUT TO SMOOTHER IN OUR OWN GARBAGE. ON JANUARY 10, 1901, THE LUCAS GUCHER BLEW IN ON SPINDLETOP MOUND NEAR BEAUMONT, TEXAS - WITH A ROAR HEARD FOR MILES. IT THREW A 600' STRING OF PIPE 300' INTO THE AIR, RIPPED THE UPPER WORKS AND TACKLE OUT OF THE DEBRICK, AND DRENCHED THE SURROUNDING 300 ACRES WITH 75,000 BARRELS OF OIL A DAY. TO THE BEST OF MY KNOWLEDGE, IN THE NINE DAYS THAT DELUGE OF OIL CONTINUED, NOBODY TOLD ANTHONY LUCAS HE WAS BAD

FOR THE ECOLOGY. DUMP A BARREL OF OIL BY ACCIDENT IN THE BAYOU OR THE GULF TODAY, AND YOU'RE PUBLIC ENEMY NUMBER 1. I DON'T SAY THIS IS WRONG. I JUST SAY IT IS DIFFERENT. WE'RE INVOLVED IN SOMETHING NONE OF US KNOWS ENOUGH ABOUT. THE RULES KEEP CHANGING, AND THE DEMANDS KEEP GROWING. THE OIL MAN, FOR INSTANCE, IS CALLED ON TO PROVIDE OIL AND GAS IN QUANTITIES OF WHICH THE WORLD NEVER PREVIOUSLY DREAMED. HE'S TO DO IT WITHOUT ALTERING IN ANY WAY THE SURFACE OF THE EARTH. AND HE SIMPLY DOESN'T KNOW HOW. NOBODY DOES. THE POINT I'M TRYING TO MAKE IS THAT WE'VE MADE MISTAKES THAT DAMAGED OUR SURROUNDINGS. AND WE'RE HAVING TO PAY FOR THOSE MISTAKES. WE DID THESE THINGS NOT BECAUSE WE WERE BAD PEOPLE, BUT BECAUSE WE DIDN'T KNOW ANY BETTER -- AND WE'RE JUST NOW TRYING TO LEARN BETTER. THE ERRORS WEREN'T JUST MADE BY OIL MEN OR BY INDUSTRY. THEY WERE MADE BY PEOPLE...EVERY MOTHER'S SON OF US. ONE OF THE PROBLEMS WITH WHICH

WE'RE WRESTLING IS THAT OF PETROLEUM ENERGY. THIS COUNTRY CONSUMES OIL AND GAS ON AN UNPRECEDENTED SCALE, AND ITS DEMANDS ARE GROWING AT A STAGGERING RATE. IF WE ARE GOING TO COME ANYWHERE NEAR MEETING THOSE DEMANDS WE ARE GOING TO HAVE TO MIX OIL AND WATER. WE ARE GOING TO HAVE TO DO TWO THINGS THAT ARE CONSIDERED MENACING TO THE ENVIRONMENT. WE ARE GOING TO HAVE TO DRILL WELLS TO TAP THE VAST AND URGENTLY NEEDED RESERVES ON THE CONTINENTAL SHELF...AND WE ARE GOING TO HAVE TO BRING IN OIL BY TANKERS FROM DISTANT LANDS. WE ARE GOING TO DO THOSE THINGS... OR WE ARE GOING TO COOL OURSELVES WITH PAPER FANS, BOIL CLOTHES IN THE BACK YARD, AND RIDE TO DALLAS ON A BICYCLE. I'M NOT TALKING ABOUT OIL MEN OR ABOUT ECOLOGISTS OR ABOUT ANY OTHER ONE GROUP. I'M TALKING ABOUT EVERY COTTON PICKIN ONE OF US, BECAUSE WE ARE ALL IN THIS TOGETHER. I SUBMIT THAT WE'LL DO WELL TO SPEND A LOT LESS TIME CALLING EACH OTHER NAMES OR SCHEMING HOW TO 'DO ONE ANOTHER IN'.....AND A LOT MORE TIME PICKING EACH OTHER'S BRAINS, WORKING TOGETHER, AND POOLING EVERY SCRAP OF SMART WE CAN SCRAPE TOGETHER. WHAT WE ALL WANT ARE THE COMFORTS, CONVENIENCES, AND PLEASURES OF ABUNDANT ENERGY - IN A CLEAN, HEALTHY, BEAUTIFUL WORLD. WHAT WE ALL WANT IS A BETTER LIFE FOR OURSELVES AND COMING GENERATIONS. AND WE AREN'T GOING TO GET IT BY KICKING EACH OTHER IN THE SHINS. AND WE CAN'T HAVE MORE OF ANYTHING BY PRODUCING LESS. WE'RE GOING TO GET IT BY FORGETTING THAT WE'RE OIL MEN OR ECOLOGISTS, OR YOUNG, OR OVER 40, OR BLACK OR WHITE. WE'RE GOING TO DO IT BY REMEMBERING THAT WE'RE ALL PEOPLE WHO MUST LIVE WITH WHATEVER KIND OF WORLD WE CREATE...THAT WE'RE PEOPLE WITH A COMMON PROBLEM WE CAN SOLVE, AND A COMMON OBJECTIVE WE CAN ATTAIN.....ONLY IF WE PULL LIKE HELL TOGETHER!

5

Attachment 6

STATEMENT OF R. H. MEYER,  
Vice President of  
SUGAR BOWL GAS CORPORATION

My name is R. H. "Dutch" Meyer and I am appearing here today as Vice President of Sugar Bowl Gas Corporation. Sugar Bowl Gas Corporation and its affiliated company, Sugar Bowl Industrial Gas Corporation, are wholly-owned subsidiaries of Allied Chemical Corporation.

As most of you know, Sugar Bowl Gas operates an intra-state pipeline system wholly within the State of Louisiana, serving human-needs' customers, municipalities and industries. This pipeline was conceived by Joe Morrigan and was originally designed to furnish gas to sugar mills and other industries along the Mississippi River. As the gas business grew in

South Louisiana, so did Sugar Bowl, and the line now extends for about 500 miles from Houma in the south to Baton Rouge in the north and Buck Point in the west.

While Sugar Bowl is very much aware of the national energy shortage, it did not find it necessary to curtail its deliveries during the past heating season. Mr. Teverbaugh, President of Sugar Bowl, made the following statement before the Senate Natural Resources Committee on March 1, and I believe that his comments are appropriate at this point.

Mr. Teverbaugh said:

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"This shortage has been occasioned by several factors, many of which are self-evident. Gas was publicized for many years as a clean burning, cheap fuel, and large pipelines were installed from the Southwest to the Eastern Seaboard serving both homes and industries. Faced with an increasing demand and low prices under long-term contracts, producers did not explore for natural gas as enthusiastically as they had in the past. We all know that industrial sales were exempt from regulation and that many plants were built upon the premise that cheap fuel was available. At that time, however, everyone, including the plant owners, were of the opinion that gas would continue to be in abundant supply. Recently Sugar Bowl has found it difficult, if not impossible, to purchase gas within the area of its pipeline operations. We have discussed this matter with many operators and it is apparent that they are not interested in seeking gas unless they are adequately compensated for their efforts, and those that are continuing to search for gas are doing it in other areas of the world and not along the Gulf Coast. I am sure that if the price of gas goes up, there will be additional efforts to find that gas.

"As many of you know, the Supreme Court last year in the Louisiana Power & Light Company case reiterated

Page 3

the principal that Congress meant to create a 'comprehensive and effective regulatory scheme' of dual state and federal authority. Although federal jurisdiction was not to be an exclusive jurisdiction, it was fully intended that there would be 'no gaps' for private interests to subvert the public welfare. As a result of this line of reasoning, the FPC has taken jurisdiction in the public interest over the transportation of gas sold for industrial purposes. Louisiana, as we know, has a statutory and a constitutional prohibition against

regulation of industrial sales, but I feel that your committee or perhaps the Constitutional Convention may want to consider a 'comprehensive and effective regulatory scheme' to be put into effect by the Legislature, such scheme to be administered by the Louisiana Public Service Commission. I would anticipate that such scheme would be used at least by the Public Service Commission in times of an emergency so that no one group of consumers would be benefitted to the detriment of other groups."

We have pointed out on numerous occasions that the constitutional and statutory prohibitions against regulation of industrial sales has in effect created a regulatory gap, and many authorities believe that where regulatory gaps exist,

Page 4

the Federal Power Commission will intervene. For instance, in the case of industrial sales, the FPC can regulate by end-use controls. I know that many industries would not like for the Public Service Commission to regulate industrial sales and in fact, I don't believe anyone wants regulation, but in my opinion this is a Louisiana problem involving Louisiana gas, and if I am going to be regulated, I would prefer to be regulated by my friends in Louisiana. We all know that the price of gas is going up and all consumers in Louisiana, both domestic, commercial and industrial, must be prepared to pay higher prices for gas, assuming that these consumers are anxious to continue using natural gas.

This is a most complex problem and Sugar Bowl is anxious to cooperate with the Constitutional Convention in any way possible in order to work out an equitable solution that will assure Louisiana of an adequate supply of its own gas.

Dated: March 23, 1973

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This is a most complex problem and Sugar Bowl is anxious to cooperate with the Constitutional Convention in any way possible in order to work out an equitable solution that will assure Louisiana an adequate supply of its own gas.

Dated: March 23, 1973

Attachment 7  
LOUISIANA STATE UNIVERSITY  
AND AGRICULTURAL AND MECHANICAL COLLEGE  
BATON ROUGE - LOUISIANA - 70803  
Law School

SEA GRANT LEGAL PROGRAM

PRESENTATION  
TO NATURAL RESOURCES AND ENVIRONMENT COMMITTEE  
OF THE  
LOUISIANA CONSTITUTIONAL CONVENTION  
FRIDAY MARCH 23, 1973  
BY  
MARC J. HERSHMAN

Sea Grant Program

The Sea Grant Legal Program has been studying questions of

resource use and management in Louisiana's coastal zone for the past five years. A number of subjects have been studied: land fill in Lake Pontchartrain, shrimp fishery management, land use in the coastal zone, land building in Breton Sound, state resource agency organization, levee boards, etc. The objectives of the program, and the more complete list of work products, are included in Appendix I.

#### Louisiana Advisory Commission on Coastal and Marine Resources

One program, initiated by a recommendation of the Sea Grant Legal Program, is a two-year study into the resource management policy of the state for coastal zone resources. A significant amount of information has been compiled on use of coastal zone resources. Major recommendations of this study commission will be available in September of 1973. Much of the work of the Commission has been geared toward defining coastal zone resource management objectives for the state.

#### Scarcity of Resources--Increasing Demands for Use

The work of the Sea Grant Legal Program, and the study of the Advisory Commission, have both led to a single point. In the past, Louisiana has been considered resource-rich. The question we asked ourselves most often was how to efficiently exploit the resource to the maximum. Today, we are beginning to recognize that conservation of resources is becoming absolutely essential. Every day there are more and more conflicts over the use of resources. Some examples are: the controversy between citizens of St. Bernard Parish and the port of New Orleans regarding a new ship lock and channel in St. Bernard Parish; the dispute between local citizen groups and developers over land reclamation in Lake Pontchartrain; conflicts over defining the best use of the Atchafalaya Basin; conflicts over navigation channel improvement around Morgan City; and many others. Hence, what we used to think of as a natural resource "bank" which would serve us forever is now becoming a source of considerable controversy. Resource managers have many difficult decisions to make between competing uses of resources.

If scarcity of resources is a problem today, it will be an extremely critical problem when we consider the future needs of the state of Louisiana. If growth continues, and individuals

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demand resources as they currently are, the amount of conflict will magnify significantly. If leisure time increases, for example, consider the added demands on recreation areas in the state. If energy demands continue, consider the problems we will have meeting these demands.

#### The Need for Resource Management

Resource management is a necessity for Louisiana. By management, we mean the following types of procedures: establishing goals and priorities for resource use throughout the

state; establishing an agency with an overall regional management responsibility which can coordinate the views of many single resource management agencies; establishing a strong technical and scientific base to understand our environment, and the way in which resource use can be most compatible with that environment; and, involving citizen and interest groups in the decision making process to avoid social conflict to the greatest extent possible. If these management programs can be implemented, it is our belief that the state can avoid significant problems in the future, and enjoy the benefit of their natural resources. One final point, the state should be the prime manager of its natural resources, not federal agencies. If the state does not recognize its responsibility in this area, the federal agencies with responsibility for certain resources will be the ultimate repository of the decision-making power.

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#### Recommendation for changes in the Louisiana Constitution

1. A natural resource management policy should be expressed in the Constitution.

2. The policy statement should contain the following types of comments:

a. Resources are finite and in many cases becoming very scarce. We can no longer afford the concept that a resource is "free" and needs only to be taken or used.

b. Resource management must include the interest of future generations.

c. Resource management should meet the following objectives:

--As a general rule, reasonable resource use is encouraged.

--For non-living resources, use should be compatible with the needs of future generations. This implies that conservation, and perhaps preservation, may be necessary to meet future needs.

--For living resources, the environment should be managed so that those environmental features which sustain the renewability of that resource are not substantially impaired.

--For all natural resources, concepts such as conservation, renovation, restoration, regeneration, and in some cases preservation should be used in developing policies for specific resources.

d. Resource management agencies should be organized within the executive branch so that there is a checks and balances system between those agencies responsible for using, exploiting and promoting resource development, and those agencies which are responsible for conserving, maintaining and protecting resources.

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e. See Apperdx III for resource management policies extracted from the constitutions of six other states.

3. Protection and management of the public domain:

a. I concur with Professor Yiannopoulos' statement regarding ownership of the sea, shores and beds of navigable waters and how it relates to Louisiana law.

b. Reclamation--to be limited only for a public purpose and by a state agency.


--The current constitution allows reclamation of the beds of navigable waters with subsequent transfer of title to local units. This has been done in Orleans Parish and Calcasieu Parish. It is proposed in Jefferson and St. Charles.

--I propose that we eliminate those provisions of the present constitution which allow parishes to reclaim navigable waterbottoms. Reclamation may be authorized by the legislature so long as it is serving a public purpose, is consistent with a resource management policy for beds of navigable waters, does not result in transfer of title from the state to another entity, and does not substantially impair public use.

--Reclamation is the management of a resource just as any other resource use. Reclamation, when within the resource management policy of the state, should not exclude other public purpose uses of the shores and navigable water bottoms.

--For a review of some of the legal provisions affecting reclamation of navigable waterbottoms, see Appendix II.

The Sea Grant Legal Program offers whatever additional assistance the Committee may wish.

  
Marc J. Hershman  
Research Director  
Coastal Resources Law

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APP. 1

LOUISIANA STATE UNIVERSITY  
AND AGRICULTURAL AND MECHANICAL COLLEGE  
BATON ROUGE · LOUISIANA · 70803  
Law School

SEA GRANT LEGAL PROGRAM

LSU Sea Grant Legal Program

The LSU Sea Grant Program is one of several created under the National Sea Grant College and Program Act of 1966. The primary purpose of the Program is to initiate and perform creative interdisciplinary research with a view toward facilitating the long range and productive use of coastal and marine resources. An important means of providing this research service to those who have a real need for it is by acting in an advisory capacity to state and local governmental units.

The Sea Grant Program has special relevance to Louisiana as approximately 45 percent of the state consists of coastal and flood plain wetlands containing 80 percent of the state's population and manufacturing capability responsible for generating the state's tax revenues. Moreover, these wetlands comprise a delicate natural system, the ecology of which is easily upset by intense developmental pressures. Obviously, Louisiana's coastal zone is a valuable resource requiring governmental organization and skilled manpower for its optimum utilization.

The LSU Sea Grant Legal Program is one arm of the university-wide Sea Grant Program. The Sea Grant Legal Program is deeply involved in studying the legal aspects of actual and proposed programs in the Louisiana coastal zone and offshore. The Sea Grant Legal Program does not purport to make management decisions concerning Louisiana's coastal and marine resources; rather, it endeavors to provide the legal research necessary for existing

state agencies to implement programs to conserve and properly develop the state's coastal and marine resources.

A listing of studies, both completed and on-going, that may be pertinent to a rewriting of Louisiana's Constitution follows. The LSU Sea Grant Legal Program welcomes the opportunity to make these studies available to both the research staff and appropriate committees and is eager to offer assistance whenever needed.

#### Projects of the LSU Sea Grant Legal Program

1. A legal study concerning land use regulation in Louisiana's coastal zone. Approximately half of this project is completed and legal research is still continuing.
2. A study concerning the operations of levee boards in the coastal zone of Louisiana and recommendations for future changes. A rough draft of the working papers is completed. The final analysis and recommendations are being completed.
3. "Louisiana Superport Studies, Report No. 1, published copies are available.
4. "Louisiana Government and the Coastal Zone-1972", published by the Louisiana Advisory Commission on Coastal and Marine Resources This is primarily a study of state agencies active in the coastal zone and their impact therein.
5. A study concerning land ownership of water bottoms, especially relating to local governmental agencies and the Louisiana Constitution.
6. "Louisiana Coastal Law", a report series on current legal issues facing Louisiana's coastal zone.
7. A report to the state's Attorney General on his powers concerning the environment in the coastal zone.
8. A listing of Louisiana Constitutional provisions affecting the coastal zone.
9. Drafting of administrative regulations for the Natural Scenic Rivers Act (La. R.S. 56: 1841(supp. 1970).
10. Other studies available, but not directly related to the Louisiana Constitution, include; (a) Shrimp Law Study; (b) Corps of Engineers Study; (c) Regulations developed for the Bayou LaFourche Fresh Water District and (d) Indexing of Louisiana Wildlife and Fisheries Commission's orders and resolutions.

App. 2

Article 4 § 2 of the present Louisiana Constitution prohibits the Legislature from alienating the bed of any navigable stream, lake, or other body of water, except for purposes of reclamation. However the state has the power to grant rights of ways through its public lands for the construction of railroads, flood control or navigation canals. Also the state may donate or otherwise convey to the United States any lands, property, or servitudes for the public purposes of navigation of natural and artificial waterways and harbors, flood control, airports, parks, hospitals, etc. Article 4 § 12. The Jefferson Parish Public Improvement

District is authorized by Article 14 § 38 to undertake reclamation projects such as the construction and extension of levees, seawalls, jetties, etc. and the dredging and filling of the shores, bottoms, and bed of waters within the Parish of Jefferson. The Parish is further authorized to fully develop the filled area by constructing streets and permanent buildings and even sell or otherwise dispose of the land filled. St. Charles Parish is given similar authority in Article 14 § 38.1, and the City of Lake Charles in Article 14§ 39, 44, and 44.1.

The beds of navigable waterbodies are a valuable and limited resource of the State of Louisiana. "It is a well-established general proposition in Louisiana that the bottoms of navigable waters are inalienable by the state and forever unsusceptible of private ownership."<sup>1</sup> This proposition is further evidenced by R.S. 56:421 providing that "no grant, sale or conveyance of the lands forming the bottoms of navigable water shall be made by the Register. . . No one shall own in fee simple any bottoms of lands covering the bottoms of water described in this section."<sup>2</sup> It is thus seen that the tradition in Louisiana is for the State to own navigable waterbottoms and not to have them transferred. An Attorney General's opinion dated June 26, 1972 to Mrs. Ellen Bryan Moore, Registrar of State Land Office, specifically discusses reclamation under Article 14§33 and Article 4§2. Mr. John Madden, Assistant Attorney General, states that while the prohibition against alienating navigable waterbottoms is subject to strict construction by the courts, reclamation is an exception under Article 4§2.

The situation arising under the above Attorney General's Opinion involved an application by Jefferson Parish for 25 square miles of Lake Ponchartrain waterbottom for land fill operations. Once the parish obtains title to the waterbottom and fills in the land, nothing prohibits it from selling this valuable land to private groups for commercial development. Jefferson Parish has moved in a similar line by requesting that the State Land Office transfer title of part of the waterbottom of Lake Ponchartrain to the parish so the parish could lease such waterbottoms for the establishment of a commercial business (a restaurant).

2

It must be recognized that the navigable waterbottoms are limited and valuable, both economically and per recreational uses, resources of the state. Management practices should be initiated to insure their continued existence. One need not be too far fetched to envision the cumulative results of landfill reclamation projects. A multitude of possible uses exists for waterbottoms and the state's waters. Certain uses are for the public benefit such as recreation, while other uses, such as oyster leases and mariculture, benefit private individuals. A balance must be struck between these competing interests. The legislature should be responsible

for management of these resources with the Constitution setting a policy guideline.

This guideline should be along lines similar to the concept of public things in the Civil Code. While public things are thought of as unlimited resources not owned by anyone (such as the air), it is recognized that navigable waterbottoms are limited and owned by the State. This ownership should continue in the name of the State for the benefit of the public at large. Title should never be alienated from the State. It has already been shown that the exception for reclamation purposes makes it possible for navigable waterbottoms to become filled land owned by private persons with the public at large the loser. While the navigable waterbottoms would not<sup>b</sup> subject to alienation, a public right to the use of the waters and waterbottoms, in conformity with natural characteristics,

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exist. It would be for the Legislature to set uses compatible with the natural environment. Research and technical knowledge of a region and its resources must exist before a decision can be made concerning the most effective use of water systems. The Legislature may well decide that a restaurant on piling in a navigable water would benefit the public. However rather than alienating the waterbottom, the Legislature would enter into a lease arrangement. This would provide some degree of control and insure that the public benefit would continue. The leasing arrangement is sufficient to achieve private development, if needed, for a resulting public benefit. The advantage of leasing over alienation is the continued ownership in the state thereby insuring the public right to use and resource development.

It should be pointed out that this article applies only to navigable waterbottoms and has no application to nonnavigable water covered areas such as swamps and marshes. The state management of other lands it owns should be examined later within the context of a centralized land management bureau.

#### Proposal to Current Article IV § 2

The legislature shall not alienate or authorize the alienation of the fee of the bed of any navigable body of water. The legislature may authorize any such uses of these beds compatible with the public interest and natural environment.

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#### Comments

In/circumstances will the bed of any navigable water body or arm of the sea be alienated by the state. The uses and development of such beds will be supervised by the legislature.

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FOOTNOTES

1 A. N. Yiannopoulos, Louisiana Civil Law Treatise, vol. 2 Property at p. 93 and cases cited therein. See also Winkler v. State, 239 So. 2d 484 (1970) where the court held transfers of navigable waterbottoms to individuals were nullities and thus void, citing State v. Stevens, 255 La. 357, 233 So. 2d 542 (1970). See Op. Atty. General., 1956-568 p. 760.

2 L.S.A. - R.S. 56:421 (1950); see also LSA - R.S. 9:1101 for similar language and intent.

LOUISIANA STATE UNIVERSITY  
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SEA GRANT LEGAL PROGRAM

A compilation of provisions from other state constitutions regarding natural resources.

Alaska	Art. VIII	Natural Resources
Florida	Art. II 7	Natural Resources and Scenic Beauty
Hawaii	Art. X	Conservation and Development of Resources
Massachusetts	Proposal	
Rhode Island	Art. I 17	Fishery Rights and Shore Privileges
Virginia	Art. XI	Conservation

NOTES

The texts of the above cited provisions have been omitted.

Attachment 8

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

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, 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

STATEMENT BY TEXACO INC. BEFORE THE  
COMMITTEE ON NATURAL RESOURCES 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

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

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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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.

COMMENT:

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 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 sales 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.

NOTES

Attachment 8A is American Petroleum Institute, Statement of Policy: Energy, Nov. 1972.  
Attachment 8B is Midcontinent Oil and Gas Association, Statement on National Energy and Petroleum Imports Policy, Dec. 18, 1972.

[Attachment 8 D by Professor A. N. Yiannopoulos]

My comments will be concerned with the law governing the interest of the state in the sea, its shores, and the beds of navigable rivers.

Historically, under the "doctrine of inherent sovereignty", the ownership of navigable water bottoms was vested in the state when Louisiana was admitted to the Union in 1812. According to the "doctrine of inherent sovereignty", the original states in the Union took sovereignty over all navigable waters within their territories from the British Crown. Subsequent admission of other states to the Union were on an equal basis. For this reason Louisiana in 1812 took ownership of all navigable waters within the state.

This historic doctrine was carried forth in the present Civil Code by Article 450 which declares that the sea and its shores are common things and Article 453 which declares that the beds of navigable rivers are public things. Furthermore, a series of statutes enacted by the Louisiana legislature since the middle of the last century called the "oyster statutes" (i.e. R.S. 549:3, incorporating La. Act 106 of 1886; R.S. 9:1101 et seq incorporating La. Act 250 of 1910) resulted in establishing state ownership over bodies of water and their bottoms.

According to the civil law the sea, its shores, and the beds of navigable waters are property of the public domain, or domanialité publique. They are public things the use of which is the right of all citizens. These public ownership and public use concepts were further reaffirmed by Article 452 of the 19~~7~~<sup>2</sup> Constitution which provided that the state shall not alienate the fee of any navigable water bottom, except for the purpose of reclamation.

Although public ownership and public use of the sea, its shores, and the beds of navigable waters are the strong public policy of the state of Louisiana, there have been important jurisprudential developments over the years limiting the public nature of these things. One such development was the famous Louisiana Supreme Court case California Co. v. Price, 225 La. 706, 74 So. 2d 1 (1954). On the basis of 2 acts of the Louisiana legislature of the middle 1800's, patents had been issued by the state conveying large areas containing both non-navigable and navigable waters. Thus, in order to provide for the security of titles, the Legislature passed Act 62 of 1912 which provided a 6 year prescriptive period for suits to annul or vacate such patents. The California v. Price decision involved the validity

of a state patent conveying to a private persons navigable water bottoms. By a broad interpretation of Act 62 of 1912, the Supreme Court upheld the validity of the private ownership of the navigable water bottom.

I might note parenthetically that Louisiana Act 727 of 1954 (now R.S. 9:1107-1109) clarified the intent of Act of 1912 by providing that Act 62 was only intended to confirm patents which conveyed public beds susceptible of private ownership, and not navigable waters and the beds thereof.

I would propose that the new constitution maintain and strengthen the civil law tradition of state ownership of the sea, its shores, and navigable waters and bottoms for public use.

The policy reasons behind this proposal are to insure the continuation of the public use of these resources, to facilitate the state level regulation of these resources, and to insure that revenues from these resources go to the state and not local subdivisions or private individuals. Unlike the Civil Code or the Revised Statutes, a constitutional provision is the ultimate protection for these resources from potential irresponsible legislation or corrupt officials.

The following language is proposed:

The sea and its shores and the beds of navigable waters belong to the state. They are held by the state for the use of the public and are insusceptible of private ownership.

The state may undertake works for the reclamation of the bottom of the sea or the beds of other navigable waters for public purposes only. The state may also grant rights to private persons for the exploitation of the sea and its shores and of the beds of navigable water, provided that the public use is not substantially impaired.

The first paragraph would not change the law. The sea and its shores, and the beds of navigable waters are public property insusceptible of private ownership. This property is inalienable, imprescriptible, and exempt from seizure. By express declaration, this property is subject to public use.

The first sentence of the second paragraph would, however, change the law. Under Article 452 of the present Constitution the legislature may authorize the alienation of water bottoms for purposes of reclamation. Under the proposed provision, the State (and only the state - not municipalities or political subdivisions) may undertake works for reclamation of water bottoms but only in pursuit of public purposes.

In addition, the second sentence of the second paragraph would change the law insofar as it would impose a restriction on grants of exclusive rights to private persons. These grants would be invalid to the extent that they substantially impair the public use of the sea, its shore or other navigable waters.

Attachment 9

NATURAL RESOURCES COMMITTEE  
CONSTITUTIONAL CONVENTION  
ARTICLE X, SECTION 21  
SEVERANCE TAX ON NATURAL RESOURCES

My name is Milton Duvieilh. I am an attorney for Gulf Oil Corporation. I am also Chairman of the Legislative Committee of the Mid-Continent Oil

and Gas Association. The Mid-Continent is a trade association representing individuals and companies who are responsible for about 92% of the oil and gas produced, transported, refined and marketed in Louisiana.

My comments will be limited to severance taxes (Article X, Section 21) as that Section now appears in the Constitution. Should any revisions to that section be considered, the Mid-Continent requests it be afforded opportunity to submit its comments.

Our association recommends that Article X, Section 21 be retained as presently written in the 1921 Constitution. In order to better understand the reasons for our recommendation, I believe it helpful to review the (1) Constitutional and legislative history of the severance tax, (2) what it means to the people of this State and (3) its compatibility with oil and gas principles, as they have evolved over the past seventy years.

(1) History of the Severance Tax:

The severance tax, as understood today, was initially enacted with adoption of the 1921 Constitution. Actually, the severance tax was authorized in the 1898 Constitution and first levied as an occupational license tax in 1910 at the rate of 2/5 of one cent per barrel and 1/5 of one cent per 10,000 cubic feet of gas.

After adoption of the 1921 Constitution, the Legislature, in accordance with the authority granted by the Constitution, has, on eight separate occasions in 1922, 1928, 1936, 1940, 1948, 1958 and twice in 1972, enacted legislation either increasing the tax rate or changing the basis of the tax.

The specifics of the legislative change are not as significant as the frequency of change. This equates to legislative action once every 6-1/2 years. In other words, the severance tax principles adopted by the 1921 Constitution, have afforded the Legislature flexibility to treat -- and the Legislature has treated -- with severance taxes as State needs dictate. Although the authority originates in the Constitution, the Legislature levies the tax subject to certain specific principles and prohibitions spelled out in the Constitution. The principles and prohibitions are not only compatible with and complement oil and gas law, but have served the people over the past years.

Our industry has - and probably will again - disagree as to the appropriate rate of the tax imposed by the Legislature on the severance of oil and gas, but we have no quarrel, indeed, we strongly support and urge the retention of the current framework of severance taxation without change.

(2) What Severance Taxes Mean to the People:

For eight months of this fiscal year, the severance tax on oil and gas has produced \$173,849,744.51, almost a 10% increase over the corresponding period for the previous fiscal year. This tax money is distributed to three recipients:

- (a) the public school fund
- (b) free textbook fund
- (c) the parish in which the hydrocarbons are produced

Severance tax income has, for more than 50 years, been dedicated to education. LSU was the chief beneficiary from 1921 through 1928, when it secured other sources of recurring income. Severance taxes have financed the State's free school book program, continuously, since 1928. Parish schoolboards began receiving a proportion of the tax in 1923, and still do so. Constitutional dedication of all severance tax income, other than that for textbooks and parish allocations to the public school fund, came in 1934 and is in effect today.

The basis for allocation of severance tax receipts certainly is one of the most equitable in Louisiana's financial management. About \$8.5 million is returned to the parish in which the resource was produced; \$7.5 million goes for the purchase of textbooks and school supplies for all school children - private and public. The remainder - about \$235 million this fiscal year - will go into the public school fund, to be allocated to every public school system in the State.

(3) Severance Tax Principles Incorporated in the Constitution are Compatible With Oil and Gas Law:

The authorization, granted by the people in Article X, Section 21 of the Louisiana Constitution, to the Legislature to levy a severance tax is subject to certain well-founded principles spelled out in the Constitution including who should bear the tax, what basis the tax may be predicated on, where and when the tax shall accrue. Also, Article X, Section 21 specifies certain prohibitions, including the prohibition that no additional value be added to the assessment of land by reason of the presence of oil and gas. These principles in our Constitution that the tax shall be paid proportionately by the owners, thereof, that the tax shall accrue at the time and place of severance, and the prohibition that no additional value be added to the assessment of land due to the presence of oil and gas, are compatible with and complement Louisiana oil and gas law. And I believe it a fair statement, that the vast majority of oil and gas attorneys feel our Courts have enunciated a body of oil and gas law which is consistent with civilian principles long embedded in our property and contract law.

Certainly, the most equitable method of levying severance tax is to impose and collect it, as provided in Article X, Section 21, "proportionately from all owners, thereof."

The Constitution expressly authorizes the Legislature to predicate a severance tax on volume or value. In the past the Legislature has utilized both volume and value in fixing the tax rate. This further evidences the flexibility afforded by Article X, Section 21, to the Legislature.

The imposition of the tax at the "time and place" of severance are principles particularly suited to Louisiana law. It is elementary in Louisiana that oil and gas must be reduced to possession to become the subject of ownership. It is at the time of severance or when reduced to possession

that oil and gas is owned, and then simultaneously, by the land owner and producer. An interest in minerals merely carries with it the right to explore. In a landmark case, our Supreme Court held that:

"The sale of an interest in the oil and gas which may be beneath the surface of a particular tract of land contains no title to any specific oil and gas, it, nevertheless, carries with it the right to make use of the surface of the land for reduction to possession of the oil and gas that may be found, and, in fact, the last mentioned is alone conveyed in such case, since it is the only right with respect to those fugitive products that the owner of the land, himself, can possess."

Louisiana, in 1921, wrote into its Constitution all the experience it had gained from earlier ventures into mineral taxation. It chose -- and we think wisely -- the specific rather than the advalorem approach. In 1938, Dr. T. N. Farris of Louisiana State University made these comments:

"The general property tax as applied to natural resources is usually badly administered. In the case in which it is administered properly, the general property tax institutes a discriminating burden on the owner of natural resource-bearing lands."

Expanding on the foregoing, he adds:

"Probably severance taxation would more nearly conserve natural resources than -- advalorem taxes. When advalorem rates are imposed, there would seem to be no reason to expect the producers to harvest or extract these natural resources of a more valuable kind, leaving the less productive portions unworked or possibly rendered incapable of further extracting."

In this time of complicated taxation, it is refreshing to observe the simplicity of Louisiana's severance tax. By contrast, an advalorem tax on minerals, if legally proper, would saddle the landowner and Revenue Department with a battery of geologists, engineers and attorneys, the cost of which, in some instances, would exceed the tax. Expense and inequities would unquestionably increase.

It should also be noted that Article X, Section 21, contains two additional prohibitions; one, that no parish or local subdivision shall levy a tax and, two, that no additional tax shall be levied on oil or gas.

This does not mean that the parishes are ignored; to the contrary, Article X, Section 21, provides for revenue participation of the parish from within which the tax is collected. Also, under Article 4, Section 2, such parishes are allocated 10% of the royalties received by the State in the form of the Royalty Bond Fund.

Since oil and gas are not owned while in the ground, but only at the time and at the place that they are reduced to possession, the Constitutional prohibition against taxes prior to severance is legally proper. Also, it is equitable, that the tax be restricted, as now in the Constitution, to the place of severance. It is at the place of severance or at the well where the true value is determined. In most cases, oil and gas are sold many miles away from the place of severance after monies have been spent to transport and make them merchantable. Our Courts have consistently recognized that value is properly determined at the place of severance. I might add that any tax

levied after the point of severance is subject to attack as violative of the Commerce Clause of the U. S. Constitution.

Although Article X, Section 21, prohibits any other type tax on oil and gas, the Legislature, as previously indicated, may and consistently has, increased the rate of the severance tax. There simply is no need for a different type tax under these circumstances.

In conclusion, the severance tax principles and prohibitions set forth in Article X, Section 21, should be retained because these principles and prohibitions:

1. Are equitable and compatible with Louisiana oil and gas law;
2. Permit the Legislature flexibility to, and it has, altered the tax to accommodate changing conditions;
3. Permit receipts to be utilized by all the people;
4. Provide ease of administration at a minimum cost
5. Provide local government a portion of the receipts in recognition of the additional services rendered.

Finally, I would suggest that Article X, Section 5, of the Constitution is obsolete and should be omitted.

MILTON L. DUVEILH  
Attorney  
Gulf Oil Corporation  
P. O. Box 61590  
New Orleans, Louisiana 70161  
Chairman, Legislative Committee,  
Mid-Continent Oil and Gas Association



Attachment 10  
**Ecology Center**  
of Louisiana, inc.

CONSTITUTIONAL CONVENTION  
NATURAL RESOURCES AND ENVIRONMENTAL COMMITTEE

The following recommendation is made in order to insure protection and a wise use of all our natural resources: that there be included in the constitution a Natural Resources Bill of Rights statement, enumerating these ideas -

- 1) the wise use of all resources be guaranteed to be for the benefit of all the people for all time;
- 2) that this be made the mandate of the legislature;
- 3) that there be provision for redress in the courts to insure that this mandate is accomplished.

The following recommendation is made in reference to Public Lands held by the State: that control over Public Lands and the various uses of these lands shall be reserved to a state-wide based agency or other governmental entity. Implementation of this recommendation would require that the following constitutional provisions be excluded from a new constitution, for the reason that they give control over State lands to a more narrow interest than the State:

- 1) Article XIV, sec. 38, Jefferson Parish; public improvement district;
- 2) Article XIV, sec. 30.1, Parish of St. Charles, public improvement district;
- 3) Article XIV, sec. 39, City of Lake Charles; reclamation and development of the lake front;
- 4) Article XIV, sec. 44, City of Lake Charles; reclamation and development of lake bed and waterfront; acquisition of property.

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**Ecology Center**  
of Louisiana, inc.

I would like to first address a few words to what is the most important task facing the committee. You have been charged with a large responsibility for determining the uses of the natural resources of the state in the future. You have been charged with the responsibility to provide a mechanism whereby government can effectively deal with problems relating to our natural resources. It is not your responsibility to solve the problems of today or tomorrow - it is only to provide protection for resources and a mechanism for dealing with problems related to natural resources.

There can be no doubt that process of government by which society adjusts to changing conditions has ground to a near standstill in Louisiana. The defect of amendment after amendment is indicative of the inability of our present government to adequately respond to our needs. We hear about an energy shortage and we hear about natural gas that is left untouched. We hear about a need for improving the economy of the state and we hear about destruction of a valuable natural resource, a source of income to the state - our coastal and marine resources. We hear about rising costs for farmers, low prices for farm products, and high cost of finished food products. The purpose of government is to provide solutions to problems of society as they arise. But let me caution you - In 1920 no one had a solution to the energy crisis, no one had a solution to our present land use problems, no one had a solution to our present agriculture problems. No one knew what they would be today. If there is a problem affecting us today, we should seek a solution in the legislature.

I urge you to provide a constitution that provides for a wise use of natural resources, protection so that they are not squandered by a narrow interest and a mechanism by which government in

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Louisiana can provide for this in future years. It is within the reach of this convention to make a mandate of state government that our resources be used for the benefit of all the people.

At the last meeting you heard a presentation on geothermal energy. I would like to use this as an example. I have no quarrel with geothermal energy. I make no comment, either pro or con, on its use. Geothermal energy is a possible solution to an energy crisis; and it is at the same time a possible threat to agriculture through land subsidence. The relative needs and problems of a decade from now might dictate that we use this source of energy despite its threat to the land, or they might dictate that this energy be left untouched. No one knows what the problems will be then. So I urge you - do not try to answer specific problems in the constitution, instead provide that government shall be responsive to the needs of the state in the wise use of its resources. Pro-

vide the legislature with the mandate to implement this and provide for access to the courts by all interests within the state. Specifically, with regards to public lands, they should be controlled by the state. At no time should control over public lands be given over to any interest with a more narrow concern than the state. In today's constitution control over state lands is given very narrow interests. For example, in article XIV, section 38 Jefferson Parish is given the following authority - "all property owned by the State of Louisiana ... is hereby specifically vested in said public improvement district" . I have no argument with public improvement. But what is public improvement for Jefferson Parish may very well be public detriment for Orleans or St. Tammany or even the state altogether.

The same section of the constitution gives the Jefferson Parish Public Improvement District the authority to " undertake reclamation projects in Lake Ponchartrain. Once again, what is good for Jefferson Parish is not necessarily good for Lake Ponchartrain. It is the duty of the state to guard this portion of its resources of all the people, especially those who live adjacent to the Lake. But not for one community on the Lake.

The principle that I am trying to stress is clear. The state should protect its resources. Giving control over Public Lands to narrow interests is not in the public interest. For that reason I recommend that the following provisions of the present constitution be excluded from the new constitution - Article XIV, sections 38, 38.1, 39, and 44. The function of these sections of the constitution can best be served by legislative action, thereby retaining control over these lands for the state.

#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973  
Held pursuant to notice mailed by the Secretary of the Convention on March 15, 1973.

State Mineral Board Docket Room,  
Fourth Floor, Natural Resources Building, Baton Rouge, Louisiana,  
Saturday, March 24, 1973

Presiding: Louis J. Lambert, Jr., Chairman of the Committee on Natural Resources and Environment

Present:

Donald T. Bollinger  
R. M. Elkins  
Senator Louis J. Lambert, Jr.  
Representative Conway LeBleu  
Mrs. Ruth Miller  
Representative Robert Munson  
Miss Lynn Perkins  
Alvin D. Singletary  
Representative Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Representative Lantz Womack

Absent:

James G. Derbes  
Representative Richard P. Guidry  
H. G. Hardee, Jr.  
Wellborn Jack  
Thomas W. Leigh

Sgt. at Arms: Glenn Koepf

Following an opening prayer by Mrs. Miller and the Pledge of Allegiance, Chairman Lambert discussed future meetings and materials to be considered therein; he then called on Mr. Lee

Hargrave and Mr. Scott Reis to analyze the material presented on Friday and to discuss the provisions in the present constitution relative to public lands and minerals, and asked the committee to consider and discuss each issue set forth on Staff Memorandum No. 2. (Attachment 1). Mr. Hargrave mentioned that such procedure would give policy guidance to the staff to draft proposals accordingly.

The first issue discussed was whether there should be some general policy statement regarding preservation of natural resources or some provision for central resource management. Mr. Hargrave pointed out that the crux of the issue is whether such a provision should be drafted to allow judicial review rather than merely to provide a legislative mandate.

Mr. Munson asked what was wrong with the general policy statement in the present constitution, which provides that "natural resources of the state shall be protected, preserved, and replenished." (Art. VI §1). Mr. Hargrave replied that such a mandate is not enforceable. Chairman Lambert asked how this situation was handled in other states, and the staff pointed out that it was normally by legislative mandate with few exceptions, such as Illinois and Florida. Both Mr. Velazquez and Mr. Singletary agreed that a provision enforceable by the judiciary would be better. At this point Mr. Munson moved that no final decisions be made until all facts were available and the motion was so ordered with no objection; he then asked if anything now denies a citizen the right to go to court, and Mr. Hargrave stated that such a right of action could be provided for by statute. Mr. Womack commented that, if everything is spelled out in the new constitution, there is no need for the legislature; but Chairman Lambert pointed out that such a judicial review would go far beyond a statutory provision. Mr. Womack then replied that he would concur if someone would be responsible for any damages incurred by the defendant, as provided for in the Code of Ethics. Mr. Singletary requested that the recent Illinois constitutional provision be read:

#### ARTICLE XI

##### ENVIRONMENT

##### Section 1. PUBLIC POLICY-LEGISLATIVE RESPONSIBILITY

The public policy of the State and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations. The General Assembly shall provide by law for the implementation and enforcement of this public policy.

##### Section 2. RIGHTS OF INDIVIDUALS

Each person has the right to a healthful environment. Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitation and regulation as the General Assembly may provide by law.

Mr. Bollinger then pointed out that a large corporation being sued had no protection, and discussion followed regarding the requirements for bond in such actions; Mr. Velazquez concluded that such a policy statement is constitutional material but that such a bond requirement is statutory in nature.

The committee then discussed the constitutional provision prohibiting the state from alienating its ownership of navigable water

bodies, except for purposes of reclamation (Art. IV § 2). The committee generally agreed that something should be done about the reclamation exception; Chairman Lambert suggested that reclamation be allowed but controlled strictly on the state level rather than on the parish and municipal as authorized by the present constitution (Art. XIV §§ 38, 38.1, 39, 44, and 44.1); all agreed with Ellen Bryan Moore's previous suggestion that the transfers made to the local authorities pursuant to these sections should be deleted. Mr. Singletary recommended the deletion of the reclamation exception altogether, but Mr. LeBleu pointed out that sale of bonds by the local governing authorities might be impaired in some manner. Mr. Munson then inquired about the ownership of water, and Mr. Hargrave stated that the Louisiana Civil Code permits the public use of water. Chairman Lambert inquired about a definition of navigability and Mr. Hargrave stated that such is not mentioned in the statutes but originates in judicial opinion; he further noted that the distinction for federal purposes is important for determining rights of use rather than establishing ownership. Following a brief discussion about erosion, Mr. Hargrave noted that there is neither statutory nor judicial bases providing for compensation for property so taken and concluded that this could best be handled in the Civil Code by the Louisiana State Law Institute.

Next there was a brief discussion about the state's reservation of mineral rights on all property sold by the state, except that adjudicated to the state for taxes (Art. IV § 2). Mr. Reis pointed out to the committee that the exception to reservation of mineral rights in the present constitution applies to the one who

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has the right to redeem but that the exception recommended by the research staff would apply to any sale of property adjudicated to the state for taxes; he further suggested that such would effect more uniformity in the administration of state property since this exception would apply to property rather than to a particular individual.

The committee proceeded to a discussion of some points not covered at yesterday's meeting. Mr. Hargrave pointed out that the legislature could enact anything not prohibited by the federal or state constitution and that, therefore, there is no need for the constitution to authorize the legislature to do certain things such as provide a servitude of necessity (Art. III § 37); he noted that several articles concerning various servitudes are in the Civil Code. Several remarks were made concerning the committee's jurisdiction, and Mr. Womack made the motion that the Chairman push to retain all provisions relating to this committee and yield only to establish a joint committee to consider any provision which seems to overlap. The committee agreed to consider all materials compiled for this committee unless otherwise directed by the Coordinating Committee.

The committee discussed the Royalty Road Fund (Art. IV § 2 ¶ 3) and Mr. Womack suggested that many of the local problems would be solved if the funds dedicated by this provision were for "construction and maintenance" of roads rather than building and construction because repair is very important, especially under such conditions as

found in South Louisiana. Singletary commented that the Royalty Road Fund and other dedications should be deleted from the constitution; Velazquez agreed and pointed out that the

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full faith and credit of the state should continue on any existing bonds whether or not in the constitution.

Mr. Reis asked the committee how it felt about dedication of revenues in the constitution; Mr. LeBleu commented that such dedications leave almost no responsibility with the legislature. The committee unanimously decided to retain the declaration of the state's ownership of minerals right beyond the three mile limit (Art. IV § 2[6]) and discussed revenues dedicated to retirement of state bonds. Mr. Womack suggested that the committee have bond attorneys look carefully into any matter wherein the state's credit might be jeopardized. In regard to the severance tax provided for in the present constitution (Art. X § 21), Mr. Singletary suggested that, perhaps, assessments be raised on property capable of production. It was suggested that the staff determine whether there are any hydro-electric plants in operation (Art. XIII § 6).

The committee recessed until 1:30 P.M.

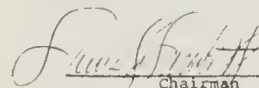
On reconvening, Chairman Lambert stated that the evening session would be utilized to give the committee an overall view of subject matters to be covered in future meetings; he asked the staff whether port commissions should come under the jurisdiction of Local and Parochial Government or under Natural Resources and Environment. Mr. Hargrave stated that the former committee was already conducting hearings on this subject and that organization, power, functions, etc., probably should fall within their jurisdiction; however, he said that use of water is directly connected with this committee. After a short discussion concerning bonding and the full faith and credit of the state, Mr. Womack reiterated that the state could never afford to default on any bond. The

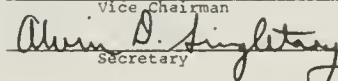
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committee then discussed the Conservation Commission; Mr. LeBleu suggested that the mineral board be placed with this commission, that counsel be provided for indigent persons appearing before the commission, and that a central structure similar to that proposed by Professor Hardy yesterday seemed tenable. Mr. Womack requested the research staff to determine whether the provisions for beautification of highways was necessary to secure certain federal funds. Several other proposals were discussed by the committee but no suggestions were made and no action was taken.

Chairman Lambert announced that meetings were confirmed for April 9, 10, 16 and 30, and that wildlife, fisheries, forestry, and agriculture would be considered at the next meeting.

The meeting adjourned at 3:30 P.M., on March 24, 1973.

  
Chairman

Vice Chairman  
  
Secretary

NOTES

Staff Memo No. 2, attached as exhibit No. 1, may be found in Chapter II, below.

MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on April 2, 1973

Governor's Press Room, Fourth Floor, State Capitol Building, Baton Rouge, Louisiana, Monday, April 9, 1973, 9:00 A.M.

Presiding: Louis J. Lambert, Jr., Chairman of the Committee on Natural Resources and Environment

Present:

James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Rep. Robert Munson  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack  
Wellborn Jack

Absent:

Rep. Richard P. Guidry  
Donald T. Bollinger  
Mrs. Ruth Miller

Sgt. at Arms: Wilson Chaney

Agenda: The committee will direct itself to the issues of what the constitution should contain in regard to wildlife, fisheries, forestry, and agriculture, and will hear witnesses scheduled to appear and to present testimony regarding the above subject matter.

Following an opening prayer by Mrs. Warren and the Pledge of Allegiance, the committee adopted the minutes from the meetings of March 23 and 24, 1973.

Chairman Lambert asked Scott Reis, committee reporter, to come forward and give a brief summary of what the committee has done to date.

Scott Reis explained that the committee at its last meeting considered public lands and minerals, and decided not to make any final decisions until all facts were presented. He pointed out that the provisions considered at the last meeting concerned alienation of navigable water bottoms, reclamation, reservation of mineral rights, dedication of mineral revenues (Royalty Road Fund), severance taxes, and consideration of various agencies as exemplified by Professor Hardy's suggestion to create a central natural resources agency to include public lands, minerals, water, air, and all other natural resources, both non-

living and living. Mr. Reis noted that various witnesses presented pros and cons regarding the provision in the present Constitution which prohibits the Public Service Commission from regulating the sale of natural gas to industry and mentioned that the staff had prepared a memorandum on this subject (Staff Memorandum No. 4). In conclusion, Mr. Reis outlined the

-2-

provisions dealing with wildlife, fisheries, forestry, and agriculture.

The committee recognized J. BURTON ANGELLE, director of the Wildlife and Fisheries Commission, who introduced Jerry G. Jones, chairman of the commission; Dr. Lyle St. Amant, Robert A. LeFleur, and Richard Yancey. Mr. Jones explained the organization of the Commission as provided for in Article IV § 1A of the present Constitution and urged that no change be effected (Attachment 1); he also presented a questionnaire of the National Wildlife Federation (Attachment 2). Mr. Velazquez asked whether the commission could function under some type of central natural resources agency, and Mr. Jones answered that such a structure would impair its decision-making capability and be generally undesirable. After several questions concerning status of the commissioners and the director and the salary of various employees, Mr. Jones closed, pointing out that the commission is very responsive to the people and well coordinated with other related agencies.

The chairman then recognized DR. LYLE ST. AMANT, assistant director in charge of marine resources and environmental problems in the coastal areas; he has been with the department since 1946. He noted that Louisiana has the greatest fish production in the world and that the major function of the commission is to protect the habitat that houses this resource (waterbodies, marshes, etc.); he also pointed out that Louisiana has no specific environmental protection policies and that such a policy should be implemented in the new constitution so that

-3-

all agencies can coordinate their actions in this respect. The chairman asked if this could be strengthened in any manner; Mr. Leigh asked if there were any areas which lacked coordination, and Mr. Hardee asked if centralization would decrease the cost of operation; Dr. St. Amant answered that there are definitely pros and cons on these issues but that he favored the status quo. After a brief discussion regarding flood control, licensing, and employees of the Commission, Dr. St. Amant closed stating that Louisiana is at a crossroad in environmental management from a political as well as a technical standpoint. He noted that the federal government is becoming more involved in environmental and resource management. He emphasized that the state should realize some of the problems and take affirmative action, whether it be by the legislature or by the Constitutional Convention.

The next speaker was BOB LA FLEUR, executive secretary of the Stream Control Commission. Mr. LaFleur pointed out that his



entire staff and funding were furnished by the Wildlife and Fisheries Commission and that air pollution was within the jurisdiction of the Air Control Commission. He discussed, generally, the organization of the Stream Control Commission and concluded that he favored the status quo. Mr. Jack pointed out there was consolidation back around 1940, and Mr. LeFleur suggested that the reason for making the Wildlife and Fisheries Commission a separate agency was to provide better service for the people of Louisiana.

Richard Yancey, classified assistant director, concluded the presentation by the Wildlife and Fisheries Commission. Mr. Yancey outlined all revenues (sale of various licenses and

-4-

mineral royalties) dedicated by the state to the Wildlife and Fisheries Commission and commented on federal matching funds received by the commission. He recommended that the system be left as it is but that the new constitution provide a policy for the management of wildlife. Mr. Yancey closed with answers to questions regarding dedication of revenues and management of public lands by the Commission.

The chairman then recognized WILLIAM MATTHEWS, executive director of the Louisiana Forestry Commission. Mr. Matthews stated that Article X §1 of the present constitution is referred to as the Forest Taxation Law and that this provision is a model of equitable taxation on forest lands. He added that the official position of the commission is to retain the provision in the new constitution unless other provisions of a similar nature were reduced to statutes. He also advocated retention of the status quo regarding severance taxes, the Forestry Commission, and the forest acreage tax. (Attachment 3).

When the meeting reconvened at 1:45 P.M., the first speaker was JAMES E. MIXON, the state forester, who briefly summarized the state's forestry programs and pointed out that these programs affect 15,000,000 acres of land covering one-half of the state. Mr. Mixon explained that trees are a long-term crop and, unlike other natural resources, are renewable. He also pointed out that forests are a major economic force which generates in excess of \$1,250,000,000 annually. Mr. Mixon explained the organization of the Forestry Commission, noting that it was more service than regulatory and urged that it be retained

-5-

as a separate agency. After much general discussion regarding statutory provisions which require a two-thirds vote of the legislature and the future policy of the Committee, Mr. Mixon concluded that the Louisiana Forestry Commission is a model commission. (Attachment 4).

The next speaker was DR. J. NORMAN EFFERSON, chancellor of the Center for Agricultural Sciences and Rural Development of the Louisiana State University system. Mr. Efferson stated that the agricultural industry in Louisiana has doubled during the past ten years and asked that the new constitution provide incentives to continue the development of this most important

renewable industry. He advocated dedication of revenues for agricultural purposes to insure stability of such functions as are assigned to Louisiana State University. Mr. Efferson concluded with a brief discussion regarding the budget. (Att. 5)

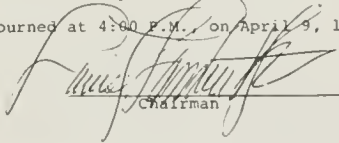
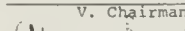
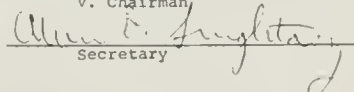
The chairman then recognized DAVE L. PEARCE, commissioner of agriculture for the State of Louisiana, who urged that his office be retained as elective rather than appointive. He suggested that several provisions in the present constitution were either statutory in nature or obsolete, and that these be deleted (Attachment 6). Mr. Pearce favored the retention of all tax exemptions which affect agriculture and of the State Market Commission as an exception to Article IV §12 of the present constitution. After a discussion of elected officials versus appointed ones, Mr. Pearce closed with a brief review of the slaughter house program in answer to questions by Mr. Hardee and Mr. LeBleu.

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The final speaker was JAMES GRAUGNARD, president of the Louisiana Farm Bureau, who concurred in all of the statements made by both Dr. Efferson and Mr. Pearce. He stated that his main concerns, however, were to retain the commissioner as an elected official and to revise gas tax refund, which could be reduced to a statute requiring a two-thirds vote; also, he added that the ad valorem tax on farm equipment should remain as it is except that it might be reduced to statute as the gas tax refund. Mr. Graugnard was asked to explain the Green Belt Law (Attachment 7), and he explained that such would allow ad valorem valuation according to use of farmland, rather than market value, and that this law had been adopted by forty-four states. Mr. Jack asked whether the legislature could handle such a law, and Mr. Graugnard answered that the policy needed to be set in the new constitution. After a general discussion among Mr. Graugnard, Mr. Curet (attorney for the Louisiana Farm Bureau), and several delegates, Mr. Graugnard and Mr. Curet suggested that they would submit a memorandum regarding the Green Belt Law.

Mr. Velazquez moved that the committee consider levee boards within its jurisdiction, with no objections. The chairman asked the research staff to furnish the legislative report to the committee and schedule this topic for a future meeting.

The meeting adjourned at 4:00 P.M. on April 9, 1973.

  
Chairman  
  
V. Chairman  
  
Secretary

#### NOTES

Staff Memo No. 4, attached as exhibit, may be found in Chapter II, below.





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

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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;

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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.

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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!

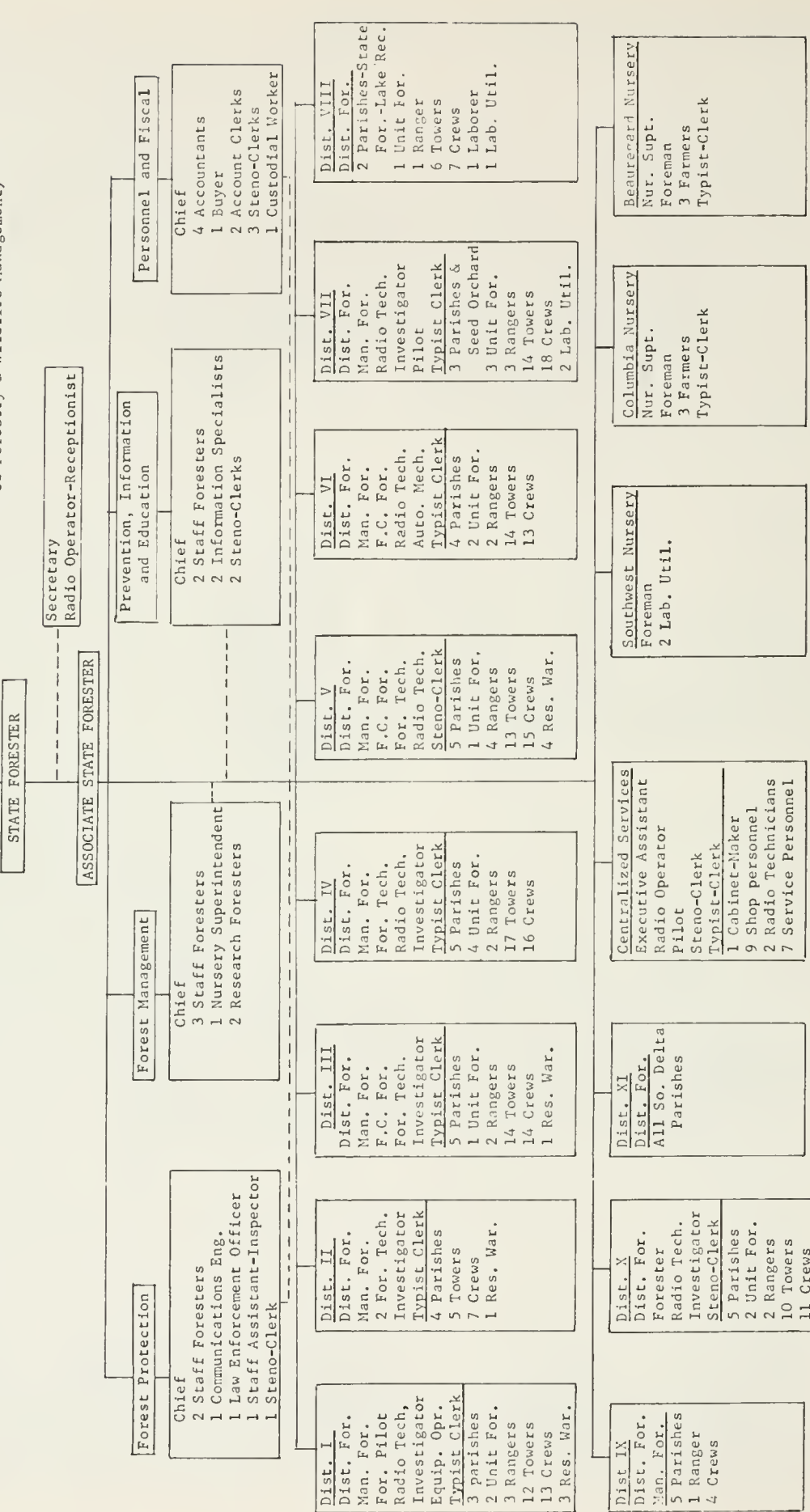
Respectfully submitted by  
Louisiana Forestry Commission  
James E. Mixon, State Forester  
April 2, 1973

LOUISIANA FORESTRY COMMISSION FUNCTIONAL ORGANIZATION

Forest Fire Protection	Forest Management	Information & Education	Personnel and Fiscal
<p><b>Functions:</b></p> <p>Operations                      Detection                      Presuppression                      Control                      Suppression                      Mop-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 &amp; Maintenance                      Surplus Property                      Special Cooperative Program                      Civil Defense                      Rural Fire Defense                      State Compacts                      Personnel Factors                      Job Standards                      Training                      Safety                      Agreements &amp; Leases                      Records and Data</p>	<p><b>Functions:</b></p> <p>Resource Management                      General Forest Management                      Forest Silvics &amp; Ecology                      Plantation Management                      Nursery Management                      Tree Improvement                      Seed Collection-Cone                      Production Areas                      Technical Forestry Landowner                      Assistance                      Custom Forestry Services                      Prescribed Burning                      Insects &amp; Disease Management                      Prevention, Detection,                      Suppression                      Special Programs                      River Basin Studies                      RC &amp; D Projects                      Small Watersheds-PL 566                      Rural Development                      REAP Program                      Survey &amp; Resource Data Collection                      Plantation Records                      Timber Volumes                      Ownership Records                      Survival Counts                      Finance &amp; Taxation                      Research                      Pine Plantation Management                      Hardwood Regeneration &amp;                      Management                      Forest Utilization &amp; Marketing                      Alexander State Forest                      Timber Management</p>	<p><b>Functions:</b></p> <p>Forest Fire Prevention                      Regular                      Special Projects                      Federal CFFP Program                      Sou. CFFP Program                      Education                      Adult Education-Schools &amp;                      Adult Groups                      Youth Education - Youth                      Groups                      Information                      Press, Radio, TV                      Writing &amp; Reports                      Public Relations                      Arts, Layout, Design                      Editing                      Cooperation with other                      Agencies &amp; Organizations                      Environmental Quality                      Urban Forestry                      Recreation                      Tours &amp; Demonstrations                      Exhibits, Photo, Slides                      Publications                      Alexander State Forest                      Recreation Management                      Wildlife Management</p>	<p><b>Functions:</b></p> <p>Accounting                      State &amp; Federal Accounts                      Financial Analysis, Records and Reports                      Controls and Procedures                      Appropriations and Income                      Budgeting                      State &amp; 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 &amp; Production Reports                      Statistics</p>

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)





Statement of J. Norman Efferson to the Natural Resources and Environment Committee of the Constitutional Convention Committee on April 9, 1973.

My name is J. Norman Efferson. I am Chancellor of The Center for Agricultural Sciences and Rural Development of the Louisiana State University System. The Center for Agricultural Sciences and Rural Development is that administrative unit of the Louisiana State University System which is responsible for administering the functions of the Cooperative Extension Service with offices and personnel in every parish in the State, the Agricultural Experiment Station with major offices and laboratories on the Baton Rouge campus and off-campus locations in 14 branch centers scattered throughout the State, the Livestock Development Program, and for coordinating resident teaching functions in agriculture with the other teaching programs on the Baton Rouge campus.

The Center for Agricultural Sciences and Rural Development is charged under various State and Federal laws with the responsibility of conducting a continuing research and extension education program in the areas of agriculture, forestry, home economics, wildlife and fisheries, and general rural development to serve the interests of the entire state. Agriculture, in the broad sense, still remains at Louisiana's most important industry. In addition, it is becoming increasingly important. Louisiana's tax base in the past has been attached considerably to non-renewable extractive industries such as oil and gas. These income sources are rapidly drying up and disappearing. Agriculture remains by far the largest industry source of renewable income - income which does not dry up and which continues to expand from year

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to year to supply more raw materials for industrial employment and a larger tax base to finance government programs. This source of support and funds is likely to become even more important in the future. This basic fact needs to be kept in mind when considering legislative programs and other public efforts affecting agriculture. For a most progressive Louisiana the over-all agricultural industry must be kept strong and with a continued expanding trend.

Total gross income from Louisiana agricultural industry in the broad sense - from crops, livestock and livestock products, forest products, fish, and wildlife products - amounted to more than one billion dollars in 1972 at the first sale or farm level, and to more than two and one-half billion dollars after additional value was added within the state by processing, packaging, and marketing. This level of income has doubled in the last 10 years and has the prospect of increasing equally as fast for the next 10 years. The new State Constitution should provide incentives for the continuation of the development of the State's most important renewable industry and should not include provisions that retard maximum development.

A brief summary of the major sections of the existing Constitution of the State of Louisiana, as amended through 1970, which deal with agriculture has been prepared and is presented as a separate exhibit. This 8-page summary indicates the importance which agriculture has held in the minds of legislators. Most of this summary deals with various regulatory requirements that are beyond

the scope of research and educational efforts and I am not qualified to comment on these items.

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There are some that deal directly with the research and education functions of Louisiana State University. In general, these items are desirable ones either to include in the new constitution or to provide leeway in which the provisions can be provided by appropriate action of the legislature. Article 12, section 17, for instance, provides for specific dedicated appropriations. The income from these appropriations is much less than is now used to annually operate the agricultural functions assigned to L.S.U.; thus, most of the funds come from the annual appropriations of the legislature. I am not a legal expert and thus am not qualified to recommend whether specific appropriations should be included or excluded from the new constitution. I do think that if they are provided for other major agencies, that they should also be included for the major agricultural functions assigned L.S.U.

Article 10, section 1, provides for the classification of lands for assessment purposes and for severance taxes on timber when it is harvested. This provision has no direct effect on L.S.U. research and education programs in forestry but has a major indirect effect in that these provisions result in a continued viable productive efficient forestry industry and they should be continued in the new constitution or in appropriate laws if our research and educational efforts are to have the maximum impact on the economy of the State. The same applies to many of the regulatory provisions of the present constitution.

In the development of the new constitution, I hope that the increased interest in environment and ecology will not result in hurried unfortunate actions detrimental to agricultural productivity and efficiency. This

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increased interest is long overdue and, in the long run, will be greatly beneficial to all of us. If the pendulum is permitted to swing too far too quickly, however, agricultural productivity and state income are likely to be severely affected. This applies to drainage and flood control programs, the use of pesticides and fertilizer, the application of new scientific developments in the production of crops and livestock, and similar items.

Representative Ted Alvares of the Florida House of Representatives said recently, "If farmers suddenly stopped producing food, it would take only seven days for all the food in the supermarkets to be depleted. In five more days people would begin stealing food. In six days people would kill for food, and in seven days we would begin to eat each other. That's fourteen days between us and cannibalism, and only the farmers are keeping us from it."

Although this statement may need some clarification, it does point out the fact that agriculture is not only our nation's and state's largest industry, but it is our nation's and our state's most vital industry, and it is essential to all citizens that it remain in a healthy viable growing condition.

Thank you for this opportunity to present this statement. If there are questions, I will be glad to try to answer them.

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BRIEF SUMMARY OF THE SECTIONS

OF THE CONSTITUTION OF THE STATE OF LOUISIANA

PERTAINING TO AGRICULTURE

(AS AMENDED THROUGH 1970)

Prepared by:

Louisiana Cooperative Extension Service

Louisiana State University

Baton Rouge, Louisiana

CONSTITUTION OF THE STATE OF LOUISIANA  
As Amended Through the Election of November 2, 1954

Brief Summary of the Sections Pertaining to Agriculture

I. Agricultural and Mechanical College Fund

- A. Appropriations of revenues, Art. 12, Sec. 17.
  - 1. Sources of funds for LSU:
    - a. An annual tax of 1/2 of one mill on the assessed value of all the taxable property in the state.
    - b. All revenues derived from the State license taxes imposed upon any company, individual, etc., authorized to issue insurance policies.
- B. Auditor and treasurer to keep fund separate on books, Art. 12, Sec. 22.
  - 1. All funds granted to LSU shall be kept separate on the books of the Auditor and Treasurer of the State as perpetual record of such loans.
- C. Debt of State to, Art. 12, Sec. 21.
  - 1. The State owes the agricultural and mechanical college fund \$182,313.03 being the proceeds of the sale of lands and land scrip granted to Louisiana by the United States.
  - 2. The State shall pay an annual interest of 5% on the said amount.

II. Agricultural Experiment and Research Stations

- A. Donations or conveyances by state, agencies, subdivisions, etc., to United States for, Art. 4, Sec. 12.
  - 1. Assumes the indebtedness of LSU for the State of Louisiana.
  - 2. Sec. 12-b authorizes the State Market Commission to lend or underwrite or guarantee the repayment of 25% of any loan made by a financial institution for any agricultural plant which aids in preserving and marketing state agricultural products.
  - 3. Sec. 12-c authorizes the Commissioner of Agriculture and Immigration to make guaranteed loans (on up to 25% of said loan) for farm youth organization projects.
  - 4. Allows state, agencies, subdivisions, etc., to donate or convey any lands, property, etc., by fee simple title, to the United States for experiment and research stations.

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III. Agricultural Fair Associations

- A. Taxation, exemption of property, Art. 10, Sec. 4.
  - 1. Property belonging to agricultural fair associations and used exclusively in the conduct of such fairs is exempt from taxation.

IV. Agricultural Implements

- A. Taxation, exemption, Art. 10, Sec. 4.
  - 1. Agricultural implements and farm improvements to the value of \$500; one wagon or cart; all cattle, livestock, animals and poultry are exempt from taxation.

V. Agriculture

- A. Fostering, enactment of laws, Art. 6, Sec. 14.
  - 1. Directs the legislature to enact laws fostering agriculture and preventing the spread of pests and diseases harmful to plants & animals. It may enact laws limiting or prohibiting specific crops in definite areas and providing funds to compensate for damages caused by such restrictions.
- B. Futures, agricultural products, gambling, prohibition, Art. 19, Sec. 8.
  - 1. Gambling in futures on agricultural products, where the intention is not to make an honest delivery, is declared to be against public policy; and the legislature shall pass laws to suppress it.
- C. Industrial plants for conversion or processing of agricultural products, Art. 14, Sec. 33.
  - 1. Allows any parish Police Jury to provide funds for the erection and maintenance of agriculturally connected industrial plants when authorized by a majority vote of the property taxpayers of the entire parish. They may incur debt for this purpose and issue negotiable bonds for the payment thereof. Such bonds are tax exempt.
    - a. The Police Jury after such an election shall create an Agricultural Industrial Board with all the powers necessary to establish and maintain said plants.
- D. Laws regulating wages, etc., of females in agricultural pursuits prohibited, Art. 4, Sec. 7.
  - 1. No law shall be passed to establish minimum wages for females engaged in agricultural pursuits.

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E. Local or special laws prohibited, Art. 4, Sec. 4.

- 1. The legislature shall not pass any local or special law regulating agriculture.

F. Motor fuel tax, farm machinery, refund, Art. 6, Sec. 22.

- 1. Any person in Louisiana who uses any motor fuel for operating any farm machinery used in the actual tilling of the soil and production of crops, on which any motor fuel tax has been paid, can petition for and receive, a refund of all such taxes paid.

VI. Agriculture and Immigration Commissioner

- A. Appropriations for expenses of office, Art. 5, Sec. 20.
  - 1. The Commissioner of Agriculture and Immigration shall receive a salary of \$5,000 per annum, and no other compensation shall be allowed said officer.
  - 2. The legislature shall make appropriations for the clerical & other expenses of said office.
- B. Directing agriculture and immigration department, Art. 6, Sec. 13.
  - 1. The Department of Agriculture and Immigration shall be directed by the Commissioner of Agriculture and Immigration, whose duties and powers shall be prescribed by the Legislature.
- C. Election, Art. 5, Sec. 18.
  - 1. The Commissioner of A & I shall be elected for a term of 4 yrs., and in case of vacancy the Governor shall fill the position by appointment, with the consent and advice of the Senate.
- D. Executive Officer, Art. 5, Sec. 1.
  - 1. The Commissioner of A & I is a member of the executive department of the State of Louisiana.

VII. Crops

- A. Taxes, postponement on destruction, Art. 10, Sec. 11.
  - 1. The Legislature is authorized to postpone the payment of taxes only in cases of overflow, general destruction of crops, or other public calamity, and may provide for the levying, assessing and collecting such postponed taxes under appropriate terms and conditions.

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VIII. Farm Products

- A. Combinations or conspiracies in restraint of trade prohibited, Art. 19, Sec. 14.
  - 1. It shall be unlawful to form any combination, etc., for the purpose of forcing up or down the price of any agricultural product, for speculative purposes.

IX. Farms

- A. Convicts, employment upon, authorization, Art. 3, Sec. 33.
  - 1. The Legislature may authorize the employment under State supervision, of convicts on convict farms.

X. Acreage Tax

- A. Authority to impose and collect, Art. 14, Sec. 14 (f), (o), (p).
  - 1. Authorizes gravity drainage districts, gravity sub-drainage districts and irrigation districts to impose & collect an acreage tax. They may also incur debt and issue bonds when authorized by a vote of a majority in number of acres owned by landowners qualified to vote under Louisiana law.

XI. Irrigation

- A. Canals, navigable streams, use, Art. 13, Sec. 6.
  - 1. Corporations formed for the purpose of constructing and operating gravity canals for irrigation can utilize the waters of the navigable streams, as well as reservoirs or for the storing of water for such purpose the deserted beds of former navigable streams which may be the property of the state; provided that at the end of 70 years their property and plants shall become the property of the State, to be operated by it for public revenue.

XII. Marsh Land and Drainage Districts

- A. Drainage and reclamation, Art. 15, Sec. 1.
  - 1. The Legislature may enact legislation causing the undrained marsh, swamp and overflow land of the state to be drained and reclaimed.
  - 2. Also authorizes the formation of drainage or sub-drainage districts and gives them the power to impose taxes and forced contributions on land benefited by such drainage.

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XIII. Milk, Milk Products and Substitutes

- A. Bond, manufacturers, etc., power of legislature to require, Art. 3, Sec. 44.
  - 1. The Legislature has the power to adopt laws to require manufacturers, pasteurizers, and distributors of milk or milk products to furnish bond or security for the payment of amounts to become due producers of milk by such manufacturers, etc., and to penalize the violation of such laws.

XIV. Forests and Forestry

- A. Classification of lands for assessment purposes, Art. 10, Sec. 1.
  - 1. Timber, other than virgin timber is recognized as a growing crop. A severance tax on timber severed from the soil or water is hereby levied at the rate of 2 1/4% on all forms except pulpwood, and 5% for pulpwood, of the current average stumpage market value of such timber.
  - 2. To encourage reforestation, special fixed valuation agreements and severance taxes in lieu of all other taxes on said forest products are authorized.
  - 3. Seventy-five percent of the severance tax proceeds shall go back to the parish where the timber was severed and the other 25% shall be credited to the State General Fund.
  - 4. Forest lands are classified for assessment purposes as :
    - a. Tidewater Cypress land
    - b. Hardwood land
    - c. Longleaf Pine land
    - d. Other Pine land
- B. Commission, Art. 6, Sec. 1.
  - 1. Establishes a seven member Louisiana Forestry Commission in the Executive Department. They shall appoint a State Forester. They shall prepare or cause to be prepared plans for execution of laws of the State of Louisiana relating to forestry. All expenditures in executing the forestry laws of the State shall be made under the advice and approval of the Commission.
    - a. This section also details the duties of the State Forester and the rules of operation for the Commission.

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- C. Forestry; acreage taxes; homestead exemptions, Art. 6, Sec. 2.
  - 1. The Legislature is authorized to make provisions for the practice of forestry in this State.
    - a. The Legislature may authorize parish governments to levy acreage taxes,  $\leq$  2c per acre, for this purpose.
      - (1) The exemption of homesteads from taxation apply to this tax.
- D. Reserves, donations to the United States by State or political subdivisions, Art. 4, Sec. 12.
  - 1. Allows State, agencies, subdivisions, etc., to convey or donate any lands, property, etc., by fee simple title, to the United States for forest preserves.

XV. Agricultural Machinery, Equipment & Implements

- A. Taxation, exemption, Art. 10, Sec. 4.
  - (1) The following property is exempt from taxation: agricultural products while owned by the producer; 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.

XVI. Agriculture

- A. Public policy, Art. 6, Sec. 14.
  - (1) Directs the Legislature to enact laws fostering agriculture, and preventing the spread of pests and diseases injurious to plants and domestic animals. The Legislature may enact laws limiting or prohibiting the cultivation of specified crops in certain areas and providing the necessary funds to compensate for damages caused by such restrictions. (Adopted Nov. 8, 1966)

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XVII. Agriculture, Department of

- A. Generally, Art. 6, Sec. 13.
  - (1) The Department of Agriculture shall be directed by the Commissioner of Agriculture, whose duties and powers shall be prescribed by the Legislature. (Adopted Nov. 8, 1966)

XVIII. Farm Machinery

- A. Gasoline tax, refund, stationary motors, Art. 6, Sec. 22 (1).
  - (1) Any person in Louisiana who uses any motor fuel for operating any farm tractor or farm machinery used in the actual tilling of the soil and production of crops or any stationary motor used for agricultural purposes on which any motor fuel tax has been paid, can petition for and receive, a refund of all such taxes paid. (Adopted Nov. 8, 1960)

XIX. L.S.U.

- A. Board of Supervisors, withdrawal of consent to suits against, Art. 19, Sec. 26.
  - (1) The Board of Supervisors of L.S.U. is to be considered a special agency of the State of Louisiana and Louisiana adheres to the general principle of governmental immunity from suit; one exception to the general cloak of immunity encompasses suit by dint of special legislation, and another exception permits actions for enforcement or for breach, of contracts entered into by a special agency of the state. (Adopted Nov. 6, 1956)
- B. Metropolitan branch, Art. 12, Sec. 25.
  - (1) Establishes a metropolitan branch of L.S.U. in New Orleans. (Adopted Nov. 8, 1966)

XX. Levee Districts

- A. Generally, Art. 16, Sec. 1.
  - (1) Creates a levee system and spells out provisions for maintenance, board membership, and fiscal affairs. (Adopted Nov. 8, 1960)

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XXI. 7. Pests

- A. Control, eradication and prevention, mosquito abatement districts, powers, Art. 6, Sec. 11.1.
  - 1. Authorizes the Police Jury of any Parish to create mosquito (and other pests) abatement districts. Such districts have power to administer, fine, and levy and collect special taxes. (Adopted Nov. 4, 1958)

Attachment 6

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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:

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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.

REGULATORY

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 1955, 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-

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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 DUEH OF

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THESE PROGRAMS SHOULD BE CONSOLIDATED INTO ONE AGENCY RESPONSIBLE FOR MAKING OR GUARANTEERING 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:

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SECTION 12D. 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.

ASSESSMENT OF AGRICULTURAL PROPERTY

TO THE HONORABLE DELEGATES OF THE LOUISIANA CONSTITUTIONAL CONVENTION OF 1973

MAY IT PLEASE THE DELEGATES:

This brief is submitted on behalf of Louisiana Farm Bureau Federation, Inc. as spokesman for the agricultural interests of the State of Louisiana. Farm Bureau is a voluntary non-profit organization comprised of some 36,000 farm families in Louisiana. The principal purpose of Louisiana Farm Bureau is to promote the growth and development of farming and agricultural pursuits in the State of Louisiana, not only for the benefit of its members, but for the good and well being of the State of Louisiana and all its citizens.

I. PROPERTY TAX LAWS IN TURMOIL

Due to recent changes in the Constitution and Laws of the State of Louisiana, and decisions of the Courts relative to the subject of assessment of property for ad valorem tax purposes, there is a great deal of confusion in the minds of the public and public officials as to what the law is or should be. The delegates of the Constitutional Convention have a rare opportunity and duty to explore the complexities of this problem and attempt to bring some order out of the chaos which presently exists. Our organization will limit its recommendations on this subject to only one area, namely, the assessment of agricultural lands. This brief is designed to point out why agricultural lands should be treated differently from non-agricultural lands and to explain how this problem is being resolved in other states

II. AGRICULTURE IS IMPORTANT TO THE STATE OF LOUISIANA

a. Economic Impact:

For generations, agriculture has been the economic mainstay of the State of Louisiana. While our state is becoming increasingly industrialized, agriculture still plays a major role in our economy. Total sales of agricultural products in the State of Louisiana in one year amount to more than one billion (\$1,086,000,000.00) dollars. Processing of these raw agricultural products adds over one and one-half billion (\$1,531,466,000.00) dollars to their value, thus increasing the gross agricultural income in the State of Louisiana to the staggering sum of \$2,618,138,000.00. Investment in land, buildings, machinery and equipment for agricultural purposes in Louisiana amounts to more than 4 3/4 billion (\$4,767,000,000.00) dollars. All of these statistics, with breakdown by commodity, are shown on a chart marked Exhibit "A" attached hereto and made part hereof. The agricultural industry could be jeopardized and crippled unless adequate safeguards are provided in the property tax field. The State and the nation can ill afford the collapse of the agricultural industry.

b. Environment

Ecology is a big word in our vocabulary today. Yet,

many of us do not realize what a significant role agriculture plays in the protection of our environment. Green acres purify polluted air through the natural action of green plants. These plants, through a chemical transformation process, converts carbon dioxide into oxygen. The significance of this process was discovered and put to good use in England in the 1930's. A twenty mile swath of open spaced farmland and forest was provided in and around the City of London and called the "Green Belt". The results were so gratifying that it prompted the noted author, John Gunther, to comment in his book, "Twelve Cities":

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"Even the weather has changed". City planners throughout the U.S. have recognized this phenomenon and are reserving green belts in and around their cities for ecological and environmental reasons.

c. Water Supply:

There is no shortage of water in Louisiana this year, but there could be a problem in future years as industrial usage of water increases. Land in agriculture serves as a watershed to collect and conserve water. Agriculture conserves more water than it uses. In times of excess rainfall, such as we are experiencing this year, agricultural land tends to slow down water runoff, hence reducing floods. In addition, agricultural land permits percolation of water into the ground to replenish underground streams and reservoirs.

III. INCREASE IN LAND VALUES JEOPARDIZE AGRICULTURE

As Louisiana becomes more urbanized, and as our population increases, the demand for land increases and so does its value. In some areas of Louisiana, particularly near our cities, agricultural land has become too valuable to farm. Economic facts demand sale for industrial or commercial use, or for subdivisions. If a farmer cannot earn enough to pay for his farm, he cannot stay in business. We are at the point now where many farmers can only continue farming because they inherited property or acquired it when it was cheap. If they had to buy the land, they could not justify the investment based upon the anticipated yield. The Department of Agricultural Economics at L.S.U. has furnished us with charts showing the average market value of land used for various commodities in Louisiana (Exhibit "B"), and the average use value of said land based on capitali-

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zation of earnings at 10% per annum. These charts are attached to and made part of this brief. In summary, they show that the market value of sugar cane land is \$750.00 per acre, but the farmer could

only pay \$300.00 per acre, based on anticipated earnings from sugar farming (Exhibit "C"). Using the same formula, cotton land sells for \$640.00 per acre, but the use value is only \$125.00 per acre (Exhibit "D"). Rice land brings \$550.00 per acre on the market, but the farmer can only justify \$185.00 (Exhibit "E"). Soy bean land brings \$380.00 per acre but its value based on earnings is \$278.00 (Exhibit "F"). Many of the farm operators in this State are faced with the dilemma of whether to sell their land for industrial uses and enjoy far greater return on their investment from interest and dividends, or to continue struggling along on their farms with a lesser return. The answer for many may be determined by the manner and amount of assessment on their property and the impact of ad valorem taxes thereon.

IV. PROPOSED SOLUTION - "GREEN BELT LAW" - PRECEDENT IN OTHER STATES

Many other states have recognized the problems discussed hereinabove and have attempted to resolve them by legislation and constitutional amendments. The object of this legislation is to provide incentives to landowners to permit property to remain in agricultural or horticultural use rather than to have it sold for commercial, industrial or subdivision purposes. This incentive can best be offered by adopting special assessment procedures for agricultural lands. Laws which are specially designed to preserve agricultural and forest lands are generally referred to as "Green Belt laws". In some areas, the emphasis is not on agriculture, as such, but on preserving open lands for parks and playgrounds, and for the aesthe-

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tic values which nature provides to our society. Such lands are preserved by means of zoning laws or ordinances sometimes called "Open Space" laws. All of these laws, regardless of what they are called, are based on the recognition that green belts and open spaces are beneficial to our society and some legislation and regulation is necessary if they are to be preserved. Since 1963, there has been considerable legislative activity throughout the country dealing with this subject. There have been rather extensive studies made on the problems of assessment and taxation of agricultural lands. Copies of some of the literature on the subject are attached to and made part of this brief for reference. Two of these publications deserve special comment. "Use Value Assessment, A Study Based on Loudoun County, Virginia", discusses the laws adopted in other states and explains the problems which have been encountered in these states and concludes that use value assessment can be a valuable tool to aid in developing desirable communities in which to work and live. (p. 39) The Legislative Research Council of the Commonwealth of Massachusetts made an in-depth study of the problem and prepared an excellent written report on assessment of Agricultural land published on February 20, 1970. This report also reviews the actions taken by other states through the year 1969. The Council concluded its report by recommending a constitutional amendment which would provide that agricultural or horticultural lands shall be valued, for the purpose of tax-

tion, according to their agricultural or horticultural uses.

According to the Massachusetts report, some form of use-value assessment was in operation or being considered in more than half of the 50 states as of 1970. At that time, of 42 states which answered the Research Bureau's questionnaire, only four assessed all property uniformly and had not considered use-value assessment (Ala., La., Ohio and Wyo.) (p.11). Since the Massachusetts report was issued, more states have moved toward the use-value concept, so there is ample precedent for this approach.

The details vary from state to state, but the general concept is the same. Agricultural lands must be assessed differently

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from non-agricultural lands and the assessment should be based on use value rather than market value.

The voters of the State of Massachusetts, in November of 1972, overwhelmingly approved the green belt constitutional amendment by an affirmative vote of 71%.

It is significant that industrial states such as New Jersey and Massachusetts have seen the need to adopt such laws. It would be tragic and ironic if Louisiana, whose economy is far more farm-oriented than that of these Eastern states, would fail to take necessary legislative action to preserve our farm lands and forests.

To avoid abuses, the legislature can, and should, impose safeguards. There are any number of qualifications which can be specified to insure that this law serves the purposes for which it is intended. Common features which appear in a number of the green belt laws adopted by other states, include the following:

1. **Formal Application.** Some states provide that granting of a special assessment is not automatic. The owner must file an application, and this application must be acted upon by the proper authorities. Eligibility requirements may be provided. Massachusetts requires that the land be in farm use for at least two years before it becomes eligible.
2. **Bona Fide Farmers Only.** To prevent speculators and land developers from taking advantage of any tax benefits provided under this program, it may be stipulated that the special assessment provisions shall apply to, and be available only, to bona fide farmers. Some states provide that a bona fide farmer is one who earns a substantial portion of his income from agricultural pursuits (perhaps a fraction, such as one-fourth, one-third or one-half, within the discretion of the legislature).
3. **Minimum Area.** To insure that the protected property is large enough to be operated effectively as a farm and to avoid the temptation to classify homesites as "farms", some states require a minimum acreage (five acres or more) or a minimum annual dollar production (\$500.00 gross sales) of agricultural products.
4. **Formula for Capitalization of Earnings.** In order to put this program into effect, there must be a formula for determining use value based upon production potential and capitalization of earnings. Capitalization of earnings is a well known technique used in appraisals to determine value. Agricultural economists can develop statistics showing the production potential of certain types of land in certain crops, and considering the costs incident to the growing and the harvesting of the crops, can establish the use value of the land. The

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technical determination of use value can be made by a special committee or commission established by law to perform this function. In New Jersey, a State Farmland Evaluation Advisory Committee is responsible for annually determining the range of values for each of the agricultural land classifications. Such a committee or commission could be established in Louisiana, if our lawmakers choose to do so. It would seem that

details of the formula and the manner in which the green belt law would be applied should be left to the legislature and should not be included in the Constitution. There should be a general statement of policy in the Constitution, however, to the effect that assessment of agricultural lands should be based upon their use value for agricultural purposes, and not upon their market value. The Constitution should authorize appropriate legislation on the subject not inconsistent with this policy. Special care should be taken to insure that no language is retained in the Constitution which could conflict with this general policy

5. **Constitutional Issue.** The present laws of the State of Louisiana do not permit property to be assessed according to use rather than market value. As a practical matter, the assessors in some Parishes have been assessing property by classification as provided in R.S. 47:1988. (This statute was repealed by Act 13 of the Extraordinary Session of the 1972 Legislature) Even under this statute, land was not being valued according to any formula based upon production potential or capitalization of earnings. Instead, the Assessor and the Tax Commission used the classification system as a guide to achieve some type of uniformity in assessing lands. Thus, swamp land might be assessed at one figure, pasture land at another, and cropland at still another. Much of our farm property in Louisiana is assessed at value which are within the range of the use value for agricultural purposes. No credit can be given to the law as written for these assessments, however. In view of the recent Court decision in the Bussie suit, it is questionable whether such assessments could stand a Court test unless the laws and the Constitution are changed to expressly authorize special treatment for agricultural land. We recommend, therefore, that the green belt laws be given constitutional protection against such a Court test by expressly authorizing this special method of assessment for agricultural land. Timber is now given special treatment in the Constitution (Art. X, Section 1), so there is precedent even in Louisiana for such action.
6. **Deferred Taxation-Roll Back.** Some states provide that if farm lands are converted to another use, an adjustment should be levied for the year in which the land use changes and for a fixed number of the preceding years. This is sometimes referred to as a "deferred tax" or a "rollback tax". This rollback may go back for a fixed period of years (2 or 3) and the additional tax would be based upon the difference between the amount paid on the use value assessment and the amount which would have been collected had the land not been in farm use. Again, details of such a provision could be left to the discretion of the Legislature.

These are some of the safeguards which can be employed. We are not prepared at this time to suggest the exact clauses which should be

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enacted by the legislature. We do not believe the Constitutional Convention should concern itself with such details. The above described restrictions are mentioned for purposes of background information and to illustrate the types of limitations the legislature might impose to prevent abuse.

#### V. SUGGESTED LANGUAGE OF CONSTITUTIONAL PROVISION.

Again, with no intent to usurp the power and authority of the delegates to fashion the language of the new constitution of Louisiana, we offer for the consideration of the delegates, the following draft:

#### PROPOSED AMENDMENT TO ARTICLE X, SECTION I OF THE LOUISIANA CONSTITUTION OF 1921:

"For the purpose of developing and conserving agricultural lands, such lands shall be assessed for the purpose of taxation, according to their use value rather than their market value."

We humbly suggest that this or similar language should be included in the new Constitution. For purposes of comparison, the delegates may wish to examine the following amendment adopted in Massachusetts, quoted verbatim on page 40 of the report of the Legislative Research Council:

#### " ARTICLE OF AMENDMENT.

Art. . . Full power and authority are hereby given and granted to the general court to prescribe,

for the purpose of developing and conserving agricultural or horticultural lands, that such lands shall be valued, for the purpose of taxation, according to their agricultural or horticultural uses; provided, however, that no parcel of land which is less than five acres in area or which has not been actively devoted to agricultural or horticultural uses for the two years preceding the tax year shall be valued at less than fair market value under this article."

VI. Justification for Special Treatment. While many of the delegates are farm oriented and understand the problems peculiar to the farming industry, some of the delegates may wonder why agriculture deserves special treatment. For these doubters, we suggest a few of the more salient reasons.

A. Necessity. Agriculture produces food and fiber for a rapidly growing population. If we think meat prices are high now, imagine what will happen if we drive a few more producers out of business, thereby further reducing the supply of meat. The same goes for grain, fruits and vegetables. There are many industries we could do without in time of emergency, if we had to -- agriculture is not one

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of them.

B. Quality of Life. Aside from the food and fiber aspects, croplands and green belts enhance the quality of life for non farmers. The aesthetic values have been touched on hereinabove.

C. Fair Treatment.

1. Competition with other States. Farm operations today are highly mobile. Major crops can be raised in different states. A large soybean producer may elect to do business in any of a number of states. If he has a tax advantage in Arkansas, Mississippi or Alabama, why should he farm in Louisiana? Since many of our surrounding states have or are considering green belt legislation, we should not discriminate against our local producers and perhaps drive them out of the state.

2. Competition within the state. The whole thrust of the tax equalization movement is the idea that it is wrong to discriminate against taxpayers. Yet, there is considerable discrimination now between farmers, depending upon where their farms are located. Why should a farmer near a large city be taxed out of business just because his farm happens to be in close proximity to a city while another farmer raising the same crop in a rural area enjoys a low assessment.

D. Open land requires less public services. Farm land generally requires much less services per acre than non-farm land. The farmer, therefore, is paying more than his fair share for such services as schools, fire and police protection, streets, drainage and garbage disposal. This inequity can be offset to some extent by tax relief in the form of an appropriate green belt law.

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E. Farmers are Price Takers, Not Price Makers.

Most non agricultural producers set the price of

their products. Not so with farmers. They are at the mercy of the elements in the production process and at the mercy of the market after harvest. They cannot pass on their increased costs to the consumer.

F. Farmers are Conservationists. Farmers are constantly improving the quality of land. Some recognition should be given for their role as conservationists in preserving a valuable renewable resource for generations to follow.

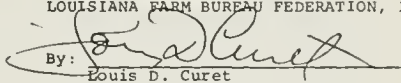
SUMMARY

Any substantial increase in ad valorem taxes on farm land could be disastrous. Because of the Bussie law suit and the recent revisions in our tax laws, farmers are concerned about how changes may affect them. Evidence of this concern is reflected in a recent article by Dr. Clyde St. Clergy, Extension Economist, Louisiana Cooperative Extensive Service, entitled "Assessment of Agricultural Land", a copy of which is attached hereto and marked Exhibit "c", for reference.

As we stated at the outset, the delegates to this convention have a real challenge before them, and a rare opportunity to mold a Constitution that will serve and protect all segments of our society and economy. We submit that the future of agriculture in Louisiana hinges upon the tax base of farm lands. We trust that the Honorable Delegates to the Convention will recognize the importance of this issue and will act favorably upon this request. Louisiana Farm Bureau offers its full cooperation and assistance in connection with the research and drafting of appropriate language designed to accomplish the objectives set forth hereinabove.

Respectfully submitted,

LOUISIANA FARM BUREAU FEDERATION, INC.

By:   
Louis D. Curet  
General Counsel

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MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 held pursuant to notice mailed by the Secretary of the Convention on April 2, 1973

Governor's Press Room, Fourth Floor,  
State Capitol Building, Baton Rouge,  
Louisiana, Tuesday, April 10, 1973,  
9:00 A.M.

Presiding: Louis J. Lambert, Jr., Chairman of the Committee on Natural Resources and Environment

Present:

James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

Absent:

Donald T. Bollinger  
Rep. Richard P. Guidry  
Wellborn Jack  
Mrs. Ruth Miller  
Rep. Robert Munson  
Miss Lynn Perkins

Sgt. at Arms: Wilson Chaney

Following an opening prayer by Mr. Elkins and the Pledge of Allegiance, the committee adopted the minutes from the meeting of April 9, 1973. The chairman asked that the committee refer to a memorandum prepared by the research staff regarding the present constitutional provision which prohibits the Louisiana Public Service Commission from regulating the sale of natural gas to industry and that they review this material for the meeting of April 16. At this time the committee will hear witnesses who are interested in this matter.

The chairman recognized DR. RAMSON K. VIDRINE, the state Health Officer who showed slides reflecting organizational charts of agencies connected with environmental control; he urged that a broad statement of policy committing the state to protect the environment and to leave the mechanics to the legislative and executive branches of state government. Dr. Vidrine introduced JOHN E. TRYGG, director of the Environmental Health Division of the Department of Health, who would make the complete presentation on behalf of the State Department of Health. In answer to several questions from Mr. LeBleu and Mr. Thompson regarding the budget and consolidation, Dr. Vidrine explained that federal regulations are requiring both a larger budget and a larger staff. After a brief discussion regarding the effects of flood control and the dumping of sewerage into the Mississippi River, Mr. Trygg presented a brief history of his department. He explained that this agency is involved with regulatory programs regarding water supply, sewerage disposal, food processing, air pollution and control, and sanitation in

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general. He then explained in detail the recommended organizational chart which combines stream with air control, and suggested that the new constitution affirm the state's desire to protect the environment and to provide a firm legal foundation for the effective operation of the state's role in environmental protection. Chairman Lambert pointed out that Article VI §1 of the present constitution provides for the protection, replenishment, and conservation of natural resources and asked if this were sufficient; Dr. Vidrine stated that everyone needed to be charged with this responsibility. Mr. Derbes added that each citizen should have the right to a safe and healthful environment and to the preservation and conservation of all natural resources including historical sites. (Attachment 1).

Chairman Lambert suggested that each committee member review all provisions compiled for the committee and decide what should be deleted and what should be retained, and what should be reduced to statute. He also added that any delegate,

who disagreed with the majority of the committee, could submit a minority report. The committee then discussed matters of a general nature such as a special session of the legislature to handle all material deleted from the new constitution and conflicts which might be presented to the coordinating committee. It was generally agreed that the committee would continue to hear testimony concerning areas which may well overlap with other substantive committees. The chairman advised that the committee would hear, after lunch, a presentation by the research staff regarding the jurisdiction of the Public Service Commission.

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Mr. Velazquez moved that the committee dispense with lunch and continue its work, but Mr. Hardee moved that the committee recess for lunch. Mr. Hardee's motion carried and the committee recessed for lunch at 11:30 A.M.

The committee reconvened at 12:30 P.M., and Chairman Lambert updated the committee on the work of the Coordinating Committee. After more general discussion regarding a special session of the legislature to take care of provisions deleted from the new document, he asked the staff to briefly present an analysis of Article VI, § 4 of the present constitution (Staff Memorandum No. 4). Chairman Lambert asked whether regulation of gas sold to industry would help keep gas in Louisiana, and Mr. Reis replied that such regulation would, at least, allow a diversion of gas from industry to increase the supply to domestic consumers in cases of emergency. Representative Munson suggested that the committee wants to see what plan the governor will present to the legislature. Mr. Leigh stated that the U.S. Supreme Court would see that natural gas is regulated in one way or another, and that no attempt would be made to regulate in areas already regulated by the state. Mr. Reis added that the real issue is whether regulation of natural gas by the Public Service Commission would insure a supply for domestic consumers since the state would then be able to assign priority to its use, and Mr. Leigh stated the Public Service Commission is definitely the regulatory body to do this. Mr. Hardee asked why so much Louisiana gas is going out of state, and Mr. Leigh answered that the Federal Power Commission has jurisdiction

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over gas in interstate lines. Mr. Singletary commented that the Hinshaw Amendment to the Federal Natural Gas Act (§1(c)) provides for regulation of rates and service by the state, and Mr. Reis added that this amendment applies only to gas coming into the state. Chairman Lambert asked how the state had lost control of some intrastate gas, and Mr. Hargrave answered that, under the Interstate Commerce Clause of the U.S. Supreme Court the federal government has the power to control all intrastate lines if it elects to exercise such power.

After a brief discussion regarding safety standards for the construction of pipelines, Chairman Lambert asked the research staff to summarize all provisions covered in the area of wildlife



and fisheries, forestry, and agriculture; and commented that Dr. St. Amant made a very convincing presentation, especially relating to the check and balances afforded by separate agencies. Mr. Derbes, however, favored centralized organizational structure and a sound statement of the state's natural resource and environment policy. He also noted a distinction between Mrs. Moore's office and Mr. Pearce's office--the latter exercises much more discretion in the exercise of its powers and functions and, therefore, has more reason to remain elective rather than appointive.

The research staff proceeded to discuss Article IV, §15.2 which provides compensation for families of wildlife and fisheries agents. Mr. Reis explained that this provision is merely an exception to Article IV, §12 of the present constitution,

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he added that an exception to a constitutional prohibition could not be statutory. After a brief discussion concerning severance taxes and dedication of revenues for wildlife and fisheries and forestry, the staff reviewed the provision relating to agriculture. The staff pointed out that only twelve of the fifty states provided for an elected commissioner of agriculture, but the consensus of the committee was to retain this position as elected in Louisiana.

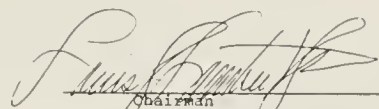
The staff then referred the committee to the prepared statement by Commissioner Dave Pearce (Attachment 2), and the committee discussed the deletions which were suggested. Mr. Munson agreed that many of the provisions would be handled by the legislature.

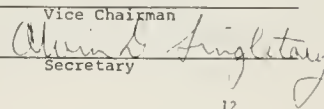
Mr. Hardee asked whether the state needed some definite policy in regard to use of water, and whether the state had the power to control this. Mr. Hargrave answered that legal problems usually arise when the state attempts to control a system not previously regulated, and that landowners would claim they had been divested of some vested right. Mr. Velazquez pointed out that water is technically a mineral, and that the Mineral Board should already have jurisdiction. Mr. Thompson added that the Department of Public Works is vested with regulatory power over ground and surface water; Munson disagreed. Mr. Hargrave said that the present constitutional provision provides that a riparian landowner has a right to use the water flowing through his land.

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Chairman Lambert stated that he had conferred with other substantive committee chairmen and decided to cover levee districts and port commissions. He said these topics will be discussed at a meeting in the near future. Mr. Derbes asked the committee to hear witnesses on the subject of historic preservation, and to acknowledge such in whatever policy statement is drafted by the committee.

The meeting adjourned at 4:00 P.M., on April 10, 1973.

  
Chairman

Vice Chairman  
  
Secretary

12.

Attachment 1

JOHN E. TRYGG

Testimony Presented to the  
Constitutional Convention Committee  
on Natural Resources and Environment  
at Baton Rouge, La.

April 10, 1973

I am John E. Trygg, Assistant State Health Officer for Environment and Director of the Bureau of Environmental Health of the Division of Health Maintenance and Ambulatory Patient Services of the Louisiana Health and Social and Rehabilitation Services Administration; by virtue of the later position I am also the Technical Secretary of the Air Control Commission and I also serve as the State Health Officers representative on the Stream Control Commission.

As a background to specific recommendations in regard to the content of our new constitution I propose to briefly review environmental protection and sanitation activities carried on by the Division of Health Maintenance and Ambulatory Patient Services and also I will discuss a reorganization within the agency, which will provide these activities with greater visibility and autonomy along with greater program flexibility and efficiency in meeting our states problems.

It is interesting to note that the State Board of Health organized prior to the Civil War came in being, largely because of an environmental problem, yellow fever with a mosquito the Aedes aegypti being the culprit. The authority of the State Board of Health in Health and Environmental matters and its successor the Louisiana Health and Social and Rehabilitation Services Administration was reaffirmed in our present constitution of 1921.

The agency has and exercises regulatory authority in the following programs:

- Water Supply for domestic use
- Sewage Disposal
- Solid Wastes
- Air Pollution as the operating arm of the  
Air Control Commission
- Vector Control (Mosquitoes, flies etc. and Rodent Control)  
and some pesticide activity
- Radiation Control
- Food Processing and Handling except for Red Meat
- Milk and Dairy Products
- Occupational Health and
- General Sanitation including swimming pools, plumbing,  
school sanitation and others

These activities are spread over the entire agency as you can see from Figure #1; most of the technical program direction centered in the Bureau of Environmental Health with a very close working relationship with the Bureau of Community Health Service in program implementation and laboratory support from the Division of Laboratories.

The total present agency expenditures for environment protection and sanitation including local health unit activities is in excess of \$4,500,000 per year.

There is not adequate time to discuss these programs at this meeting; however, I have attached a brief summary of select programs to my written presentation.

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Those of use who have been active in environmental activities of the years are and have been aware of the need for program changes principally in the area of integration of effort if not in organization.

#### Explanation of Charts

Changes in regard to Environmental Programs and their administration are dictated by the great complexity of our problems, the interest shown by our elected officials, the general public and particularly by local environmentally oriented groups.

Environment has long been the province or responsibilities of health departments; some have done a good job; others have not. The formation of the present federal environmental agency from the old public health services has been evolutionary with the final consolidation occurred in the formation in the Environmental Protection Agency in early December, 1970 with Mr. William D. Ruckelshaus as Administrator.

The Federal Agency has been most persuasive in encouraging states to integrate their environmental organizations using some valid reasons such as providing one focal point for environmental action as well as motivating some desire through distribution of funds.

Governor Edwards promised such integration of efforts for this state during his election campaign and has since indicated he would accomplish the formation of such organization. Although the idea of an EPA has not been popular with the various state agencies, it has great appeal to active environmentalists.

Reasons for integrating environmental programs are given in Figure #2.

Any reorganization to provide an EPA with total program will require legislation that cannot be considered fiscal such as that which would be required

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to eliminate the Air Control Commission and the Stream Control Commission; such legislation is unlikely in fiscal session such as that to be held this year.

However, there appears to be a way to form the equivalent or near so of an environmental protection agency through marshalling the resources of the Louisiana Health and Social Rehabilitation Services Administration particularly the Division of Health Maintenance and Ambulatory Patient Services into one organization under the LHSRSA and maintaining and strengthening the

working relationships with other state agencies with responsibilities in the environment.

This new organization could be either a bureau under the Division of Health Maintenance and Ambulatory Patient Service but very preferably a Division on an equal level with those currently under the LHSRSA. Such division could give visibility to environmental and sanitation programs while as a bureau under the HMAPS activities would constitute a down grading.

The integration of LHSRSA environmental activities in a new division could be done without legislation.

The solid lines of the accompanying organization chart (Figure #3) illustrates such division organization; the broken lines cover other state agencies involved in environmental activities and will not be changed in the proposed reorganization.

As I have stated before an evaluation of the Division of Health Maintenance and Ambulatory Patient Service indicates that approximately 4 1/2 million dollars is being spent annually for environmental and consumers environmental health protection. A breakdown of that expenditure is shown in Figure #4 along with some specific comment of why a division of Environment Protection and Sanitation (EPAS)? Figure #5 gives a breakdown of funds as to source.

-4-

An attempt has been made to determine what additional funding might be necessary to provide a viable organization satisfactory to environmental segments the federal EPA and the general public, however, no finite conclusions have been reached. It is significant to note that the federal agency has recommended a staff of approximately 300 people for the air, water and solid waste program (see Figure #6).

Although many of the principal and key positions in the proposed organization can be filled from the present resources some cannot; it also appears that substantial additional personnel will be required in supporting staff roles in the various programs. Further that perhaps it would be too optimistic to believe that Louisiana will be able to provide the numbers as recommended by the Federal Agency.

It is hoped that some additional resources can be obtained from state sources for key personnel changes in emphasis of work and by possible transfer of personnel within the division to activities where there is a greater need and the procurement of additional federal money through available matching services for all levels in the state programs particularly those from local health units.

The situation in regard to numbers of personnel is not as bad as it would appear. Figure #7 gives a tabulation of numbers in each activity which I believe you will find of interest. Note that the total man years provided well exceeds 300.

-5-

#### Recommendations on Constitution

I have given you a resume of program activities carried on by the Division of Health Maintenance and Ambulatory Patient Services and a preview of an internal reorganization which we believe will appreciably help in

solving Louisiana's environmental problems.

Based on attitude and desires of Louisiana peoples in matters of environment and on the broad experiences of our agency in protecting the environment we make the following recommendation in regard our new constitution.

1. That the constitution affirm the State's desire for protection of the environment and its improvement where feasible by correction of past transgressions.
2. That the constitution provide a firm legal base for

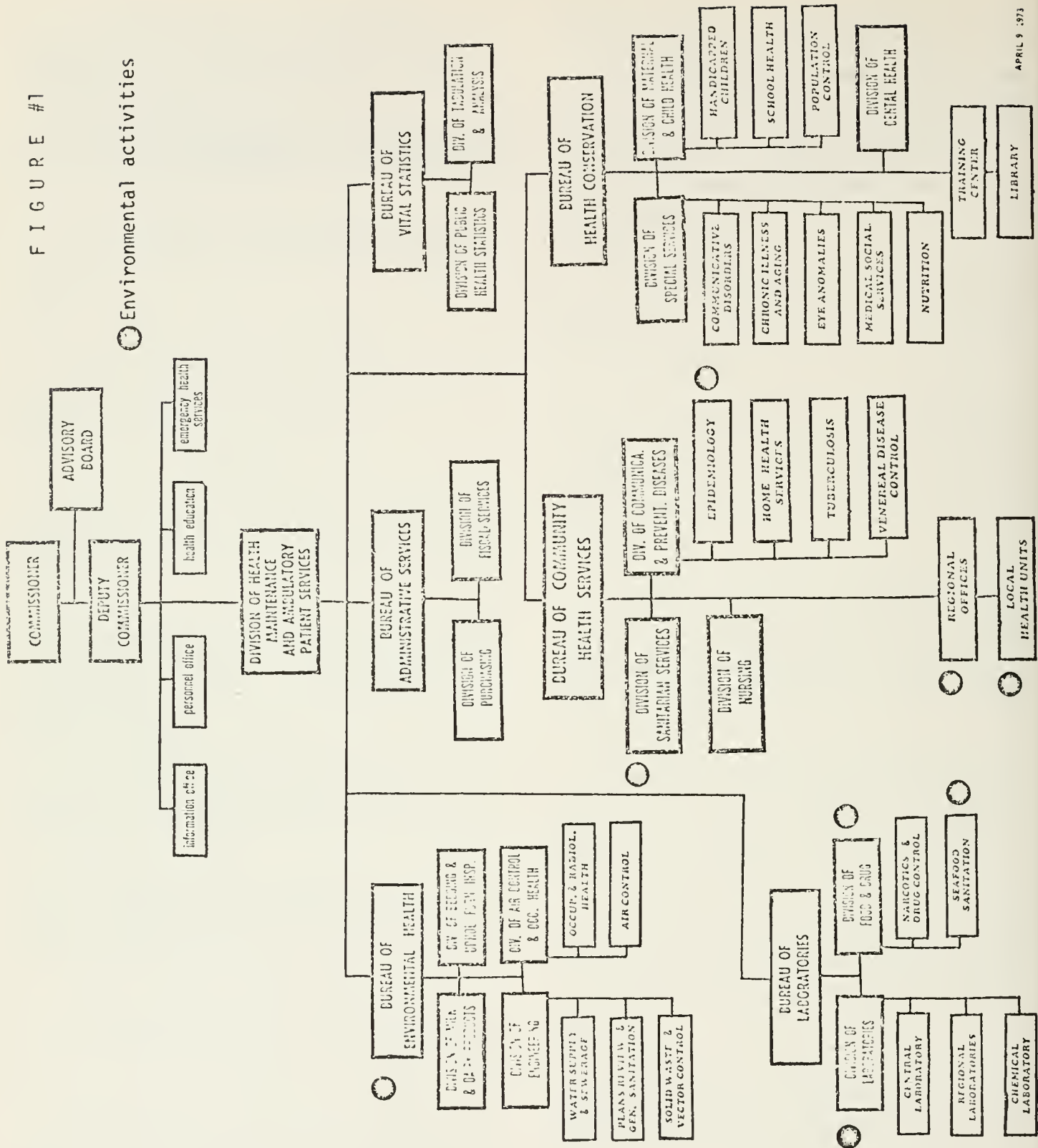
the effective operation of the State's environmental protection activities.

Although we have made these recommendations to ensure strong support in our constitution for environment protection we must give warning that satisfying the desire for environmental programs that are responsive to the public desire by giving every individual legal standing to challenge every action on environmental impact basis can lead to stagnation of progress and possible chaos.

-6-

FIGURE #1

Environmental activities



F I G U R E #2

WHY A STATE ENVIRONMENTAL PROTECTION AGENCY?

1. PROVIDES A SINGLE ORGANIZATION DIRECTLY RESPONSIBLE TO THE GOVERNOR AND MINIMIZING COMPETITION BETWEEN AGENCIES AND PROVIDES A FOCAL POINT FOR CITIZENS INFORMATION.
2. SATISFIES GUBERNATORIAL CAMPAIGN ENVIRONMENTAL EMPHASIS.
3. SATISFIES ECOLOGY ORIENTED LEGISLATORS.
4. SATISFIES ECOLOGY ORIENTED CITIZENS GROUPS.
5. SATISFIES THE THRUST OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY - PERHAPS MORE MONEY TO THE STATE.
6. PROVIDES INDUSTRY WITH ONE CENTRAL FOCAL POINT TO OBTAIN PERMITS AND TO OBTAIN INFORMATION ON ENVIRONMENTAL REQUIREMENTS.
7. PROVIDES FOR BETTER COORDINATION OF OVERLAPPING AND/OR RELATED ENVIRONMENTAL PROBLEMS AND SOLUTIONS.

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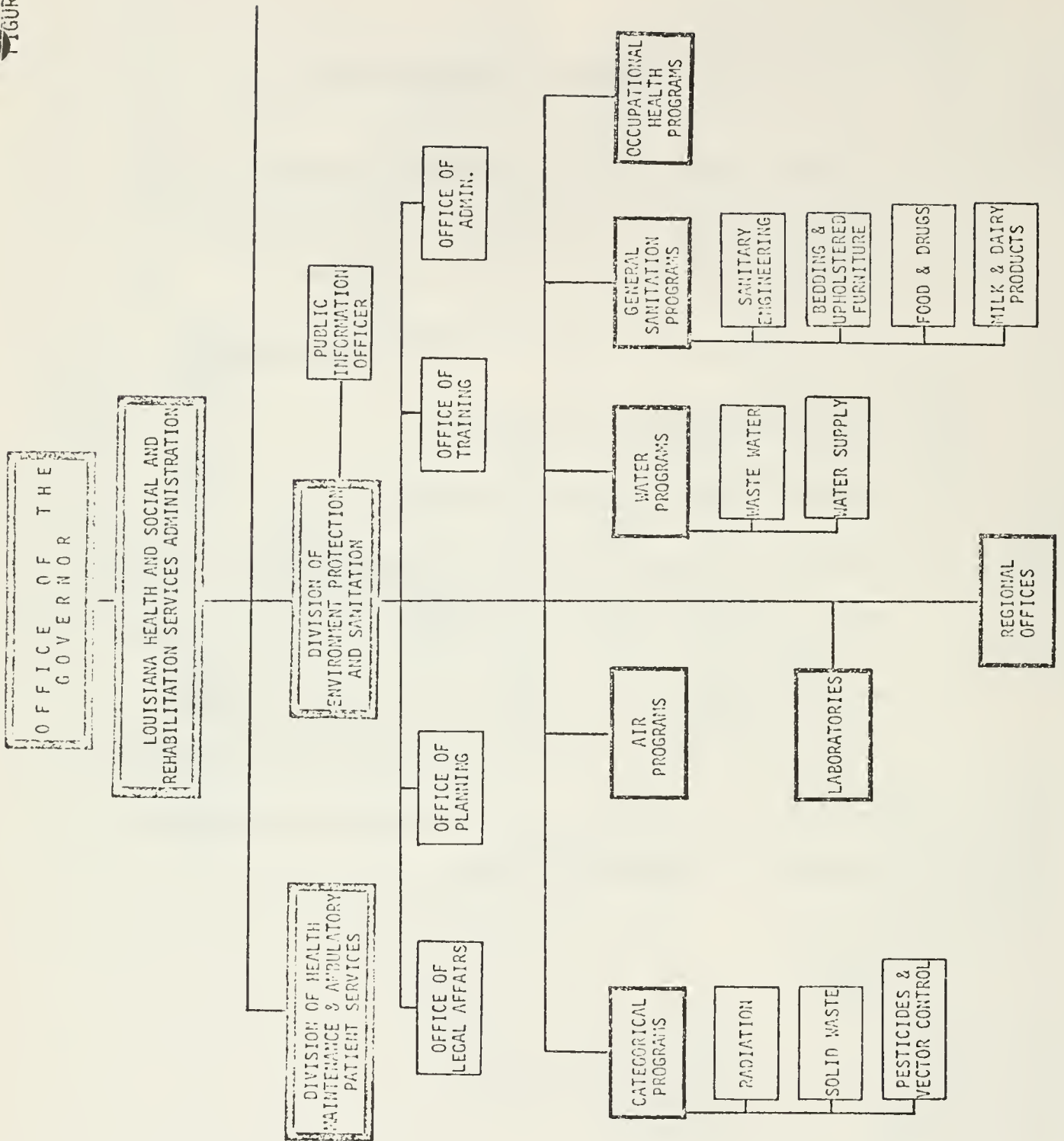


FIGURE #4

WHY A DIVISION OF ENVIRONMENTAL PROTECTION  
AND SANITATION (EPAS) IN LUISIANA?

1. NO LEGISLATION NECESSARY:
2. PROVIDES IMMEDIATE, INTERIM OR PERMANENT, VISIBILITY FOR ENVIRONMENT PROTECTION AND SANITATION ACTIVITIES:
3. LEGAL RESPONSIBILITY FOR MOST ENVIRONMENT AND SANITATION ACTIVITIES, ALREADY IN THE AGENCY.

AIR POLLUTION ADAPTMENT	\$487,029
WATER SUPPLY	399,380
SEWAGE DISPOSAL	259,829
SOLID WASTES	116,716
INSECT CONTROL & PESTICIDES	173,152
RADIATION	57,145
FOOD & DAIRY PRODUCTS	2,076,246
OCCUPATIONAL HEALTH	40,640
OTHERS	719,099
	<u>\$ 4,429,236</u>

4. A NUCLEUS OF HIGHLY TRAINED AND ADMINISTRATIVELY CAPABLE TECHNICAL PERSONNEL AVAILABLE WITH SUPPORTING STAFFS.
5. EXCELLENT COOPERATIVE WORKING RELATIONSHIPS ALREADY ESTABLISHED WITH STATE, FEDERAL AND LOCAL AGENCIES.
6. LABORATORY RESOURCES, INCLUDING PERSONNEL, AVAILABLE IN THE ORGANIZATION.
7. EXISTING AGENCY STRUCTURE EXTENDS ACTIVITIES TO PARISH LEVEL.
8. LOCAL MONIES AVAILABLE TO SUPPLEMENT STATE MONIES FOR MATCHING PURPOSES TO OBTAIN ADDITIONAL FEDERAL FUNDS IF AVAILABLE.

2-9-73

FIGURE #5

1972-73 BUDGET

ENVIRONMENTAL & SANITATION PROGRAMS  
DEPARTMENT OF HEALTH

COST BREAKDOWN In \$1,000

FUND	AMOUNT	%	
State General (1)	2,004	45.2	} 51%
State Wildlife and Fish. (3)	135	3.0	
State Bedding Funds (20)	121	2.7	

\$765	Federal Comp. Health (2)			} 17%
	Rad. Monitoring	34	0.8	
	Nuclear Energy Bd. (contract)	18	0.4	
	Food and Drugs Div.	10	0.2	
	Engineering	15	0.3	
	Parish Sanitarians	244	5.5	
	Federal Water Pollution Control	69	1.3	
Federal Air Pollution Control	350	7.9	} 32%	
Federal OJT Funds	35	0.8		
Local Funds	1,405	31.7		
\$1,405	<u>\$4,430</u>	<u>99.8</u>		

NOTE: Does not include Administrative or general laboratory costs.

FEBRUARY 9, 1973

FIGURE #6

PERSONNEL  
(SELECTED PROGRAMS)

PROGRAM	PRESENT STAFFING	EPA RECOMMENDED
AIR	29	129
WATER SUPPLY	6	23
WASTE WATER	8	160 total program
SOLID WASTES	3	10

FEBRUARY 9, 1973

FEBRUARY 1973

FIGURE #7

T= technical  
C= secretarial

3 special state  
11 Fed. water pollution  
37 Fed. air pollution  
1 state  
2 block grant

PROGRAM	PERSONNEL						EXPENDITURES			COMMENTS
	Present	Min est'd req'd	E P A		Present	Min est'd req'd	E P A			
WATER SUPPLY SANITATION	28t	8c								Very Large (300,000±) Bact. Lab. Expend. Not Included
SEWAGE DISPOSAL	16t	4c								
SOLID WASTES MAN.	6t	2c								
INSECT VECTOR & RODENT CONTROL	13t	2c								
AIR POLLUTION CONTROL	26t	3c	53t	5c	118t	11c	587,029	1,000,000	2,197,000	
MILK & DAIRY PRODUCTS	42t	20c								Includes Estimated Value of Bacteriol. Lab. Services
GENERAL SANITATION	43t	8c								
RETAIL FOOD	71t	12c								
FOOD MANUFAC. & PACKAGING	16t	5c								
SEAFOOD SANITATION	7t	2c					99,672*			} TOTAL \$184,955
		+Eng.Div. +Bac.Lab.					(31,521)-Fund 3, Eng.Div. 56,345 -Fund 3, Bac.Lab.			
DRUGS & COSMETICS (LESS NARCOTICS)	2t	2c								
ENV. MONITORING for RADIATION	2t	1c	4t	1c						
OCCUPATIONAL HEALTH	2t	1c	24t	4c	35t	5c	40,640	790,000	830,000	
BEDDING & UPHOLS. FURNITURE	10t	3c								
BUREAU OF ENV. HEALTH UNMATCHED FUNDS										
	284t	74c					4,429,236			

\* Figures do not include major costs for laboratory services, primarily bacteriological by Central Laboratory and Regional Laboratories.



1. THAT THE CONSTITUTION AFFIRM THE STATE'S DESIRE FOR PROTECTION OF THE ENVIRONMENT AND ITS IMPROVEMENT WHERE FEASIBLE BY CORRECTION OF PAST TRANSGRESSIONS.
2. THAT THE CONSTITUTION PROVIDE A FIRM LEGAL BASE FOR THE EFFECTIVE OPERATION OF THE STATE'S ENVIRONMENTAL PROTECTION ACTIVITIES.

JOHN E. TRYGG

Notes on  
ENVIRONMENTAL PROGRAMS  
April 1973

Although Louisiana has a relatively good environment, we do have some problems such as air pollution in the Baton Rouge Area and industrial and municipal pollution of some of our streams.

I am committed to preserving and enhancing our environment and at the same time I am convinced that we can have the much needed industrial growth and maintain a safe and healthful environment. There are a number of actions we can and are taking to ensure this.

Industries throughout the State are under increasing surveillance by our official agencies. The Air Control Commission has made an inventory of all air pollution emission sources in the State and has required all significant emitters to submit a compliance schedule. That schedule must show exactly how the emitter will proceed to be in conformity with all of our air standards and regulations not later than May 31, 1975. On acceptance by the Air Control Commission and by the Federal agency, those schedules will be printed in the Federal Register and are legally enforceable by the Federal Government in addition to enforcement at the State level. All compliance schedules are reviewed in public meetings with information on these available at the appropriate Air Control Commission regional office thirty days in advance of the hearing.

The Stream Control Commission has conducted a total review of all permits within the last year and a half and as a result many companies have been required to take additional actions to correct problems they were creating.

Amendments to the Federal Clean Water Act have changed the permit programs of the states and our official agency. The Stream Control Commission is currently revising its permit system and another complete review of all outstanding permits with public hearings is planned for the coming year.

New industries coming into the State are not given a permit until they prove that their discharge or emission will not interfere with meeting the Louisiana stream standards and/or ambient air and emission standards. The applications are heard by the respective commissions, meeting in open sessions with the public invited, and the applications are available for public scrutiny prior to the meetings.

We have tried to educate the people of Louisiana by providing information on the quality of our air and water and by encouraging public participation at

our commission's meetings. Copies of our official program implementation plans have been widely distributed and qualified speakers on environmental matters have been provided for public gatherings throughout the State; many of our technical personnel participate as guest lecturers at colleges and universities. Copies of pertinent documents including the Louisiana air standards implementation plan and regulations, the state solid waste plan, and other related documents and information are available on request.

Louisiana has received a great deal of assistance from the federal government both in money and technical services. The Air Control Commission's present program grant is \$350,020.00 and the Stream Control Commission received \$354,500.00 this year with almost a doubling anticipated for next year. In addition,

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the state received \$25,619,000.00 for construction of sewerage treatment works so far during the fiscal year that ends June 30, 1973 and we anticipate being allocated in addition \$20,264,000.00 for fiscal 1974 and \$18,856,000.00 from the Federal appropriation for fiscal year ending June 30, 1973. These monies have greatly assisted our program operations and, of course, most of our municipalities could not have built the much needed sewerage treatment works without assistance.

The federal agency has not yet provided us with financial assistance for our potable water program nor have they provided us any monetary assistance in our solid waste program other than a grant for developing a plan a few years ago. I believe that solid waste is our number one environmental problem at the moment. Specific legislation is needed on solid waste.

I believe that the federal government should continue and increase its support in the air and water programs and that they should provide some program support in other matters such as solid waste disposal, pesticides, noise, and radioactivity surveillance although I must say that the acceptance of federal dollars has imposed a tremendous administrative manework load on our official agencies.

Citizens such as you can help a great deal to solve our pollution problems. I suggest that interested parties participate whenever possible in public hearings on permits, compliance schedules, new legislation, and other matters preparing yourself in advance of the hearing by reviewing the materials at our agencies offices prior to the hearing date. I would also suggest that citizens not only inform official agencies of problems seen but that persons also discuss these with your legislators. In addition, I see no reason why persons should not go directly to an industry if pollution is observed and ask what industry is going to do about it.

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As a citizen each has a similar responsibility in regard to the municipality in which one lives to make sure that your community has proper sewage disposal and solid waste facilities and that the city is generally observing good environmental practices. Mayors and council members would welcome your support.

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NOTES

Attachment No. 2 is reproduced as Attachment No. 6 to the Minutes of April 9, 1973.

MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 held pursuant to notice mailed by the Secretary of the Convention on April 10, 1973.

Mineral Board Hearing Room, Natural Resources Building, Baton Rouge, La.,  
Monday, April 16, 1973, 9:00 A.M.

Presiding: Louis J. Lambert, Jr., Chairman of the Committee on Natural Resources and Environment

Present:

Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Sen. Louis J. Lambert, Jr.  
Wellborn Jack  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren

Absent:

Rep. Richard P. Guidry  
Rep. Robert Munson  
Rep. Lantz Womack

Sgt. at Arms: Daniel J. Campbell

Following an opening prayer by Mr. Jack and the Pledge of Allegiance, the committee dispensed with the reading of the minutes. Chairman Lambert advised that today's session would be a special hearing on the present constitutional provision which prohibits the Louisiana Public Service Commission from regulating the sale of natural gas to industry and that Governor Edwards would present his views on the subject at a later date. He then directed the research staff to provide for the records a study of the natural gas problem prepared under Governor McKeithen's administration and reminded those present that natural gas is a most important natural resource; that the committee is concerned about the future supply of this gas, and that the committee must determine whether Public Service Commission jurisdiction over the matter will remedy the problem.

The chairman recognized ROBERT R. BROOKSHER, executive vice-president of Mid-Continent Oil and Gas Association, who stated that his association, which represents the majority of those responsible for the production, transportation, marketing, and refining of the oil and gas in Louisiana, strongly urges the retention of that part of Article VI, § 4 of the Louisiana Constitution which 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."

He stated that this provision tends to encourage further ex-

ploration for and development of the state's petroleum resources

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and, thereby, assist in alleviating the natural gas shortage in Louisiana, and regulation would tend to worsen the problem. He added that federal price regulation encouraged the vast use of this gas and that such contributed to the fuel shortage. After a brief discussion regarding recent lease sale agreements, Chairman Lambert noted that there were two views regarding regulation within the industry, and Mr. Brooksher admitted that certain members of his association, such as Sugar Bowl Gas, favored regulation. Mr. Singletary asked whether the Federal Power Commission would regulate gas sales to industry if the state refused jurisdiction, and Mr. Brooksher replied that, basically, prior regulation caused the present gas shortage and such by either the Federal Power Commission or the Louisiana Public Service Commission would deplete the supply of natural gas. He also added that retention of the provision in the new constitution would enable industry to feel more secure in the future. Following a brief discussion regarding safety standards for intrastate pipelines, Mr. Leigh suggested that the state regulate distribution but not price, more specifically, that the Louisiana Public Service Commission have the right to regulate the intrastate supply of industrial gas similar to the Federal Power Commission regulation of interstate gas except for price. Mr. Brooksher replied that industry would rather sell where it would get the best price. Mr. Leigh then asked whether, during a shortage, the Public Service Commission should have the power to allocate natural gas to domestic rather than industrial concerns, and Mr. Brooksher replied that domestic users would

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never be short because they could manage to get the gas one way or another. Following a brief discussion of gas consumption and the trend toward shorter term contracts, Mr. Brooksher, in answer to question by Chairman Lambert and Mr. Hardee, emphasized that his association would prefer retention of the provisions in the new constitution rather than merely in the statutes and that regulation would not insure a future supply of gas to the domestic consumer. (Attachment 1)

The chairman then recognized HENRI WOLBRETTE, vice president of the Louisiana Chemical Association, who represents the industrial consumer. He stated that the best chance for the nation to increase the natural gas supply is to allow higher wellhead prices on the new gas and presented a brief history of the passage of this provision in 1964. Mr. Derbes asked whether state regulation in this area would preempt Federal Power Commission regulation, and Mr. Wolbrette explained that this provision concerns only intrastate gas and that unless such were comingled with interstate gas, the Federal Power Commission would have no jurisdiction. He also added that first priority is the homeowner; second, industry for manufacturing processes,

and third, industry for boilers. The chairman emphasized that there were two main issues for consideration by the committee:

- (1) whether there should be regulation of natural gas for industrial use; and
- (2) whether such policy should be included in the new constitution since it is a limitation on the power of the Public Service Commission.

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The next speaker was C. FIELDING EARLY, attorney for Texaco, Incorporated, and expert in Federal Power Commission matters, who was assisted by Daniel Hurley, attorney with the same company. Mr. Early stated that the Hinshaw Amendment (Section 1(c) of the Federal Natural Gas Act) is not applicable to industrial gas sales and that the present exemption of industrial sales of natural gas from the jurisdiction of the Louisiana Public Service Commission (Article VI, § 4) is compatible with the Hinshaw Amendment and does not invite Federal Power Commission regulation. Mr. Leigh asked several questions regarding the jurisdiction of the Federal Power Commission and application of the Hinshaw Amendment; the Texaco attorneys explained that the Federal Power Commission does not regulate that interstate gas which meets the requirements for the Hinshaw exemption and that very little gas qualifies for such an exemption. They added that the particular fact situation required for such an exemption is limited to the purchase of interstate gas solely for intrastate distribution and that most lines in Louisiana are unable to take advantage of this exemption since they are interstate lines. Following a brief discussion regarding availability of gas for the industrial market, the incentives provided by the 1964 provision (Attachment 2), and the various aspects of oil production and distribution, Mr. Leigh asked whether Texaco would object to state regulation of distribution but not price of natural gas sold to industry, and Mr. Hurley replied that the concept of industrial inducement depends on a market without regulation so that industry can be assured of a long term supply of gas.

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Mr. Leigh pointed out that there needed to be protection, also, for the domestic consumer and that if all were allocated to industry, the Public Service Commission presently has no power to reallocate some to the domestic consumer. He then asked whether Texaco would favor regulation of supply but not price, and Mr. Hurley stated that such would destroy a major incentive for industry to come into the state. Following a discussion of regulation of natural gas sales in other states, the use of fossil fuels (coal) and geothermal energy to solve the energy crisis in the future, and the federal regulation of specific pipelines within Louisiana, Chairman Lambert asked the final question which concerned possibility of price increases in sale of natural gas without Federal Power Commission control, and

Mr. Henri Wolbrette stated that if there were no regulations, natural gas prices would reach a competitive level, resulting in more incentives to explore for and produce natural gas.

When the meeting reconvened at 1:30 P.M., the first speaker was LOUIS QUINN, secretary of the Louisiana Public Service Commission, who stated that prior to 1964 the Public Service Commission had jurisdiction over all aspects of intrastate natural gas transmission and distribution but that now the commission is in no position to determine priorities and that consequently the commission has insufficient power to regulate and to provide sufficient services to domestic consumers (Attachment 3). Mr. Singletary asked whether the Public Service Commission should have jurisdiction over sale of natural gas to industry, and Mr. Quinn answered in the affirmative,

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adding that the commission would then be able to assign priorities and to curtail industrial use in times of crisis in order to provide gas for domestic consumption. Mr. Derbes asked what specific action the Public Service Commission would take at this time if it had such jurisdiction, and Mr. Quinn replied that it would depend on the circumstances of a particular case but that generally, with such authority, it would regulate distribution and price and would establish priorities. Following a brief discussion about price of natural gas and operating expenses of the commission, Chairman Lambert asked whether the Public Service Commission should remain in the constitution and whether the commission should include five rather than three districts; Mr. Quinn replied that the commission should remain in the new constitution and that three districts were adequate. Chairman Lambert then asked whether Public Service Commission regulation of natural gas sales to industries would help Louisiana keep her gas within the state, and Mr. Quinn stated that at least such would allow preservation of more gas for the domestic consumer. After a few brief comments about Public Service Commission regulation over public utility systems operated by municipalities, Miss Perkins asked whether regulation of natural gas sales to industry would lessen present incentives, and Mr. Quinn pointed out that the state had an abundant supply of gas in 1964 but that since the Public Service Commission lost control there has been an increasing shortage; he added that this fact speaks for itself. Miss Perkins then asked what could be done to encourage development of Louisiana's intrastate pipelines,

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and Mr. Quinn commented that he had no suggestions.

The chairman stated that Charles M. Smith, executive director of the Department of Commerce and Industry, would make a presentation at the meeting of April 30, 1973.

The next speaker was GARY KEYSER, assistant attorney general, who stated that state regulation of all aspects of natural gas is desirable since the supply in Louisiana is de-

pleted. He stated that another reason in favor of state regulation is to fill the regulatory gap so that the Federal Power Commission will not step in to control the sale of natural gas to industry. Mr. Keyser added that the office of the attorney general had used much time and money studying this problem and that the Public Service Commission should have some authority at least to regulate distribution during times of crisis. Mr. Derbes asked whether the Public Service Commission should be able to curtail the supply of gas to industry only in times of emergency, and Mr. Keyser replied that the supply of gas should not be diverted from industry unless it was needed by the domestic consumer. Following a brief discussion regarding the operation of the Office of the Attorney General and the Public Service Commission, Miss Perkins asked a series of questions concerning the regulatory gap created by Article VI, § 4 and the formal opinion of the attorney general on the entire matter, and Mr. Keyser admitted that there was no jurisprudence indicating federal regulation but that such was the position of the Federal Power Commission and that the attorney general had not issued a formal opinion. Mr. Keyser then introduced Simmons Berry,

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a pipeline consultant for the attorney general, who discussed local problems in regard to allocation of natural gas and other specific problems throughout the state. Mr. Derbes asked Mr. Keyser to prepare a proposal and make recommendations relating to jurisdiction of the Louisiana Public Service Commission, and Mr. Keyser replied that he would.

The chairman then recognized R. H. "DUTCH" MEYER and ELLIOT FLOWERS, both of whom represent Sugar Bowl Gas and support the deletion of the present constitutional provision which exempts from Public Service Commission jurisdiction over the sale of natural gas to industry. Mr. Flowers stated that he had no formal statement prepared but that he would like to comment on the Hinshaw Amendment. He said that if it was not for this amendment, his company today would be controlled by the Federal Power Commission. Mr. Flowers answered that his corporation has not had to curtail any services and that his company is controlled by the Louisiana Public Service Commission.

Mr. Derbes asked the research staff whether a broad grant of jurisdiction to the Public Service Commission in the new constitution could be limited by the statutory law. Mr. Reis explained that, if the powers and functions of the Public Service Commission were outlined in the constitution, an exception to this grant of authority would also require constitutional status since a statute cannot make an exception to a constitutional provision. Mr. Derbes then asked whether a constitutional provision could grant authority to the legislature to determine jurisdiction of the Public Service Commission in certain areas, and Mr. Reis

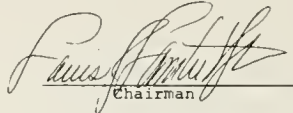
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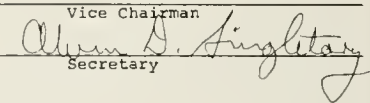
replied that such would be alright. Chairman Lambert asked what the general rule is in regard to the power of the legislature,

and Mr. Reis stated that the legislature can do anything not prohibited by the constitution.

The chairman announced that Governor Edwards had requested the research staff to prepare a proposal setting forth the state's policy in regard to geothermal energy and that the next meeting was scheduled for April 30, 1973, at 9:00 A.M.

Rep. Thompson moved for adjournment and the meeting adjourned at 4:00 P.M., on April 16, 1973.

  
Chairman

  
Vice Chairman  
Secretary

Attachment 1

STATEMENT OF  
ROBERT R. BROOKSHER  
MID-CONTINENT OIL AND GAS ASSOCIATION

APRIL 16, 1973

BEFORE THE  
CONSTITUTIONAL CONVENTION COMMITTEE  
ON NATURAL RESOURCES AND ENVIRONMENT

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 for this business.

The Louisiana Legislature as early as 1946, in extending the Commission's jurisdiction to include sales "by pipe line to local distributing systems for resale," specifically denied the Commission's "jurisdiction over direct industrial sales" by such pipelines. The purpose of the 1964 amendment was to establish beyond any legal

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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 not relieve the natural gas shortage but rather would tend to worsen the problem.

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.

STATEMENT

TO

THE COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT  
1973 CONSTITUTIONAL CONVENTION

By

HENRI HOLBRETT II  
EXECUTIVE VICE PRESIDENT  
LOUISIANA CHEMICAL ASSOCIATION

April 16, 1973

I would like to address my remarks to: (1) that portion of the history of Article VI, Section 4 of the Louisiana Constitution with which I am familiar; (2) why it was important to industry in 1964 to have the provision adopted; and (3) why its retention in the constitution is important today.

History

In 1962, a bill was introduced during the regular session which labelled any person who sells gas to a distribution system for resale even to one customer a "natural gas public utility." It went on to say that this "natural gas public utility" shall not sell gas to any other buyer unless this "utility" can show the Public Service Commission that this buyer is not already being adequately served or that he is paying unreasonable rates. This was interpreted to mean that a gas supplier could not offer an industry gas unless he went through a long rigmarole with the Public Service Commission to show that his prospective customer was not getting enough gas or at the right rates.

The Times Picayune in an editorial May 28, 1962, said, "That kind of thing is no good for Louisiana. The bill was probably meant to meet a special situation somewhere but its effect, we believe, would be disastrous. It would prevent industries from negotiating for the most economical gas supply."

The measure did not pass.

Hopefully, the matter was dead. However, on April 20, 1964, attorneys for Louisiana Gas Service Company filed a petition with the Louisiana Public Service Commission asking that Creole Gas Pipeline be prohibited and enjoined from constructing or attempting to construct a natural gas pipeline to serve American Sugar Company or take any other action whatsoever which would constitute an invasion of customer areas being served by Louisiana Gas Company in St. Bernard Parish.

On April 22, Louisiana Gas Service went into District Court in Orleans Parish and sought an injunction against Creole doing anything further in building their pipeline until Creole received final approval from the Louisiana Public Service Commission.

After a hearing, the court turned down this injunctive request and said it was up to the Public Service Commission to determine the utility status of Creole.

On May 31, 1964, Rep. Kenneth Barranger introduced House Bill 941 to amend and reenact Sections 1161, 1163, and 1164 of Chapter 9, Title 45, of the Revised Statutes.

On June 9, 1964, Mr. Barranger introduced H.B. 1223, proposed an amendment to Section 4 of Article VI of the constitution.

Both of these measures were sent to the Committee on Judiciary, Section 8, and substitute bills were reported out of that committee on June 25, becoming House Bills 1247 and 1248, respectively.

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House Bill 1247 amended RS 45:1163 by limiting the power of the Public Service Commission to regulate rates and services by providing, "however, that no aspect of direct sales of natural gas by natural gas producers, natural gas pipeline companies, natural gas distribution companies or any other person engaging in the direct sale of natural gas to industrial users for fuel or for utilization in any manufacturing process, shall be subject to such regulation by the commission."

This bill passed the House by a vote of 79 yeas to 25 nays and the Senate by 38 yeas and one nay.

The companion measure, H.B. 1248, which inserted the present limitation in Article VI, Section 4, passed the House by a vote of 81 to 23 and the Senate 35 to 4. It was then approved by the voters in the November general election.

#### IMPORTANT TO INDUSTRY IN 1964

Louisiana in 1964 had many advantages to offer the chemical, paper, and plywood industries. One of the main attractions was 'unlimited' amounts of natural gas for use as fuel or as raw materials. The chemical industry in particular came to Louisiana in the mid-60's with unprecedented investments. This certainly would not have been so had the 1962 bill, referred to above, been enacted.

Gas oriented industries needed: (1) large amounts of gas; (2) a fixed price; and (3) a certain source of supply.

If the large gas consumers had been dependent on Public Service Commission rate making and other variables, the conditions would not have been ripe for the large investments they were prepared to make, and did make.

- 3 -

When the Barranger bills came up, and with the background of Louisiana Gas Service's continuing efforts to force industrial sales under Public Service Commission jurisdiction, industry was attracted to the Barranger proposal. It was getting late in the session and frenzied meetings were going on all over the place -- including the Public Service Commission office.

Finally, a group went to call on Governor McKeithen and explained the problem to him. With his background as a former member of the Public Service Commission, and his desire to attract industry to Louisiana, he understood the problem and adopted the Barranger bills as part of his industrial inducement program.

Suppose for a second that Louisiana Gas Service had prevailed with the 1962 bill it sponsored and its later efforts. This would have meant that if Texaco, or Sugar Bowl, or any other producer or pipeline had one industrial

customer it would have been a natural gas utility. It would then have had exclusive territorial jurisdiction and the customer would not have been able, when his contract expired, to negotiate with any other supplier for gas. This, gentlemen, would have been an impossible situation.

#### IMPORTANCE TO INDUSTRY TODAY

In the light of recent developments in the energy situation, Article VI, Section 4, is even more relevant today. We are in the most competitive market for natural gas in this nation's history.

For several years prior to 1972, pipeline companies have said in applications before the Federal Power Commission, that interstate gas buyers could not compete with unregulated intrastate buyers. The FPC, through the device of "emergency" pre-abandonment sales, has recently made it possible for interstate lines to compete.

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Pre-abandonment sales have allowed a major market to bid competitively for gas and the price of new gas has risen sharply as a result. Frankly, large Louisiana gas customers do not relish the loss of the advantage they enjoyed over regulated out-of-state buyers. On the other hand, it is difficult to see how the imposition of Louisiana regulation is going to improve the situation of these buyers in the competition with out-of-state buyers who are not just escaping the handicap of federal regulation.

At the same time, industry feels that higher wellhead prices on new gas are the best chance for the nation to increase supplies of gas and for Louisiana to increase the level of drilling activity within the state. No one can tell how severe the long-term effects of higher gas prices will be on Louisiana industry which is now heavily oriented to low cost gas. However, the harmful effect of regulation is generally agreed upon and the industry does not feel that imposing state regulation will improve the industry situation or improve the economy of the State of Louisiana.

I realize the question will be asked, "Why is it necessary to keep this provision in the constitution since you already have RS 45:1163 stating that there is no jurisdiction?"

Gentlemen, it is a safeguard -- a needed safeguard -- from the type situation that has occurred in Arkansas where 58 industrial contracts were abrogated by an overzealous Public Service Commission. It is a safeguard since obviously the same interest who wanted to tie industry's hands in 1962 and in 1964 still haven't given up. It is a safeguard against a regulatory agency that might seek to carve out a greater jurisdiction for itself. It is a safeguard against all those who think governmental regulation is the

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answer to all our problems, and when the regulation simply creates new problems, come up with the cry that the answer to that is even more regulation.

In this era when Louisiana's entire industrial base is being threatened by federal governmental actions in the area of energy, industry needs all the options it can legally utilize, and this provision affords such an option.

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#### NOTES

Attachment No. 2 is reproduced as Attachment Nos. 8, 8A, and 8B to the Minutes of March 23, 1973.



Attachment 3

STATE OF LOUISIANA

Public Service Commission

STATE CAPITOL  
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LOUIS S. QUINN  
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NAT B. ANICHT, JR. Commissioner  
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General Counsel

ED KENNON, Commissioner  
P O Box 576  
Minden 70055

4/19/73

STATEMENT OF LOUISIANA PUBLIC SERVICE COMMISSION TO  
COMMITTEES OF THE CONSTITUTIONAL CONVENTION

The Louisiana Public Service Commission has its creation, its powers, and its jurisdiction set forth in Article VI, Sections 3-9 inclusive of the present Constitution. Sections 8 and 9 no longer have application, and at least a portion of Section 3 dealing with salary and other minutiae would appear to be unnecessary having previously been supplanted by legislation.

Regulation of monopolistic public utilities is of vital importance to the public generally as recognized by the fact that this function of government has had Constitutional status since 1898. It is felt generally that Constitutional creation preserves the separation of departmental powers and provides for greater stability, and, the election of Commissioners for staggered terms protects against frequent and abrupt changes in policy and regulatory procedures which could prove detrimental to the public interest. It also serves as a safeguard against the exercise of undue influence by the regulated businesses in the selection of the officials of the regulatory agency.

At personal appearances before the committees addressing themselves to the question of whether public utility and transportation regulation should remain in the new Constitution, the Commission has supported retention of its

LPSC -2-

basic organization, elective nature, jurisdiction, power, and procedures. Presently, the Commission considers its quasi-judicial functions, and its present authorization to use its own procedure in connection therewith, to be highly beneficial to its overall position as an effective administrative arm of State government. With regard to its procedures, the Commission has found that it could be detrimental to relegate them to the realm of the Legislature, which, although conscientious, may unquestionably have difficulty in grasping the minute complexity of public utility regulation and rate authorizations.

Moreover, the Commission feels that the jurisprudence of the past fifty years should not be disturbed by removing its grants of jurisdiction, powers, and procedures from the Constitution.

One Committee of the Constitutional Convention has expressed a desire to know the position of the Public Service Commission concerning the possible imposition of jurisdiction over direct sales of natural gas to industrial users, an exemption now found in Article VI, Section 4, as amended in 1964. The Commission feels that the economics of natural gas production have so changed in the past ten years that protection to present jurisdictional customers (distribution companies for resale, and domestic consumers) is a virtual impossibility without jurisdiction over the entire matter of natural gas distribution, including industrial sales. The Commission finds it difficult to examine costs to present jurisdictional customers in the absence of the

power to examine overall costs, including costs to industrial users, and feels that any overall examination of natural gas costs and the regulation of rates and services for domestic consumption requires jurisdiction to examine and regulate rates and services to industrial users.

MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on April 23, 1973  
Mineral Board Hearing Room,  
Natural Resources Building,  
Baton Rouge, Louisiana,  
Monday, April 30, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

- Donald T. Bollinger
- James G. Derbes
- R. M. Elkins
- Sen. Louis J. Lambert, Jr.
- Rep. Conway LeBleu
- Thomas W. Leigh
- Rep. Robert Munson
- Miss Lynn Perkins
- Alvin D. Singletary
- Thomas A. Velazquez
- Mrs. George E. Warren
- Rep. Lantz Womack

Absent:

- Rep. Richard P. Guidry
- H. G. Hardee, Jr.
- Wellborn Jack
- Mrs. Ruth Miller
- Rep. Richard S. Thompson

Sgt. at Arms: Glenn Koepp

Following an opening prayer by Mr. Womack and the Pledge of Allegiance, the committee adopted the minutes from the meetings of April 9 and 10, 1973. Chairman Lambert advised that proposals must be presented to the convention as a whole by June 21, 1973, and noted that today's witnesses would speak on matters relating to the environment and that witnesses at the meeting of May 7, 1973, would speak on special districts such as levee boards and port authorities. He added that final votes on proposals would be taken on May 8, 1973, and that all of the committee's work would be ready by June 21, 1973. The chairman mentioned that the research staff would be available to draft proposals for any member of the committee and requested that the staff make recommendations on the material not covered by the various proposals.

The first witness was CHARLES M. SMITH, JR., executive director of the Department of Commerce and Industry, who suggested that there is positive industrial inducement value in the present constitutional provision which prohibits the Louisiana Public Service Commission from regulating sales of natural gas to industry and recommended that the commission be given jurisdiction only to prevent Federal Power Commission

intervention. He pointed out that the present system encourages the most efficient use of natural gas and closed with a discussion of supply and demand. (Attachment No. 1)

The next speaker was DR. SHERWOOD M. GAGLIANO, director of the Coastal and Marine Resources Commission, whose research program at L.S.U. has been involved with environmental problems in coastal zone management. He stated that unwise land

-2-

management and use destroys over sixteen square miles of land per year. He mentioned that he had no particular reorganizational plan in mind, but that overlapping in existing agencies is a weakness in Louisiana organization and that a land management program will be necessary to conserve and protect public lands. He closed reemphasizing that there is a definite need for coordination among existing agencies with supervision over the environment and that there is a definite conflict of interests in the duties of certain agencies.

The chairman then recognized FRED ELLIS, professor of law at L.S.U., who expressed a need to preserve and insure the flow of information to the public. He felt that each individual has a fundamental right to all environmental information held by the state or its political subdivisions and that an agency charged with environmental responsibility should not be dependent upon resource exploitation for part of its budget. He closed stating that there is presently mass deterioration of our state lands and that this must be remedied.

The next speaker was DR. DOUGLAS P. HARRISON, professor of chemical engineering at L.S.U., whose background in environmental control is strictly scientific. He stated that the new constitution must provide for optimum use of our finite natural resources and for a single agency whose primary responsibility is environmental conservation. (Attachment No. 2). To a question by Mr. Derbes, Dr. Harrison stated that reorganization should be left to the legislature but that the policy should be inherent in the constitution. Mr. Womack asked if an environmental bill of rights type statement should

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be broad enough to insure maximum agricultural production, and Dr. Harrison had no objection, adding that the broad constitutional policy statement should be implemented by the state legislature.

The final speaker before the noon recess was MICHAEL OSBORNE, president of the Delta Chapter of the Sierra Club, which is an organization interested in conservation and recreation and which represents more than one thousand families in Louisiana. He suggested that the new constitution should provide for the maintenance and protection of Louisiana's unique and valuable coastal areas, wetlands, and other marine resources. He noted that Louisiana ranked 50th in the nation insofar as state park acreage per person. He said that

preservation of public lands is especially important in Louisiana with assets such as the Gulf and the Mississippi River and suggested the deletion of all constitutional provisions which authorize the alienation of navigable waterbottoms (Article XIV, §§30, 38, 38.1, 39, 44, 44.1).

When the meeting reconvened at 1:30 p.m., the chairman recognized MARC HERSHMAN, director of the Louisiana Coastal and Marine Resources Commission, who recognized ART SMITH to explain reorganization pursuant to a request of the committee at their March 23, 1973 meeting. Mr. Smith stressed the need for reorganization of agencies dealing with natural resources because there is inefficiency, duplication, overlap, and lack of coordination in the current structure. He pointed out that at least four agencies have jurisdiction over land management, and

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that at least five share jurisdiction over water pollution. Thus, it is impossible for Louisiana to have coordinated and systematic policies for management and wise use of natural resources. He explained a plan of reorganization for natural resources agencies (Attachment No. 3).

The next speaker was DORIS FALKENHEINER, assistant director of the Legal Aid Society, who recommended granting the individual a right to a healthful environment since the underprivileged suffered more than the average person from forces that adversely affect the environment. (Attachment No. 4). Following a discussion regarding the citizen's right of action, bond requirements, and other procedural matters, Mrs. Falkenheiner concluded that such a right should be inherent in the new constitution.

The final speaker for the day was HENRI WOLBRETTE, representing the Louisiana Chemical Association and, in general, the views of industry. Mr. Wolbrette had no objection to an environmental policy statement, but he objected to a citizen's right of action. After a general discussion regarding class actions, Mr. Wolbrette stated that a provision similar to Section 1 of the Illinois Provision, excluding Section 2, would be suitable.

Vice Chairman Munson announced the agenda for May 1, 1973, and Mr. Womack added that the committee would begin taking final votes on Tuesday, May 8, 1973.

The meeting adjourned at 4:30 p.m., on April 30, 1973.

*Michael Osborne*  
Chairman  
*Robert J. Munson*  
Vice Chairman  
Secretary

Committee on Natural Resources & Environment  
by CHARLES H. SMITH, JR.  
Executive Director  
La. Dept. of Commerce & Industry  
April 16, 1973

Attachment 1

The Department of Commerce and Industry feels that there is a positive industrial inducement value in the constitutional amendment which in effect allows industrial users of natural gas to



negotiate freely with natural gas suppliers. Further, we feel it leads to the most efficient end use of this commodity by allowing the laws of economics to come into play.

The amendment was adopted originally because there was no legitimate reason for the state to be involved in private contractual arrangements. State participation was not necessary to protect the public interest and its presence could serve no useful purpose. By adopting this amendment Louisiana demonstrated to industry that we did not intend to intrude into matters where we had no real business being. It was meant to be a concrete expression of the Right-to-Profit philosophy.

That reasoning, we feel, is as valid today as it was in 1964 when the amendment was adopted. Where there is no legitimate reason for government to be involved, it shouldn't become involved. And by making this attitude clear to industry we feel there is a definite industrial development advantage. It is part of what is termed the "political climate" of a state.

In Louisiana's case it was particularly important because prior to 1964 we had a national image as a state which tended to over-regulate industry. This amendment, and several others, were designed

to correct that situation. And apparently succeeded quite well, for since their adoption our rate of industrial growth has more than tripled. In fact, two-thirds of all industrial investment in the state since the end of World War II has taken place since 1964.

I also made the point at the beginning of my comments that Commerce and Industry feels that this amendment leads to the most efficient end use of our natural gas resources because it permits the laws of economics to operate freely. Without artificial controls natural gas as a fuel or feedstock will seek its true price level and will be used only for those purposes where it is economically feasible to do so. Under controls the price may be unrealistically low which can lead to it being used for purposes that otherwise would be uneconomic.

The Department feels that a return to state regulation could conceivably lead to the uneconomic use of natural gas. But aside from that it would most certainly have a jarring effect on our credibility with industry unless a clear-cut case could be made that such controls were in the best interests of industrial users, such as assuring a continuing adequate supply of natural gas. However, it is difficult to see how state participation in contract negotiations could bring about this desired end.

For all of these reasons, Commerce and Industry would prefer

that the present prohibition against state regulation remain in the constitution, but, if this committee feels that it is necessary for the state to establish jurisdiction over intra-state gas supplies in order to forestall a federal takeover, then the Department strongly urges that such jurisdiction be exerted in some other manner than by making the state a party to contract negotiations or by setting price levels.

Whatever approach you take we hope you will keep in mind that there are definite industrial benefits to be derived from the state maintaining the attitude of the past 10 years that Louisiana does not intend to insert government into matters where its presence serves no useful function.

###

Attachment 2

Douglas P. Harrison  
Assistant Professor of Chemical Engineering  
Louisiana State University  
Baton Rouge, Louisiana

Introduction

Let me begin by thanking the Committee for the invitation to testify before you today. I should like to make it immediately clear that my experience and expertise lie in the scientific and engineering areas of environment protection rather than the legal and administrative aspects with which this committee is primarily concerned. However, I feel that proper organizational structure and administrative procedure are quite important to the proper utilization of technological manpower and scientific information in such areas as natural resources and the environment. In addition, as I will point out later, organizational structure can affect the way in which information on important matters is presented to the legislative branch of government; and to the general public.

Prior to my testimony I have read with interest the 1971 and 1972 Reports of the Louisiana Legislative Committee on Environmental Quality and also the testimony presented earlier to this committee by Professor Hardy of the L.S.U. Law School. I shall base most of my comments upon information from these sources.

Statement on Resource Management Policy

Professor Hardy has recommended that the constitution "...specifically recognize the finite quality of all natural resources and specify that they should be developed, used, conserved, protected, and when possible, replenished with recognition of their finite character."

Let me simply add my second to this recommendation. We are already experiencing shortages in energy resources; certain of our most valuable

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living resources are on the verge of disappearance; and in many parts of the state the quality of our water and air has deteriorated below the accepted standards. In short, we have not in the past, made optimum use of our finite

natural resources. It is appropriate that in the new constitution we resolve to remedy this situation. Note that no mention is made of specific methods or policies needed to accomplish this goal. Formulation of the detailed legal requirements should be left to the legislative branch of government. It is important, however, that the information upon which the legislators are to make these decisions be presented in the most complete, accurate, and unbiased manner possible. This last statement leads me to a brief discussion of governmental organization.

#### Governmental Organization

The 1972 Report of the Louisiana Legislative Committee on Environmental Quality has identified some 28 state agencies which have legal responsibility in the environmental area. Many of the duties of these agencies are inter-related and, I suspect, sometimes conflicting. It should be immediately clear that such a situation cannot lend itself to optimum management of environmental policy.

I see the need for the state of Louisiana to create a single agency whose primary responsibility is environmental conservation. The current Louisiana situation is much like that found on the national level prior to the creation of the Federal Environmental Protection Agency. The Department of Health, Education, and Welfare had responsibility in the areas of air pollution control and solid waste management. Water pollution control was assigned to the Department of Interior. Certain of the responsibility for pesticide control was housed within the Department of Agriculture. While this list could be expanded, we can see the fragmented manner in which environmental policy was managed. Now the current EPA may not always operate at maximum efficiency, and

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many of you may not agree with certain phases of its program, but you must conclude the creation of the EPA has resulted in less duplication of effort, improved cooperation in areas of overlapping authority, and better dissemination of information. In short, environmental policy at the national level is being more effectively carried out now than under the previous fragmented system.

Professor Hardy has recommended an even broader consolidation of agencies than I am suggesting. His Department of Natural Resources would include not only the Louisiana analog to the EPA but also many of the responsibilities of agencies such as the Wildlife and Fisheries Commission, the Department of Conservation, and the office of the Registrar of State Lands. While I have great respect for Professor Hardy; I am somewhat leery of a single department having such broad-based responsibility. Certain of the divisions and bureaus within the department will inevitably be in conflict. Professor Hardy has crystallized my concern with the following statement taken from another portion of his testimony. "Generally, I do not think it is a good idea to put a using agency or depleting agency together with a conserving agency for administrative purposes."

Let me illustrate my concern in this area with the following hypothetical, yet believable, situation. Suppose that the "Bureau of Mineral Leasing" proposes to lease vast new areas of state lands for mineral exploration. Meanwhile suppose that the "Bureau of Water Resources" objects on the basis that water emissions would likely deteriorate the quality of the rivers in the area. Now let us presume that Legislative action is required on the matter. The Legislature naturally turns to the "Department of Natural Resources" for advice. Mineral Leasing fights it out with Water Resources within the Department, someone loses and the Department makes a recommendation to the Legislature. I'd argue that the Legislature, and thus the citizens of Louisiana are losers, for they have been deprived of the option of hearing a complete presentation

-4-

from both sides prior to taking action.

Such potential conflict would, I believe, be avoided if the depletion agency and the conservation agency remain independent cooperation between these two groups should be encouraged where interests overlap; yet the option for full and equal authority should be maintained in cases where the interests conflict.

This concludes my formal testimony and I will now be happy to answer any questions you may have. Thank you again for the invitation to testify.

#### Attachment 3

LOUISIANA STATE UNIVERSITY  
AND AGRICULTURAL AND MECHANICAL COLLEGE  
BATON ROUGE, LOUISIANA 70803  
*Law School*

SEA GRANT LEGAL PROGRAM

PRESENTATION TO  
NATURAL RESOURCES AND ENVIRONMENT COMMITTEE  
OF THE  
LOUISIANA CONSTITUTIONAL CONVENTION

Monday, April 30, 1973

by

J. Arthur Smith, III  
Attorney and Research Associate

#### THE NEED FOR REORGANIZATION OF NATURAL RESOURCE AGENCIES

The present administrative structure of natural resource agencies is severely fragmented and cumbersome. For example, at least four different agencies--the State Parks and Recreation Commission, the State Land Office, the Department of Public Works, and the Wildlife and Fisheries Commission--share jurisdiction over the management of state owned lands. Jurisdiction over water pollution is shared by the Stream Control Commission, the Department of Public Works, the Health and Social and Rehabilitation Services Administration, the Conservation Department, and the Wildlife and Fisheries Commission. Other examples abound.

As a result of this fragmentation, it is impossible for the state of Louisiana to have coordinated and systematic policies for the management and wise use of its precious natural resources. Each agency has its own narrow perspective and, as a result, agency decisions are quite often made that do not fully consider the effects of those decisions on the uses of other natural resources. For example, decisions regarding mineral extraction may be made without sufficient consideration being given to the effect on living resources and the estuaries which support living resources; decisions regarding the use of public waterbodies may be made without

sufficient consideration being given to the pollution consequences;

-2-

decisions regarding the use of public lands may be made without sufficient consideration being given to the impact on recreational access and use. Research scientists in the natural resource area are telling us that uses of natural resources, particularly in the coastal areas, are highly interdependent and often have very direct effects on the uses of other natural resources. However, under the current administrative structure, there is no framework for rational resource decision-making and resource issues are resolved on an individual and ad hoc basis with insufficient consideration being given to long-range effects and values. For a state whose economic, social and esthetic well-being is so closely tied to its natural resources; this is truly unfortunate.

In addition to making systematic natural resource management impossible, the current agency structure poses other difficulties.

Ongoing resource management planning is severely impeded to the extent that whenever the state realizes a need for a resource "plan" of one variety or another, a new agency is often created by statute.

No one agency, person, or commission has, under the current structure, any clear responsibility for our state's overall natural resources management policy and, as a result, lines of accountability to the Governor, the Legislature, and to the public are obfuscated and often non-existent. Moreover, it is extremely difficult for Louisiana's natural resource management policies to be "goal-oriented."

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In addition, Industries and other users of natural resources have perennial problems with having to "permit-shop" from agency to agency and very often do not know in advance what will be required of them in terms of substantive regulations.

Furthermore, the current administrative structure lends itself to inefficiency, duplication, overlap, and lack of communication.

For these reasons, we agree that there is a serious need for reorganization of natural resource agencies which need should be addressed by the new constitution.

## PROPOSAL

### Introduction

Appendix I at the end of this paper illustrates our view of the most appropriate organizational structure for a Department of Natural Resources. In order to properly analyze the existing agencies or portions of agencies that should be consolidated, we have examined the existing agencies by functions and divisions. Further for the convenience of the committee, we have furnished the appropriate constitutional and statutory citations. I would like to emphasize, however, that my mention of existing agencies by name is merely for the purpose of analysis and is not in any way intended to indicate

that any of the agencies to be merged should be specifically mentioned in the new constitution. Many of the details of the agency reorganization can and should be worked out through implementing statutes.

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From an overall standpoint, our proposed department would have three divisions:

1. Land and Water Management Division;
2. Pollution Control Division; and
3. Wildlife and Fisheries Division

#### Land and Water Management Division

Turning first to an explanation of the Land and Water Management Division, I would like to point out that the Division would be comprised of three functional bureaus: Public Lands and Recreation, Coastal Zone Management, and Water and Mineral Management.

The Public Lands and Recreation Bureau would be comprised of the following existing agencies and agency functions:

1. State Parks and Recreation Commission (La. R.S. 56:1681-1695, 1731);
2. Four functional divisions of the State Land Office-- Records, Leases, Administration of Lands, and Land Management (La. Const. Art. V §1, La. R.S. 41:1-19).
3. Lands and Surveys Division of the Department of Public Works. (La. R.S. 38:1-18).

The Coastal Zone Management Bureau would have two major functions: coastal zone planning and coastal zone management. With respect to planning, the bureau would consist of the existing functions of the Louisiana Advisory Commission on Coastal and Marine Resources (La. R.S. 51:1361-1365) which works in conjunction with the State Planning Office.

-5-

New legal authority should be created to properly provide for coastal zone management. At the present time the Wild Life and Fisheries Commission has certain coastal zone management functions; however, the Federal Coastal Zone Management Act of 1972 (P.L. 92-583), the rather recent realization of the vast economic and ecological values of Louisiana's estuarine complex, and increasing demands and conflicts in Louisiana's coastal zone will necessitate an expanded coastal zone management program for Louisiana.

The Water and Mineral Management Bureau would consist of:

1. The Conservation Department (La. Const. Art. V, §§1 and 18, La. Const. Art. VI, §1 (c), La. R.S. 30:1-22; 201-221);
2. The Water Resources Section of the Engineering Division of the Department of Public Works (La. R.S. 38:1-18);
3. The Water Resources Study Commission (La. Act 188 of 1964 and La. Act 394 of 1968).

#### Pollution Control Division

The Pollution Control Division would also have three functional bureaus: the Air Pollution Bureau, the Water Pollution Bureau, and the Solid Waste Management Bureau.

The Air Pollution Bureau would be comprised of the following:

1. Air Control Commission (La. R.S. 40:2201-2216);
2. Air control functions of the Health, Social and Rehabilitation Services Administration, Bureau of Environmental Health.

The Water Pollution Bureau would be comprised of the following:

1. Stream Control Commission (La. R.S. 56:1431-1446, 1451-1453, 1461-1464.4);
2. Water Pollution Control Division of the Wildlife and Fisheries Commission (La. Const. Art. 6§1, La. R. S. 547);
3. Water pollution control functions of the Department of Conservation (La. Const. V §91 and 18, La. Gen. L. VI 217, La. R.S. 30:1-22, 201-221);
4. Water pollution control functions of the Health, Social and Rehabilitation Services Administration.

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The Solid Waste Management Bureau would be comprised of the following: the solid waste management functions of the Health, Social and Rehabilitation Services Administration, Bureau of Environmental Health.

#### Wildlife and Fisheries Division

This Division would essentially be the existing Wildlife and Fisheries Commission (La. Const. Art. VI §1, Title 56 of the Revised Statutes) minus the Commission's Water Pollution Control Division which would be transferred to the Water Pollution Bureau of the Pollution Control Division of the new agency.

#### ANALYSIS

The proposed organization reflects the premise of organization around broad natural resource missions and seeks to integrate the professional skills and governmental functions necessary to accomplish these missions. In addition, the proposed organization would allow long-range and systematic natural resource management policies to be planned and pursued by the State of Louisiana.

We also believe that the proposed organization would be efficient and would promote clear lines of responsibility and accountability.

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I would like to take a few minutes to touch on some significant features of our proposal and to, perhaps, make some additional recommendations.

#### Role of the Commission

Under our proposal, a Commission would be the governing body of the Department of Natural Resources. However, we believe that the Commission should be basically a policy-making and budgetary approval body -- with adjudicatory and rule-making functions. The responsibility for the day-to-day administration of the agency should rest with the Director, acting through his Assistant Directors.

We are substantially in accord with Prof. Hardy with respect to the composition of the governing body of the Department. We feel that the three Assistant Directors should be members of the Commission. This would facilitate the orderly resolution of conflicts between the divisions.

We feel that the Commission should not exceed nine members.

We agree with Prof. Hardy's recommendation that while the composition of the Commission should be broadly reflective of affected interest groups, the Commissioners should not be chosen to represent specific interest groups. Furthermore, we feel that there should be constitutional provisions requiring the Commissioners to be professionally qualified and not have financial interests in the regulatory decisions that the Department would be making (a conflict of interest provision). We do not feel that the Commissioners should be elected

#### Professional Qualifications of the Director and Assistant Directors

Furthermore, we would recommend that the Assistant Directors

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division heads, as well as the Director of the Department, should be professionally qualified individuals with training and experience in natural resource management.

#### Agencies Which Should Not Be Included In the New Department

##### 1. Mineral Board.

As a basic principle, we feel that natural resource protective functions should not be consolidated with natural resource protective functions for administrative purposes. Thus, the Mineral Board (La. R.S. 30:121-141), as purely a proprietary arm of state government, should not be included in the proposed agency. Since the Mineral Board is purely statutory, there is no reason why the Convention should have to address its status.

##### 2. Forestry Commission.

We feel that the Forestry Commission should not be a part of the Department of Natural Resources as its functions are quite different than the functions of the other components of the proposed Department in that the primary functions of the Forestry Commission are to fight forest fires and to assist the Forestry industry. The Commission may wish to consider leaving the Forestry Commission as is or merging it with the Agriculture Department.

#### Interaction With Other Agencies Having Functions Related to Natural Resource Management

It is extremely important to note that the proposed Department would not include all functions of state government relating to the use of natural resources. I have just made specific mention of the

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Mineral Board and the Forestry Commission. In addition, the Agriculture Department and the Soil and Water Conservation Committee would not be included in the reorganization. Furthermore, transportation development agencies, such as the Highway Department, the Department of Public Works, and the Deep Draft Harbor and Terminal Authority are not included, although their functions directly impact the use of natural resources.

Practically speaking, the basic thrust of the proposed Department is regulatory, while the basic thrust of the agencies not included is

developmental. However, it is very important that mechanisms be devised for coordination and conflict-resolution between all of these agencies in the context of overall goal-oriented natural resource policies. Perhaps, some type of interagency council could be developed -- by constitutional or statutory provision -- to provide for such coordination and conflict resolution.

#### Need For a New Coastal Zone Management Bureau

A significant feature of our proposed organization is a Coastal Zone Management Bureau as part of the Land and Water Management Division.

We firmly believe that proper management of Louisiana's coastal estuarine zone is the most important item on Louisiana's natural resource agenda. Coastal Louisiana contains the largest and most productive estuarine zone in the nation -- 3.7 million acres of marshes and estuaries and 3.4 million acres of associated water surface. This zone is the cornerstone of the seafood industry of the entire Gulf of Mexico. These Louisiana estuaries are of vast importance to the future economic

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well-being of the State of Louisiana. In addition, the predominance of the petrochemical, agriculture, and transportation industries in the coastal zone make wise future use of the zone all the more significant.

Furthermore, we are realizing that living resource and recreational values of the coastal zone depend on the protection of our wetlands. For these reasons, we feel that a Coastal Zone Management Bureau should have constitutional status.

#### Need For a Pollution Control Division

The Pollution Control Division is proposed so that Louisiana's

regulatory structure will conform and comport with federal regulatory structures, systems, and guidelines. Under the federal statutes relating to air pollution control, water pollution control, and solid waste management, the federal government has almost pre-empted the field, leaving only enforcement and surveillance to the state. Moreover, the Pollution Control Division would enable state agencies currently having pollution control responsibilities to consolidate their laboratory and research work and facilities and would facilitate long and short range pollution control planning.

#### Financial Independence of Louisiana Wildlife and Fisheries Commission

Under the current revised statutes the Louisiana Wildlife and Fisheries Commission has considerable financial independence through the mechanism of the Conservation Fund. This financial independence for living resource management should be retained in any reorganization due to the vast economic, recreational, and ecological values of living resources to the State of Louisiana.

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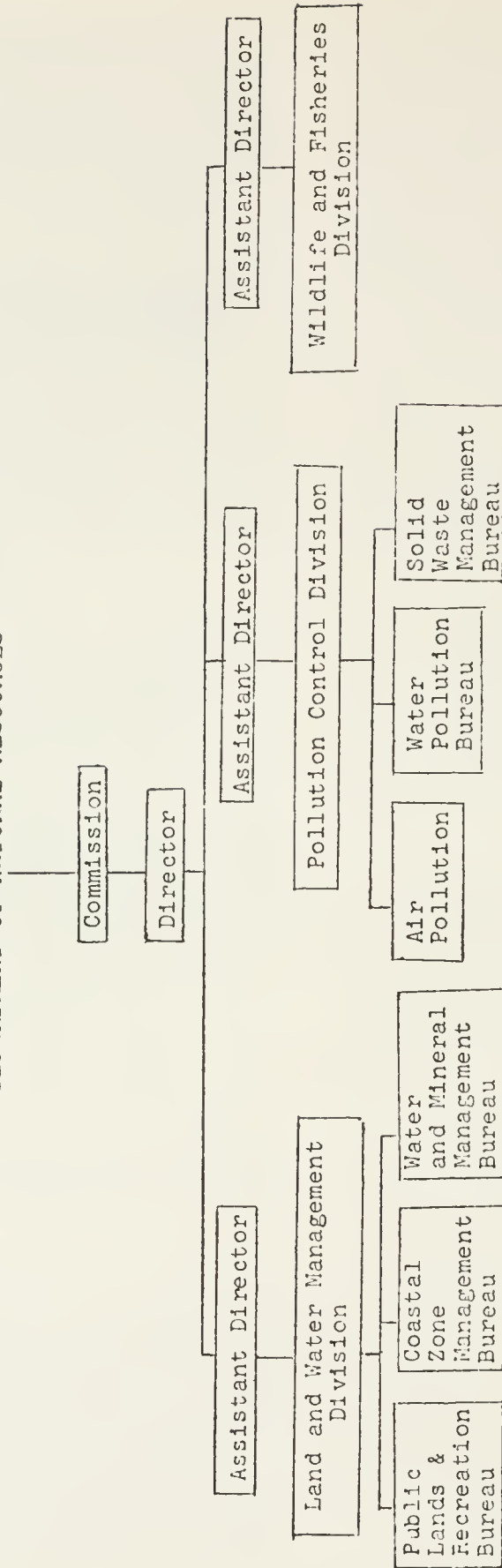
#### CONCLUSION

In conclusion, I would like to say that I believe that Louisiana's future lies in the wise use and proper management of its natural resources. State government can and must play a key role in proper natural resource management, but in order to do so, it must be rationally organized.

If the Sea Grant Legal Program can be of any assistance to the Committee in drafting any agency reorganization or other proposals, we would be happy to do so.

APPENDIX I

DEPARTMENT OF NATURAL RESOURCES



*Jackson*

The Environment and the Poor

It's the poor who suffer most from the misuse, destruction, lack of access to and private allocation of the abundant natural resources of the state of Louisiana. In 1970 in East Baton Rouge Parish, 13.6% of all families had incomes below the poverty level. This chart shows the areas which had, in 1970, more than 10% of the families with incomes below the poverty level. There were 49,095 poor people ~~in~~ ~~the area~~ representing 17.8% of the people living there.

To compound their situation, the poor are the least able to escape from their damaged environment, although their need is greater than those who live and work under more privileged conditions.

In general, the poor lack mobility of a specialized sort. Even though they may move from town to town, their environmental conditions are similar in all places where they reside and work.

These similar characteristics are:

1. poor paying jobs
2. unhealthy jobs
3. poor housing
4. lack of educational opportunities
5. inadequate municipal services
6. inadequate health facilities, and
7. inadequate recreational facilities

There are two sides of the environmental problems of poor people. On one side they would benefit (as will all of us) from cleaner air, water, and food and a more realistic economic base. For example, once a month the Air Control Commission takes a sampling from at least three locations in this parish. These locations presently are (1) by the U.S. Highway 190 bridge, (2) on Evangeline Street, and (3) at L.S.U. You will note that these locations are in areas in which large numbers of poor people live. The sampling is done in these locations because of their proximity to the petro-chemical plants who emit such large amounts of air pollutants. Of course, this sampling is totally inadequate. Sampling should be on a continuous basis and the results should be readily available to everyone within a short period of time.

The other side of this problem is the increased costs of producing environmentally sound goods and services and whether this increment is one which should be borne by the consumer through higher prices, by the industry through smaller stock dividends to its investors, or a combination of these.

My presentation today has three main points :

- (1) the ways in which a declining environment affects the poor more adversely than others;
- (2) The ways in which the poor have to pay the costs of cleaning up the environment; and
- (3) Finally, the ways in which an environmental bill of rights is needed by poor people.

In earlier times when a smaller proportion of the land was in use by man, nearly everyone could travel a short distance from their residence to find a quiet place to picnic, to fish, to hunt, etc.

But today more often than not, these areas are either freshly timbered or fenced off and posted, or otherwise removed from use by the public. Some parks are provided, but the poor have proportionately less access to parks. The poor then are relegated to the streets with all the attendant psychological, sociological, and health hazards.

Poor people in general have less access to open space and green areas. Yet it is they who need this kind of escape, as mentioned earlier, more than anyone. There are calming and restoration aspects in the unhindered viewing and enjoying of unspoiled, natural land areas. These effects are desperately needed by people whose lives have been shattered by the frustrations, humiliations, and deprivations of poverty. These healing effects generally are unavailable to poor people. In summary, more space, more green areas, must be set aside within easy reach.

Generally the poorer components of any society have more health problems. One cause is lack of proper nutrition at all stages of life, including the first six months of life when the brain cells are undergoing their main growth. There are nutritional aspects to nearly every health problem. The well-nourished body is better able to cope with disease, as well as an adverse environment. For example, consider the respiratory impairments related to air pollution. The healthy lungs of a well-nourished individual, in comparison to those of an under nourished person, are less likely to succumb to the attack of a tubercule bacillus or to be impaired by the various particulates and poisons so common in the atmosphere today. In addition, as illustrated

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by my map, the poor generally live in or near areas zoned for industry. Thus, they are more exposed to air pollution. Particulates do not travel as well or as far as chemicals from the source of emission, but both are found in greatest concentration at their sources which are generally deep within the areas where poor people live. In summary, the poor, most of all, suffer from air pollution (1) because they are susceptible and (2) because their exposure is greater.

Poor people generally lack the health and educational resources with which to find decent employment. Those who are able to do any type of work are limited to working under adverse conditions. Unionization often protects workers from agreeing to work in hazardous situations, or works out ways to protect its members from health hazards. However, unionization has not come to the poor. Consider a farm worker in a situation in which DDT had been replaced by Malathion for field application. The worker had participated in distributing the poison on the crops under careful supervision but thought that one of the bags in which the material was purchased would make a good swing for his three young children. He took the bag home for them; they played with it for a while. In a few short hours all were dead, the father-worker who carried the sack a few miles in his hands, and the children who had played with it gratfully. Other instances of adverse working conditions relegated to the poor are less dramatic but one must surely be in rather dire circumstances to accept a job which has built in health hazards connected with it.

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The costs of pollution bear proportionately greater on the poor who have less resources, in health or finances, available to them. Some of these costs, for example, the costs involved in treating respiratory illnesses aggravated by air pollution, are borne by the state in terms of free medical care to the indigent. The costs to the individual are more difficult to define. How does one measure the damage suffered by a child who develops psychiatric or sociologic problems related to overcrowding? Or for that matter to the state which must support the adult that this child becomes?

These are but a few instances of the costs of pollution as they relate to poor people, and are not intended to be exhaustive. I am sure that each of you know of many examples of environmental hazards relating to poor people.

You must be asking now why do we need an environmental bill of rights; after all, we have the Air Control Commission, the Water Pollution Control Commission, and all these laws on the book to protect the citizens of Louisiana, and we have an Attorney General to make sure that these laws are enforced.

The basic reasons are economics and a priority system established by administrative bureaucracies. I know the legislators present today are familiar with the cry that the agencies need more money. We have all heard this, and it is the truth. Not enough money is allocated to environmental problems. But all too often the system of priorities established by the agency established to implement the law effectively excludes consideration of the problems of the poor. It is the old story of greasing the wheel that squeaks the loudest, and the poor being uneducated, subdued, and all too often elderly, have not been able to summon up a sufficiently loud voice to demand that they

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not be excluded from the protection of the law. The methods available to the poor to overcome these obstacles to a better environment are mostly ineffective. The courts generally have not been receptive to court-ordered enforcement of the legal interest of an individual in a suit to force an official to do his duty. And the judicial review offered by the Louisiana Administrative Procedure Act is not strong enough. Further, if a poor person seeks legal recourse to remedying an environmental problem, he is denied access to the courts under a theory that says only the state officer or agency may bring the suit. As you can see this is a vicious circle which provides added frustration and resentment toward "The System."

In summary, if the poor are to be taken out of the streets and into the court rooms to fight their battles, they must be given equal access to the courts and adequate tools with which to battle. An environmental bill of rights is just one means of providing equal justice under the law.

The Constitutions of various states include environmental bills of rights. I believe that the League of Women Voters has provided copies of them to the Convention. I am placing the citations to these provisions on a separate page which is attached to my written comments.

In suggesting wording for the environmental bills of rights, I believe that State "stewardship" or "trusteeship" should be avoided. The Pennsylvania constitution has this wording and provides

"The people have a right to clean air, pure water, and to the preservation of the natural scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come

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As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people."

The trust doctrine places the state, citizen, and natural resource in the same relative position in the law that we have now. The citizen must rely on the state to protect his interests and the state may do so if it has allocated enough money to the agency to which the job was delegated. The deficiencies in this practice have already been demonstrated.

The second sentence in the Pennsylvania constitution may be omitted in Louisiana because our Civil Code already defines public and common things. The first sentence alone would provide a workable statement of public policy upon which legislation and judicial interpretation could be based. Personally, I prefer the following:

"The right of the people to clean air, pure water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment shall not be abridged."

Thank you for giving me this opportunity to present this statement today.

*Doris Falkenheiner*  
DORIS FALKENHEINER  
Assistant Director  
LEGAL AID SOCIETY OF BATON ROUGE  
301 Raymond Building  
Baton Rouge, Louisiana 70801  
(504) 348-5173

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Attachment 5

PARTIAL  
TESTIMONY  
TO  
NATURAL RESOURCES AND ENVIRONMENTAL COMMITTEE  
OF  
CONSTITUTIONAL CONVENTION  
BY  
HENRI MOLBRETTIE II  
EXECUTIVE VICE PRESIDENT  
LOUISIANA CHEMICAL ASSOCIATION  
April 30, 1973

First, let me make some remarks about the suggested "Environmental Bill of Rights" suggested by the previous witness (Ms Doris Falkenheiner, Assistant Director, Legal Aid).

A constitutional provision as suggested would open up an entire new legal right -- one not based on economic damage. It would allow a citizen of Caddo Parish to bring a suit against a citizen of Rapides Parish who might be burning his sugar cane, if the Caddo citizen so desired.

The important thing is not what the young lady says the bill of rights is intended to do, in her opinion, but what consequences might flow.



Already I can hear the attorneys arguing that the person in Caddo has a right of action because air pollution (such as that caused by sugar cane burning) knows no parish boundaries, or state boundaries, and since it is polluting the air, the right is absolute under the proposal suggested here today.

Additionally, we should concern ourselves with the constant use of the poor as a crutch for obtaining goals not directly related to poverty. This young lady started her discussion with environmental effects on the poor, and uses that as the reason for this broad absolute right to bring suit.

How will a defendant, proven innocent recover damages? Why Legal Aid which is funded by CEO will say we brought it for this indigent client who is judgment proof. So from whom will damages flow? No one.

I would say to you that there is no place in the Louisiana constitution for such a bill of rights.

I know the environmentalists will say that the federal government in the water pollution control act provides for citizens suits. True. But with limitations. Let me read you an analysis of that provision.

"Citizens suits are allowed under the Act. Citizens are given the right to bring a civil suit under the new Act against any person who is alleged to be in violation of an effluent standard or limitation (which includes violation of a permit condition) or of an order issued by the Administrator where he allegedly fails to perform any non-discretionary act or duty....."

So the federal act is limited to certain specific areas, not an unlimited right to sue.

\* \* \* \* \*

Let me turn now to the remarks I had intended to make prior to the introduction of the Bill of Rights suggestion into the hearing.

We have heard today about three separate areas involving natural resources.

1. Utilization
2. Conservation, and
3. Quality or Pollution

I would direct my remarks to the third area. We have two agencies in this state which have authority over about 95 percent of the pollution abatement. One, the Air Control Commission has, under the legislative act, exclusive jurisdiction in the state over air quality. The other, the Stream Control Commission, has jurisdiction over all pollution of the state's waters or streams, except that of municipal sewage which comes under the State Health Department.

I would suggest that this convention might want to include a policy statement on environment, but I would urge that it not include any agency organization in the body of the constitution.

The 1921 constitution made a change. Originally there had been a Conservation Department (or a predecessor by a similar name). However, this was constitutionally changed to break it down into a Conservation Department, a State Mineral Board, and the Wildlife and Fisheries Commission.

My point is that the policy statement could stay firm, but that agency organization should be left to the legislature so that it could be changed as time and conditions dictate.

Let us look at what is happening now. As I said, two agencies have almost all of the quality determination and enforcement powers on air and water. But look at the proliferation of agencies in recent years. There is the Joint Committee on Environmental Quality, there is the Governor's Council on Environmental Quality, there is the Citizens Advisory Board to the Governor's Council, there is the Coastal and Marine Resources Commission, there is the House Natural Resources Committee, the Senate Natural Resources Committee, and others. Let's keep the basic policy in the constitution, the agencies in the statutes.

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Now what might be acceptable language for a policy statement? Already we have the statement in Article VI, Section 1, which says the natural resources of the state shall be protected, conserved and replenished.

Mr. Jim Derbes has suggested the Illinois statement of public policy which reads in Section 1 that, "the public policy of the state and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations. The General Assembly shall provide by law for implementation and enforcement of this public policy."

(When Mr. Derbes asked about Section 2 of the Illinois language which reads, "Each person has the right to a healthful environment. Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitations and regulations as the General Assembly may provide." The speaker said he was not objecting to Section 1, but had reservations about Section 2 -- the same as he did about the previous speaker's proposed citizens' suits.)

The League of Women Voters have two statements. The first I don't agree with, the second I find no objection to.

The first reads, "Each citizen of Louisiana has the right to clean air and water, to wide stewardship, to freedom from excessive and unnecessary noise and blight, to the enjoyment of the natural scenic, historic, and esthetic qualities of the environment, to the protection of unique lands, swamps, marshlands, and shorelines, and to the use and enjoyment for recreation

of public lands. Each citizen and the government of the State of Louisiana, as trustees of these resources, shall conserve, manage, and enhance them for the benefit of all the people, including future generations."

The second reads, "each person has the right to a healthful environment. The state and each person has the responsibility to contribute to the protection and enhancement of that environment."

Finally, let me point out that any policy statement should include a broad overlook at both the environment and the economic and social forces necessary for a productive society.

A good example of this awareness is stated in the National Environmental Policy Act in Section 101 (a) where it says in part that "it is the continuing policy of the Federal Government ..... to use all practicable means and measures.... to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of Americans."

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## MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on April 23, 1973

Mineral Board Hearing Room,  
Natural Resources Building,  
Baton Rouge, Louisiana, Tuesday,  
May 1, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald T. Bollinger  
James G. Derbes  
H. G. Hardee, Jr.  
Wellborn Jack  
Sen. Louis J. Lambert, Jr.  
Mrs. Ruth Miller  
Alvin D. Singletary  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

Absent:

R. M. Elkins  
Rep. Richard P. Guidry  
Rep. Conway LeBleu  
Thomas W. Leigh  
Rep. Robert Munson  
Miss Lynn Perkins  
Rep. Richard S. Thompson

Sgt. at Arms: Glenn Koepf

Following an opening prayer by Mrs. Warren and the Pledge of Allegiance, the committee adopted the minutes of the previous meeting.

The first speaker was DON WHITTINGHILL, director of the Joint Legislative Committee on Environmental Quality. Mr. Whittinghill pointed out that government reorganization has been studied during the past two years by professional people such as biologists, engineers, lawyers, etc. in order to determine whether the present twenty eight agencies charged with environmental responsibility should be centralized. The functions of these agencies are in the committee's 1972 report to the legis-

lature. (Attachment 1). Following a brief discussion concerning environmental approach in constitution of other states, Mr. Whittinghill concluded that some type of policy statement should be included in a new constitution and that the legislature should be authorized to acquire conservation areas and other public lands.

The next speaker was CLINT PRAY, chairman and executive director of the Governor's Council on Environmental Quality. Mr. Pray expressed a need for a clear and comprehensive policy on the environment, management of public lands and other natural resources, and related areas. He recognized EDDIE SCHWERTZ, assistant director of the GCEQ, who discussed the commission's role as the coordinator of state environmental and natural resource management activities and expressed a need to develop communication with this area. He suggested that the state deal more effectively with protection of environmental quality. Mr.

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Schwartz introduced W. B. DE VILLE, director of research for the GCEQ, who emphasized the need for an environmental policy statement in the new constitution similar to that in other states, particularly Illinois. (Ill. Const. Art. XI, §§1, 2). Mr. Munson inquired about the citizen's right of action and limitation thereon provided by law, and Mr. Velazquez explained that such a declaration would allow the legislature to provide sufficient safeguards; Mr. Singletary added that, for example, the legislature could limit the citizen's right of action to situations wherein the state agency charged with a certain responsibility failed to act, and Mr. DeVille agreed that such would be a quite reasonable limitation. (Attachment 1).

Vice Chairman Munson then recognized MICHAEL DUPLANTIER, special counsel to the office of the attorney general, and RICHARD TROY, assistant attorney general. Mr. Duplantier stated that he agreed substantially with Art Smith's recommendation to the committee on April 30, 1973. After a brief discussion regarding a citizen's right of action, Mr. Singletary expressed an intent to draft constitutional provisions which are self-executing, otherwise such provision would be inoperative and meaningless unless and until the legislature took affirmative action, and Mr. Troy agreed that a concrete and definite provision would insure a citizen's right of action regardless of legislative action. (Attachment No. 2).

The final speaker was DEVAN D. DAGGETT, executive director of the Louisiana Legislative Council. He explained to the committee the procedures for introducing committee and delegate

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proposals and the deadlines involved. He urged the committee to decide what should go into the new constitution and to delete the rest which would be placed in the schedule or taken care of in a special session of the legislature. Chairman Lambert

stated that the committee would finish its work between June 15 and June 21, 1973, and requested the research staff to have all proposals drafted by June 15, 1973. He added that witnesses will be scheduled on May 7, 1973, and that final votes will be taken on May 8, 1973.

The meeting adjourned at 3:00 p.m., on May 1, 1973.

*Clint Pray*  
Chairman  
*Robert J. Munson*  
Vice Chairman  
Secretary

#### NOTES

The Report of the Joint Legislative Committee on Environmental Quality, cited in the Minutes as Attachment No. 1, is omitted.

#### Attachment 1

#### GOVERNOR'S COUNCIL ON ENVIRONMENTAL QUALITY

Testimony Presented to the  
Constitutional Convention Committee  
on Natural Resources and Environment  
at Baton Rouge, La.

May 1, 1973

#### Introductory Statement by Mr. Clint Pray, Chairman/Executive Director, GCEQ

I take great pleasure in having the opportunity today to address this committee on matters of great importance for all the citizens of our state. We are very concerned that wise use be made of our natural resources, and that the quality of our environment be considered, in fact, as a natural resource which--more than any single resource--must be wisely nourished and protected.

Let me begin by commending the interest and dedication of the representatives of state agencies and other groups who have already appeared before you to speak about these matters. We should be especially grateful to the personnel of the Stream Control Commission and the Air Control Commission, and their staffs in Wildlife and Fisheries and the Louisiana Health and Social and Rehabilitation Services Administration, who have performed the difficult tasks of pollution control and abatement very well, and to their counterparts in other agencies who have husbanded our natural resources such as fisheries, forestry products, public lands, and oil and gas.

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We do not, therefore, have to begin at the very beginning in thinking about how to best approach the question of how we may maximize the benefits of our natural resources, while at the same time improving and protecting the quality of Louisiana's environment. I suggest that we should look at our considerable experience in these areas, at the increasing demands

being placed upon our state agencies, and at some of the problems we have experienced.

Last year, a study conducted by the Louisiana Legislative Committee on Environmental Quality identified some 28 agencies as dealing with one or more facets of environmental quality. Since then, of course, CCEQ has been created by an act of the legislature, so I come before you as the 29th agency in what seems to be a very cumbersome structure! Unfortunately, this count of 29 environmentally-related agencies probably erred on the side of conservatism. I am beginning to wonder if there is any agency in our state (including the Louisiana Council for Music and the Performing Arts) which doesn't have some activity related to or impacting upon environmental quality.

I would not suggest that we consolidate all our state agencies into one single giant Environmental Protection Agency, however. That would certainly not improve upon our existing level of coordination of environmental missions, just as it would confuse and impair many other necessary functions of government.

What we do need to do is arrive at some clear and comprehensive

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statements of Louisiana's policies on the environment, management of natural resources, public lands, and related fields. It is not very surprising that we now have very few such policy statements to go on; other states have found themselves in the same position, and the federal government began developing overall environmental and resource policy only in the last few years. The most recent federal policy statement, President Nixon's energy policy statement of April 18, has been distributed to the committee.

Our present constitutional provisions dealing with the environment and with resource management, as well as most state agency missions in these fields which were specified either in the constitution or by the Legislature, were developed under different circumstances than we now face. As other people have testified to you, we have only recently realized the limited and interrelated nature of our environment and the resources it contains.

Although appreciation of the need for conservation of some resources, such as our forests, has been held for some time, the total view of "natural resources" presented to you by Professor Hardy is new. It is also, in my opinion, valid. From the policy standpoint, it requires us to play a new ball game.

Our state agencies with missions in environmental and resource management fields increasingly find themselves playing a new ball game for another reason. For example, a few years ago water pollution control activities in Louisiana (and the other states) were responsive to federal programs located largely in the U. S. Department of the Interior. Although much good work in pollution control was done, the atmosphere, the funding, the degree of public interest and involvement, and the complexity of related activities (such as

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planning) were quite different. From relatively quiet program dealings with a small segment of a federal agency, our state water pollution control agency people now find themselves dealing with a massive new federal agency, which is administering one of the most complex pieces of legislation (the Federal Water Pollution Control Amendments of 1972) ever passed by the Congress. The U. S. Environmental Protection Agency, reflecting new federal policy in a broad range of environmental legislation dealing with air, water, solid waste, resource recovery, pesticides, radioactive materials, toxic materials, etc., is increasingly adopting program designs and issuing program guidelines that require similarly interrelated responses by state agencies. The possibility of a similar federal superagency dealing with natural resources (and particularly the energy problem), has been suggested by President Nixon, and the prospect cannot be entirely discounted at this time.

In summary, then, our existing state agency structure for dealing with environmental fields looks fragmented in contrast to:

- \* Our new perspective of the environment as limited and inter-related
- \* Intense public interest in environmental affairs
- \* Massive federal environmental legislation
- \* A comprehensive federal agency dealing with environmental affairs
- \* Increasingly complex and interrelated federal program guidelines and regulations

The Governor's Council on Environmental Quality was created by Act 460 of the Louisiana Legislature, as a result of legislative concern about the

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lack of a central focus in state government for dealing with environmental issues. I have asked Mr. Eddie Schwartz, Assistant Director of CCEQ, to discuss the role of CCEQ as coordinating State environmental management activities.

Discussion of the role of CCEQ, presented by Mr. Eddie Schwartz

The 1972 Louisiana Legislature, in passing Act 460, did set forth in Section I of the act a declaration of policy:

It is hereby declared to be the public policy of this state to provide for the protection and conservation of the land, air and water. In this connection it is the intent of the legislature to achieve and to maintain for all the citizens of the state, a total environment of superior quality.

The act created a three-man council to be appointed by the Governor, and charged it with the following duties:

- \* To advise the Governor on pollution control, natural resources management, and land use activities
- \* To serve as a coordinating body to see that the State agencies are directed towards the goal of the legislation
- \* To serve as the clearinghouse for environmental impact statements prepared or reviewed by State agencies
- \* To work in conjunction with State and federal agencies to develop interrelated environmental quality criteria and long range environmental quality goals.

Since early January we have been actively involved in working toward the goals of Act 460. Assistance has been given to a number of Louisiana municipalities in obtaining federal EPA sewerage treatment construction

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grants; over \$50,000,000 in federal dollars are being returned to Louisiana through these grants.

We have developed good working relations with the U. S. Environmental Protection Agency, and are working with them to help implement the Federal Water Pollution Control Act Amendments of 1972. We are particularly fortunate that Mr. Pray was elected to represent five states (Louisiana, Texas, Arkansas, Oklahoma, and New Mexico) in meetings with Mr. Ruckelshaus and other federal officials to work out the strategies for moving forward with water quality programs under the new law. This has proven to be an excellent way to keep abreast of developing policies and new regulations, and we have assisted other State line agencies in meeting deadlines set by the new law.

We are very concerned about the need to develop communications with all sectors of the public. We hope to develop communications with local communities around the State on a continuous basis, so that we can be aware of problems as they develop. We believe that one of our important functions is to serve as a forum for inputs of discussion from all concerned parties in the State: the general public, environmental and conservation groups, industry, local government, and other State agencies. As a result, we have attended a large number of meetings on environmental topics, and will continue to attend as many as possible.

As an early result of our efforts to develop such communications, advice has been sought by a number of agencies, industries, and private citizens on

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a myriad of topics. We have been working with Louisiana industries and farmers to seek solutions which will help them to meet environmental regulations. Positive results have already been obtained. Municipal problems which have defied solution are being brought to our attention. We are responding by coordinating appropriate meetings with those that should be involved to reach a solution. Federal, State, parish and city personnel are being brought together.

Complaints have been received on such topics as littering, water and air pollution, noise pollution, toxic materials, and solid waste. These complaints have been dealt with as the situation warranted, to ensure that our environment is not degraded.

A program of Environmental Education and Information has begun. Numerous pieces of correspondence have been answered that come from children, adults, and interested groups. Brochures have been provided upon request.

Environmental impact statements are being received and reviewed for completeness and correctness. Likewise, as was expressly called for in Executive Order 22 (signed by the Governor January 15, 1973), grants, permits, priorities, proposed regulations or guidelines, citations, environmental planning, enforcement proceedings, and variances from regulations are being reviewed. Such review procedures are designed specifically not to hold up or impede actions by other agencies; their primary input to CCEQ operations at this time is to help us construct a comprehensive picture of

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of the status of our environment and of current State agency operations. As we build up a comprehensive status picture, we expect to begin implementation of more detailed liaison with other State agencies, and to assist them in developing long-range environmental planning in the various program areas.

We believe that the creation of CCEQ offers an opportunity to solve some of the problems caused by the fragmented structure of environmental management in our State. No other environmental agency has the specific missions of advice to the Governor, coordination of state agency activities, and development of long-range interrelated environmental quality criteria. If we fulfill these duties properly, we will have made a step toward providing an overview of all environmental problems and State agency activities, and helping bring to light a picture of the State's environmental goals and priorities. We will also have brought together enough information in one office to serve as the central source in the State for environmentally-related inquiries.

However, the legislatively created role for CCEQ goes only part of the way toward solving the problems cited by Mr. Pray. CCEQ has no authority or power to coordinate State agency environmental activities, except the power of persuasion. Solving many environmental problems would still require crossing agency lines and would require two or more agencies to cooperate. Such a situation can create budgetary problems. It can make action planning very difficult. It makes overall responsibility more diffuse than many members of the public, to say nothing of the U. S. EPA, would like.

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We have given serious consideration to the need for a better management structure for dealing with environmental quality protection at the State level. Mr. William De Ville, director of research for CCEQ, will present two ideas for consideration by this committee. The first will deal with a possible management structure, and the second concerns a model "Environmental Bill of Rights" which might be incorporated in the constitution.

An environmental management structure and a bill of rights: W. F. De Ville

I have found the proposed definition of "natural resources" offered for your consideration by Professor Hardy quite a persuasive one, and I believe that his picture of a Department of Natural Resources would, with some modifications, have a great deal of merit.

The future of Louisiana's resources, environmental quality, and economic viability seem very closely linked. Louisiana has depended heavily on extractive mineral industries, principally oil and natural gas, and including sulfur, to develop its present economy. Other natural resources which have contributed heavily to the economy are fisheries, fur, forestry, and, in a very real sense, agriculture. We have also benefited in many ways from our water resources, including navigable waterways. New Orleans is the second largest port in the country, and Baton Rouge is the seventh largest port. Our abundant water supplies--sometimes too abundant, as at the present time--have also contributed to the development of a wide range of industries, many of which are also dependent on available raw materials.

Particularly in the wetlands and estuarine areas of South Louisiana (although the same is true to varying degrees in all parts of the State)

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we are constantly faced with the problems of balancing various uses of the air, water, and land so as to optimize the continuing use of all of these resources, living and non-living. Many of the current questions now being discussed in the State, such as whether and where we should locate a superport, where highways should be routed, whether a new canal should be dug, whether floodlands should be developed, etc. really revolve around questions of the multiple use of resources, and consequent environmental and resource management problems.

If the State is to develop a stronger and more efficient management structure for improving and protecting environmental quality, several options may be considered:

- \* Gather the principal environmental management activities of State agencies into one of the existing agencies with environmental activities
- \* Create an independent environmental agency
- \* Create a new agency incorporating environmental management together with related functions.

Each of these options has some merit. However, we feel that no State agency which presently hosts line environmental protection activities is ideal for this purpose. The disadvantage of this course would be that the environmental goals and activities might tend to be diluted by the diverse activities of the present agencies from which one might choose. The second or third course of action might, therefore, prove preferable.

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A comprehensive State environmental protection agency, whether we choose the second or third option, would necessarily be a complex agency, and would incorporate several sections or bureaus with readily identifiable functions. A possible listing of functions and activities is given below:

- \* Administration
- \* Planning

- \* Data activities (including monitoring and technical support)
- \* Laboratory support
- \* Standards and regulations
- \* Hearings and public participation
- \* Enforcement
- \* Line programs
  - \*Air quality
  - \*Water quality
  - \*Solid wastes
  - \*Pesticides
  - \*Toxic materials
  - \*Radiation monitoring and control
  - \*Noise abatement

The modification we propose making to the organizational scheme outlined by Professor Hardy, should environmental protection be incorporated in the suggested Department of Natural Resources, is the substitution of an overall Bureau of Environmental Protection in place of his proposed Bureau of Water Resources and Bureau of Air Resources. We believe that it would be unfortunate to fragment these environmental quality activities.

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We should also like to suggest some reservations about placing Wildlife and Fisheries under the proposed Department of Natural Resources. These reservations are based on two observations. First, Wildlife and Fisheries is very well organized for its present duties, and has done a commendable job in meeting its primary goals for which it was created. Second, we suggest that the Department of Natural Resources should not become too unwieldy in size, and that omission of Wildlife and Fisheries will help keep the agency's size to a manageable level.

Whether the option of a State Environmental Protection Agency, or a Bureau of Environmental Protection under the proposed Department of Natural Resources is adopted, we would strongly urge that a "fine grain" structure not be incorporated in the constitution. The reason is that state agency structure should closely fit the functions and duties of the agency, and new federal legislation can have a major impact on such duties and programs. However, enabling legislation would require a careful examination of the required operating and administrative components of an ideal State environmental management and protection structure.

We should also like to discuss with you today our observations on a proposed "Environmental Bill of Rights" which might be considered for incorporation in the constitution. Such a "Bill of Rights" would set State policy on environmental matters and would define the individual's rights to a superior environmental quality.

Much has been said about environmental protection and conservation of natural resources, and the need for economic stability in our State. It should be the right of every citizen of the State to have proper recourse to protect his environment. Likewise, it is important that the economic

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stability of Louisiana, and necessary social progress, not be impaired by those who would adamantly support environmental protection to the exclusion of all other values.

In our present constitution, Article VI, Section 1D addresses this matter as follows:

The Legislature shall have power and authority to amend any existing law and to enact all laws necessary to protect, conserve and replenish the natural resources of the State, and to prohibit and prevent the waste or any wasteful use thereof.

As stated above, there are two areas of concern:

1. There is no statement of policy to develop and use our natural resources effectively and for the optimum benefit of the citizens of the State;
2. There is no mention of citizen recourse following environmental abuse.

We propose the following for inclusion in the new constitution. It represents a modification of Article XI of the Illinois Constitution.

Natural Resources and Environment  
 Section 1. Public Policy--Legislative Responsibility  
 The public policy of the State and the duty of each person is to develop, use, conserve, protect and replenish the natural resources of the State to maintain a healthful environment for the benefit of this and future generations. The Legislature shall provide by law for the implementation and enforcement of this public policy.

Section 2. Rights of Citizens  
 Each citizen has the right to properly managed natural resources and a healthful environment. (Each citizen may enforce the right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitation and regulation as the Legislature may provide by law.)

Thank you for your consideration. We shall be happy to answer any questions.

Attachment 2

COMMENTS BEFORE THE CONSTITUTIONAL CONVENTION  
 NATURAL RESOURCES COMMITTEE

May 1, 1973

*Richard Tray*  
 by Michael A. Duplantier  
 Special Counsel  
 Office of the Attorney General

Thanks for the opportunity to appear here today. We have been following the working of the committee although we have not before attended any of the previous meetings.

I would like to address myself this morning to an issue that I understand has been brought up numerous times before the committee. This is the matter of the inclusion of an environmental bill of rights or a statement of public policy concerning environmental protection.

Our office does favor the inclusion of an environmental policy statement and offer the following as an example of what we think would be fit and proper for the constitution.

This example was drafted by Art Smith of the Sea Grant Legal Program at LSU with modifications by our office:

Each citizen of Louisiana has the right to clean air and water, to wise land stewardship, to freedom from excessive noise and unnecessary noise and blight, to the enjoyment of the natural, scenic, historic and esthetic qualities of the environment, to the protection of unique lands, swamps, marshlands, and shorelines, and to the use and enjoyment for recreation of public lands. The government of the State of Louisiana shall conserve, manage and enhance them for the benefit of all the people, including future generations.

Why do we favor it, and what would be the effect of such an inclusion?

We favor it for the basic reason that a right to clean air and water and a wholesome environment is a basic fundamental right that was probably not included in the original constitutions only because then such things were not a problem. Such a policy statement would express the paramount right of all our citizens to enjoy a clean healthful environment and would establish a public policy for all state agencies and the legislature to follow as a guide in passage and implementation of present and future legislation.

What would be the effect of such a provision? A number of other states have only recently enacted similar type provisions in their constitutions and the net effect is still not definitely determined.

A recent decision in Penn. is interesting. In the case of Commonwealth of Penn. v. Natl Gettysburg Battlefield Tower, 3 ERC 1270, the state was suing to prevent the construction of a private observation tower overlooking Gettysburg Battlefield by using their constitutional amendment as an enforcement and abatement tool. The court said that generally amendments to the Constitution are not self-executing but that the test is based on three factors: legislative intent, language of the amendment and the nature of the amendment. The court said that since the legislature could have achieved the same result by adopting specific statutes prohibiting infringement upon the natural resources of the state, but did not do so, it now seems unnecessary to require them to do so before these basic rights can be enforced. They said that the nature of the amendment is to spell out rights that the people reserve to themselves without legislative

assistance or interference. Thus, they held that the provision was self-executing, that is, that it enunciated

substantive rights that were enforceable without additional legislation. The interesting thing was that after finding the provision to be self-executing, the court refused to grant an injunction and gave the decision to the defendant because he felt that the evidence did not show irreparable damage to the historical or esthetic values of the environment.

This is one of the first interpretations of such a provision. What does this mean for Louisiana? I think it might mean this: That Louisiana's proposed provision could conceivably be self-executing depending upon the intent of this committee or anyone else implementing it. Or, of course, it could be not self-executing, as you desire. If it is not self-executing, it would simply state public policy which would have to be implemented by an environmentally beneficent legislature.

I spoke yesterday to four assistant attorney generals in four different states and elicited the following information: California has not enacted such a constitutional provision though they have very strong policy statements in the statutes. Massachusetts has such a provision which passed overwhelmingly last year but which, to date, has not either been enforced or attempted to be enforced judicially. In fact, they specifically said that they did not feel that it was enforceable.

Virginia has such a policy statement that has similarly not been interpreted since its inception in 1971.

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Their assistant felt it to be merely a public policy statement.

Pennsylvania has such a statement as mentioned, and has been enforced as indicated. Incidentally there has been a later case in Penn. which has said that the statement was not self-executing but which can probably be distinguished from the first case because the acts of the defendant in this case were also subject to abatement subject to specific statutes and the court was saying that the amendment imposes no higher standard of conduct in those areas where statute or regulation have already spoken as long as they are consistent with the general purposes of the amendment. I am quite convinced at any rate that regardless of intention, the provision could not be enforced criminally without specific statutory definition of the elements of the crime.

A different issue is whether the provision would allow state regulatory agencies the authority to administer their programs in a manner which would protect a broader environmental interest than existing statutes and regulation would require. It is conceivable that an agency could apply broader environmental policy considerations than would be required by their specific statute based upon the broader implications of the general provision.

A final problem is as to who would enforce such a provision, if indeed it were enforceable. I frankly don't know and the possibility does exist for conflict on this point.

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For further information on this point, I refer your researcher to "The proposed Declaration of Environmental Rights," by Robert Broughton, Penn. Bar Assn. Quarterly, June, 1970, p. 421, et seq.

If such a provision is drafted and included in your recommendations but intended to be not enforceable as is, then you might ask why it should be included. Good question but there is sufficient reason.

They are situations in this state which arise occasionally where a public official which likes to act in a certain manner regarding a specific proposal which is going to have a significant environmental impact, and though that official, acting responsibly, would like to express disfavor for the proposal is prevented from doing so by lack of regulatory or statutory authority to do anything about it.

Perhaps armed with a public policy provision such as this, he might be encouraged to withhold whatever sanction is desired from his agency, if such was the case. This broad public policy could be used to guide public policy makers for the state in their actions which necessarily involve wide latitude or discretion.

Thus, either from a self-executing or non-self-executing point of view we believe such a provision is a desirable inclusion within the constitution.

We are aware that Art. 6, Section 1 contains a bare-bones public policy statement. But lumped in as it is with the Wildlife and Fisheries Commission statute I don't think

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it is as broad as it could be. Also, there is the possibility that it could be deleted.

Most states that have no express constitutional provision of this regard have extensive provision in their statutory law. We have none in our water statute and a very mild one in the Air Control statutes. At a minimum, we need such a provision there.

Neither would such a provision give any citizen any greater right to sue for environmental degradation than he presently has, regardless of whether it is self-executing or not.

We are not unaware of some measure of disagreement among the members of the committee regarding this proposal but neither are we unaware of the mandate that the ever-growing environmental citizenry of this state has given to this committee to see to the proper handling of the environment in the new constitution. To leave out any such provision in the bill of rights would not only be regrettable but would probably incur the opposition to the constitution from some very powerful environmental groups. I don't mean this as a threat but simply as a fact of life.

Neither are we unaware that some groups might feel a bit threatened by such an inclusion. I don't think they need be but if they do I see no reason why any environmental trade-off or compromise could not be struck.

Thank you again. I will be glad to answer any questions.

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on May 2, 1973

Mineral Board Hearing Room,  
Natural Resources Building,  
Baton Rouge, Louisiana,  
Monday, May 7, 1973, 9:30 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack

Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Mrs. Ruth Miller  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren

Absent:

Rep. Richard P. Guidry  
Thomas W. Leigh  
Rep. Robert Munson  
Rep. Lantz Womack

Sgt. at Arms: Glenn Koepp

Following an opening prayer and the Pledge of Allegiance, the committee adopted the minutes of the previous meeting. Chairman Lambert stated that the research staff had prepared several proposals at the request of various committee members and urged other members to call on the staff for assistance. He reviewed the procedures that would be followed when the final votes were taken.

The first speaker was JANET BURT, representing the League of Women Voters, who urged the adoption of a fundamental constitution written in clear and concise language free from statutory material and the inclusion of a basic policy statement concerning management of natural resources and protection of the environment. She presented to the committee copies of pertinent constitutional provisions from other states. (Attachment 1).

The next speaker was W. B. DODD of the United States Corps of Engineers, who admitted that any statement he made would be prejudiced in that the corps is satisfied with the present operation of levee districts. He closed with answers to questions concerning the New Orleans, Pontchartrain, and Atchafalaya levee boards. (Attachment 2).

The chairman then recognized FRED BENTON, a local attorney representing the Lake Charles Port Commission, who urged the retention of Article XIV, §31 of the present constitution. Chairman Lambert asked whether the outstanding bonded indebtedness of the port would be secure if the provisions relating to ports were deleted from the constitution and placed in the statutes with a provision to protect the bondholders. Mr. Benton answered that he would be very skeptical of such an approach and added that the

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port of New York is protected in their constitution. Mr. Benton closed stating that the ports must have the authority to levy property taxes and issue bonds but that he would agree to deletion of certain other sections.

The next speaker was VERNON BURHORST, director of the Louisiana Coastal Commission, who added that he was also representing Senator Robert G. Jones, president of the Louisiana Coastal Seaway Association. He suggested that a detailed structure for a department of natural resources should not be in the new constitution, but that such reorganization should be left to the legislative and executive branches of government.



The next speaker was EDWARD S. REED, executive director and general manager of the Port of New Orleans, who submitted a detailed analysis of the present constitutional provisions concerning the port with suggested changes. He stated that the New Orleans port is the second largest in the United States and has a 1.8 billion dollar impact on the state each year. He added that the port is charged with the responsibility of regulating commerce and traffic within its jurisdiction and promoting trade and that the port needs its present powers in order to respond rapidly to competition and the needs of its customers. Chairman Lambert asked whether the port was self-sustaining, and Mr. Reed answered in the affirmative. After a brief discussion regarding dedication of gasoline taxes, Mr. Reed answered to a question by Mrs. Miller that the new superport would have a positive effect on the port of New Orleans.

The final speaker before lunch was ROSS VINCENT, vice president and director of research for the Ecology Center of

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Louisiana, Inc. He presented a statement from the Orleans Audubon Society (Attachment 3), and emphasized the need for an environmental policy statement guaranteeing the right of each citizen to a healthful environment and a provision to provide for preservation of wetlands and other natural resources. Mr. Bollinger stated that it was the opinion of Richard Troy, assistant attorney general, that there are adequate provisions in the statutes to provide a remedy to environmental abuse and asked why it was necessary to have such a provision placed in the constitution. Mr. Vincent answered that citizens do not have an adequate remedy under the present law of Louisiana. (Attachment 4).

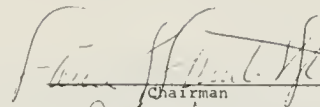
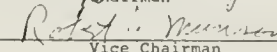
The first speaker of the afternoon was EMILE MACIASZ, assistant state treasurer, who outlined the jurisdiction of levee districts and answered questions concerning their operation. He stated that a detailed analysis of levee districts was done by a joint legislative committee chaired by Rep. Francis Lauricella (Attachment 5). He closed with the recommendation that all public revenues be turned over to the state treasurer before any action is taken in order to centralize a cash management program and that the state do away with dedication of revenues.

The final speaker was BOB MC HALE, representing Howard Neeley, executive director of the Port of Lake Charles. He discussed the operation of the port and expressed the need for a provision to enable the port to carry on its business.

Chairman Lambert then reviewed several proposals drafted by the research staff and stated that these would be considered on the following day.

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The meeting adjourned at 3:00 p.m., on May 7, 1973.

  
Chairman  
  
Vice Chairman  
\_\_\_\_\_  
Secretary

Attachment 1



## League of Women Voters of Louisiana

Municipal Auditorium -- Shreveport, Louisiana 71101

### STATEMENT TO CC/73 COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

Ladies and Gentlemen:

I am Janet Burt, Chairman of the Environmental Quality Committee of the League of Women Voters of Louisiana.

The League is a citizen group which studies specific governmental issues and after reaching common agreement, works for the implementation of our conclusions. We undertook a study of criteria for a Louisiana Constitution two years ago. Included in our conclusions were the following two items:

1. A constitution should be fundamental law, free from statutory material.
2. A constitution should be written in clear and simple language.

To implement these criteria in the environmental field a policy statement of the fundamental need for a healthful environment was considered necessary. To obtain such a statement the wording used in some other state constitutions was examined. The list of examples is included with this statement. I hope it will be of use to you and not just an addition to our ever increasing solid waste problem.

This work was done before the convening of this Convention and two suggested wordings were approved by the League. These statements have been presented to the Committee on the Bill of Rights. The longer statement which you already have before you was distributed to the local Leagues throughout the state and has been distributed through organizations which the League has worked with in the past. Testimony based on this statement has been given before the Composite Committee of this Convention in several cities. Our intention in this statement was a listing of the important elements of the Louisiana environment. The wise land stewardship component had meaning because the League has worked with the Soil Conservation Service in the promotion of Soil Stewardship Week and meant the use of wise farming practices, for the preservation on soil productivity.

The League of Women Voters is interested in a basic policy statement. The decision of the Convention to work through committees has made possible the considerable testimony already presented to you. We do not consider Article VI, Section 1 a policy statement for a healthful environment. If the listing of the main components of the Louisiana environment is not your pleasure, we will endorse a report that meets our two criteria and contains a clear policy statement on the environment.

Thank you for this opportunity to address the committee.



## League of Women Voters of Louisiana

Municipal Auditorium -- Shreveport, Louisiana 71101

### EXAMPLES OF ENVIRONMENTAL "BILL OF RIGHTS" STATEMENTS

#### Illinois Constitution - Article XI, Section 1

The public policy of the State and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations. The General Assembly shall provide by law for the implementation and enforcement of this public policy.

#### Article XI, Section 2

Each person has the right to a healthful environment. Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to

reasonable limitation and regulation as the General Assembly may provide by law.

Pennsylvania Constitution - Article I, Section 27

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all people.

New York Constitution - Article 16, Section 4

The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. The legislature, in implementing this policy, shall include adequate provision for the abatement of air and water pollution and of excessive and unnecessary noise, the protection of agricultural lands, wetlands and shorelines, and the development and regulation of water resources. The legislature shall further provide for the acquisition of lands and waters, including improvements thereon and any interest therein, outside the fores preserve counties, and the dedication of properties so acquired or now owned, which because of their natural beauty, wilderness character, or geological, ecological or historical significance, shall be preserved and administered for the use and enjoyment of the people. Properties so dedicated shall constitute the state nature and historical preserve and they shall not be taken or otherwise disposed of except by law enacted by two successive regular sessions of the legislature.

EXAMPLES OF ENVIRONMENTAL STATEMENTS (cont.)

New York Constitution - Article 16, Section 5

A violation of any of the provisions of this article may be restrained at the suit of the people or, with the consent of the supreme court in appellate division, on notice to the attorney-general at the suit of any citizen.

Rhode Island Constitution - Article 1, Section 17

The people shall continue to enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they have been heretofore entitled under the charter and usages of this state; and they shall be secure in their rights to the use and enjoyment of the natural resources of the state with due regard for the preservation of their values; and it shall be the duty of the general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and other natural resources of the state, and to adopt all means necessary and proper by law to protect the natural environment of the people of the state by providing adequate use of the natural resources of the state and for the preservation, regeneration and restoration of the natural environment of the state.

Virginia Constitution - Article XI

To the end that the people have clean air, pure water, and the use and enjoyment for recreation of adequate public lands, waters and other natural resources, it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings. Further, it shall be the Commonwealth's policy to protect its atmosphere, lands, and waters from pollution, impairment or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth.

Massachusetts - The legislature has approved and sent to the people the following constitutional amendment:

The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose.

The general court shall have the power to enact legislation necessary or expedient to protect such rights.

In the furtherance of the foregoing powers, the general court shall have the power to provide for the taking, upon payment

EXAMPLES OF ENVIRONMENTAL STATEMENTS (cont.)

of just compensation therefor, or for the acquisition by purchase or otherwise, of lands and easements or such other interests therein as may be deemed necessary to accomplish these purposes.

Lands and easements taken or acquired for such purposes shall

not be used for other purposes or otherwise disposed of except by laws enacted by a two thirds vote, taken by yeas and nays of each branch of the general court.

Compiled by the Sea Grant Legal Program at the request of the League of Women Voters of Louisiana.

Attachment 2

W. B. DODD, EXECUTIVE ASSISTANT  
NEW ORLEANS DISTRICT  
CORPS OF ENGINEERS  
PRESENTATION TO NATURAL  
RESOURCES AND ENVIRONMENTAL  
COMMITTEE  
CONSTITUTIONAL CONVENTION  
BATON ROUGE, LA.

7 MAY 1973

MR. CHAIRMAN, MEMBERS OF THE NATURAL RESOURCES AND ENVIRONMENTAL COMMITTEE:

IN RESPONDING TO A TELEPHONIC REQUEST FROM SENATOR LAMBERT'S OFFICE TO APPEAR BEFORE YOU TODAY, COLONEL HUNT, OUR DISTRICT ENGINEER OF THE U. S. ARMY ENGINEER DISTRICT IN NEW ORLEANS, ADVISED THAT HE WOULD BE PLEASSED TO ATTEND IF ON-GOING EMERGENCY OPERATIONS PERMITTED. UNFORTUNATELY, THEY DO NOT AND HE ASKED THAT I APPEAR FOR HIM.

QUITE FRANKLY, ANY STATEMENT WE MAKE ABOUT THE LOUISIANA LEVEE BOARDS. THE WAY THEY ARE SET UP AND THE WAY THEY OPERATE, IS GOING TO REVEAL PREJUDICE IN FAVOR OF LEAVING THEM AS THEY ARE. I BELIEVE THAT OUR POSITION, FROM THE FEDERAL VIEWPOINT, IS SOUND.

ON 11 DECEMBER 1972, MAJOR GENERAL CHARLES C. NOBLE, PRESIDENT OF THE MISSISSIPPI RIVER COMMISSION AND DIVISION ENGINEER OF THE LOWER MISSISSIPPI VALLEY DIVISION, U. S. ARMY CORPS OF ENGINEERS, APPEARED BEFORE THE LOUISIANA JOINT LEGISLATIVE REORGANIZATION COMMITTEE ON LEVEE BOARDS AT THE REQUEST OF THAT BODY TO TESTIFY ON OUR RELATIONSHIP WITH, AND OPINION OF, THE LOUISIANA LEVEE BOARDS. DURING THIS APPEARANCE HE MADE THE FOLLOWING STATEMENT--AND I QUOTE:

"THIS COUNTRY WAS REMINDED THIS YEAR THAT RECORD FLOODS ARE STILL POSSIBLE. A COORDINATED, WELL-MAINTAINED SYSTEM OF PROTECTIVE WORKS IS JUST AS NECESSARY TODAY IN THE LOWER VALLEY AS IT WAS, SAY IN 1927 MORESO, BECAUSE OF THE GREAT HAZARD TO PROPERTY AND LIFE IN VIEW OF THE BUILD-UP WHICH HAS TAKEN PLACE SINCE THAT TIME.

"I HAVE TAKEN OFFICIAL NOTICE OF THE CURRENT RIVER STAGES WHICH ARE SOME 8-10 FEET ABOVE THEIR 'NORMAL' LEVELS. WITH SUCH A HIGH-STAGE STARTING POINT, IF WE HAVE JUST NORMAL WINTER RAINS AND SNOWS IN THE VAST AREA DRAINED BY THE MISSISSIPPI RIVER, THEN THE MAIN STEM OF THE MISSISSIPPI MAY WELL BE AT OVERBANK STAGES NEXT SPRING. THIS RAISES THE POSSIBILITY THAT GIVEN HIGH ENOUGH RIVER STAGES, WE MAY BE USING THE BONNET GARRE FLOODWAY JUST ABOVE NEW ORLEANS FOR THE FIRST TIME IN 22 YEARS. IF INSTEAD OF JUST NORMAL WINTER RAINS WE HAVE UNUSUALLY HEAVY RAINS AND RAPID SNOW RUNOFF, THEN WE MUST BE PREPARED FOR A VERY TURBULENT SPRING SEASON." END OF QUOTE.

WE HAVE HAD UNUSUALLY HEAVY RAIN THROUGHOUT THE

MISSISSIPPI RIVER WATERSHED AND THIS SPRING, TO PUT IT MILDLY, HAS BEEN "TURBULENT." LOUISIANA IS BEING SUBJECTED TO WHAT MAY WELL TURN OUT TO BE ITS WORST FLOOD IN HISTORY.

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BUT--THE AREAS DESIGNED TO BE PROTECTED BY THE WORLD'S GREATEST MANMADE FLOOD CONTROL SYSTEM, THE MISSISSIPPI RIVER AND TRIBUTARIES PROJECT, ARE BEING PROTECTED AND A GREAT DEAL OF CREDIT FOR THIS ACCOMPLISHMENT IN LOUISIANA IS DUE TO THE LOUISIANA LEVEE BOARDS AS THEY ARE NOW CONSTITUTED.

FOR YOUR PURPOSES, I MUST GO INTO THIS STATEMENT. THE 1928 FLOOD CONTROL ACT AND SUBSEQUENT KINDRED LEGISLATION, PLACED UPON THE FEDERAL GOVERNMENT THE RESPONSIBILITY OF FLOOD-PROOFING THE LOWER MISSISSIPPI VALLEY. THIS LEGISLATION, HOWEVER, PLACED SPECIFIC RESPONSIBILITIES ON THE STATES AND PEOPLE BENEFITING FROM THE PROJECT. THE RESPONSIBILITIES ARE GENERALLY REFERRED TO AS THE "a-b-c's" OF LOCAL INTEREST PARTICIPATION AND ORIGINALLY INCLUDED ACQUISITION OF RIGHTS-OF-WAY NECESSARY FOR THE FLOOD CONTROL PROJECTS, MAINTENANCE, AND IN MANY CASES, OPERATION OF FLOOD CONTROL PROJECT FEATURES AFTER THEIR COMPLETION, AND PROTECTING THE FEDERAL GOVERNMENT FROM ACTIONS RESULTING FROM CONSTRUCTION OF FLOOD CONTROL PROJECTS. TO THESE INITIAL RESPONSIBILITIES HAVE BEEN ADDED THOSE OF FLOOD-FIGHTING, COMPLIANCE WITH PUBLIC LAW 91-646, THE UNIFORM RELOCATIONS AND ASSISTANCE ACT, AND OTHER REQUIREMENTS OF THE STATE AND LOCAL INTERESTS. IN LOUISIANA, THESE RESPONSIBILITIES BECAME THOSE OF THE LEVEE BOARDS.

3

AND WE MUST SAY FROM THE CORPS OF ENGINEERS STANDPOINT THE LOUISIANA LEVEE BOARDS HAVE, TO AN OVERWHELMING DEGREE, MET THE RESPONSIBILITIES IMPOSED BY FEDERAL LAW ADMIRABLY. FACTUALLY, THE LOUISIANA SYSTEM OF LEVEE BOARD OPERATION, WITH THE TECHNICAL ENGINEERING GUIDANCE OF THE LOUISIANA DEPARTMENT OF PUBLIC WORKS, IS THE ENVY OF ALL CORPS DISTRICTS.

WE BELIEVE THAT THE SECRET OF THE EFFECTIVENESS OF THE LOUISIANA LEVEE BOARDS LIES IN THE FACT THAT THEY ARE COMPOSED OF LOCAL PEOPLE WHO ARE FAMILIAR WITH LOCAL CONDITIONS, LOCAL PROBLEMS AND NEEDS, AND THE LOCAL PEOPLE THEY HAVE TO DEAL WITH. THAT THEY KNOW WHO TO GO TO LOCALLY FOR WHATEVER IS NEEDED UNDER ANY PARTICULAR SET OF CIRCUMSTANCES; THAT THEY ARE MOTIVATED BY THE REQUIREMENTS TO PROTECT "THEIR" PEOPLE AND; THAT THEY OPERATE UNDER ESTABLISHED LAWS THAT ARE WELL

KNOWN AND NOT SUBJECT TO CHANGE WITH EACH SHIFT OF POLITICAL WINDS.

AND WE WOULD LIKE TO ASSURE YOU THAT AT NO TIME HAS THE EFFECTIVENESS OF THE LOUISIANA LEVEE BOARDS BEEN MORE EVIDENT THAN DURING THE EXISTING HIGH-WATER CRISIS. FACTUALLY, WE--THE CORPS, THE LEVEE BOARDS, AND THE DEPARTMENT OF PUBLIC WORKS MOVED INTO A TEAM-TYPE OPERATION WITH THE COMING OF HIGH WATER THAT COULD ONLY COME INTO BEING THROUGH A COMPLETE AND LONG-TIME FAMILIARITY WITH EACH OTHER'S

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RESPONSIBILITIES, AUTHORITIES, AND METHODS OF OPERATION. AS A RESULT OF THE COOPERATIVE CARRYING OUT OF THEIR RESPONSIBILITIES BY THE LEVEE BOARDS WE KNOW, ON A CONTINUING BASIS, THE CONDITION OF EVERY MILE OF THE 974 MILES OF LEVEES INCLUDED IN THE MISSISSIPPI RIVER AND TRIBUTARIES PROJECT IN LOUISIANA. WE KNOW THAT MANY OF THE SEEPAGE AND EROSION PROBLEMS THAT ARE BOUND TO ARISE DURING PERIODS SUCH AS THOSE ARE GOING TO BE EFFICIENTLY TAKEN CARE OF BY THE LEVEE BOARDS --TO THE FULL EXTENT OF THEIR CAPABILITY. AND OF MAJOR IMPORTANCE, WE KNOW THAT OUR LEVEE SYSTEMS ARE IN THE BEST POSSIBLE SHAPE BECAUSE OF THEIR BEING PATROLLED AND PROPERLY MAINTAINED BY THE LEVEE BOARDS DURING ORDINARY TIMES BETWEEN HIGH WATERS.

WE WOULD BE REMISS IN TALKING ABOUT THE EFFECTIVENESS OF LOUISIANA LEVEE BOARDS IF WE DID NOT CITE THREE TYPICAL EXAMPLES OF THEIR EFFECTIVENESS. IN EARLY APRIL, EROSION OF A WEAK SAND STRATA SOME 60 FEET BELOW THE SURFACE OF THE RIVER CAUSED A SLOUGHING OFF OF SOME 600 FEET OF BANK IN FRONT OF MONTZ, LOUISIANA, A SMALL COMMUNITY ABOUT 25 MILES NORTH OF NEW ORLEANS. THE CAVING BANK THREATENED THE MAIN LINE LEVEE AND REQUIRED CONSTRUCTION OF A SETBACK LEVEE. THE PONTCHARTRAIN LEVEE BOARD STEPPED IN IMMEDIATELY AND ON

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REQUEST, ACQUIRED THE RIGHTS-OF-WAY NEEDED FOR THE SETBACK, SUPERVISED THE RELOCATION OF SOME 40 FAMILIES FROM THE AREA, AND GENERALLY ASSISTED IN THE EXPEDITIOUS CONSTRUCTION OF THE SETBACK. AT NAIRN, LOUISIANA, IN PLAQUEMINES PARISH, ANOTHER SUBSURFACE EROSION PROBLEM CAUSED A SLOUGHING OFF OF SOME 200 FEET OF THE FACE AND PART OF THE CROWN OF THE FRONT LINE LEVEE THAT PROTECTS THAT AREA. WE PROCEEDED IMMEDIATELY TO THE SCENE, BY AIR, AND ON ARRIVAL FOUND THE PLAQUEMINES PARISH COMMISSION COUNCIL, WHICH IS ALSO THE BURAS

LEVEE DISTRICT, MOBILIZING EQUIPMENT AND PERSONNEL AND READY TO JOIN US IN FIGHTING A CRITICAL SITUATION WE WORKED SIDE BY SIDE AS PARTNERS IN THAT EFFORT AND, IN 3 DAYS, BUILT A SETBACK NECESSARY TO PROTECT THE AREA. LAST WEEK, SUBSURFACE EROSION AGAIN CREATED A SERIOUS PROBLEM IN FRONT OF THE HERCULES CHEMICAL PLANT ABOUT 3 MILES DOWNSTREAM FROM PLAQUEMINE. ANOTHER SETBACK WAS INEVITABLE. WE CALLED ON THE ATCHAFALAYA BASIN LEVEE BOARD FOR RIGHTS-OF-WAY FOR THE LEVEE AND FOR A SUITABLE BORROW AREA. BOTH WERE PROMPTLY FURNISHED. AND THE LEVEE BOARD IS STANDING BY TO RENDER ANY OTHER ASSISTANCE NEEDED. THESE ARE ONLY THREE INCIDENTS. THERE WILL BE OTHERS, AND FROM EXPERIENCE, WE ARE CONFIDENT THAT THE LOUISIANA LEVEE BOARDS WILL REACT DURING THESE EMERGENCIES AS EFFECTIVELY AND AS EFFICIENTLY AS THEY HAVE DONE WITH US DURING ROUTINE TIMES.

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I HAVE ONLY MENTIONED THOSE LEVEE BOARDS INVOLVED IN THE MISSISSIPPI RIVER AND TRIBUTARIES PROJECT TODAY. PRIMARILY BECAUSE THIS IS THE PROJECT OF MAJOR INTEREST AT THE MOMENT. THERE ARE OTHER LEVEE BOARDS ON THE RED RIVER, THE OUCHITA AND THE BLACK, AND ELSEWHERE IN THE STATE. OUR EXPERIENCE WITH THEM HAS BEEN AS FAVORABLE AS WITH THOSE ON THE MISSISSIPPI. WE ARE GLAD THEY ARE ALL AVAILABLE AND FUNCTIONING, BOTH DURING LOW- AND HIGH-WATER TIMES.

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Attachment 3



*Orleans Audubon Society*  
A CHAPTER OF THE NATIONAL AUDUBON SOCIETY

346 Audubon Street  
New Orleans, Louisiana  
70118  
May 7, 1973

Constitutional Convention  
State of Louisiana  
Natural Resources Committee  
P.O. Box 17740 - A  
Baton Rouge, Louisiana 70803

Dear Mr. Chairman,

The 750 members of the Orleans Audubon Society believe that all the citizens of the State of Louisiana have the right to a clean and healthful environment and that the valuable natural resources of the state should be protected.

Louisiana's coastal marshes and swamps, which provide the nursery grounds for our highly esteemed fish, oysters, shrimp and crabs, are the state's most valuable resource. The area between Passcagoula, Mississippi and Port Arthur, Texas is referred to as the "Fertile Fisheries Crescent"; it is, with the exception of Peru, the world's most productive fishery area.

The haphazard drainage and leveeing of these rich wetlands is destroying productive habitat for the commercial fishing industry as well as robbing the private citizen of sportfishing and hunting areas.

It is for this reason that we ask that there be a constitutional provision for wetlands preservation that would preserve, protect, and maintain these areas for future generations.

Thank you.

Yours sincerely,

*Barry Kohl*

Barry Kohl  
Conservation Chairman  
Orleans Audubon Society

Attachment 4



*Ecology Center*  
of Louisiana, inc.

STATEMENT BY J. ROSS VINCENT  
VICE-PRESIDENT & DIRECTOR OF RESEARCH  
to the  
COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT  
LOUISIANA CONSTITUTIONAL CONVENTION

MAY 7, 1973

Mr. Chairman, Members of the Committee, my name is Ross Vincent. I am Vice-President and Director of Research of the Ecology Center of Louisiana. The Center, for those of you who are not familiar with it, is a non-profit environmental information and education agency headquartered in New Orleans. In addition, I serve as Secretary of the Citizens' Advisory Board to the Governor's Council on Environmental Quality, as Scientific Advisor to the Attorney General, and as Technical Advisor to the Louisiana Advisory Commission on Coastal and Marine Resources. I appear here today on my own behalf and as a representative of the Ecology Center of Louisiana.

I am grateful for this opportunity to discuss with you some of my ideas on the new state constitution. I apologize for not appearing last week as scheduled, but illness made it impossible.

The fact that I appear before you at this late date in your deliberations brings with it one windfall advantage for all of us. I don't have to say as much. A great deal of what I would have said had I appeared earlier has been said already by others, so I will not take up your time by repeating their arguments. I would like to reinforce briefly, however, some of the suggestions made to you in earlier testimony.

I concur with those who urge that the new constitution be a basic document. I believe that it should include:

- 1) a statement of the basic principles which should guide the state and its people in governing themselves;
- 2) a declaration of the fundamental rights and duties of the citizens of the state;
- 3) provisions which establish and properly limit the authority of state government; and
- 4) the barest skeleton of the structure of state government.

It is my feeling that it would not be appropriate for the state constitution to be used as a vehicle for creating or perpetuating any administrative or regulatory agency. I say that even though I feel very strongly that immediate steps must be taken to consolidate responsibility within state government for dealing with environmental matters. I am of the opinion that these issues are normally better handled by the Legislature than in a constitution. If, however,

P.O. Box 15149

New Orleans, Louisiana 70175

(504) 522-40

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you and the other delegates to this most important convention see fit in your wisdom to include such provisions in the constitution I would appreciate the opportunity to discuss these matters with you further.

I support wholeheartedly the suggestions of the numerous citizens of the State who have asked that the new constitution contain a statement which guarantees the right of each citizen to a clean and healthful environment. I am aware that several suggestions have been made for the specific language of such a provision. I have seen at least some of these proposals and have found them generally satisfactory, so I shall not confuse matters further by suggesting another version. However, I would welcome the opportunity to comment on the language the Committee ultimately considers.

I support the inclusion in the constitution of a statement of policy aimed at encouraging preservation of our State's invaluable and unique wetlands. The constitution should contain a firm legal basis for sound land use planning throughout the State and particularly in the Coastal Zone. It is especially appropriate that Louisiana include such language in its constitution. No state has a greater stake in wise and judicious land use than this one.

I firmly believe that the constitution should guarantee to citizens of Louisiana the right of access to the courts of the State in order to protect their right to a clean and healthful environment. I am aware that this is a controversial recommendation and, for that reason, I emphasize it all the more strongly. I am convinced that such a provision is both necessary and highly desirable.

The most frequently heard argument against such a provision is that it may result in a flood of frivolous suits, thereby adding to the difficulties of our already overburdened court system. Such speculative questions are important, especially in the context of a convention such as this one, and deserve to be answered. This particular question might be a cause for real concern if the concept of "citizen suits" were new and untried - if we had no experience upon which to base our estimates of the results of such a provision. That is not the case here and, indeed, experience tells us that such fears are groundless.

Nine states of which I am aware now grant to their citizens access to the courts on environmental matters. Two of those states grant that right in the state constitution. A recent survey of those states which have adopted such legislation reveals that the flood of lawsuits anticipated by some simply has not occurred. Moreover, officials in these states seem quite pleased with the results they have had.

The Assistant Commissioner of the Connecticut Department of Environmental Affairs says: "In the one year plus of experience the statute has not resulted in an undue burden on the Connecticut Courts." Only one suit has been filed there.

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The Attorney for the Florida Department of Pollution Control says: "The number of suits has not clogged the courts. It is too expensive and time consuming, a process for frivolous suits to be brought."

The Assistant Attorney General of Massachusetts says: "I can categorically state that the idea that there would be a flood of cases is a myth that has been exploded."

The Assistant Attorney General of Michigan says that their citizen suit legislation "is an extremely important asset in the effort to abate pollution in our state. We believe that the Act provides necessary access to the courts both for public officials and for ordinary citizens on important environmental issues." Over a third of the cases filed in Michigan have been filed by state or local government agencies.

The experience appears to be essentially the same everywhere. Such provisions have not been a burden on the courts and have proven, in fact, to be great assets. And, I think, careful analysis would lead one to that conclusion even without all of the experience we now have behind us. As one Justice of the United States Supreme Court pointed out over a year ago: "...I would permit an inarticulate expansion of our traditional concepts of standing in order to enable ... (litigation of) environmental issues. This incursion on tradition need not be very extensive. Certainly, it should be no cause for alarm... we need not fear that Pandora's box will be opened or that there will be no limit to the number of those who desire to participate in environmental litigation. The courts will exercise appropriate restraints just as they have exercised them in the past." (1)

Thus, this objection to a citizen suit provision evaporates, unless someone is prepared to argue that the citizens of Louisiana are somehow less responsible or the courts of Louisiana less competent than those of other states. I do not believe that is true and I doubt that anyone else does either.

But much more important than this for your consideration is the desperate need for such a provision. If the quality of life in Louisiana is to be protected and enhanced, then the environment in Louisiana must have access to the courts in order to protect itself. The concept of granting to inanimate objects a legal "personality" is not without precedent. Ships, for example, are granted such status in maritime law, as are corporations for a great many adjudicatory purposes.

"So it should be," says another Supreme Court Justice, "as respects valleys, alpine meadows, rivers, lakes, estuaries, beaches, ridges,

(1) Sierra Club vs. Morton, U.S. Supreme Court, No. 70-34, Mr. Justice Blackmun dissenting, April 19, 1972

### Page 4

groves of trees, swampland, or even air that feels the destructive pressures of modern technology and modern life. The river, for example, is the living symbol of all the life it sustains or nourishes...The river as plaintiff speaks for the ecological unit of life that is part of it. Those people who have a meaningful relation to that body of water - whether it be a fisherman, a canoeist, a zoologist, or a looper - must be able to speak for the values the river represents and which are threatened with destruction." (2)

But even more important than that during this Constitutional Convention is the ever-present issue of public confidence in the ability of state government to provide for its real needs. The federal government has proven far more responsive thus far to the environmental needs of the citizens of Louisiana than has our own state government. Both the Federal Clean Air Act and the Federal Water Pollution Control Act contain citizen suit provisions and there is currently a bill before Congress which would give to citizens even broader access to the federal courts than is provided by these two laws. This latter bill, or one like it, is almost certain to pass Congress in the near future. The question facing this Convention is whether or not the state of Louisiana will provide to its citizens the tools they need to deal with their problems here at home, or whether we will continue to force our people to turn to the federal government for assistance because our institutions fail to provide it.

It is my fervent hope that you would prefer - as I would - to solve these problems here - in Louisiana - and that you will take a crucial step toward realizing that goal by including in the constitution a provision allowing citizens access to the state courts on environmental matters.

I would like to make two related points briefly. The first relates to open government. It is my firm belief that the new constitution must guarantee to the citizens of Louisiana the right to participate fully in the establishing of policy and the making of decisions which affect them and their future. It is my considered opinion that the biggest single obstacle to the solution of our environmental problems - and, in fact, the root cause of most of them - is the inability of the public to participate effectively in political and economic decision making.

Some of the things which would be required, in my opinion, to insure this right and which should be included in Louisiana law, either by constitutional provision or by statute, are the following:

- 1) All meetings of state and local government agencies and quasi-governmental agencies (including advisory boards) must be open to the public, and the substance of the agenda and the time and place of the meeting must be announced prominently well in advance.
- 2) The public must have sufficient time to review proposals considered by such agencies and have an opportunity to be heard if so

(2) Sierra Club vs. Morton, U.S. Supreme Court, No. 70-34, Mr. Justice Douglas dissenting, April 19, 1972

### Page 5

- 3) The public must have full access to information regarding relevant issues.
- 4) All agencies of state and local government should be required to file with an appropriate office a complete description of their administrative procedures, which procedures should conform to clearly defined guidelines designed to maximize public involvement.
- 5) There must be a full financial disclosure by all public officials.
- 6) Registration of full information on the activities of lobbyists - including those who lobby administrative agencies with policy making or regulatory functions - should be required.

Finally, as some of you may know, I had the honor of being named by the President to serve as a member of the United States Delegation to the United Nations Conference on the Human Environment held last summer in Stockholm, Sweden. I also served as Chairman of the Subcommittee on Development and Environment of the Secretary of State's Advisory Committee on that Conference. I learned a great deal as a result of these activities and I would like to pass along to you one of the most important lessons I learned.

I emphasize the title of the Stockholm Conference - the United Nations Conference on the Human Environment, for if we learned nothing else from the Stockholm experience, we should have learned that, to the great majority of the people of the world, environment means such more than pollution abatement and wildlife conservation. For the bulk of humanity - for millions of people here and abroad - the worst pollutant of all is poverty.

I concur wholeheartedly with the words of Russell E. Train, Chairman of the President's Council on Environmental Quality and Chairman of our Delegation to Stockholm as he presented the official opening statement of the United States to the Plenary there. "I reject," he said, "any understanding of environmental improvement that does not take into account the circumstances of the hungry and the homeless, the jobless and the illiterate, the sick and the poor."

This Constitutional Convention cannot be expected to solve the poverty problem but it may be able to take steps to insure that the government of the State of Louisiana provides no unnecessary obstacles to its solution. I urge you to keep Chairman Train's words in mind as you proceed:

I am grateful for the time you have allotted me and I remain at your disposal if I can be of any further service to you as you continue your vital deliberations.

Attachment 5

LOUISIANA LEVEE DISTRICTS

ATCHAFALAYA BASIN LEVEE DISTRICT

Board of Commissioners: Harry W. Case  
 W. O. Clouse  
 B. J. Courtney  
 J. G. Duplantis  
 Volcin A. Gislair  
 George R. Lefebvre  
 James T. Marianneaux  
 Frank Merrick  
 Wilmer J. Michel  
 Julius E. Roberts  
 John C. Timman  
 C. O. Watts

Miles of Levee: 384.1

Current Tax Level: 2 1/2 mills  
Estimated Annual Revenue: \$1,199,000  
Bond Debt, January 1, 1971: \$188,000  
Obligations to Authorized Projects:

BOSSIER LEVEE DISTRICT

Board of Commissioners: R. C. Atkins  
 W. Harlan Boone  
 J. Alfred DeGueurce  
 Roy L. Pilkinton  
 E. F. Naely  
 Cody C. Beasley  
 J. A. Duman, Jr.

Miles of Levee: 52.2

Current Tax Level: 3 mills  
Estimated Annual Revenue: \$125,900  
Bond Debt, January 1, 1971: -0-

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Obligations to Authorized Projects:

Boyau Bodcau & Tributaries	-0-	Cash
	\$1,100,000	R/W, Flow Easements, Relocations
	\$1,100,000	TOTAL

CADDO LEVEE DISTRICT

Board of Commissioners: R. S. Barnwell, Jr.  
 Bruce M. Roberts  
 Joseph P. Roppolo  
 A. J. Tombrello  
 Doyton H. Waller, Jr.  
 Herbert J. Wenk, Jr.  
 (Mrs.) Mary Jane Williamson

Miles of Levee: 108.1

Current Tax Level: 1 mill  
Estimated Annual Revenue: \$190,000  
Bond Debt, January 1, 1971: -0-  
Obligations to Authorized Projects:

CAMPTI-CLARENCE LEVEE DISTRICT

Board of Commissioners: Henry Lemoine\*  
 J. B. Taylor\*  
 George Thomas\*

Miles of Levee: 32.1

Current Tax Level: 5 mills  
Estimated Annual Revenue: \$20,700  
Bond Debt, January 1, 1971: \$93,000  
Obligations to Authorized Projects:

\* Appointed by Governor Edwards

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CANE RIVER LEVEE & DRAINAGE DISTRICT

Board of Commissioners: Alton Lambre\*  
 Randolph Jones\*  
 R. M. Cook\*

Miles of Levee: 37.6

Current Tax Level: 5 mills  
Estimated Annual Revenue: \$76,600  
Bond Debt, January 1, 1971: -0-  
Obligations to Authorized Projects:

FIFTH LOUISIANA LEVEE DISTRICT

Board of Commissioners: G. A. Cheek  
 Howard Gittinger  
 Clyde D. Guthrie  
 D. H. Ratcliff  
 Walter B. Shelton  
 Archie M. Stewart  
 E. H. Stewart  
 T. D. Taunton

Miles of Levee: 291.8

Current Tax Level: 2 mills  
Estimated Annual Revenue: \$234,900  
Bond Debt, January 1, 1971: -0-  
Obligations to Authorized Projects:

LAFOURCHE BASIN LEVEE DISTRICT

Board of Commissioners: Sterling Robichaux  
 Ernest Baumaster, Sr.  
 Edward A. Defresne, Sr.  
 Horace J. Dugas  
 Bertrand Hebert

Miles of Levee: 119.8

\* Appointed by Governor Edwards

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Bert C. LeBlanc  
 Fernand Oubre  
 Maurice Tassin  
 Heldon J. Weil

Current Tax Level: None

Estimated Annual Revenue: \$1,044,100

- 6 -

Bond Debt, January 1, 1971: -0-

Obligations to Authorized Projects:

LAKE BORGNE BASIN LEVEE DISTRICT

Board of Commissioners: Albert Beshel  
Daniel Coluda  
Irvin J. G. Jansson  
Maurice Vinanou  
Miles of Levee: 69.0

Current Tax Level: 5 1/4 mills

Estimated Annual Revenue: \$421,900

Bond Debt, January 1, 1971: \$2,000,000

Obligations to Authorized Projects: (Joint Obligation with Police Jury)  
Lake Pontchartrain & Vicinity, \$11,065,000 Cash  
Hurricane Protection 4,610,000 R/W, Relocations  
\$15,675,000 TOTAL

NATCHITOCHES LEVEE & DRAINAGE DISTRICT

Board of Commissioners: U. V. Durr\*  
R. C. Anderson\*  
J. B. Howard\*  
Sam Leone\*  
Miles of Levee: 10.8

Current Tax Level: 5 mills

Estimated Annual Revenue: \$6,800

\* Appointed by Governor Edwards

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Bond Debt, January 1, 1971: \$25,000

Obligations to Authorized Projects:

NINETEENTH LOUISIANA LEVEE DISTRICT

Board of Commissioners: H. L. Gatlin\*  
William McLelland, Jr.\*  
Lynnwood Vollee\*  
Miles of Levee: 27.4

Current Tax Level: a) 5 mills  
b) \$100 per mile railroad  
c) \$50 per mile pipeline

Estimated Annual Revenue: \$13,900

Bond Debt, January 1, 1971: -0-

Obligations to Authorized Projects:

NORTH BOSSIER LEVEE DISTRICT

Board of Commissioners: H. L. Cox  
Iro A. Gleason  
A. L. Keoun  
R. M. Pittman  
Miles of Levee: 3.6

Current Tax Level: 5 mills

Estimated Annual Revenue: \$1,100

Bond Debt, January 1, 1971: -0-

Obligations to Authorized Projects:

\* Appointed by Governor Edwards

ORLEANS LEVEE DISTRICT

Board of Commissioners: Charles Deano  
Claude W. Duke  
Guy F. LeMieux\*  
Walter E. Blessey  
Phillip Ciaccio  
Benjamin Johnson  
Victor H. Schiro  
Miles of Levee: 127.9

Current Tax Level: 2 1/2 mills

Estimated Annual Revenue: \$4,573,200

Bond Debt, January 1, 1971: \$10,574,000

Obligations to Authorized Projects:  
Lake Pontchartrain & Vicinity, \$35,440,000 Cash  
Hurricane Protection 21,440,000 R/W, Relocations, Other  
\$56,880,000 TOTAL

PLAQUEMINES PARISH COMMISSION COUNCIL

(Grand Prairie Levee District)  
(Buras Levee District)  
(Buras Back Levee District)

Board of Commissioners: Cholin Perez  
Clarence T. Kimball  
Howard H. Wilcox, Jr.  
Luke Petrovich  
Chester A. Wooton  
Miles of Levee: 106.1

Current Tax Level: -0-

Estimated Annual Revenue: None

Bond Debt, January 1, 1971: -0-

Obligations to Authorized Projects:

\* Appointed by Governor Edwards

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PONTCHARTRAIN LEVEE DISTRICT

Board of Commissioners: James R. Corbett  
Dudley Dixon  
Robert R. Faucheux  
Reynolds Lambert  
Aubrey J. LaPlace  
John Lauricello, Jr.  
Harold M. Keller  
Elmo F. Rogers  
Winnie M. Vicknair  
Frederick J. Roth, Jr.  
Miles of Levee: 152.9

Current Tax Level: 4 mills

Estimated Annual Revenue: \$1,041,400

Bond Debt, January 1, 1971: \$5,335,000

Obligations to Authorized Projects:  
Lake Pontchartrain & Vicinity, \$14,180,000 Cash  
Hurricane Protection 2,140,000 R/W, Relocations  
\$16,320,000 TOTAL

RED RIVER, ATCHAFALAYA, & BAYOU BOEUF LEVEE DISTRICT

Board of Commissioners: Mitchell Napoli\*  
Malcolm A. Robolais\*  
Chester Wells\*  
Miles of Levee: 211.6

Current Tax Level: 5 mills

Estimated Annual Revenue: \$517,600

Bond Debt, January 1, 1971: -0-

Obligations to Authorized Projects:

Eastern Rapides-South Central Avoyelles	-0-	Cash
	\$1,560,000	R/W, Relocations, Other Work
	<u>\$1,560,000</u>	TOTAL

\* Appointed by Governor Edwards

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RED RIVER - BAYOU PIERRE LEVEE & DRAINAGE DISTRICT

Board of Commissioners:	James McMullen**	Miles of Levee:	36.4
	John Duco, Jr.**		
	Clarence Smith**		

Current Tax Level:	a) 5 mills
	b) 5¢ per acre
	c) \$60 per mile of railroad

Estimated Annual Revenue: \$16,900

Bond Debt, January 1, 1971: -0-

Obligations to Authorized Projects:

SOUTH LOUISIANA TIDAL WATER CONTROL LEVEE DISTRICT

Board of Commissioners:	Allen J. Dancs
	Edles Williams
	Robert F. Guidry
	Nolty J. Theriot
	Eddie Gisclair
	Roy Gisclair
	Kenneth Plaisance
	A. O. Rappelet
	Anthony Guilbeau, Member at Large
	Nolty J. Theriot, President of Board

Current Tax Level: None

Estimated Annual Revenue: None (The Atchafalaya Basin Levee District provides annually \$100,000 and the Lafourche Basin Levee District provides an additional \$200,000.)

Bond Debt, January 1, 1971: -0-

Obligations to Authorized Projects:

Grand Isle & Vicinity,	\$3,500,000	Cash
Hurricane Protection	<u>2,830,000</u>	R/W, Relocations, Other Work
	\$6,330,000	TOTAL

\*\* Governor Edwards' Appointee, Oath Not Returned

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TENSAS BASIN LEVEE DISTRICT

Board of Commissioners:	Richard L. Holdiness	Miles of Levee:	114.3
	David Gortman		
	R. H. Hammons		
	Jimmie F. Humphries		
	Rex Kervin		
	Jessie Lusk		
	R. Fried Petty		
	Wedon Smith		

Current Tax Level: 2 mills

Estimated Annual Revenue: \$1,044,100

Bond Debt, January 1, 1971: -0-

Obligations to Authorized Projects:

SUMMARY  
BOND DEBT OF LEVEE DISTRICTS  
AS OF JANUARY 1, 1971

ATCHAFALAYA BASIN LEVEE DISTRICT	\$ 188,000
CAMPTI-CLARENCE LEVEE DISTRICT	93,000
LAKE BORGNE BASIN LEVEE DISTRICT	2,000,000
NATCHITOCHE LEVEE DISTRICT	25,000
PONTCHARTRAIN LEVEE DISTRICT	5,335,000
ORLEANS LEVEE DISTRICT	<u>10,574,000</u>
TOTAL	\$18,215,000

SUMMARY  
MONETARY OBLIGATIONS OF  
LOUISIANA LEVEE DISTRICTS

TO

OUTSTANDING FEDERAL PROJECTS FOR  
FLOOD CONTROL & HURRICANE PROTECTION

<u>LEVEE DISTRICT</u> (Project)	<u>AMOUNT</u>	
<u>BOSSIER LEVEE DISTRICT</u>		
Bayou Bodcau & Tributaries	-0-	Cash
	<u>\$1,100,000</u>	R/W, Relocations, Easements
	\$1,100,000	TOTAL
<u>LAKE BORGNE BASIN LEVEE DISTRICT (Joint Obligation with Police Jury)</u>		
Lake Pontchartrain & Vicinity, Hurricane Protection	\$11,065,000	Cash
	<u>4,610,000</u>	R/W, Relocations
	\$15,675,000	TOTAL
<u>ORLEANS LEVEE DISTRICT</u>		
Lake Pontchartrain & Vicinity, Hurricane Protection	\$35,440,000	Cash
	<u>21,440,000</u>	R/W, Relocations, Other work
	\$56,880,000	TOTAL
<u>PONTCHARTRAIN LEVEE DISTRICT</u>		
Lake Pontchartrain & Vicinity, Hurricane Protection	\$14,180,000	Cash
	<u>2,140,000</u>	R/W, Relocations
	\$16,320,000	TOTAL

- 2 -

RED RIVER, ATCHAFALAYA AND BAYOU BOEUF LEVEE DISTRICT

Eastern Rapides-South Central Avoyelles	-0-	Cash
	<u>\$1,560,000</u>	R/W, Relocations, Other work
	\$1,560,000	TOTAL



SOUTH LOUISIANA TIDAL WATER CONTROL LEVEE DISTRICT

Grand Isle & Vicinity, Hurricane Protection	\$3,500,000	Cash
	<u>2,830,000</u>	R/W, Relocations, Other work
	\$6,330,000	TOTAL

GRAND TOTAL: \$97,865,000

SUMMARY  
ESTIMATED REVENUES OF  
LOUISIANA LEVEE DISTRICTS

(Based on 1970 Income)

Atchafalaya Basin Levee District	\$1,199,000
Bossier Levee District	125,900
Caddo Levee District	190,000
Campri-Clarence Levee District	20,700
Cane River Levee & Drainage District	76,600
Fifth Louisiana Levee District	234,900
Lafourche Basin Levee District	1,044,100
Lake Borgne Basin Levee District	421,900
Natchitoches Levee & Drainage District	8,800
Nineteenth Louisiana Levee District	13,900
North Bossier Levee District	1,100
Orleans Levee District	4,573,200
Ploquemes Parish Commission Council*	-0-
Pontchartrain Levee District	1,041,400
Red River, Atchafalaya, & Bayou Boeuf Levee District	517,600
Red River - Bayou Pierre Levee & Drainage District	16,900
South Louisiana Tidal Water Control Levee District	-0-
Tensas Basin Levee District	1,014,100
TOTAL, 20 Levee Districts.....	\$10,530,100

\* Basin Levee District, Basin Back Levee District, and Grand Prairie Levee District are included in this levee district.

SUMMARY  
MILES OF LEVEES IN  
LOUISIANA LEVEE DISTRICTS

Atchafalaya Basin Levee District	384.1 miles
Bossier Levee District	52.2
Caddo Levee District	108.1
Campri-Clarence Levee District	32.1
Cane River Levee and Drainage District	37.6
Fifth Louisiana Levee District	291.8
Lafourche Basin Levee District	119.8
Lake Borgne Basin Levee District	69.0

Natchitoches Levee and Drainage District	10.8
Nineteenth Louisiana Levee District	27.4
North Bossier Levee District	3.6
Orleans Levee District	127.9
Ploquemes Parish Commission Council*	106.1
Pontchartrain Levee District	152.9
Red River, Atchafalaya, & Bayou Boeuf Levee District	211.6
Red River - Bayou Pierre Levee & Drainage District	36.4
Tensas Basin Levee District	114.3

MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on May 2, 1973

Mineral Board Hearing Room,  
Natural Resources Building,  
Baton Rouge, Louisiana,  
Tuesday, May 8, 1973, 9:30 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Mrs. Ruth Miller  
Rep. Robert Munson  
Thomas W. Leigh  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

Absent:

Rep. Richard P. Guidry

Sgt. at Arms: Glenn Koepp

Following an opening prayer by Mr. Womack and the Pledge of Allegiance, the committee adopted the minutes of the previous meeting. Chairman Lambert requested the research staff to explain each constitutional provision to be considered by the committee and added that the committee would take final votes on the issues.

Mr. Derbes moved to delete Article III, §37, but Mr. Hardee made a substitute motion to defer action until the next meeting; the substitute motion carried with no objection.

The committee deferred until the next meeting the reclamation exception of Article IV, §2 and adopted unanimously the second paragraph of this article.

Mr. Leigh moved that the committee consider only that part of the third paragraph of Article IV, §2 that deals with the Royalty Road Fund and leave the remainder to the Committee on Revenue, Finance and Taxation; the motion carried with no objection. Mr. Womack moved to retain that part of Article IV, §2 which pertains to the Royalty Road Fund; Mr. Singletary made a substitute motion to delete the same and place it in the schedule which requires a two-thirds vote. The substitute motion failed (14 nays and 2 yeas); the original motion carried (12 yeas and 4 nays).

Mr. Singletary moved to delete the first clause in Article IV, §2(b), and Mr. Jack made a substitute motion to retain it. The substitute motion carried (12 yeas and 3 nays). Velazquez moved to delete the second clause in Article IV, §2(b), and Mr. Munson made a substitute motion to retain it. The substitute motion carried (8 yeas and 7 nays).

Mr. Derbes moved to delete Article IV, §2(c); the motion carried with no objection.

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Mr. Velazquez moved to delete Article IV, §2(d), and Mr. Munson made a substitute motion to retain it; the substitute motion carried (10 yeas and 5 nays).

A roll call vote was taken on a motion by Mr. Derbes and seconded by Rep. Thompson that votes taken on substantive constitutional issues be binding votes and subject to reconsideration only upon the vote of a majority of the membership of the committee. The motion carried with the following vote:

Bollinger (yea)  
Derbes (yea)  
Elkins (yea)  
Hardee (yea)  
Jack (yea)  
Lambert (yea)  
LeBleu (yea)  
Leigh (yea)  
Miller (yea)  
Munson (yea)  
Perkins (nay)  
Singletary (nay)  
Thompson (yea)  
Velazquez (nay)  
Warren (nay)  
Womack (not voting)

VDTE: 11 Yeas  
4 Nays  
1 Not Voting (Womack)  
1 Absent (Guidry)

Mr. Munson moved that the commissioner of agriculture be retained as an elected official; the motion carried (14 yeas and 1 nay). Miss Perkins moved to delete that part of Article V, §1 which authorizes the legislature to consolidate the commissioner's office; the motion carried (14 yeas and 1 nay).

Mr. Velazquez moved that all reference to the register of the state land office be deleted and placed in the schedule requiring a two-thirds vote; Mr. Derbes made a substitute motion that it simply be deleted. The substitute motion carried (10 yeas and 3 nays).

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Mr. Velazquez moved that all reference to the commissioner of conservation be deleted and placed in the schedule requiring

a two-thirds vote; Mrs. Miller made a substitute motion that it simply be deleted. The substitute motion carried with no objection.

Mr. Jack moved to delete Article V, §20; the motion carried without objection.

Mr. Thompson moved that Article VI, §19 be referred to the Committee on Local and Parochial Government; the motion carried (10 yeas and 3 nays).

Mr. Velazquez moved to defer action on Article VI, §27 until the next meeting; the motion carried with no objection.

Mr. Velazquez moved that Article X, §4 be referred to the Committee on Revenue, Finance and Taxation; the motion carried with no objection.

Mr. Velazquez moved that the ceiling on sulphur severance taxes in Article X, §21 be deleted, and Mr. Jack made a substitute motion to refer the entire provision to the Committee on Revenue, Finance and Taxation; the substitute motion carried (9 yeas and 4 nays).

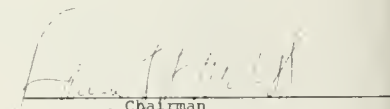
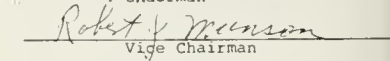
Mr. Derbes moved to delete Article XIII, §6; the motion carried without objection.

Mr. Velazquez moved to defer action on Article XIV, §30 until the next meeting; the motion carried with no objection.

Mr. Womack moved to defer action on Article XIV, §§38, 38.1, 39, 44, and 44.1 until the next meeting; the motion carried without objection.

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The meeting adjourned at 4:30 p.m., on May 8, 1973.

  
Chairman  
  
Vice Chairman  
Secretary

#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on

June 8, 1973

Room 304, LSU Law School,  
Baton Rouge, Louisiana,  
Friday, June 15, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald P. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Rep. Robert Munson  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George A. Warren

Absent:

Rep. Richard P. Guidry  
Wellborn Jack  
Rep. Lantz Womack

The meeting was called to order by the chairman, and after the opening prayer led by Mr. Hardee and the Pledge of Allegiance, the roll call was taken by the secretary.

Mrs. Miller and Mr. Jack were granted leaves of absence due to medical reasons.

Mr. Munson moved that the committee not meet on Sunday; the vote passed unanimously.

The agenda was read and the staff then gave an up-to-date review of action taken on constitutional provisions already considered by the committee; the staff was asked to furnish copies of Article IV, §12(b) to the Committee on Local and Parochial Government.

The committee then began to discuss those provisions not yet considered.

Concerning Article IV, §12(b) relative to the State Market Commission, a motion was made by Mr. Munson that this provision remain in the constitution provided §12 would not be changed, and the motion received no objection. Mr. Munson also moved that Section 12 will be liberalized enough that Article IV, §12(b) will be placed in the two-thirds statutes, to which there was no objection. Mr. Munson offered the same motion regarding Article IV, §12(c), to which there were no objections.

A discussion followed concerning a proposal introduced by Mr. Jack and coauthored by Mr. Derbes (CC-90) regarding environmental protection, resource management, and rights of individuals. Mr. Derbes moved for the adoption of §1 of Proposal CC-90, lines 10 through 20, regarding public policy.

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Mr. Bollinger made a motion to delete line 14 on page 1, ("and an environment...noise;") and add a semicolon ";" after "water" on line 14. The vote was favorable (9 YEAS; 3 NAYS) and the motion passed. Mr. Leigh moved for deletion of the clause on line 15 ("to adequate...recreation;"). Mr. Hardee then moved to discuss the Jack and Singletary proposals together, but the motions were withdrawn on request by the chairman. The staff then read both proposals and they were discussed.

Mr. Derbes then presented a proposal. Mr. Leigh presented a proposal, and a discussion followed.

Following a recess for lunch, the committee then heard motions by Messrs. Derbes and Leigh for adoption of their proposals. Mr. Thompson moved a substitute motion to adopt Mr. Thompson's proposal. Mrs. Miller offered an amendment to Mr. Thompson's proposal, and Mr. Munson moved that the amendment by Mrs. Miller be adopted, to which there were no objections and the motion passed. Mr. Derbes moved for an amendment to precede Mr. Thompson's proposal ("In accordance with the public policy expressed herein, each person has a right to a healthful environment.") and the motion failed (7 YEAS and 7 NAYS). Mr. Thompson voiced objection and Mr. Munson moved the previous question. A vote was taken on Mr. Thompson's proposal, as amended, and it passed favorably (11 YEAS and 3 NAYS). Mr. Derbes moved to reconsider the motion regarding the second sentence of Mr. Leigh's proposal. Mr. Munson objected and a discussion was held on the rules.

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A vote was taken on the motion by Mr. Derbes and it passed by a vote of 9 YEAS to 5 NAYS. Also receiving approval was the addition of a healthful, scenic, historic, and esthetic qualities of the environment offered by Mr. Derbes to be added to Mr. Leigh's proposal. (10 YEAS to 4 NAYS). After all amendments, deletions, and additions, Mr. Munson moved for adoption of Mr. Leigh's proposal and the motion passed favorably (13 YEAS to 1 NAY).

The discussion then moved to the Wildlife and Fisheries Commission. A motion was made by Mr. Derbes to delete this section and place it in the statutes. Mr. Singletary made a substitute motion to delete this section from the constitution. Miss Perkins offered a substitute motion to include provisions A-1 and a portion of A-2, and delete the remaining portions of the now-existing Article VIA, §1. The two motions by Messrs. Derbes and Singletary were withdrawn and the staff was requested to draw up a proposal regarding the motion presented by Miss Perkins.

The discussion then moved to the Forestry Commission (Article VI, §1(b)). Mr. Velazquez coauthored the Perkins proposal and Mr. Derbes offered a substitute proposal regarding wildlife and aquatic life of the state. On an objection by Mr. Munson, a roll call vote was taken and the motion failed (3) YEAS (Derbes, Miller, Velazquez, Warren to (10) NAYS (Bollinger, Elkins, Hardee, Lambert, LeBleu, Leigh, Munson, Perkins, Singletary, Thompson). Mr. Singletary moved to delete everything from the constitution regarding wildlife and fisheries and the motion failed by a vote of 3 NAYS to 10 YEAS, with one abstention (Mrs. Warren). There was an objection to

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the motion by Miss Perkins. Mr. Leigh offered a substitute amendment to the Perkins proposal and it passed favorably (12 YEAS to 2 NAYS). Mr. Derbes offered an amendment to the Perkins proposal using the words "control and supervision of" to which there was no objection and the motion passed favorably. An amendment to the proposal by Mrs. Miller failed by a vote of 12 NAYS to 2 YEAS and there were objections by Mr. Velazquez and Mr. Munson.

Mr. Munson moved to adopt Mr. Leigh's substitute amendment, to which there was no objection and the motion passed. The proposal was adopted as amended. Mr. Leigh offered an amendment showing "terms of 5 years each" and there were no objections and the amendment was adopted (Article VI, §1(b)).

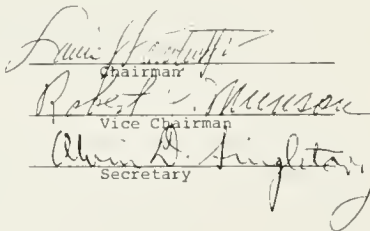
Mr. Velazquez moved that the Forestry Commission be deleted from the constitution and the motion failed (5 YEAS to 9 NAYS). Another motion by Mr. Velazquez that the head of forestry at Louisiana Tech be an exofficio member of the Wildlife and Fisheries Commission failed by a vote of 2 YEAS to 12 NAYS. Mr. Leigh offered a technical amendment which changed the title of commissioner to director, to which there was no objection and the amendment was adopted. Mr. Leigh offered an amendment stating "the specific functions, duties, and responsibilities of the commission, and the compensation of its members shall be as provided by the legislature" was adopted without objection.

Mr. Leigh offered an amendment stating "the forests of Louisiana recognized as a long term renewable resource requiring protection, replacement, and management" and a vote was taken on objection by Mr. Velazquez. The motion passed

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favorably (12 YEAS to 2 NAYS). The previous question was called for by Mr. Munson and passed favorably by a unanimous vote (14 members voting).

The meeting adjourned until 9:00 a.m., Saturday, June 16, 1973.

  
Louis H. Woodruff  
Chairman  
Robert J. Munson  
Vice Chairman  
Alvin D. Singletary  
Secretary

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MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the

Secretary of the Convention on

June 8, 1973

Room 304, LSU Law School,  
Baton Rouge, Louisiana,

Friday, June 16, 1973, 9:00 a.m.

Presiding: Robert J. Munson, vice-chairman, and Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald P. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Rep. Robert Munson  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren

Absent:

Rep. Richard P. Guidry  
Wellborn Jack  
Rep. Lantz Womack

Sgt. at Arms: None

The meeting was called to order by the vice chairman, Mr. Munson, and after the opening prayer led by Mrs. Warren and the Pledge of Allegiance, the roll call was taken by the secretary.

The first topic of discussion was the Public Service Commission. Mr. Thompson offered a motion that the PSC consist of five members instead of three failed to carry (5 YEAS to 9 NAYS), however, a motion by Delegate Velazquez naming seven members instead of three passed favorably (8 YEAS to 6 NAYS). Mr. Derbes offered a substitute motion adding the words "nor shall the commission have any authority to regulate the price of natural gas sold for industrial use" and this motion passed favorably (8 YEAS to 6 NAYS).

Delegate Leigh offered a proposal concerning the PSC and its powers, to which Delegate Hardee offered an amendment inserting the word "natural" between "which" and "gas" on the last line of the first paragraph of Mr. Leigh's proposal, and this amendment passed favorably (11 YEAS to 2 NAYS). Mr. Derbes offered a substitute motion to Mr. Leigh's proposal, which in effect offered paragraphs 2, 3, and 4 on page 38 of Staff Comments in lieu of proposal by Mr. Leigh and moved for its adoption. Motion passed favorably (12 YEAS to 2 NAYS).

Following a recess for lunch, Mr. Leigh presented a proposal as a substitute to the Derbes proposal and his proposal was adopted (11 YEAS to 2 NAYS).

The committee then discussed Article VI, §13. On a motion by Mr. Thompson to retain this section in the constitution, the committee voted favorably with no objections.

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The committee then discussed Article VI, §14. A motion by Mr. Velazquez to adopt this section failed. A substitute motion by Delegate Bollinger to the effect that this section be deleted and put in statutes passed favorably (8 YEAS to 6 NAYS). A motion by Mr. Derbes "directing the legislature to enact laws fostering and regulating agriculture and domestic animals to the end that the general health, safety, and welfare be promoted" failed to carry (5 YEAS to 9 NAYS). Mr. Velazquez then moved that §14 be placed in the statutes. Mr. Thompson moved to reconsider deletion of Article VI, §14 but the motion failed to carry (8 NAYS to 6 YEAS).

The committee then discussed Article VI, §19.3. Miss Perkins made a motion to defer action on this section until a report is received from the Executive Committee. The motion passed with no objection. A motion by Mr. LeBleu that "if constitutional provision is left as it is, this provision will be left in constitution" passed with a show of hands. Another motion by Mr. LeBleu that "if this provision is liberalized, that this section will be removed" passed with no objection.

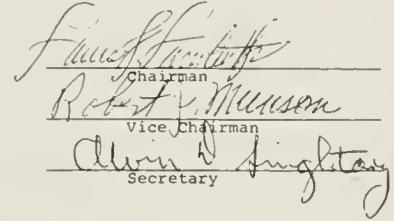
The committee then discussed Article VI, §27. On a motion by Mr. Bollinger the committee voted unanimously to delete this section. Mr. Velazquez moved to delete this section and place it in the statutes. All were in favor. Mr. Bollinger made a motion adding the words "except for purposes of reclamation by the riparian owner..." and later withdrew this motion. Mr. Velazquez moved to add the words "for the ten years prior to reclamation" and later withdrew his motion. Mrs. Miller moved for a five-year

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liberative prescription and later withdrew her motion. Mrs. Miller then offered a new proposal which stated "recover land lost through erosion occurring subsequent to the date of adoption of this constitution, provided such reclamation is effected within ten years from the date on which erosion occurs. The mineral rights...". After a substitute motion by Mr. Singletary to adjourn failed on a show of hands, the committee then heard a motion by Mr. Bollinger to adopt the Miller Proposal, as amended. Mr. Thompson then moved to delete the previous motion. The committee then voted on a motion by Mr. Velazquez to adopt the Miller Proposal. The motion adopting the Miller Proposal passed favorably (7 YEAS, 5 NAYS, 1 PASS (Perkins)). Mr. Hardee proposed an amendment to add the following "Except as provided herein, no bed of any navigable water body may be reclaimed except for public use". It was adopted with no objection.

Delegate Thompson moved to refer the balance of Article IV, §§38, 38.1, 39, 44, and 44.1 to the Committee on Local and Parochial Government. The motion carried with no objection.

Mr. Velazquez moved for adjournment until Monday, June 18, 1973, at 9:00 a.m., and the meeting adjourned with no objection.

  
Chairman  
Vice Chairman  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on June 8, 1973

Room 304, LSU Law School,  
Baton Rouge, Louisiana,  
Saturday, June 18, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

#### Present:

Donald P. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Mrs. Ruth Miller  
Rep. Robert Munson  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren

#### Absent:

Rep. Richard P. Guidry  
Wellborn Jack  
Thomas W. Leigh  
Rep. Lantz Womack

Sgt. at Arms: None

The meeting was called to order by the chairman. Roll call was taken and the committee then discussed a proposal by Mrs. Miller concerning geothermal energy. Mrs. Miller withdrew the original proposal and offered an amended proposal which the committee adopted by a unanimous vote (13 members voting). Mrs. Miller asked for volunteer workers on the geothermal proposal and Mr. Velazquez moved that Mrs. Miller's committee be designated as the first subcommittee of the Natural Resources Committee, but Mr. Lambert offered a substitute motion that "the committee of the whole be the subcommittee for geothermal energy" and the substitute motion passed with no objections. Mrs. Miller was named chairman.

Water resources were then discussed by the committee.

Mr. Velazquez offered a substitute motion "that the state shall conserve and may provide for the management, regulation, development, and utilization of water resources for the benefit of all people including future generations" but later withdrew his motion. Mr. LeBleu's motion to end debate on Mr. Thompson's proposal failed by a vote of 10 NAYS to 3 YEAS. Mr. Velazquez made a motion stating "that the state may conserve and may provide for the management, regulation, development...water resources" but the motion failed to carry (8 NAYS to 5 YEAS). Mrs. Warren offered a substitute motion to use "shall" in the place of "may" in Proposal CC-86 but the motion failed to carry (7 NAYS to 6 YEAS).

The committee then discussed "alluvion." Mrs. Miller offered and discussed her proposal but later withdrew it.

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Miss Perkins offered a substitute motion to defer action on alluvion and later withdrew her motion. Mrs. Miller then resubmitted her proposal with changes ("Mineral revenues from ...") and the proposal was adopted, as resubmitted (10 YEAS to 3 NAYS).

The committee then discussed "clam and reef shell." Mr. Velazquez offered a proposal (CC-91) but the proposal failed to be adopted [8 NAYS to 4 YEAS and 1 PASS (Hardee)]. Mr. Velazquez then made the motion "that municipalities be given first choice on purchases", but later withdrew his motion. Miss Perkins then offered a substitute motion to recommend that the Committee on Revenue, Finance, and Taxation adopt the Green Belt Theory, but later withdrew her motion.

After a five-minute recess, Miss Perkins made the same motion for adoption of the Green Belt Theory by the Committee on Revenue, Finance, and Taxation and the motion passed [11 YEAS, 1 NAY, 1 PASS (Warren)]. Mr. Velazquez offered an amendment stating "that a recommendation be made to encourage giving green belt rights to municipalities." The motion failed [8 NAYS, 2 YEAS, 3 PASSES (Singletary, Thompson, Warren)].

Miss Perkins moved to recommend to the Committee on Revenue, Finance, and Taxation giving ad valorem tax exemption on farm equipment. The motion passed with no objection.

Mr. LeBleu moved that "mineral rights to land lost by erosion caused principally by acts of man, on a navigable water body, are retained by the riparian landowner" and the motion passed [6 YEAS to 4 NAYS, with 3 PASSES (Munson, Thompson, Warren)]. Mr. Velazquez offered an amendment stating

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"a prescriptive period of ten years" but the motion failed to pass [11 NAYS, 1 YEA, 1 PASS (Warren)].

Delegate Thompson moved to authorize the staff to draw

up adopted proposals and mail them to the delegates. The motion passed with no objection.

Mr. Velazquez moved to reconsider Mr. LeBleu's proposal and put it in the statutes. The motion failed (9 NAYS to 4 YEAS).

On a motion by Mr. Munson, the meeting adjourned with no objections at 1:00 p.m.

*Francis J. Hardee*  
Chairman  
*Robert A. Munson*  
Vice Chairman  
*Alvin D. Singletary*  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on July 11, 1973

Senate Lounge, State Capitol Building, Baton Rouge, La., Thursday, July 12, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald P. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Mrs. Ruth Miller  
Rep. Robert Munson  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

Absent:

Rep. Richard P. Guidry  
Thomas W. Leigh  
Miss Lynn Perkins

The meeting was called to order by the chairman, and after the opening prayer led by Mrs. Warren and the Pledge of Allegiance, the roll call was taken by the secretary.

The committee met to consider Committee Proposal No. 16 introduced to the Convention on July 6, 1973, on behalf of the Committee on Natural Resources and Environment. Each section of the proposal was read and discussed and action taken was as follows:

Article VIII, §1, dealing with alienation of water bottoms was amended to provide deletion of the words "occurring subsequent to the date of adoption of this constitution," on lines 18 and 19 on page 1, and continued with said section to line 23 on page 1 after the word "use." It was decided by the committee that this section would be divided into two sections. Section 1 was divided and approved as follows:

"Section 1. Alienation of Water Bottoms  
Section 1. The legislature shall neither alienate nor authorize the alienation of the beds of navigable water bodies except for purposes of reclamation by the riparian owner to recover land lost through erosion, provided such reclamation is effected within ten years from the date on which the erosion occurs. Except as provided herein, no bed of any navigable water body may be reclaimed except for public use."

Section 2 was divided and approved as follows:

"Section 2. Reservation of Mineral Rights  
Section 2. The mineral rights on all property sold by the state shall be reserved, except where the owner or other person having the right to redeem may buy or redeem property sold or adjudicated to the state for taxes. This shall not prevent the leasing of such lands for mineral or other purposes."

The vote taken on dividing the two sections was favorable [11 YEAS, 1 NAY, 1 ABSTENTION (Mrs. Warren)].

-2-

Concerning §3 (shown as §2 of the proposal) dealing with the royalty road fund, Mr. Velazquez requested postponement of this section due to the absence of Miss Perkins who wished to submit amendments. There were no objections to the postponement of this section.

Concerning §4 (shown as §3 of the proposal), dealing with minerals beyond three-mile limit, there were no objections to postponement of this section due to the absence of Miss Perkins who wished to submit amendments.

Concerning §5 (shown as §4 of the proposal), dealing with tideland mineral revenues and use of funds, there were no objections to postponement of this section due to the absence of Miss Perkins who wished to submit amendments.

Concerning §6 (shown as §5 of the proposal), dealing with the commissioner of agriculture, Mr. Jack moved for adoption of this section as written. The vote was favorable with one abstention (Mrs. Warren) and an objection.

Concerning §7 (shown as §6 of the proposal), dealing with natural resources and environment and public policy, the committee voted to approve this section as amended by Messrs. Bollinger and Jack. Section 7, as amended and adopted reads as follows:

"Section 7. Natural Resources and Environment;  
Public Policy

Section 7. The natural resources of the state, including air and water, and also the healthful, scenic, historic, and esthetic quality of the environment, shall be protected, conserved, and replenished, insofar as possible and consistent with the health, safety, and welfare of the people. The legislature shall implement this policy by appropriate legislation."

This section was adopted with no objection (11 members present).

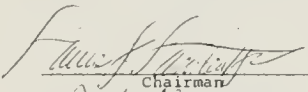
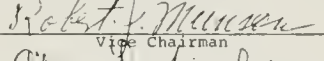
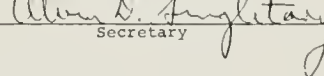
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Concerning §8 (shown as §7 of the proposal), dealing with the Wildlife and Fisheries Commission, the committee voted to approve this section as written. The section was adopted with a favorable vote of 10 YEAS to 2 NAYS.

Concerning §9 (shown as §8 of the proposal), dealing with the Forestry Commission, the committee voted to approve this section as written. The section was adopted with a favorable vote of 10 YEAS and no objection.

Concerning §10 (shown as §9 of the proposal), dealing with the State Forester, the committee added the words "operate or" after the word "to" at the end of line 21 on page 6, and before the word "regulate" at the beginning of line 22 on page 6 of the proposal. The committee held this subject matter over until the next meeting.

On a motion by Mr. Velazquez, the meeting adjourned at 3:00 p.m.

  
Chairman  
  
Vice Chairman  
  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary of the Convention on July 13, 1973

Senate Lounge, State Capitol Building, Baton Rouge, La., Thursday, July 19, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald P. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

Absent:

Rep. Richard P. Guidry  
Rep. Robert Munson

Sgt. at Arms: Glenn Koeppe

The meeting was called to order by the chairman, and after the opening prayer led by Mrs. Warren and the Pledge of Allegiance, the secretary called the roll.

Chairman Lambert suggested the committee consider the amendments by Miss Perkins regarding the Royalty Road Fund (§§2, 3, and 4 of Committee Proposal No. 16) but the committee decided to defer consideration of these amendments in order to take up the matter of the Public Service Commission. The committee then heard from HENRI WOLBRETTE concerning the regulation of natural gas, after which a straw vote was taken on Section 10 and it was adopted without objection.

The chairman then introduced PAUL BORRON of Plaquemine, Louisiana, attorney for the American Sugar Cane League, who expressed concern about the energy crisis and questioned whether Section 11 (now Section 12) would require legislative action to implement regulation of natural gas and determination of priorities as to its use. Scott Reis of the research staff agreed that the section was broad but that it would not be self-operative. After hearing from Mr. Borron, Mr. LeBleu asked for a delay in the adoption of Section 11 until Section 12 could be taken up. Miss Perkins joined in Mr. LeBleu's suggestion to defer action on Section 11 temporarily until Section 12 was considered, to which Mr. Velazquez objected. A vote was taken and action was deferred by a vote of 7 YEAS to 6 NAYS, with Chairman Lambert voting yes to break the tie vote.

Chairman Lambert stated there were representatives present from Texaco, Department of Commerce and Industry, Louisiana Manufacturers Association, and the Louisiana Sugar Cane League.

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Mr. Hardee requested the committee hear from these representatives and received a second from Mr. Jack. An objection was heard from Miss Perkins since some members of the committee still had questions to direct to Mr. Wolbrette. No final action was taken on Section 12. Mr. Womack requested to hear from the sugar cane people since their livelihood depended on natural gas, at which time Mr. Thompson offered a motion to sustain the chair, to which an objection was made by Mr. Velazquez. A vote was taken and passed by a vote of 8 YEAS to 7 NAYS, with Chairman Lambert voting yes to break the tie.

The committee then received a written statement from FDRD S. LACEY, executive vice president of the Louisiana Manufacturers Association.

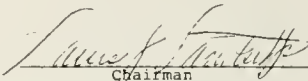
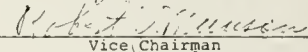
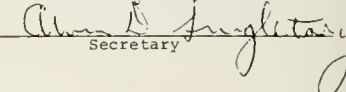
The chairman then recognized JAMES H. THIBAUT, president of the American Sugar Cane League, who in turn introduced members representing the various sugar cane industries. Those members present were: Paul Borron, Plaquemine, Louisiana, attorney for Sugar Bowl Gas; Gilbert Durin, vice president and general manager of the Sugar Cane League; Ray Waguespack, New Orleans, associated with Southdown Sugars; Charles Savoie, associated with Dugas & LeBlanc of Assumption Parish; Charles Hobson, economist; Neal Bolten with Caldwell Sugars; J. J.

Supple, with J. Supple and Sons of Bayou Goula; Berkshire Terrell of Cinclare Plantation; and Joe Melancon of Napoleonville.

Mrs. Warren was excused from the meeting at 12:00 noon in order to get to the meeting of the full convention for 1:00 p.m. The committee then heard from HENRI WOLBRETTE.

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On a motion by Mr. Velazquez, the meeting adjourned at 12:40 p.m.

  
Chairman  
  
Vice Chairman  
  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention House Chamber, State Capitol, Baton Rouge, Louisiana, Thursday, July 26, 1973, 9:00 a.m.

Presiding: Tom Stagg, chairman of the Committee on the Executive Department

#### Present:

Donald P. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wallborn Jack  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Rep. Robert Munson  
Miss Lyn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

#### Absent:

Rep. Richard P. Guidry  
Sgt. at Arms: Eddie L. Joe

A joint meeting was held with the Committee on the Executive Department for the purpose of hearing witnesses of



the various industrial manufacturers and state departments and to discuss the subject of the jurisdictional sale of natural gas and its byproducts for industrial users by the Public Service Commission. Chairman Lambert of the Committee on Natural Resources and Environment asked Delegate Stovall to open the meeting with prayer, after which Delegate Bollinger led the Pledge of Allegiance. Roll call was then taken by the secretary.

Chairman Stagg recognized the first speaker, GENE CRETINI, director of advertising for the Department of Commerce and Industry. Mr. Cretini stated that "the existing laws (Article VI, §4) be incorporated in the new constitution, and whatever authority needed to insure adequate supply in an emergency be vested elsewhere."

The next witness to be recognized was ED KENNON, public service commissioner, Minden, Louisiana. Mr. Kennon stated that the commission "has a critical need to regulate all sales of natural gas within the State of Louisiana" and further, "that industries' right-to-profit be second to the people of Louisiana's right to have natural gas for domestic consumption." In answer to a request from Dr. Asseff that he submit to these two committees the Public Service Commission's recommendations and specific provisions on what should be included in the proposal concerning the Public Service Commission, Mr. Kennon stated he would be happy to. He stated that the PSC should be a constitutional office and that a commission composed of three members

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was adequate; what was needed was full-time staffs going into utility companies and gas companies and determining reserves; more qualified accountants, auditors, and engineers.

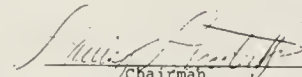
The next speaker to be recognized was JAMES THIBAUT, president of the American Sugar Cane League. Mr. Thibaut stated that the "prohibition over sales of natural gas to industrial users may have been sensible before the current energy crisis, but makes no sense now." He felt the need for a public agency (PSC) allocating or rationing the available gas supplies in accordance with priorities which reflect the public's needs.

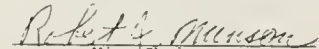
The chairman then recognized HENRI WOLBRETTE, vice president of the Louisiana Chemical Association. Mr. Wolbrette stated that essential human needs are the first order or priority under the Federal Power Commission and this fourteen percent will be satisfied because the PSC will make sure that these needs in Louisiana will be taken care of. Mr. Wolbrette stated that domestic users can get interstate gas but the only source of gas for industries in Louisiana is from intrastate pipelines. Chairman Stagg requested that Mr. Wolbrette submit to these committees information about a mechanism that would control delivery of natural gas. Mr. Wolbrette agreed to furnish this to the committees. Mr. Wolbrette also agreed to consider proposed language by Mr. Jack to the effect that "the legislature may pass laws for the PSC to regulate the price and distribution of

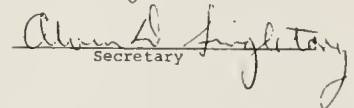
natural gas sold for industrial uses", thereby giving the PSC permission to go into this field.

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The meeting adjourned at 12:00 noon to go into a meeting of the whole convention at 1:00 p.m.

  
Chairman

  
Vice Chairman

  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973  
Held pursuant to notice mailed by the Secretary of the Convention in accordance with the Rules of the Convention

House Chamber, State Capitol,

Baton Rouge, Louisiana

Friday, July 27, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., Chairman of the Committee on Natural Resources and Environment

#### Present:

Donald P. Bollinger  
James G. Derbes  
R. M. Elkins  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

#### Absent:

Rep. Richard P. Guidry  
H. G. Hardee, Jr.  
Wellborn Jack  
Rep. Robert Munson

Sgt. at Arms: Eddie L. Joe

The committee met in joint session with the Committee on the Executive Department to continue hearing representatives of the various industrial manufacturers and state departments relative to the sale of natural gas to industrial users by the Public Service Commission.

Chairman Lambert asked Delegate Alexander to open the meeting with a prayer, after which Delegate Dennery led the Pledge of Allegiance. The roll call was taken by the secretary.

The first speaker to be recognized was CHARLES PASQUA, executive director of the Louisiana Municipal Association. Mr. Pasqua recommended that the new constitution enable the PSC to provide for curtailment of natural gas to satisfy domestic and commercial customers when shortages of fuel occurs and this could be accomplished by giving the legislature authority to enact statutes to authorize the PSC to protect Louisiana consumers by taking such action as it deems necessary.

The next speaker recognized was FORD S. LACEY, executive vice president of the Louisiana Manufacturers Association. Mr. Lacey did not favor regulation by the PSC and stated "the interests of the public in the supply of energy needs could best be met through free enterprise." He also felt that in order to meet essential human needs, the PSC should not have jurisdiction each day of the year. Mr. Lacey told the committees that his association would come up with a reasonable alternative and will make it available to the committee within a short time.

The next speaker to be heard was GARY KEYSER, assistant attorney general, who represented the office of the attorney general. Mr. Keyser suggested adopting a broad general provision

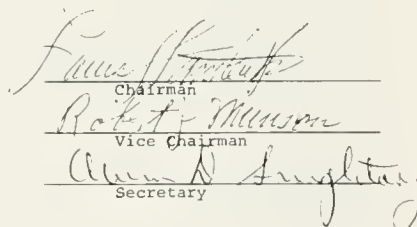
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which would give the PSC authority to regulate, but leave the details up to the legislature.

The next speaker was KENNETH KAHAO, chairman of the Louisiana Farm Bureau Federation's Sugar Advisory Committee, who also represented the Louisiana Farm Bureau Federation. Mr. Kahao spoke in support of placing all intrastate gas under the jurisdiction of the PSC.

Chairman Lambert announced to the Committee on Natural Resources and Environment that at the next meeting the members should be prepared to take definitive steps on proposals presented to this committee.

The meeting adjourned at 11:30 a.m., to go into a meeting with the whole convention at 1:00 p.m.

  
Chairman  
Vice Chairman  
Secretary

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MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention  
Room 205, State Capitol,  
Baton Rouge, Louisiana,  
Wednesday, August 15, 1973, 6 p.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald P. Bollinger  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Rep. Robert Munson  
Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

Absent:

Rep. Richard P. Guidry (resigned)

Sgt. at Arms: Eddie L. Joe

The committee met after adjournment of the full convention to hear remarks by invited speakers regarding Article VIII, §§1, 5, 15, and 16. The chairman recognized ORY G. PORET, deputy register of the State Land Office, and asked that he furnish this committee with definitions of the words "alluvion", "erosion", "accretion", and "dereliction". Mr. Poret stated he would furnish the same to this committee. He advised that an act to amend and reenact §1173 of Title 41 of the Louisiana Revised Statutes of 1950 to allow the register of the State Land Office to grant permits for construction of bulkheads and other improvements on state-owned waterbottoms and to provide fees and procedures had been passed by House Bill No. 774 of the Regular Session of the 1972 Legislature. He also stated that the Land Office has jurisdiction over 100,000 acres of state lands, and that over the entire state there are three million acres of waterbottoms. Mr. Poret suggested adding to the committee proposal, page 1, line 23, after the words "except for public use" the words "with title remaining in the state." He objected to allowing ten years for reclamation of eroded land.

The chairman then recognized ARTHUR R. THEIS, assistant chief engineer of the Department of Public Works. Mr. Theis supported the general theory outlined by Section 1, but perceived problems of possible administration as presently worded with regard to period of time of ten years with no current surveys being available of all state lands in the state at any given time, with no reasonable method of acquiring such a survey. He felt that some method whereby the responsi-

-2-

bility of burden of proof would be on the landowner by having him make a land survey to show where his land was at a given time. To a question from Chairman Lambert, Mr. Theis stated that his existing department is not in a position to handle the functions of the levee board, but that given personnel, money, and equipment this could be done.

The chairman then recognized DAVE L. PEARCE, commissioner of agriculture. Mr. Pearce favored a provision (Section 14 of Committee on the Executive Department Proposal) outlining more specifically what the powers and duties shall be and gives a better safeguard of these duties. The committee discussed what action would be taken if the Executive Department's proposal, as amended by Delegate Dennery adding "Section 14. Powers and Duties of the Commissioner of Agriculture" to their proposal, were adopted.

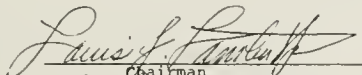
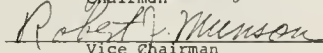
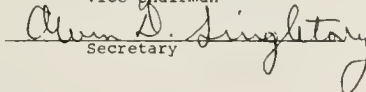
Mr. Womack made a motion to adopt that section in our proposal dealing with the Public Service Commission. Mr. Bollinger objected, and Chairman Lambert advised that a joint meeting is planned with the Executive Department, after which final action would be taken on this section.

The committee discussed proposed meeting dates for the committee and approval was given to Wednesday, after adjournment of the full convention. Chairman Lambert requested we take straw votes on all sections except the Public Service Commission, beginning with the next meeting, Wednesday, August 22, 1973. Mr. Bollinger passed out proposed sections on the wildlife and fisheries and the state forestry which could be used in place of the long sections presently in the

-3-

proposal. These proposed sections contain clear and concise words without changing the meanings.

The meeting adjourned at 7:15 p.m.

  
Chairman  
  
Vice Chairman  
  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention Committee Room 5, State Capitol

Building, Baton Rouge, La.,

Wednesday, August 22, 1973,

6:00 a.m.

Presiding: Alvin J. Singletary, secretary of the Committee on Natural Resources and Environment

Present:

Donald P. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Thomas W. Leigh  
Mrs. Ruth Miller  
Alvin D. Singletary  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

Absent:

Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Rep. Robert Munson  
Miss Lynn Perkins

Sgt. at Arms: Eddie L. Joe

The secretary of the committee, Mr. Singletary, called the meeting to order in the absence of the chairman. Roll call was taken and a quorum was present. Mr. Singletary pointed out that, as announced, final votes would be taken at this meeting but due to the absence of the chairman there had been a change in plans. He advised that according to plans set by the chairman the committee will meet for a week in September to wrap up the final business and that at this meeting we would hear witnesses.

The first speaker to be recognized was FREDERICK W. ELLIS, assistant professor of law at L.S.U., and a former special assistant to the attorney general in the Tidelands litigation. Mr. Ellis stated that "ownership of navigable water bottoms was by the state; whereas non-navigable water bottoms were owned by the riparian proprietor." He also defined "alluvion", "accretion", and "dereliction." In answer to what term equivalent to "fee" as used in the constitution could be used he suggested as a civilian term the words "perfect ownership" or "full ownership."

Mrs. Miller then recognized MRS. SANDRA THOMPSON, director of the Atchafalaya Basin Division of the Department of Public Works. Mrs. Thompson remarked that the Basin "was the largest remaining unprotected swamp wilderness in the U.S., and that it has no federal or state control other than flood control." Mrs. Thompson also spoke of the proposed wildlife management area in Grand Lake, which has been cut from the original 40,000 acres to 23,000 acres by the office of the attorney general. The reason for the cut being legal claim of state

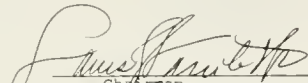
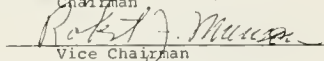
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ownership of an area claimed by Dow Chemical in the proposed wildlife management area. It was stated that maps covering these properties could not be found and the cost of obtaining

the necessary evidence to fight the legal battle of ownership would cost the state approximately \$200,000.00. On a motion offered by Mrs. Miller and seconded by Mr. Derbes, the committee asked Mrs. Thompson to submit a plan the Constitutional Convention could adopt which would aid the Commission, and Mrs. Thompson agreed to submit something from the Atchafalaya Basin but not necessarily that of the Commission. The motion received no objections.

The committee then heard from PAT RYAN of the State Planning Office.

On a motion by Mrs. Miller the meeting adjourned at 7:30 p.m.

  
Chairman  
  
Vice Chairman  
  
\_\_\_\_\_  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention  
Committee Room 10, State Capitol,  
Baton Rouge, Louisiana,  
Thursday, September 13, 1973,  
9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Rep. Robert Munson  
Miss Lynn Perkins  
Alvin D. Singletary  
Thomas A. Velazquez  
Mrs. George A. Warren

Absent:

Rep. Richard S. Thompson  
Rep. Lantz Womack

Sgt. at Arms: Eddie L. Joe

The meeting was called to order by the chairman, and after the opening prayer led by Mrs. Warren and the Pledge of Allegiance, the roll call was taken by the secretary.

The chairman asked the Research Staff to read through the Article, section by section, as it has been amended by

the committee, at which time the floor would be open for discussion and hearing motions.

After the staff read through Sections 1 and 2 as amended by the committee and a discussion on the need for a policy statement with respect to preservation of natural gas and the possibility of a provision for a commissioner of natural resources with the legislature defining its authority Mr. Velazquez moved to withhold consideration of these sections and move on to Section 3, to which there were no objections. Presently, Section 1 and 2 read as follows:

"Section 1. Alienation of Water Bottoms  
Section 1. The legislature shall neither alienate nor authorize the alienation of the beds of navigable water bodies except for purposes of reclamation by the riparian owner to recover land lost through erosion, provided such reclamation is effected within ten years from the date on which the erosion occurs. Except as provided herein, no bed of any navigable water body may be reclaimed except for public use."

[This section was broken up into two sections. On line 18, page 1 of committee proposal, the words "occurring subsequent to the date of adoption of this constitution" were deleted.]

"Section 2. Reservation of Mineral Rights  
Section 2. The mineral rights on all property sold by the state shall be reserved, except where the owner or other person having the right to redeem may buy or redeem property sold or adjudicated to the state for taxes. This shall not prevent the leasing of such lands for mineral or other purposes."

-2-

Section 3. Royalty Road Fund was then discussed. Mr. Hardee offered an amendment deleting all of this section and inserting in lieu thereof the following:

"Section 3. Ten percent of the royalties from any mineral lease heretofore or hereafter granted by the state shall be placed by the state treasurer in a special fund to the credit of the parish from which the mineral was severed. This special fund shall be known as the Royalty Road Fund and shall be used by the state to acquire, construct, and maintain transportation facilities in the parish."

[Mr. Hardee accepted technical changes by Munson, et al. by use of the words "heretofore or hereafter"; "state" as used with the word treasurer; "special" as used with the word fund; and the use of the word "acquire" as used with the words "construct, and maintain"]

The amendment was adopted favorably with the following vote:

Yeas: Derbes, Elkins, Hardee, Jack, Lambert, LeBleu, Leigh, Miller, Munson, Perkins, Velazquez, and Warren (12)

Nays: Singletary (1)

Absent: Thompson, Womack (2)

Section 4. Minerals Beyond Three-Mile Limit was then discussed. After reading the section the committee rejected a motion by Miss Perkins to delete this section entirely. The vote was as follows:

Yeas: Perkins (1)

Nays: Derbes, Elkins, Hardee, Jack, Lambert, LeBleu, Leigh, Munson, Singletary, Velazquez, and Warren (11)

Absent: Bollinger, Miller, Thompson, Womack (4)


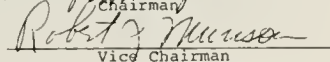
Mr. Lambert suggested deletion of the words "all existing" as shown on line 24, page 2 of the committee proposal. A discussion

-3-

followed concerning bonded indebtedness and with no objection the committee agreed to hear from Mr. Charles F. Gaiennie, Jr., of the State Treasurer's Office, on the question of deletion of these words and such other wording as he may suggest. This section was held over until the next meeting.

The chairman asked the Research Staff to draw up a model proposal, with the policy statement becoming Section 1. They agreed to have it ready for the following day.

Mr. Munson moved for adjournment and the meeting adjourned at 12:00 noon on September 13, 1973.

  
Chairman  
  
Vice Chairman  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973  
Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention  
Committee Rm. 10, State Capitol,  
Baton Rouge, Louisiana,  
Friday, September 14, 1973  
9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee  
on Natural Resources and Environment

#### Present:

Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Rep. Robert Munson  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George A. Warren

#### Absent:

Miss Lynn Perkins  
Alvin D. Singletary  
Rep. Lantz Womack

Sgt. at Arms: Eddie L. Joe

The meeting was called to order by the chairman, and after the opening prayer led by Mr. Elkins and the Pledge of Allegiance, the roll call was taken by the secretary.

The committee continued to discuss Section 4. Minerals

Beyond Three-Mile Limit. Mr. Munson stated that Mr. Charles F. Gaiennie, Jr., of the State Treasurer's Office, was present and asked the committee to hear what he had to offer concerning bonded indebtedness and this entire section. At the suggestion of Mr. Gaiennie, there were no objections to the amendment of the section by Mr. Munson by deleting on lines 23 and 24 the words "dedicated to the retirement and payment of all existing" and inserting in lieu thereof the words "shall be used in the purchase, retirement, and payment of the". This section, as amended by Mr. Munson, now reads as follows:

"Section 4. Minerals Beyond Three-Mile Limit  
Section 4. All revenues and royalties of every nature and kind obtained from minerals of all kinds located beyond the three-mile limit of the coastal waterways of the State of Louisiana, shall be the property of the State of Louisiana, and all funds derived therefrom shall be deposited in the state treasury and shall be used in the purchase, retirement, and payment of the bonded indebtedness of the State of Louisiana."

Section 5. Tideland Mineral Revenues; Use of Funds was then discussed. With no objection, the committee skipped over this section in order that Mr. Gaiennie might get together with the research staff to try to condense the language in this section. Mr. Munson requested the committee defer action on this section and there were no objections.

-2-

Mr. Bollinger then moved to reconsider Section 3, or the vote by which the amendment adding the word "maintain" was adopted. An objection was raised by Mr. Velazquez, due to the absence of Mr. LeBleu who offered the addition of the word "maintain". After some discussion Mr. Bollinger withdrew his motion.

Section 6. Commissioner of Agriculture was then discussed. A motion by Mr. Derbes to delete this section was rejected by the following vote:

Yeas: Bollinger, Derbes, Elkins, and Munson (4)

Nays: Hardee, Jack, Lambert, LeBleu, Leigh, Miller, Thompson, Velazquez, and Warren (9)

Absent: Perkins, Singletary, and Womack (3)

After a discussion of the wording of the article on the Executive Department, adopted by the whole convention concerning this section, a substitute motion was offered by Mr. Velazquez and coauthored by Mr. Munson to use the following language in amending Section 6:

"Section 6. The Department of Agriculture shall be headed by the commissioner of agriculture. 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 provided by statute."

A vote was taken and the amendment was rejected, as follows:

Yeas: Munson and Velazquez (2)

Nays: Bollinger, Derbes, Elkins, Hardee, Jack, Lambert, LeBleu, Leigh, Miller, Thompson, and Warren (11)

Absent: Perkins, Singletary, and Womack (3)

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After much deliberation the committee adopted an amendment to Section 6 by Delegates LeBleu and Hardee [technical changes were accepted from Delegates Jack and Leigh] and the section, as amended, reads as follows:

"Section 6. Commissioner of Agriculture  
Section 6. The Department of Agriculture shall be headed by a commissioner of agriculture who, notwithstanding Article IV, Section 23, shall be elected every four years for a term of four years by the electors of the state as prescribed by law. 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 provided by statute. Qualifications of candidates for commissioner of agriculture, in addition to those in Article IV, Section 2A, shall be provided by law."

The vote by which the amendment was adopted is as follows:

Yeas: Hardee, Jack, Lambert, LeBleu, Leigh, Miller, and Warren (7)

Nays: Bollinger, Derbes, Elkins, Munson, Thompson, and Velazquez (6)

Absent: Perkins, Singletary, and Womack (3)

Delegate Jack made a motion to reconsider the vote by which the section was adopted and lay it on the table, but received objections from Delegates Munson and Velazquez for the reason that Delegates Womack, Perkins, and Singletary were absent from the meeting. After a lengthy discussion the chairman advised that this section would be the special order of the day at the next meeting and that at that time a final vote would be taken.

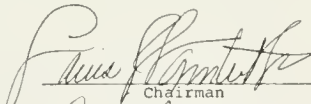
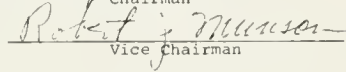
Mr. Lambert distributed copies of his proposal to the committee showing the amended sections and a change in the order of the sections, i.e., the public policy section being first.

He asked that the committee study the proposal and if there

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were any changes they wished to make that each delegate get with the research staff and have amendments drawn up for consideration at the next meeting.

On a motion by Mr. Velazquez, the meeting adjourned at 12:00 noon.

  
Chairman  
  
Vice Chairman  
\_\_\_\_\_  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973  
Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention  
Committee Room 4, State Capitol, Baton Rouge, Louisiana, Thursday, September 20, 1973, 9:00 a.m.

Presiding: Robert Munson, vice chairman, and Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
Wellborn Jack  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Rep. Robert Munson  
Miss Lynn Perkins  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George A. Warren  
Rep. Lantz Womack

Absent:

H. G. Hardee, Jr.  
Mrs. Ruth Miller  
Alvin D. Singletary

Sgt. at Arms: Eddie L. Joe

The meeting was called to order by the vice chairman, after which the opening prayer and the Pledge of Allegiance was recited. The secretary then called the roll and reported a quorum present.

The research staff gave the committee a brief up-to-date report on the status of Committee Proposal No. 16, as amended.

The committee then acted on Section 5. Mr. Leigh offered an amendment to this section and it was adopted by the following vote:

Yeas: Bollinger, Elkins, Jack, Lambert, Leigh, Munson, Perkins, Thompson, Velazquez, Warren, and Womack (11)

Nays: None

Absent: Derbes, Hardee, LeBleu, Miller, and Singletary (5)

Section 5, as amended and adopted, now reads as follows:

"Section 5. Offshore Mineral Revenues; Use of Funds  
Section 5. Funds derived from offshore mineral leases, which have been held or may hereafter be placed in escrow under agreement between the State and the United States pending settlement of the dispute between such parties, shall be deposited in the state treasury; and such funds, together with interest accruing from any investments thereof, except such portion thereof as is elsewhere in this constitution dedicated either to the Royalty Road Fund or to public education, shall be used by the state treasurer in the purchase, retirement, and payment in advance of maturity of the bonded indebtedness of the state.  
If any of the above funds cannot be so expended within one year following receipt thereof, the legislature may annually appropriate for capital improvements, or for the purchase of land, ten percent of such remaining funds, not to exceed ten million dollars in any one year."

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The committee skipped over Section 6 at this point, but near the end of the meeting reverted back to discussion of this section. Mr. Munson opened the discussion with a motion to reconsider the vote by which Section 6 was adopted on September 14, 1973, by a vote of 7 Yeas to 6 Nays, and there were no objections to the motion. He then made a motion to delete Section 6. Commissioner of Agriculture. The committee

then heard a motion by Mr. Velazquez to adjourn and after voting, the committee defeated the motion by a vote of 11 Nays to 2 Yeas. A substitute motion was made by Mr. Jack to adopt Section 6 as previously voted on September 14, 1973, and the committee then voted to adopt Section 6. The favorable vote was as follows:

Yeas: Jack, Lambert, LeBleu, Leigh, Perkins, Velazquez, and Warren (7)

Nays: Bollinger, Derbes, Elkins, Munson, Thompson, and Womack (6)

Absent: Hardee, Miller, and Singletary (3)

Section 6, as amended and adopted, now reads as follows:

"Section 6. Commissioner of Agriculture  
Section 6. The Department of Agriculture shall be headed by a commissioner of agriculture who, notwithstanding Article IV, Section 23, shall be elected every four years for a term of four years by the electors of the state as prescribed by law. 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 provided by statute. Qualifications of candidates for commissioner of agriculture, in addition to those in Article IV, Section 2A, shall be provided by law."

Mr. Bollinger made the motion for adoption of Section 7. Natural Resources and Environment; Public Policy and the

-3-

committee voted favorably on his amendment, as follows:

Yeas: Bollinger, Elkins, Jack, Lambert, Leigh, Perkins, Thompson, Velazquez, Warren, and Womack (10)

Nays: None

Absent: Derbes, Hardee, LeBleu, Miller, Munson, and Singletary (6)

Section 7, as amended and adopted, now reads as follows:

"Section 7. Natural Resources and Environment; Public Policy  
Section 7. The natural resources of the state, including air and water, and also the healthful, scenic, historic, and esthetic quality of the environment, shall be protected, conserved, and replenished, insofar as possible and consistent with the health, safety, and welfare of the people. The legislature shall implement this policy by appropriate legislation."

The next section to be considered was Section 8. Wildlife and Fisheries Commission. Mr. Bollinger moved to take up the amendment proposed by Miss Perkins. Mr. Velazquez moved to amend the section by using the word "all" in explaining aquatic life but received an objection from Mr. Bollinger. A vote was taken on the Velazquez motion and passed with the following vote:

Yeas: Elkins, Jack, Lambert, Leigh, Munson, Perkins, Thompson, Velazquez, Warren, and Womack (10)

Nays: Bollinger (1)

Absent: Derbes, Hardee, LeBleu, Miller, and Singletary (5)

Mr. Thompson then moved the previous question and the committee voted favorably to adopt Section 8 as per the Perkins/Bollinger

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amendment, as follows:

Yeas: Bollinger, Elkins, Jack, Lambert, Leigh, Munson, Perkins, Thompson, and Womack (9)

Nays: Velazquez and Warren (2)

Absent: Derbes, Hardee, LeBleu, Miller, and Singletary (5)

Section 8, as amended and adopted, now reads as follows:

"Section 8. Wildlife and Fisheries Commission  
Section 8. The wildlife of the state, including all aquatic life, is hereby placed under the control and supervision of the Louisiana Wildlife and Fisheries Commission, which shall consist of seven members appointed by the governor, six of whom shall serve for a term of six years and one of whom shall serve for a term concurrent with that of the governor. Three shall be electors of the coastal parishes and representatives of the commercial fishing and fur industries, and three shall be electors from the state at large.

No member shall be eligible for reappointment who shall have served for as many as six years or more.

The specific functions, duties, and responsibilities of the commission and the compensation of its members shall be as provided by the legislature."

Mr. Womack then moved for adoption of Section 9, as amended by Miss Perkins, and the committee voted favorably, as follows:

Yeas: Bollinger, Elkins, Jack, Lambert, Leigh, Munson, Perkins, Thompson, Velazquez, Warren, and Womack (11)

Nays: None

Absent: Derbes, Hardee, LeBleu, Miller, and Singletary (5)

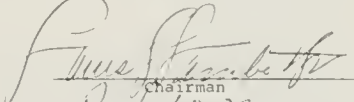
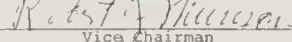
Section 9, as amended and adopted, now reads as follows:

"Section 9. Forestry Commission  
Section 9. The practice of forestry in the State of Louisiana is hereby placed under the Louisiana Forestry Commission. The Louisiana Forestry Commission shall consist of seven members, five of whom shall be appointed by the governor for terms of five years each, and two of whom, namely the head of the Department of

-5-

Forestry at Louisiana State University and Agricultural and Mechanical College and the director of the Wildlife and Fisheries Commission, shall serve as ex officio members of the commission. Two of the members shall be owners or executive managers of interests owning and operating timberlands; one shall be the owner of farm lands interested in reforestation; one shall be a pulp and paper mill owner or executive manager; and the fifth shall be the owner or executive manager of interests manufacturing or treating poles, piling, posts, crossties, or veneer."

A motion was made by Mr. Bollinger to adjourn and the meeting adjourned at 12:00 noon on September 20, 1973.

  
Chairman  
  
Vice Chairman  
\_\_\_\_\_  
Secretary

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MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by

the Secretary in accordance with the  
Rules of the Convention  
Committee Room 5, State Capitol,  
Baton Rouge, Louisiana, Friday,  
September 21, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee  
on Natural Resources and Environment

Present:

Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Sen. Louis J. Lambert, Jr.  
Thomas W. Leigh  
Miss Lynn Perkins  
Thomas A. Velazquez  
Mrs. George A. Warren  
Rep. Lantz Womack

Absent:

Rep. Conway LeBleu  
Miss Ruth Miller  
Rep. Robert Munson  
Alvin D. Singletary  
Rep. Richard Thompson

Sgt. at Arms: Eddie L. Joe

The chairman called the meeting to order, and after the  
opening prayer led by Mrs. Warren and the Pledge of Allegiance,

the secretary then called the roll and reported a quorum  
present.

The committee opened the discussion with Section 10.  
State Forester. Miss Perkins made a motion to delete this  
section but the committee voted unfavorably, as follows:

Yeas: Bollinger, Derbes, Perkins (3)  
Nays: Elkins, Hardee, Jack, Lambert, Leigh,  
Velazquez, and Warren (7)  
Absent: LeBleu, Miller, Munson, Singletary,  
Thompson, and Womack (6)

Mr. Derbes then moved to amend this section by deletion of the  
words "in the South" written at the end of the section. The  
committee voted favorably, as follows:

Yeas: Bollinger, Derbes, Elkins, Hardee,  
Jack, Lambert, Perkins, Velazquez,  
and Warren (9)  
Nays: Leigh (1)  
Absent: LeBleu, Miller, Munson, Singletary,  
Thompson, and Womack (6)

Mr. Velazquez then moved to amend the section by adding the  
words "as provided by law" in lieu of the words "in the South."  
The committee voted favorably to adopt the Velazquez amendment,  
as follows:

Yeas: Bollinger, Derbes, Elkins, Hardee,  
Jack, Lambert, and Velazquez (7)  
Nays: Leigh and Perkins (2)  
Pass: Mrs. Warren (1)  
Absent: LeBleu, Miller, Munson, Singletary,  
Thompson, and Womack (6)

Miss Perkins moved to amend the section by use of the word  
"actual" before the words "forestry experience" but later  
withdrew the motion. Mr. Bollinger then moved the previous  
question, or the adoption of Section 10, as amended by the  
Velazquez amendment, and the committee voted favorably, as  
follows:

Yeas: Elkins, Hardee, Jack, Lambert, Leigh,  
Warren, and Womack (7)  
Nays: Bollinger, Derbes, Perkins, and  
Velazquez (4)  
Absent: LeBleu, Miller, Munson, Singletary,  
and Thompson (5)

Section 10, as amended and adopted, now reads as follows:

"Section 10. State Forester  
Section 10. A state forester shall be  
appointed by the Louisiana Forestry Commission,  
and he must be a graduate from an accredited  
school of forestry and have at least four years  
of forestry experience, as provided by law."

The committee then discussed Section 11. Public Service  
Commission. Mr. Bollinger moved to adopt Committee Proposal  
No. 5, adopted by the Executive Department, pertaining to this  
section. [A suggestion was made to adopt the whole article as  
adopted by the Executive Committee and it would then be in order  
for the committee to amend each section as necessary]. The  
committee voted favorably to adopt Section 11, as follows:

Yeas: Bollinger, Derbes, Elkins, Hardee,  
Leigh, Perkins, and Singletary (7)  
Nays: Lambert and Velazquez (2)  
Pass: Jack and Warren (2)  
Absent: LeBleu, Miller, Munson, Thompson,  
and Womack (5)

-3-

The committee then voted favorably to an amendment by Mr.  
Derbes to Section 11, Paragraph (B) Powers and Duties of the  
Public Service Commission. The section, as amended by Mr.  
Derbes, would read as follows:

"(B) Powers and Duties. The commission  
shall regulate all common carriers and public  
utilities as provided by law. It shall adopt and  
enforce reasonable rules, regulations, and pro-  
cedures necessary for the discharge of its duties,  
and shall have such other powers and perform such  
other duties as may be provided by statute."

The favorable vote was as follows:

Yeas: Bollinger, Derbes, Elkins, Hardee, Jack,  
Lambert, Leigh, Perkins, Singletary  
(9)  
Nays: Velazquez (1)  
Pass: Mrs. Warren (1)  
Absent: LeBleu, Miller, Munson, Thompson, and  
Womack (5)

Mr. Leigh offered an amendment concerning jurisdictional  
powers of the Public Service Commission but no action was  
taken at this meeting. The members were asked to study the  
Leigh amendment and a final vote would be taken at the next  
meeting. The research staff was asked to render a legal  
opinion on "whether or not the proposal of the Executive  
Department presented any problem in relation to sale and

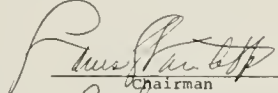
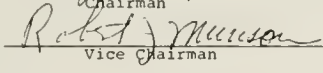


supply of natural gas for any purpose by the PSC."

Miss Perkins then offered an amendment to Section 9, adding State Forester as a sub paragraph under this section, but later withdrew the amendment.

-4-

A motion was made for adjournment and the meeting adjourned at 12:00 noon on September 21, 1973.

  
\_\_\_\_\_  
Chairman  
  
\_\_\_\_\_  
Vice Chairman  
\_\_\_\_\_  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention Senate Lounge, State Capitol, Baton Rouge, Louisiana, Thursday, September 27, 1973, 10:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

#### Present:

Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Sen. Louis J. Lambert, Jr.  
Mrs. Ruth Miller  
Robert J. Munson  
Miss Lynn Perkins  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George A. Warren

#### Absent:

Rep. Conway LeBleu  
Thomas W. Leigh  
Alvin D. Singletary  
Rep. Lantz Womack

Sgt. at Arms: Eddie L. Joe

The chairman called the meeting to order, and after the opening prayer led by Mrs. Warren and the Pledge of Allegiance, the secretary then called the roll and reported a quorum present.

Due to the absence of Mr. Leigh from the meeting, the chairman asked the members to defer action on his amendment with regard to the section on the Public Service Commission. He

stressed the fact that the next meeting will be called to take final votes on amendments, and in the event a quorum is present and amendments are offered, that votes would be taken and they would be considered as final. He asked the research staff to notify those members wishing to make amendments to be present when their subject matter is taken up at the meeting., i.e., Mr. Leigh with regard to Public Service Commission and policy statement regarding preservation of natural gas; Delegates LeBleu and Bollinger on mineral rights (alluvion and erosion); and Bollinger with regard to policy statement in Section 1.

The committee voted on a technical amendment by Mrs. Miller changing the title of Section 11 to read "Geopressure-Geothermal Resources" and the same as shown in the body of the section as written. The favorable vote was as follows:

Yeas: Derbes, Elkins, Hardee, Jack, Lambert, Miller, Munson, Thompson, Velazquez, and Warren (10)

Nays: None

Absent: Bollinger, LeBleu, Leigh, Perkins, Singletary, and Womack (6)

Section 11, as amended and adopted, now reads as follows:

-2-

"Section 11. Geopressure-Geothermal Resources  
Section 11. The state shall conserve, manage, and regulate the development and utilization of geopressure-geothermal resources for the benefit of all people including future generations."

The committee then heard from Mr. Jack Styron of New Orleans, president of Louisiana Menhaden Company, operating in Cameron Parish. Mr. Styron spoke on what industry means to the state, and in particular the fishing industry. He stated that the section on wildlife and fisheries as adopted by the committee was "perfect" and concerning regulation of natural gas stated he was "definitely in favor of regulation of natural gas."

Miss Perkins offered an amendment with regard to Section 9. Forestry Commission and Section 10. State Forester. The amendment incorporated the two sections by making the section on state forester a new paragraph under the forestry commission section. There were no objections to the amendment and those present were: Bollinger, Elkins, Hardee, Jack, Miller, Munson, Perkins, Velazquez, and Warren (9). Those absent were: Derbes, Lambert, LeBleu, Leigh, Singletary, Thompson, and Womack (7). This section [which now becomes Section 12] now reads as follows:

"Section 12. Forestry Commission; State Forester  
Section 12. (A) Forestry Commission. The practice of forestry in the State of Louisiana is hereby placed under the Louisiana Forestry Commission. The Louisiana Forestry Commission shall consist of seven members, five of whom shall be appointed by the governor for terms of five years each, and two of whom, namely the head of the Department of Forestry at Louisiana State University and Agricultural and Mechanical College and the director of the Wildlife and Fisheries Commission, shall serve as ex officio members of the commission. Two of the members shall be owners or executive managers of interests owning and operating timberlands; one shall be

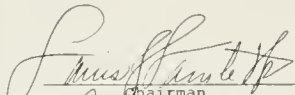

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the owner of farm lands interested in reforestation; one shall be a pulp and paper mill owner or executive manager; and the fifth shall be the owner or executive manager of interests manufacturing or treating poles, piling, posts, crossties, or veneer.

(B) State Forester. A state forester shall be appointed by the Louisiana Forestry Commission, and he must be a graduate from an accredited school of forestry and have at least four years of forestry experience, as provided by law."

At the request of Mr. Bollinger, the committee will discuss the Royalty Road Fund at the next meeting, in order to take action on proposed amendments to this section by Mr. Bollinger.

On a motion to adjourn by Mr. Velazquez, the meeting adjourned at 11:15 a.m., on September 27, 1973.

  
Chairman  
  
Vice Chairman  
\_\_\_\_\_  
Secretary

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#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention  
Senate Lounge, State Capitol,  
Baton Rouge, Louisiana, Thursday,  
October 4, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee  
on Natural Resources and Environment

#### Present:

R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruther Miller  
Robert Munson  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

#### Absent:

Donald T. Bollinger  
Miss Lynn Perkins  
Alvin D. Singletary  
James G. Derbes

Sgt. at Arms: Eddie L. Joe

The chairman called the meeting to order, and after the opening prayer led by Mr. Elkins and the Pledge of Allegiance, the secretary then called the roll and reported a quorum present.

Mr. Munson asked for a personal privilege to speak and

was granted the same. He wanted to correct a statement which the press had printed in the State Times newspaper of September 21, 1973, and as a result an editorial was written in his hometown paper directly criticizing a statement he had not made. The statement was with regard to statewide elected officials, and in particular the commissioner of agriculture. He wanted to make it very clear that he was "not in favor of having the commissioner of agriculture appointed today...and he was not in favor yesterday [September 20, 1973]." He said that he "liked the option after 1976, giving the legislature and the people the right to a change from elective to appointive by a two-thirds vote."

The committee then acted on a proposed amendment by Mr. Leigh with regard to Section 13. Public Service Commission. After a vote was taken, the committee adopted favorably Mr. Leigh's amendment which would add a new paragraph, with one technical change in the second to last paragraph by deleting the words "to the extent needed to insure such adequate supplies." The vote was as follows:

Yeas: Elkins, Hardee, Jack, Leigh, Miller, Velazquez, and Warren (7)

Nays: Lambert, LeBleu, and Thompson (3)

Pass: Warren (1)

Absent: Bollinger, Derbes, Perkins, Singletary, and Womack (5)

-2-

The amendment as adopted, now reads as follows:

"(F) The commission shall also have and exercise power and authority over the transportation and sale within this state of natural gas for industrial purposes (whether for use as fuel or for utilization in any manufacturing process) transported in or sold from intrastate pipelines - whether such pipelines are controlled and operated by a common carrier or by the producer of such natural gas or by the operator of such pipeline.

Such jurisdiction shall not include the right to supervise, govern, control, or regulate the terms of any contract heretofore or hereafter entered into for the purchase or sale of natural gas for industrial use or the price for which such gas may be purchased or sold; but shall include all necessary power and authority to require and enforce: 1) the furnishing of adequate supplies of natural gas, at rates comparable to those at which said natural gas is being sold to industrial users, for use by domestic consumers, schools, hospitals, churches, food processing plants and other domestic, industrial, or commercial users connected to such pipelines which utilize natural gas for essential human needs; and 2) to the extent necessary to accomplish the foregoing, the curtailment of overall deliveries of natural gas from any gas pipeline or gas gathering line to industrial users supplied thereby.

The commission's jurisdiction over gas purchased, sold, and used for industrial purposes shall be self-executing and the commission shall issue and promulgate such orders and regulations as may be necessary to carry out the purpose and intent of this Section."

Mr. Thompson withdrew an amendment which would have added, at the end of paragraph (F) above, the words "The legislature shall provide means to regulate intrastate natural gas, production, and distribution." Mrs. Miller offered the addition of these words as a separate section, or Section 14, but the committee voted a tie, thereby defeating the amendment. The unfavorable vote was as follows:

-3-

Yeas: Lambert, Miller, Munson, Thompson,  
and Velazquez (5)

Nays: Elkins, Hardee, Jack, LeBleu, and  
Leigh (5)

Pass: Warren (1)

Absent: Bollinger, Derbes, Perkins, Singletary,  
and Womack (5)

Mr. Leigh stated that he would have a policy statement regarding preservation of natural gas but would offer his amendment at the next meeting.

Mrs. Miller announced that the Governor's Seminar on Geopressure-Geothermal Energy would be held at the L.S.U. Union on Friday, October 5, 1973, at 9:30 a.m., and invited all members of the committee to attend.

On a motion by Mr. Velazquez, the meeting adjourned at 12:00 noon, on October 4, 1973.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice Chairman

*Alvin D. Singletary*  
Secretary

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#### NOTES

C. P. No. 34, Reprinted as Engrossed, may be found in Volume IV, above.

#### MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention Committee Room 4, State Capitol, Baton Rouge, Louisiana, Thursday, October 11, 1973, 9:00 a.m.

Presiding: Louis J. Lambert, Jr., chairman of the Committee on Natural Resources and Environment

Present:

Donald T. Bollinger  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Sen. Louis J. Lambert, Jr.  
Rep. Conway LeBleu  
Thomas W. Leigh  
Mrs. Ruth Miller  
Miss Lynn Perkins  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren  
Rep. Lantz Womack

Absent:

James G. Derbes  
Robert Munson  
Alvin D. Singletary

Sgt. at Arms: Eddie L. Joe

The chairman called the meeting to order, and after the opening prayer and the Pledge of Allegiance, the secretary called the roll and reported a quorum present.

The committee was then requested to refer to the Research Staff's suggested organization of Sections within Article VIII, dealing with Natural Resources and the Environment. A motion was made by Mr. Hardee that the committee adopt the suggested organization of the sections and there were no objections (with 10 members present).

A correction was made to the minutes of October 4, 1973 reflecting Delegate Munson as passing and Delegate Warren voting yes on the proposed amendment by Mr. Leigh to Section 13 dealing with the Public Service Commission (which amendment passed favorably).

After a discussion of a proposed amendment by Mr. Leigh regarding a policy statement on natural gas, the committee voted favorably to adopt the amendment (to be shown as Section 2 under Article VIII). The favorable vote was as follows:

Yeas: Elkins, Hardee, Lambert, LeBleu, Leigh,  
Miller, Perkins, Thompson, Velazquez  
and Warren (10)

Nays: Bollinger (1)

Pass: Jack (1)

Absent: Derbes, Munson, Singletary and Womack (4)

Discussion then followed concerning an amendment by Mr. Leigh condensing the verbage of Section 14 (F) with regard to the jurisdiction of the Public Service Commission over

-2-

regulation, transportation, and sale of natural gas for industrial use in or from intrastate pipelines. The research staff was asked to comment on the legislative problems that might be faced if this amendment were adopted. Mr. Ed Bordes with Louisiana Gas Service was then heard from relative to certificates of necessity; Mr. James Thibaut, with American Sugar Cane League, who suggested some changes involving constitutionality of the provisions; Paul Borron, an attorney with the Sugar Cane League, who stated that the provisions as proposed by Mr. Leigh were constitutional and that it was his thought that these provisions should be put in the new constitution; Mr. Fred Veters with Texaco, who voiced concern over certificates of necessity in the connection of interstate lines with intrastate lines. Mr. Veters suggested use of the words

"including but not limited to the right to control and regulate the transportation, distribution, and allocation of natural gas as may be provided by law or by statute"

to which Mr. Leigh was in agreement stating the language improved the amendment and asked the committee to consider. On objections from Delegates Bollinger and Jack to adopt the condensed version of Paragraph (F) previously adopted by the committee, a short recess was taken to discuss the Leigh condensed amendment and the same was then voted favorably by the committee as follows:

Yeas: Bollinger, Elkins, Hardee, Jack, Lambert, LeBleu, Leigh, Miller, Perkins, Velazquez and Warren (11)

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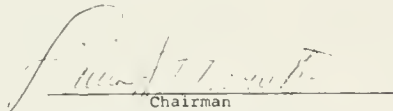
Nays: None

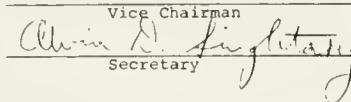
Absent: Derbes, Munson, Singletary, Thompson and Womack (5)

On a motion by Mr. Velazquez, the committee voiced no objection to skipping over the section dealing with alienation of water bottoms.

An amendment offered by Mrs. Miller to delete Sections 5 and 6 dealing with mineral rights (alluvion and erosion) was withdrawn.

On a motion by Mr. Velazquez, the meeting adjourned at 12:00 noon on October 11, 1973.

  
Chairman

  
Vice Chairman  
Secretary

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MINUTES

Minutes of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice mailed by the Secretary in accordance with the Rules of the Convention Treaty Room, White House Inn, Baton Rouge, Louisiana, Tuesday, November 20, 1973, 10:00 a.m.

Presiding: Robert J. Munson, vice chairman of the Committee on Natural Resources and Environment

Present:

Donald T. Bollinger  
R. M. Elkins  
H. G. Hardee, Jr.  
Wellborn Jack  
Rep. Conway LeBleu  
Mrs. Ruth Miller  
Robert J. Munson  
Miss Lynn Perkins  
Rep. Richard S. Thompson  
Thomas A. Velazquez  
Mrs. George E. Warren

Absent:

James G. Derbes  
Sen. Louis J. Lambert, Jr.  
Thomas W. Leigh  
Alvin D. Singletary  
Rep. Lantz Womack

Sgt. at Arms: Eddie L. Joe

In the absence of the chairman, the vice chairman, Robert Munson, presided at the meeting. An opening prayer was led by Mrs. Warren and the Pledge of Allegiance followed. After the roll call was taken, the secretary reported a quorum present.

As Mr. Leigh was absent from the meeting, no action was taken on his proposed amendment combining Section 2 on Public Policy with the section on the Public Service Commission. On being asked to explain the effect of the Leigh amendment, Scott Reis of the research staff explained that the proposed amendment only added strength to the present policy statement and also gives more power to the Public Service Commission.

The committee then went through the committee proposal as amended through the last meeting of November 11, 1973, and referred to changes with respect to style and drafting suggested by the research staff. After the committee considered each section, a motion was made by Mr. Jack and seconded by Mr. Thompson that Committee Proposal No. 16 be reported out to the Convention "By Substitute." The favorable vote was as follows:

YEAS: Bollinger, Elkins, Hardee, Jack, LeBleu, Miller, Munson, Perkins, Thompson and Warren (10)

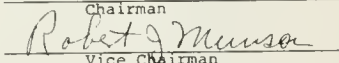
NAYS: Velazquez (1)

ABSENT: Derbes, Lambert, Leigh, Singletary and Womack (5)

[Enclosed is a copy of Committee Proposal No. 16 as reported out to the Convention]

-2-

There being no further business to come before the committee, a motion was made to adjourn and the meeting adjourned at 12:15 p.m., on November 20, 1973.

  
Chairman  
Vice Chairman

Secretary

Encl.

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NOTES

C. P. No. 16 may be found in Volume IV, above.

MINUTES

Minutes of the meeting of the Committee on Natural Resources and Environment of the Constitutional Convention of 1973 Held pursuant to notice given in

accordance with the Rules of the Convention  
Dining Room, White House Inn,  
Baton Rouge, Louisiana, Saturday,  
January 12, 1974, 8:00 a.m.

FROM: Alvin Singletary, Secretary  
Committee on Natural Resources and Environment  
RE: Style and Drafting changes for Committee Proposal No. 34,  
First Enrollment

The Committee on Natural Resources and Environment approved all of the style and drafting changes adopted by the Committee on Style and Drafting, as shown in Document No. XXXIV, dated 1/11/74, except the following:

Presiding: Alvin D. Singletary, secretary of the Committee on  
Natural Resources and Environment

Present:

Mrs. Ruth Miller  
Donald T. Bollinger  
James G. Derbes  
R. M. Elkins  
Wellborn Jack  
Rep. Conway LeBleu  
Thomas W. Leigh  
Alvin D. Singletary  
Thomas A. Velazquez  
Mrs. George E. Warren

Absent:

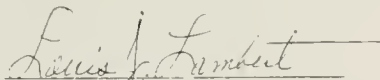
Robert Munson  
H. G. Hardee, Jr.  
Sen. Louis J. Lambert, Jr.  
Miss Lynn Perkins  
Rep. Richard S. Thompson  
Rep. Lantz Womack

The meeting was called to order by the secretary. Roll was taken and a quorum was present. The committee secretary stated that the chairman of the Committee on Style and Drafting was present to discuss style and drafting changes to Committee Proposal No. 34, First Enrollment, as adopted by the Committee on Style and Drafting on January 11, 1974, in Document No. XXXIV. Delegate Tate presented each section in this proposal and the committee accepted all changes, with the exception of those mentioned in the attached report (Attachment A). He then presented each section in Committee Proposal No. 37, First Enrollment, as adopted by the Committee on Style and Drafting on January 11, 1974, in Document No. XXXIII. The committee accepted all changes, with the exception of those mentioned in the attached report (Attachment B).

As there was no further business, the meeting adjourned at 9:30 a.m.

- 1) On page 2, line 16, the word "to" was deleted and in lieu thereof the word "with" was inserted
- 2) On page 2, line 19, the word "to" was deleted and in lieu thereof the word "with" was inserted
- 3) On page 5, line 6, at the end of the line, the word "this" was deleted and the word "the" was inserted in lieu thereof
- 4) On page 6, accepted the CAVEAT deleting the section [Section 6] on Royalty Fund and transferring same to Committee Proposal No. 15 of Revenue, Finance and Taxation
- 5) On page 7, at the beginning of line 15, the word "Those" was deleted and the words "Upon such settlement, these" was inserted in lieu thereof
- 6) On page 7, line 20, the word "and" was deleted and the word "or" was inserted in lieu thereof
- 7) On page 8, delete the CAVEAT
- 8) On page 9, line 8, after the word "Commission" delete the word "consisting" and insert the following: "The commission shall be in the Executive Branch and shall consist"
- 9) On page 10, line 17, after the partial word "mission" delete the word "consisting" and insert in lieu thereof the following: "The commission shall be in the Executive Branch and shall consist"
- 10) On page 10, line 23, delete the words "as ex officio" at the end of the line and insert in lieu thereof the words "ex officio as"
- 11) On pages 9 and 10, delete all CAVEATS

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Chairman

\_\_\_\_\_  
Vice Chairman

\_\_\_\_\_  
Secretary

STATE OF LOUISIANA  
LEGISLATURE  
OFFICE OF THE CLERK  
Baton Rouge, Louisiana

ATTACHMENT B

January 12, 1974

E. L. HENRY  
Chairman  
NORMA M. BUNGAN  
Director of Research

Attachment.

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ATTACHMENT A

January 12, 1974

TO: Albert Tate, Jr., Chairman  
Committee on Style and Drafting  
FROM: Alvin Singletary, Secretary  
Committee on Natural Resources and Environment  
RE: Style and Drafting changes for Committee Proposal No. 37,  
First Enrollment

The committee on Natural Resources and Environment approved all of the style and drafting changes adopted by the Committee on Style and Drafting, as shown in Document XXXIII, dated 1/11/74, except the following:

- 1) On page 5, line 20, before the word "as" the words "if and" were inserted

J. L. HENRY  
Chairman  
NORMA M. BUNGAN  
Director of Research

TO: Albert Tate, Jr., Chairman  
Committee on Style and Drafting

## II. Staff Memoranda



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 STATE HOUSE BLDG. BATON ROUGE LOUISIANA 70804

CC/73 Research Staff

Committee on Natural  
Resources & Environment

March 19, 1973

Staff Memo No. 1

E. L. HENRY, CHAIRMAN

RE: Suggested Proposals for Committee Consideration

The proposals enclosed herewith relate to public lands and minerals and will be considered by the committee on Friday and Saturday, March 23 and 24, 1973. A memorandum concerning deletions from the present constitution will be mailed on March 20, 1973. It should be noted that these proposals and deletions with comments are merely preliminary suggestions by the research staff.

The following persons are scheduled to speak on Friday:

Robert Brooksher, Louisiana Division of Mid Continent  
Oil and Gas Association

George Hardy, Professor of Law, L.S.U.

Marc Hershman, Director, Louisiana Coastal and Marine  
Resources Commission

Austin Lewis, Attorney at Law

Ellen Bryan Moore, Register of the State Land Office

James P. Renner, Ecology Center of Louisiana

John W. Smith, Private Industry

Ray Sutton, Commissioner of Conservation

A. N. Yiannopoulos, Professor of Law, L.S.U.

### PROPOSAL 1

The legislature shall neither alienate nor authorize the alienation of the bed of any navigable body of water except for purposes of reclamation. The mineral rights on all property sold by the state shall be reserved, except property adjudicated to the state for taxes. This shall not prevent the leasing of such lands and rights for mineral or other purposes.

#### Source

Article IV § 2. Public debt; alienation of public lands; reservation of mineral rights; mineral leases

Section 2. ... Nor shall the Legislature alienate, or authorize the alienation of, the fee of the bed of any navigable stream, lake or other body of water, except for purposes of reclamation. In all cases the mineral rights on any and all property sold by the State shall be reserved (except where the owner or other person having the right to redeem may buy or redeem property sold or adjudicated to the State for taxes). This, however, shall not prevent the leasing of such lands and rights for mineral or other purposes. (As amended Acts 1965, No. 168).

#### Comment

1. The provision of the present constitution has been reworded with only one substantive change. In this proposal the exception to the state's reserving mineral rights is designated as 'property adjudicated to the state for taxes'; in the present

constitution the exception is "where the owner or other person having the right to redeem may buy or redeem property sold or adjudicated to the state for taxes". In the Projet, the Louisiana State Law Institute prepared and submitted this same revision and commented that no change in policy was intended; it seems, however, that this revision would allow the sale of any land adjudicated to the state for taxes without reserving the mineral rights, whether or not the vendee had a right to redeem such property.

2. The provision of the present constitution relating to the governor's authority to sell the State's fee to land under the waters of Lake Pontchartrain (Art. VI § 27, added by Act 329 of 1936) should be deleted because it is obsolete.

3. The provision of the present constitution which authorizes, empowers, and directs the state, acting by and through the Register of State Land Office, to grant to the Jefferson Parish Public Improvement Districts the title to all property which is owned by the state and which is not susceptible of private ownership under the present laws of the state (Art. XIV § 38) should be deleted since reclamation is an exception to the provision prohibiting the alienation of navigable water bottoms and therefore, should be left to the discretion of the legislature. It should be noted, however, that such broad authority would allow the parish to reclaim beds of all navigable bodies of water within the parish.

Other provisions of the present constitution relating to a more limited transfer of state property to the Parish of St. Charles (Art. XIV § 38.1) and the City of Lake Charles (Art. XIV § 39, 44, and 44.1) for the purposes of reclamation should also be

-2-

deleted since the legislature has this power under the exception to this provision.

Similarly, the provision of the present constitution relative to the transfer of state property to the Board of Levee Commissioners of the Orleans Levee District for the purpose of levee construction and maintenance (Art. 16 § 7) should also be deleted.

4. The provision of the present constitution relating to the drainage and reclamation of marsh, swamp, and other undrained lands (Art. XV § 1) should be deleted since the legislature has this power under the exception to this provision.

5. The following issues might be considered in a final analysis of this proposal:

- (a) Whether or not the declaration should be made that the beds of all navigable bodies of water belong to the state;
- (b) Whether or not alienation of any other public

lands should be limited in some manner;

- (c) Whether or not reclamation should be limited in some manner to preserve natural water bodies;
- (d) Whether or not the private ownership of any non-navigable water body should be divested by the state if such water body became navigable by either natural or artificial means;
- (e) Whether or not non-navigable arms of the sea should be subject to alienation;

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- (f) Whether or not mineral rights should be reserved on land adjudicated to the state for taxes.

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#### PROPOSAL 2

The state and its political corporations shall not lend, pledge, or donate any of their funds, credit, or other property to any person, association, or corporation, except as otherwise provided in this constitution.

#### Source

Article IV § 12. Loan or pledge of public credit; relief of destitute; donations; transfers of property; bonds; leasing of health institutions; donation to U. S. for Veterans Hospital.

Section 12. The funds, credit, property or things of value of the State, or of any political corporation thereof, shall not be loaned, pledged or granted to or for any person or persons, associations or corporations, public or private; nor shall the State, nor any political corporation, purchase or subscribe to the capital stock or stock of any corporation or association whatever, or for any private enterprise. Nor shall the State, nor any political corporation thereof, assume the liabilities of any political, municipal, parochial, private or other corporation or association whatsoever, except as otherwise provided in this Constitution....

#### Comment

1. The provision of the present constitution has been reworded and some major deletions have been made; these changes lessen the limitations on the power of the state. In this proposal the state is prohibited from lending, pledging, or donating its property to any person, association, or corporation; in the present constitution the prohibition also includes investing, assuming the liabilities, and carrying on the business in, of, or for any person, association, or corporation. The Louisiana State Law Institute suggested the same policy as the present constitution and submitted the following provision in the Projet; it should be noted, however, that the provision presented includes both the limitations on the power of the state and exceptions thereto; exceptions to the limitation in the present constitution are excluded in the Source but discussed in Comment 2, supra; exceptions to this proposal are presented in Proposal 3 and Proposal 4:

#### PROJET ARTICLE IV, SECTION 11

- (A) The state and its political corporations shall not invest, lend, pledge, or donate any of their funds, credit, or other property in, to, or for any person, association, or corporation, nor shall the state or its political corporations assume the liability, become part owner, or carry on the business of any person, association, or corporation.

- (B) Nothing herein shall be construed--

- (1) To affect the powers of the Board of Liquidation of the State Debt as granted in Article IV § 5; or
- (2) To deny to the state or its political subdivisions the right to provide, by contract with charitable institutions or otherwise, maintenance and asylum for destitute and incapacitated persons; or
- (3) To deny to the state or its political corporations, when acting under the authority of a general or special statute, the power to donate or otherwise convey any property to the United States or any agency thereof, to make effective the co-operation of the state with the federal government under any legislation which Congress may enact; or

-2-

- (4) To deny to the state, when approved by a three-fourths vote of the members elected to each house of the legislature, the power to lend, underwrite, participate in, or guarantee the repayment of not more than twenty-five percent of any amount used for the purchase, expansion, improvement, or construction of any agricultural plant calculated to provide facilities for the processing, marketing, distributing, or storing of the agricultural products of the state; or
- (5) To deny to the state or its political corporations the right to grant necessary rights of way through its public lands for the construction of any railroad, navigation canal, or other medium or facility of transportation or communication.

- (C) This shall not deny to the legislature the power to provide--

- (1) A pension for Confederate veterans and their widows residing in the state.
- (2) A retirement system for aged and incapacitated officers and employees and their beneficiaries of the state of Louisiana or its political corporations, including persons employed jointly by state and federal agencies other than the military service.
- (3) A system of economic security and social welfare in order to provide for needy and deserving individuals.

It seems, however, that the provisions of both the present constitution and the Projet have become somewhat obsolete since the current trend is that government become more involved in various aspects of private enterprise, such as government subsidized corporations and projects; in fact, both of these provisions, as well as this proposal, might prevent, for example, government

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loans and scholarships to students unless there were a specific exception to allow such action.

- 2. There are several exceptions to the provisions of the

present constitution. These exceptions are dealt with in Proposal 3 and Proposal 4, supra. The remaining exceptions in Art. IV § 12, such as powers of both the Board of Liquidation of the State Debt and the State Market Commission, utilization of charitable institutions for care, maintenance, and asylum of destitute person, transfer of the Isaac Delgado Central Trades School to the Orleans Parish School Board, and donation of real estate to build the United States Veterans Hospital, seem to come within the scope of other committees and, therefore, should not be considered herein.

3. The following issues might be considered in a final analysis of this proposal:

- (a) Whether or not the state and its political corporations should be restricted generally in the alienation of their property as set forth in the proposal;
- (b) Whether or not the state and its political corporations should be prohibited generally from investing, assuming the liabilities, or carrying on the business in, of, or for any person, association, or corporation;
- (c) Whether or not the state and its political corporations should be restricted in any

-4-

manner regarding their power to make agreements with other political corporations, the state, other states, or the United States;

- (d) Whether or not prohibitions and restrictions on the state and its political corporations in regard to their power generally to function as a private enterprise would adversely affect cooperation among the state, its political corporations, other states, and the United States in areas such as police, fire, and health protection, public utility services, public improvements, recreational and educational facilities, etc.

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#### PROPOSAL 3

The state and its political corporations, when acting under the authority of a general or special statute, shall have the power to donate or otherwise convey any property to the United States or any agency thereof, to make effective the cooperation of the state with the federal government under any legislation which Congress may enact.

Source

Article IV § 12. Loan or pledge of public credit;

relief of destitute; donations; transfers of property; bonds; leasing of health institutions; donation to U. S. for Veterans Hospital

Section 12. ...the State, or any agency or political corporation or subdivision thereof may, through the authorized representatives thereof, donate by fee simple title, or otherwise convey, to the United States any lands, property, movable and immovable, rights of way, easements or other servitudes, or any of them which they now own, or may hereafter acquire by purchase, donation, expropriation or otherwise, for the following public purposes; use, in connection with the improvement and maintenance of the navigation of natural waterways, the construction and improvement and maintenance of artificial navigable waterways and river and harbor works of every description and kind authorized by an Act or Acts of the Congress of the United States or Federal Statutes, or otherwise, and in connection with flood control works of every description and kind so authorized, or in connection with airports, flying fields, landing fields, parks, forest preserves, canals, irrigation districts, hospitals, agricultural experiment and research stations, military posts, and for military uses; and for the purpose of acquisition and improvement of property for such purposes, may incur debt, issue bonds and levy taxes as otherwise provided in this Constitution. The State or any of its agencies, political corporations or subdivisions may likewise maintain, in cooperation with or on behalf of the United States or any agency thereof, any right of way, servitude or easement acquired in connection with the construction or improvement of any artificial or natural waterway, any highway or railroad bridge spanning any such waterway. (As amended Acts 1958, No. 555).

Comment

1. The provision of the present constitution has been reworded with two substantive changes. This proposal is more restrictive in that the donation or conveyance of any property to the United States is made dependent upon the passage of a general or special statute providing for such donation or conveyance; this proposal is broadened, however, to authorize any donation, the purpose of which is to make effective the cooperation of the state with the federal government under any legislation which Congress may enact, instead of enumerating the purposes for which such donations may be made.

2. The purpose of this provision is to prevent a large number of amendments occasioned by the prohibition in the present constitution; the restriction was added as a protection against the extensive nature of this broad authority.

3. This proposal would not be necessary if Proposal 2 in some form were not adopted since the former is merely any exception to the latter.

-2-

#### PROPOSAL 4

The state and its political corporations, shall have the right to grant necessary rights of way through its public lands for the construction of any railroad, navigation canal, or other medium or facility of transportation or communication.

Source

Article IV § 2. Public debt; alienation of public lands; reservation of mineral rights; mineral leases; royalty road fund; parish road bonds

Section 2. ...the State, through the Legislature, shall have power to grant the necessary rights of way



through its public lands for the construction of any railroad, or flood control or navigation canal.... (As amended Acts 1958, No. 555).

Comment

1. The provision of the present constitution has been reworded with two substantive changes. This proposal enables not only the state but also the political corporations of the state to grant rights of way across the lands which they own and deletes flood control since it is a government enterprise which would be covered by Proposal 3, infra.

2. The purpose of this provision is to encourage facilities of transportation and communication by conferring on the political corporations of the state the right to grant necessary rights of way through their public lands.

3. This proposal would not be necessary if Proposal 2 in some form were not adopted since the former is merely any exception to the latter.

-2-

PROPOSAL 5

The following property and no other shall be exempt from taxation:

- (1) All public property

Source

Article X § 4 (1). Public property. All public property.

Comment

1. There is no change from the present constitution in regard to the exemption for all public property.

2. The exemption for natural gas facilities in Art. X § 4 (5) should be deleted because this exemption would have expired on January 1, 1936 and is, therefore, obsolete.

3. The remaining exemptions in Art. X § 4 concern areas within the scope of other committees and should not be considered herein.

PROPOSAL 6

Prescription shall not run against the state except as otherwise provided by law.

Source

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.

Comment

1. The provision of the present constitution has been reworded with no substantive change.

2. Under both the present constitution and this proposal neither liberative nor acquisitive prescription is allowed to run against the state, unless otherwise provided by law. Thus, this proposal does not prevent the application of prescription to the state in instances where the legislature may deem such proper.

3. In the Projet, the Louisiana State Law Institute recommended, generally, that liberative prescription be allowed to run against the state since the state with all of its resources should be as vigilant in the prosecution of its claims as a private individual. It seems, however, that any exception to the doctrine of sovereign immunity from prescription should be provided by the legislature.

4. The state, however, is not in the same situation as a private individual with regard to acquisitive prescription. Public property is too extensive for officers of the state to survey and protect all of it against adverse possessors. Accordingly, the present constitution, the Projet, and this proposal prohibit the running of acquisitive prescription against the state.

5. The provision of the present constitution relating to the state's acquisition of a servitude of way by prescription should be deleted since the legislature may provide for such acquisition.

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STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973 P. O. BOX 44473 BATON ROUGE LOUISIANA 70804

CC/73 Research Staff  
Committee on Natural Resources & Environment  
March 23, 1973  
Staff Memo No. 2

RE: Suggested statement of issues related to constitutional provisions on public lands and minerals.

I. General Policy

- A. Whether there should be a bill of rights type (General resource management policy) statement regarding preservation and replenishment or utilization, development, and conservation of natural resources.
- B. Whether there should be a definition of natural resources to include public lands, minerals, air, water, wildlife, fisheries, and forests.
- C. Whether there should be some type of legislative mandate regarding whatever policy is adopted, or should it be phrased so as to allow judicial enforcement and review?
- D. Whether the constitution should mention the present agencies (Public Land Office, Conservation Department, and Wildlife and Fisheries Department), or a new central natural resources management agency, or neither.

II. Waterbodies

- A. Whether declaration should be made that the sea, its

shore, and beds of all navigable water bodies belong to the state.

- B. Whether the state should be allowed to alienate these water bottoms.
- C. Whether there should be any exception to alienation of these water bottoms, for example, reclamation.
- D. Whether such reclamation exception should be limited in some matter, for example, for public purposes.
- E. Whether private ownership should be divested if waterbody becomes navigable (with or without compensation)

### III. Minerals

- A. Whether the state should reserve mineral rights on the sale of all its property.
- B. Whether land adjudicated to the State for taxes should be an exception.
- C. Whether the state's mineral interests should be subject to prescription for non use.
- D. Whether the constitution should recognize the right of the state to lease land for mineral and other purposes.

### IV- Other Provisions

A. Is it necessary to provide that the legislature shall have the power to provide for private rights of way for roads of necessity and for drainage and other necessary purposes, provided just compensation is paid? (Art. III sec 37)

B. Should the royalty road fund provided in Art IV sec 2 be continued? This is a dedication of ten per cent of state mineral royalties to the parish from which the minerals were extracted.

C. If so, should some of the detail of the present provision be deleted?

D. Should the dedication of state funds from mineral sources for bond purposes be continued? (Art. IV sec 2a)

E. Should the constitution continue to incorporate by reference the minimum state royalty for mineral leases that is provided in Art IV sec 2a? (R.S. 30:121 et. seq.)

F. Should the constitution continue to mention (Art. IV sec 2b) mineral revenues obtained from operations beyond three miles from the coastline?

G. Should the dedication of mineral revenues to the highway fund (Art. IV sec 2c) be continued?

H. Should mineral revenues from tidelands proceeds continue to be dedicated to retirement of bonds? (Art. IV sec 2d)

I. Should the constitution continue to withhold from the

Public Service Commission power over direct sales of natural gas to industrial users? (Art. VI sec 4)

J. Should the constitution authorize subdivisions of the state to have the right to build bridges over navigable waterbodies? (Art. VI sec 19)

K. Should the constitution provide power to enact a severance tax? (Art. X sec. 21)

L. Should the constitution continue to prevent subdivisions of the state from imposing a severance tax? (Art. X, sec 21)

M. Should the severance tax on sulphur continue to be limited as it is in Art. X sec 21?

N. Should the prohibition of imposing taxes on mineral leases be continued? the prohibition of adding to the assessment of land the value of a mineral estate attached to the land? (Art. X sec 21)

O. Should the dedication of severance tax revenues in Art. X sec. 21 be continued? (to local government units and to the Forestry Commission)

P. Should the constitution continue to allow irrigation and navigation canal companies and some power companies the right to use waters of the state, in return for the state taking over such works after seventy years? (Art. XIII sec. 6)



E. L. HENRY, CHAIRMAN

CC/73

Committee on Natural Resources and Environment

April 3, 1973

Staff Memorandum No. 3

RE: Suggested statement of issues related to constitutional provisions on wildlife, fisheries, forestry, and agriculture

The issues enclosed herewith relate to wildlife, fisheries, forestry and agriculture, and will be considered by the Committee on Natural Resources on Monday and Tuesday, April 9 and 10, 1973. It should be noted that these issues with references are set forth in the following outline prepared by the research staff.

The following persons are scheduled to speak, as indicated:

#### Monday, April 9, 1973:

9:00 A.M. - J. Burton Angelle, Director, Wildlife & Fisheries Commission

11:00 A.M. - William Matthews, Executive Director, Louisiana Forestry Commission

- James E. Mixon, Secretary and State Forester

1:30 P.M. - J. Norman Efferson, Executive Director, Agricultural Services & Rural Development

- James Graugnard, President, Louisiana Farm Bureau Federation

- Dave L. Pearce, Commissioner of Agriculture

#### Tuesday, April 10, 1973:

9:00 A.M. - Dr. Ramson K. Vidrine, State Health Officer

- John E. Trygg, Director, Environmental Health

I. GENERAL POLICY

- A. Whether there should be a general resource management policy regarding the protection, conservation, and replenishment of natural resources (Art. VI § 1 ).
- B. Whether the constitution should mention the present agencies (Wildlife and Fisheries Commission, Forestry Commission, Department of Agriculture, etc.), create a new central natural resources management agency, or do neither.
- C. Whether there should be a general grant of power and authority for the legislature "to enact all laws necessary to protect, conserve, and replenish natural resources of the state, and to prohibit and prevent the waste or any wasteful use thereof."
- D. Whether all natural resources other than those placed under the Wildlife and Fisheries Commission and the Forestry Commission should be placed in a single agency (Art. VI § 1 [C] ).

II. WILDLIFE and FISHERIES

- A. Whether the control of wildlife and fisheries should be placed under a single agency, or under separate agencies.
- B. Whether the composition, compensation, powers, functions, and method of selection of the Commission should be provided for in the constitution (Art. VI § 1[A]).
- C. Whether a commissioner should be prohibited from serving in the legislature (Art. VI § 1 ).

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IV. AGRICULTURE

- A. Whether convict employment should be provided for in the constitution (Art. III § 33).
- B. Whether bond for milk manufacturers, pasteurizers and distributors should be provided for in the constitution (Art. III § 44).
- C. Whether the legislature should be prohibited from passing local or special laws regulating labor, trade, manufacturing, or agriculture (Art. IV § 4).
- D. Whether wages, hour, and working conditions should be provided for in any manner in the constitution (Art. IV § 7).
- E. Whether specific exceptions to Art. IV § 12 need to be provided for in the constitution (Art. 4 §§ 12 [b] & [c]).
- F. Whether the commissioner of agriculture should be a constitutional officer (Art. V §§ 1, 18 & 20).
- G. Whether the legislature should have the authority to consolidate the department of agriculture with other agencies (Art. V § 1).
- H. Whether the legislature should be directed to prescribe duties and powers of the commissioner and to enact laws furthering agricultural public policy as set forth in the constitution (Art. VI §§ 13 & 14).
- I. Whether a refund of motor fuel tax to persons using vehicles for agricultural and other purposes should be provided for in the constitution (Art. VI § 22[e]).

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II. Wildlife and Fisheries (cont'd)

- D. Whether qualifications, compensation, powers, functions, method of selection, and operation of the director should be provided for in the constitution.
- E. Whether procedural matters regarding meetings and election of officers should be provided for in the constitution.
- F. Whether financial security for families of law enforcement personnel should be provided for in the constitution (Art. XIV § 15.2).

III. FORESTRY

- A. Whether control of forestry should be placed under a separate agency from other living natural resources.
- B. Whether the composition, method of selection, representation, and powers and functions of the commission should be provided for in the constitution (Art. VI § 1[B]).
- C. Whether method of selection, qualification, powers, and functions of the state forester should be provided for in the constitution.
- D. Whether there should be a general grant of authority for parish governing authorities to levy acreage taxes, not to exceed two cents per acre (Art. VI § 2).
- E. Whether severance tax on timber should be provided for in detail in the constitution (Art X § 1).

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IV. Agriculture (cont'd)

- J. Whether agricultural equipment used for agricultural purposes should be exempt from taxation (Art. X § 4[3]).
- K. Whether or not irrigation, navigation, and hydro-electric power systems should be exempt from taxation (Art.X § 4[4]).
- L. Whether payment of taxes due to the state should be postponed in cases of overflow, general conflagration, general destruction of crops, or other public calamity (Art. X § 11).
- M. Whether a provision for the dedication of revenue to L.S.U. should be in the constitution (Art. XII §§ 17 & 21).
- N. Whether a provision for the erection of industrial plants and establishment of agricultural industrial boards should be in the constitution (Art.XIV § 33).
- O. Whether gambling on agricultural product futures should be prohibited by the constitution (Art XIX § 8).
- P. Whether a conspiracy to force up or down the price on any agricultural or manufactured product or article of necessity for speculative purposes should be prohibited by the constitution (Art. XIX § 14).

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CC/73

Committee on Natural Resources and Environment

April 10, 1973

Staff Memorandum No. 4

E. J. HENRY, CHAIRMAN

RE: Whether Public Service Commission should have jurisdiction over the sale of natural gas to industrial users.

Historically, the power of the Public Service Commission has been limited to the regulation of common carriers and public utilities. Such regulation has always been deemed in the public interest since domestic consumers are not in a position to bargain for prices; in effect, the public utility gives up its right to bargain for prices in return for the exclusive right to sell to domestic consumers in a certain area. This theory, however, has never applied to sales of natural gas to industry because the latter, unlike the domestic consumer, is in a position to bargain for a competitive price and to negotiate a contract. Accordingly, the rationale justifying governmental regulation of natural gas sales to domestic consumers is not inherent in such sales to industry.

This distinction by the legislature was recognized in 1946 when it enacted Act 373 (R.S. 45:301 et seq.) which provides in part the following:

"The commission has no jurisdiction over direct industrial sales by such public utilities unless after investigation the commission shall find that any particular direct industrial sale is prima facie prejudicial to the rates charged for natural gas sold to local distributing systems for resale, in which event the commission has authority after a hearing on the matter to order such adjustment in the rates charged for gas sold to local distributing systems for resale, as may be necessary to remove the prejudicial effect of such rate of such direct industrial sale."

This statutory provision prohibits Public Service Commission jurisdiction over direct industrial natural gas sales unless the commission finds that such had a prejudicial effect on rates charged to domestic consumers.

In the early 1960s, an intrastate pipeline company had a franchise to service a small community and contracts to service nearby industry. Another company, which was not a public service company, attempted to build a pipeline to service this industry, but the Public Service Commission asserted jurisdiction over the latter's right to construct such a line. It seems that the reason for such an action was to protect the public utility which served both the community and nearby industry; more specifically, if this public utility lost its industrial business, the rates to its domestic consumers might be subject to increase. Generally, a public utility natural gas pipeline can not offer as attractive a service to industry as a non-public utility line since the contract of the former usually contains an interruption clause to insure the domestic consumer demands for gas during crisis periods.

Consequently, a constitutional amendment was passed in 1964 to provide as follows:

"...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 such sale of natural gas."

This provision left no doubt that the sale of natural gas to industry would be completely unregulated by the Louisiana Public Service Commission.

There are, however, two sides to the issue of whether the Public Service Commission should have jurisdiction over sale of natural gas to industrial users. It is clear that such regulation would offend the spirit of free enterprise and might even lessen the incentive of certain companies (ones who supply intrastate gas to industry) to explore for and to provide natural gas for use within Louisiana. On the other hand, dictum from a recent United States Supreme Court case indicates that Congress meant to create a comprehensive and effective regulatory scheme of dual state and federal authority to regulate the transportation and sale of natural gas; more specifically, if jurisdiction of natural gas sales to industry is not vested in the Louisiana Public Service Commission, then the Federal Power Commission may well step in to fill this gap. Furthermore, this constitutional prohibition would seem to prevent Louisiana from taking advantage of an exception (Subsection (c), added March 27, 1954) to the Federal Natural Gas Act (15 U.S.C. 717). This provision, commonly called the Henshaw Amendment, provides as follows:

"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 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."

This writer, however, has no knowledge as to whether this exception to the Natural Gas Act would otherwise provide Louisiana with a greater supply of interstate gas.



CC/73

Committee on Natural Resources and Environment

May 30, 1973

Staff Memorandum No. 5

E. J. HENRY  
Chairman  
NORMA M. DUNCAN  
Secretary

RE: Synopsis of water rights in Louisiana

Louisiana has historically had an abundant supply of water for navigation, irrigation, and industrial and domestic use, as well as for fish and wildlife. The demand for water created by the population growth plus industrial, municipal, and agricultural use is steadily increasing. Many problems will arise as water resources achieve greater economic im-

portance; constructive legislation, perhaps even sound regulation, may be needed to conserve and develop this vital resource and to encourage its most effective use. In fact, the legislature, in an act declaring a state policy regarding surface waters and establishing a water resource study commission, noted that "continued waste and misuse or lack of beneficial use of surface waters may create critical problems" (Louisiana Acts 1958, No. 363).

The legal structure governing the rights of persons to appropriate, use, and dispose of water is quite complex and is embodied in: (1) Louisiana's Constitution, Civil Code, and Revised Statutes; (2) special or local laws enacted by the legislature; (3) local laws, such as parish or municipal ordinances; (4) federal statutes and constitutional provisions; (5) certain rules and regulations promulgated by state-federal agencies; (6) certain interstate compacts or agreements; and (7) jurisprudence on the federal, state, and local levels.

The discussion that follows concerns some of the legal aspects of water rights in Louisiana; primary attention in this discussion is given to state legislation incorporated in the Louisiana Civil Code and Revised Statutes (See appendix for complete text of these provisions). It should be noted at the outset that these laws are drafted in very general terms to cover numerous particular fact situations which might arise and that court decisions in this area are almost nonexistent; consequently, it is very difficult to provide precise answers to questions on water rights in Louisiana.

#### OWNERSHIP OF WATER

Article 450 of Louisiana Civil Code classifies running water as an example of a "common" thing -- property vested in nobody in particular which may be used by all men. This article, however, seems to have been repealed in part by a subsequent act of the legislature which declared that the water in certain waterbodies is "the property of the state"

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(R.S. 9:1101, as amended by Acts 1954, No. 443). The effect of this statute is to exclude running water from those common things enumerated in Article 450 and to reclassify it under 453 as a "public" thing -- property vested in the whole nation which may be used by all its citizens. Thus, the state owns all running water, all navigable water, and all other water covering state owned land.

#### USE OF WATER

All persons are vested with the right to use public water in Louisiana (Article 450 and Article 453 of the Louisiana Civil Code; R.S. 9:1101). Article 661 of the Louisiana Civil Code grants to riparian owners certain rights

to the use of running water, but does not expressly exclude nonriparian owners from the use of such water. It is questionable whether the riparian owner is given greater rights to use water than any other person; certainly the former at least has the advantage of easier access to the waterbody. It is clear, in any case, that the riparian owner is not granted the exclusive use of this water.

#### SUBTERRANIAN WATER

The treatment of subterranean water in Louisiana is similar to that of other minerals such as oil and gas which are located beneath the surface of the earth. It is well established that none of these minerals is susceptible to

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private ownership while in place. Nevertheless, an owner of the overlying soil has the right to reduce water or any other mineral to possession and to make it his personal property.

#### STATE AND LOCAL AGENCIES OR ORGANIZATIONS

Following is a description of some of the functions of various state and local agencies or organizations that have responsibilities and related powers concerning water resources

The State Department of Public Works is empowered to plan, construct, operate, and maintain "levees, canals, dams, locks, spillways, reservoirs, drainage systems, irrigation systems -- inland navigation projects, flood control and river improvement programs -- and other public works" (R.S. 38:1 et seq). It may provide engineering, economic, and other advisory services to local governmental subdivisions and special districts. It is also specifically authorized to plan systems of inland waterways and water conservation projects.

The State Stream Control Commission exercises regulatory powers to control pollution. The commission has control of waste disposal, public or private, by any person, into any of the waters of the state for the prevention of pollution tending to destroy fish or wildlife, or domestic animals, or to be injurious to the public health or welfare. It may enter at all reasonable times upon private or public property for

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the purpose of inspecting and investigating conditions relating to the pollution of any waters of the state.

The powers and duties of the commission are defined as follows (R.S. 56:1431 et seq):

The commission:

- (1) Shall establish such pollution standards for waters of the state in relation to the public use to which they are or may be put as it deems necessary;

- (2) May ascertain and determine for record and for use in making its orders what volume of water actually flows in any stream, and the high and low water marks of waters of the state affected by the waste disposal or pollution of any person;
- (3) May by order or regulation control, regulate, or restrain the discharge of any waste material or polluting substance discharged or sought to be discharged into any water of the state.
- (4) May prohibit any discharge resulting in pollution which is unreasonable and against the public interest in view of the existing conditions in the waters of the state.

The State Board of Health has jurisdiction over water supplies and waste disposal within the state for the protection of health. It is authorized and directed to adopt a sanitary code that will include regulations regarding these matters. The regulatory powers granted to the Stream Control Commission

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do not deprive the Board of Health of its jurisdiction in regard to matters that directly affect the public health (R.S. 40:1 et seq).

The State Wildlife and Fisheries Commission administers laws relating to the protection, propagation, and taking of fish and game. The commission also exercises certain functions relative to the control of pollution (R.S. 56:1 et seq and Article VI, §1(A) of the Constitution).

The State Geological Survey, Department of Conservation, is empowered to make a geological survey of the entire state. It has published a number of reports on surface and ground water resources and has cooperated with the State Department of Public Works and the U.S. Geological Survey in making investigations of water resources and uses in Louisiana (R.S. 30:201 et seq).

In addition to the aforementioned state agencies, there are other organizations which have a variety of powers regarding water resources and water supply. These include police juries, municipalities, and special districts such as irrigation, water works, soil conservation, watershed, port, levee, and drainage.

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#### NOTES

An Appendix containing text of Civil Code Articles 450, 453, 482, 505, 661 and R. S. 9:1101 omitted.



E. L. HENRY, CHAIRMAN

CC/73  
 Committee on Natural  
 Resources and Environment  
 May 7, 1973  
 Staff Memorandum No. 6

RE: Legislation adopted in other states permitting private citizens to bring suit against anyone whose activities impair or degrade the environment.

The Consumer Interests Foundation, a non-profit foundation organized to sponsor, conduct, and coordinate research in the consumer field, investigated the experience of several states which have recently adopted legislation permitting private citizens to bring suit against anyone whose activities impair or degrade the environment. The following is a state-by-state summary of this investigation with an appendix listing the suits filed under these state environmental statutes:

#### CONNECTICUT

Who May Sue? "The attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization, or other legal entity."

Effective Date: April 23, 1971

Citizen Suits to Date: 1

Comment: "In the one year plus of experience the statute has not resulted in an undue burden on the Connecticut courts. There has been less than overwhelming usage, and there has been no log jam in the courts."

[David Tundermann, Assistant Commissioner, Department of Environmental Affairs].

#### FLORIDA

Who May Sue? "The department of legal affairs, any political subdivision or municipality of the state, or a citizen of the state..."

Effective Date: June 27, 1971

Citizen Suits to Date: 3

Comment: "The number of suits has not clogged the courts. It is too expensive and time-consuming a process for frivolous suits to be brought." [James R. Brindell, Attorney for the Department of Pollution Control].

#### MASSACHUSETTS

Who May Sue? "The superior court for the county in which damage to the environment is occurring or is about to occur, may upon the petition of not less than ten persons domiciled within the commonwealth, or upon the petition of any political subdivision..."

Effective Date: September 7, 1971

Citizen Suits to Date: 6

Comment: "I can categorically state that the idea that there would be a blood of cases is a myth that has been exploded." [Gregor McGregor, Assistant Attorney General].

#### MICHIGAN

Who May Sue? "The attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization, or other legal entity..."

Effective Date: October 1, 1970

Citizen Suits to Date: 33, through October 1972

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Comment: "It is the position of Attorney General Frank J. Kelley that the Michigan Environmental Protection Act of 1970 is an extremely important asset in the effort to abate pollution in our state. We believe that the Act provides necessary access to the courts both for public officials and for ordinary citizens on important environmental issues.

Furthermore, Attorney General Kelley believes that the Act has not produced a burden on the judiciary of our state. Specifically, we concur with the conclusion reached by Professor Joseph Sax of the University of Michigan Law School and the author of the Michigan Environmental Protection Act of 1970 that "...enough cases have been resolved speedily and intelligently to mark the Act as a success." 70 Mich L Rev 1004, 1080 (May, 1972) [Charles Alpert, Asst. Atty. Gen'l., Environmental Protection and Natural Resources Division].

"Plainly, a statute's influence is not limited to lawsuits actually instituted. Industrial and administrative agency behavior may be modified by the fear of a lawsuit and its attendant publicity; developments in one suit may bring about institutional changes of behavior in similar matters; and, of course, it is never possible wholly to isolate the presence of a statute from the public atmosphere in which it was enacted." (Joseph L. Sax, Professor of Law, University of Michigan).

MINNESOTA

Who May Sue? "Any person residing within the state; the attorney general; any political subdivision of the state; any instrumentality or agency of the state or of a political subdivision thereof; or any partnership, corporation, association, organization, or other entity having shareholders, members, partners, or employees residing within the state..."

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Effective Date: June 8, 1971

Citizen Suits to Date: 7 (includes one suit by a political subdivision in which a group of citizens intervened as parties)

Comment: "It would not appear that an unreasonable burden has been placed on our judicial system to date." [Jonathan H. Morgan, Deputy Attorney General].

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ACTORS

List of Cases

CITIZEN SUITS

1. State of Minnesota v. City of Minneapolis, File No. 13-100, Hennepin County Circuit Court, filed October 12, 1971. Suit for injunction to prevent air pollution.

PLO IN

1. State of Florida v. Hillsborough County Pollution Control Commission, File No. 70771, filed October 14, 1971, Circuit Court of Broward County. Action brought to upgrade the discharge quality of sewage effluent in the Pompano Beach Ocean Outfall.
2. Thomas A. Merrill and Jack Fredes individually and as Citizens of Florida v. Edward Hall Individually and as Administrator of the Edward Hall Wildlife Penetration and Wakulla Silver Springs Co., a Florida Corp., and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, Case No. 401, Circuit Court, 2nd Judicial Circuit. Suit brought to compel removal of a fence placed across the Wakulla River by the defendants. River is alleged to be a public navigable waterway.
3. Hamilton Forman and Austin Forman v. City of Pompano Beach et al., Case No. 70771, filed October 14, 1971, Circuit Court of Broward County. Action brought to upgrade the discharge quality of sewage effluent in the Pompano Beach Ocean Outfall.

MASSACHUSETTS

1. Conservation Law Foundation v. New England Power Company. Suit to halt discharges by power company into river.
2. Sanford et al. v. Town of Mattapoisett. Suit to halt improper usage of wetlands.
3. Farnsworth et al. v. Fitchburg Paper Co. Suit intended to halt water pollution of river.
4. Bleiler et al. v. Town of Wellesley Town Incinerator and Town of Wellesley Director of Public Works, Everett Kennedy. Suit to prevent air pollution by incinerator plant.

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ACTORS (continued)

1. City of Lowell v. City of Woburn. Suit to halt sewage to environment due to landfill dumping.
2. City of Lowell v. City of Woburn. Case concerned water pollution of a water body and endangerment of water supply.

CITIZEN SUITS

1. North E. Parsons, Inc. v. City of Detroit, File No. 191-620, Wayne County Circuit Court, filed October 12, 1971. Suit for injunction of air incineration process to prevent air pollution.
2. Harlow v. Detroit Edison Co., File No. 5993, Washtenaw County Circuit Court, filed September 9, 1971. Case involved injunction to prevent condemnation of land by public utility.
3. Boorman v. Township of Summit, File No. C 11-212, Jackson County Circuit Court, filed September 10, 1971. Case involved water pollution and municipal water treatment system.
4. Bliss v. Detroit Edison Co., File No. 181665-3, Wayne County Circuit Court, filed May 24, 1971. Case involved industrial air pollution and asked for injunction thereof.
5. Blunt v. Apfel, File No. 849, Antrim County Circuit Court, filed November 4, 1970. Attempt to enjoin condominium development.
6. Brown v. Levitt Bros. Co., File No. 161228, Wayne County Circuit Court, filed February 15, 1971. Seeks injunction of water pollution by phosphate detergent.
7. Busard v. Mackeog Heights, File No. 5291, Mackeog County Circuit Court, filed October 27, 1970. Water pollution and treatment system.
8. Grandall v. Biorgans, File No. 844, Clinton County Circuit Court, filed June 11, 1969. Sought to enjoin air pollution.
9. Davis v. DNR, File No. 482, Otsego County Circuit Court, filed October 1, 1970. Land use -- oil and gas leasing.
10. Gay of Lakes Environmental Org. v. Gee, File No. 7, Calhoun County Circuit Court, filed January 19, 1972. Case involved allegedly improper land drainage.

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CITIZEN SUITS (continued)

11. Local Property Owners v. Township of Northfield, File No. 1455, Livingston County Circuit Court, filed August 27, 1970. Case involving complaint of water pollution and land use of residential treatment facility.
12. State of Michigan v. L&L, File No. 235-44, Branch County Circuit Court, filed October 14, 1970. Water pollution and sewage treatment system.
13. McGlo v. City of Lansing, File No. 13507-C, Ingham County Circuit Court, filed August 11, 1971. Case involved park managment and land use.
14. Michigan County v. Environmental Protection Commission (conservation), File No. 6-555, Mackeog County Circuit Court, filed March 25, 1971. Case sought injunction of sewage treatment system implementation by the county.
15. Michigan United Conservation Clubs v. Anthony, File No. 231, Ottawa County Circuit Court, filed August 2, 1971. Filed to force Indian compliance with state fishing regulations.

16. Owens v. Water Resources Commission, File No. 5708, Washburn County Circuit Court, filed May 14, 1971. Case involves water pollution through treatment system.
17. Payant v. Department of Natural Resources, File No. 1100, Dickinson County Circuit Court, filed July 13, 1971. Case involved proposed injunction of state's deer hunting management program.
18. Ray v. Raynowsky, File No. 2-760, Mason County Circuit Court, filed November 17, 1971. Sought injunction of land drainage.
19. Reams v. Herrick, File No. 180998R, Wayne County Circuit Court, filed May 21, 1971. Case involves water pollution through treatment system.
20. Surovitz v. City of Detroit, File No. 178,640, Wayne County Circuit Court, filed April 12, 1971. Case involved application for temporary restraining order to restrain municipal spraying program.

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(Continued)

21. Union v. Department of Natural Resources, File No. 13359-C, Ingham County Circuit Court, filed December 8, 1971. Case involved complaint against grant of authority for a water license.
22. Trust Indemnity Co. v. Hilliker, File No. 15243-C, Ingham County Circuit Court, filed June 16, 1971. Complaint against lake level maintenance and drainage, seeking injunction against lake drainage project.
23. Wilson v. Board of Road Construction, File No. 7-237, Cass County Circuit Court, filed June 16, 1971. Sought injunction against road widening and attendant tree cutting by county Road Commission.
24. Irish v. Green, File No. 14306-C, Ingham County Circuit Court, filed April 12, 1972. Challenges subdivision development.
25. Irish et al. v. Property Development Group, Inc., File No. 234-3, Emmet County Circuit Court, filed August 29, 1972. Challenge to condominium development.
26. Kelley et al. v. Continental Metallurgical Products, File No. 3095, Kearns County Circuit Court, filed July 21, 1972. Brought suit to enjoin operation of smelting furnace.
27. Kelley et al. v. Michigan Standard Alloys, File No. D-2578-W, Berrien County Circuit Court, filed August 1, 1972.
28. Maha v. Union Lake Associates, File No. 2954, Grand Traverse County Circuit Court, filed August 14, 1972. Suit seeks to enjoin construction causing runoff of land.
29. McDonald et al. v. Detroit Edison et al., File No. 212922, Wayne County Circuit Court, filed July 1972. Suit seeks injunction of operation of plants which produce air pollution.
30. Oakwood Homes et al. v. Ford et al., File No. 213 759S, Wayne County Circuit Court, filed July 31, 1972. Suit seeks injunction of discharge of air pollutants.
31. Szalaba et al. v. American Cement Co., File No. 2070-43S, Wayne County Circuit Court, filed May 6, 1972. Injunction sought to halt air pollution.

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(Continued)

32. S. v. Winkler v. S. v. Winkler, File No. 70 218 09, 0A, 1st Judicial District Court, filed September 29, 1972. Injunction sought to halt air pollution.
33. Winkler v. Winkler, File No. 10420-C, Ingham County Circuit Court, filed October 23, 1972. Alleged violation of S.P.A. statutes to grant licenses to operate power plants which pollute, and sought injunction of licensing until state pollution standard were developed.

MINNESOTA

1. City of Minneapolis v. City of Hennepin County, District Court, Third Judicial District, docket No. 23844, filed July 16, 1971. Suit to prevent condemnation of private property by county.

2. State of Minnesota ex. rel. Ludwig v. City of Bemidji, Eastern County District Court, Fourth Judicial District, filed December 10, 1971. Suit attacking city's sewage disposal system.
3. Minnesota Public Interest Research Group, Clean Air Clean Water Committee, Inc. et. al. v. Koch Refining Co., Koch Refining Co., North Star Chemicals, Inc., St. Paul Harmonia Products Inc., Hennepin County District Court, filed June 20, 1972. Suit charges general degradation of the environment and violation of Minnesota pollution standards, and seeks to enjoin same.
4. Ski Pine Band Co. and Gabrielle Cyr v. Koch Refining Co., North Star Chemicals, Inc., St. Paul Harmonia Products, Inc., Dakota County District Court, First Judicial District, docket No. 7433, filed July 1972. Suit charges violation of Minnesota pollution standards and general degradation of the environment.
5. (Individual Citizen) v. Village of Robbinsdale and the State Highway Department, Hennepin County District Court, Fourth Judicial District. Suit charges pollution of a lake through storm sewers.
6. City of West St. Paul v. Bisanz, Dakota County District Court, filed August 1971. Citizens intervened in a condemnation proceeding.
7. (Individual Citizen) v. City of Blaine and the State Highway Department, Hennepin County District Court, Fourth Judicial District. Suit charges pollution of a lake through storm sewers.

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E. L. HENRY, CHAIRMAN

CC/73

Committee on Natural Resources & Environment

May 7, 1973

Staff Memorandum No. 7

RE: Legal Aspects of Water Resource Regulation and Geothermal Resource Utilization

Under the present law each landowner is vested with the right to explore for and reduce to possession resources beneath the surface of his land, and all persons have the right to use the water resources of the state. Proposals to vest in the state ownership of all geothermal resources and to regulate by the state its water resources will be considered by this committee.

Attached is a memorandum concerning utilization of geothermal resources (see Staff Memorandum No. 5 concerning regulation of water resources).

MEMORANDUM ON

LEGAL ASPECT OF UTILIZATION OF GEOTHERMAL RESOURCES

Introduction

It is difficult to grapple with the legal problems attendant upon utilization of geothermal resources in Louisiana in the absence of a full and fairly detailed technical design of a project. However, modest reading concerning the potential for utilizing geothermal resources to supply some of the state's energy needs leads to certain fundamental assumptions which can be made as a basis for discerning and suggesting solutions to some of the legal problems involved.

It is the writer's understanding that in broad areas of southern Louisiana there are available supplies of super-heated water at depths of 15,000 feet and



below. This water, at temperatures of 350° to 450° Fahrenheit and under pressures of 4,000 to 6,000 pounds constitutes a widely available and important potential source of energy. The problem with many sources of super-heated water is that it is full of salt and other corrosive minerals. According to information given to the writer, in some areas of Louisiana, however, the water available has very low salinity, some of it approaching potability. If this is true, problems with corrosion of equipment and potential problems of disposition of water would be lessened.

In terms of operating units, it is the writer's understanding that water would be extracted from wells at the rate of approximately 100,000 barrels per day. Upon extraction the initial utilization would consist of using the mechanical energy created by the high pressure to operate turbines. Thereafter, the heat energy could be utilized by a heat exchange device transmitting the heat from the water to an isobutane boiler. As a result of this heat exchange the

2. vapors from boiling of a chemical substance such as isobutane would drive a second turbine. A third potential energy source lies in the possibility that there may be meaningful quantities of natural gas in association with the water extracted. Extracted water, after utilization, could be disposed of either by reinjection at shallow depths or by release into inland or gulf waters. Care would have to be taken in the event of a choice to release into surface waters to avoid pollution through the injection of water with greater and damaging saline content than the body into which the release is made and by avoiding the potential for thermal pollution. These are principally technical problems, but the legal ramifications of pollution would have to be considered in designing the technical project. The most significant technical factor in the picture of potential geothermal energy use insofar as legal consequences are concerned is that these wells would have to be spaced on a very wide basis. It is the writer's understanding that a utilization project would drain possibly as much as 100 square miles. This requires very wide spacing. It also means that if spacing limitations were established, the present property regime applicable to oil and gas in Louisiana might require utilization and protection of correlative rights of each landowner within the 100 square mile area. This would entail a backbreaking burden of administration if it were necessary to lease every individual tract within a 100 square mile area, examine titles, and, potentially, pay royalties of a few cents a month to each landowner within the project area. The administrative cost attached to such a burden would be so great as to make utilization of this source of energy economically unfeasible in many instances. It is in the light of this particular problem that the following analysis of various legal concepts is made.

3.

#### Existing Law

Under existing law, oil, gas, water, and other so-called fugacious substances are not deemed to be owned by a landowner in place. See Proctor-Holston Lumber Co. v. Sallins's Heirs, 150 La. 756; Adams v. Grimsby, 152 So.2d 619 (La. App. 3d Cir. 1963), writs refused, 260 La. 662, 153 So.2d 880 (1963). This means that in their natural state beneath the ground these substances might be viewed as things owned by no-one or res nullius. They become owned only upon reduction to possession. Such is the view expressed as to oil and

gas and subterranean water in the above cited cases. See also La. C.C. arts. 3412-3425.

The problem in connection with potential spacing under the regime of property law presently applicable to oil and gas would lie in the fact that the law vests in each owner of land as an incident of his ownership the right to search for and extract oil, gas, and subterranean water from beneath his own land. This has meant, as expressed in our present conservation act, that if an exercise of the police power denies to the owner of a particular tract of land the right to drill for oil and gas on his property through the formation of a drilling or production unit, he must be appropriately compensated by being allowed to participate in production from that well in order to avoid having the exercise of the police power being declared unconstitutional as effecting a taking of property without just compensation. Unless new legislation were enacted, or unless some constitutional provision were inserted in the constitution presently being drafted, this set of property rules would unquestionably be applicable to geothermal resources.

As noted, if these rules of property were applied to geothermal resources, leasing of every tract within a unit would be required and the payment of royalties to every landowner would be required. Such requirements would seriously hamper if not eliminate the economic feasibility of using geothermal resources. This leads to the necessity for examining possible paths which could avoid this problem and promote the economic feasibility of utilizing geothermal resources.

4.

#### Possible Approaches

##### Claim by the State

If the analogy between things res nullius and geothermal resources are pursued, there is a possibility that the State could do as it did with fish, game, and other wildlife more than forty years ago. To assure proper regulation of the taking of game, the State claimed title to all wild game within its borders and provided that wild game may be taken from the State only according to its regulations. If similar legislation were passed laying claim to all geothermal resources on behalf of the State, it would then be possible for the State to award leases or contracts of some sort permitting the establishment of geothermal projects at properly spaced intervals. This approach is not without its difficulties. As pointed out in connection with oil, gas, and water, although our courts have long said that such substances are not owned in place, they have nevertheless accorded to each private landowner a right to search for such substances on his own land. Thus, although the State's claiming of title to the resources might be permissible, its denial to any particular landowner of the right to search for and utilize such resources as an incident of ownership might represent a taking requiring just compensation. Refinement of this approach and more detailed consideration of the legal problems involved may, nevertheless, ultimately be considered feasible. Equally, there will be a contest as to the validity of any such legislation. However, this will be true of virtually any legislative seeking to solve the problem presented by the requirement of great areas for the operation of geothermal projects.

A system of imprescriptible right to geothermal resources

Another incident of the Front-Johnson decision, supra, is that when a landowner sells his right to explore for minerals, such right is considered in the nature of a servitude and prescribes for nonuse in ten years. The approach already outlined of having the State lay claim to title to geothermal resources might be augmented in the event that it was felt that denying to specific landowners the right to utilize their property to search for and utilize geothermal resources would be unconstitutional. This augmentation might consist of legislation permitting companies licensed by the State to utilize geothermal resources to expropriate all rights of exploration for such resources within a defined project area. To avoid a high level of administrative costs, it might then be required that each landowner within the project area make specific application for compensation. The rate of compensation for the taking of the right to explore for and use such resources might be fixed by legislation at a suitable level. Each landowner could, thus, apply for and receive compensation at a relatively modest figure. Obviously, there would be many contests as to ownership of specific areas of land. However, these might be resolved if the rates of compensation were appropriately modest by double payments where disputing claims arise. As an accompaniment of this right of expropriation, it might be declared that such rights, when expropriated, shall be imprescriptible. This would avoid any problems of use under the present rules applicable to mineral servitudes.

This approach, also, needs further thinking. Its basic flaw is that it will still involve a high level of administrative costs in compensating landowners who claim under such legislation. This burden might be too great.

Regulation of public utilities

A third possible legal approach could be to regulate geothermal projects as public utilities. In view of the fact that widespread use can be utilized for each particular project and the fact that competitive projects within a given area cannot operate economically, licensing on a utility basis might be appropriate. However, simply calling these projects public utilities and regulating them accordingly, still does not overcome the property law aspects arising from Louisiana ownership concepts. Therefore, the approach of regulating geothermal projects as public utilities, although it has much to recommend it in terms of promoting efficient use of these resources for the people in the State, still does not solve the fundamental problems springing from traditional ownership concepts.

Conclusion

This brief outline of legal aspects of utilization of geothermal resources is obviously an extremely superficial examination of the problem. Further examination can be made if desired. Attention is called to the fact that the Louisiana State Law Institute is currently involved in drafting a mineral code. The writer is reporter for that project and will necessarily have to consider the nature of property rights in geothermal resources as a part of the mineral code legislation. Under the circumstances, therefore, it is felt that close coordination on this matter is essential to serving the best interest of the people of Louisiana.

Respectfully submitted,

George W. Hardy, III



CC/73 Research Staff  
Committee on Natural  
Resources and Environment  
May 23, 1973  
Staff Memorandum No. 8

Re: Action taken by the Committee on Natural Resources and Environment on May 8, 1973.

Enclosed is the following material:

Proposals adopted for inclusion in a new constitution	2
Provisions deleted from a new constitution	8
Provisions referred to another substantive committee	9
Provisions not yet considered by this committee:	
A. Provisions within jurisdiction of this committee	10
B. Provisions in initial compilation but assigned to other committees by the Coordinating Committee	11

PROPOSALS FOR THE NEW CONSTITUTION ADOPTED BY THE COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

PROPOSAL 1

The legislature shall neither alienate nor authorize the alienation of the beds of navigable water bottoms. The mineral rights on all property sold by the state shall be reserved, except where the owner or other person having the right to redeem may buy or redeem property sold or adjudicated to the state for taxes. This shall not prevent the leasing of such lands and rights for mineral or other purposes.

Source: La. Const. Art. IV, §2 (12)

Comment: This proposal provides no substantive change from the present constitution except deletion of the phrase "for purposes of reclamation." The effect of this deletion merely prohibits the state from divesting its ownership in these public lands; it does not prevent reclamation projects.

Professor Yiannopolous, Professor Hardy, and others suggested that the state declare ownership in all navigable water bottoms. Such a declaration would represent no change in the present law but would clear up possible confusion in the future.

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PROPOSAL 2

From all mineral leases to be granted by the State, as well as from all mineral leases heretofore granted by the State on State owned land, lake and river beds and other water bottoms be-

longing to the State or the title to which is in the public for mineral development, it is hereby provided that ten per cent (10%) of the royalties received by the State from such lease or leases shall be placed, by the State Treasurer, as received, in a special fund to the credit of the parish from which the production is had, said fund to be known as Royalty Road Fund and that said money so accumulated in said Royalty Road Fund to the credit of said parish in which the production is had, shall be subject to withdrawal by the State Department of Highways, or its successor, for the purpose and shall be used exclusively by said Department or the successor thereof for the building and constructing of black top, concrete or other hardsurfaced roads, highways, bridges, and tunnels in said parish, and to purchase, operate and maintain automobile ferries in said parish.

Source: La. Const. Art. IV, §2 (¶3)

Comment: This proposal provides no change from the present constitution. A more concise alternative, however, is possible:

Ten percent of the royalties from any mineral lease granted by the state shall be placed in a special fund to the credit of the parish from which the mineral was severed. This fund shall be used by the state to construct transportation facilities in such parish.

-3-

This alternative proposal provides no substantive change from the present constitution.

The Royalty Road Fund concerns only disposition of royalties from mineral leases. It should be noted that other provisions in the present constitution (La. Const. Art. X, §1 and 21) dedicate percentages of various severance taxes to the governing authorities of the parish from which the natural resource was severed. The following combines all dedications of revenue from severance taxes and mineral royalties found in the present constitution:

Three-fourths of the timber severance tax, one-third of the sulphur severance tax, one-fifth of the tax on all other natural resources, and one-tenth of the royalties from mineral leases granted by the state shall be remitted to the governing authority of the parish from which the natural resource was severed.

This provision provides no substantive change in the present law except deletion of the \$200,000 ceiling on mineral severance taxes and use of the royalty funds exclusively for construction of transportation facilities.

#### PROPOSAL 3

All revenues and royalties of every nature and kind obtained from minerals of all kinds located beyond the three-mile limit of the Coastal Waterways of the State of Louisiana, shall be the property of the State of Louisiana, and all funds derived therefrom shall be deposited in the State Treasury and dedicated to the retirement and payment of all existing bonded indebtedness of the State of Louisiana.

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Source: La. Const. Art. IV, §2(b)

Comment: This proposal provides no change from the present constitution.

#### PROPOSAL 4

Notwithstanding any other provision of the Constitution or of the laws of this state, all funds received by the state of Louisiana during the calendar year 1966 and thereafter from revenues derived from tidelands mineral leases and now or hereafter held in escrow under an agreement executed by and between the state of Louisiana and the United States Government pending settlement of the claims of the state of Louisiana with regard to its portion of such revenues, but not including any portion of such funds derived from royalties received by the state from mineral leases which are required by the provisions of Article IV, Section 2 of the Constitution to be placed in the Royalty Road Fund to the credit of the parish from which production is had and not including any portion of such funds now dedicated or allocated to public education purposes, shall be credit by the state treasurer to a special fund in the state treasury.

So much of the monies credited to the special fund hereinabove provided for as are needed for the purpose shall be expended by the state treasurer, when authorized and directed to do so by the Board of Liquidation of the State Debt, to purchase and retire in advance of maturity the callable bonds or other evidences of

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indebtedness of the state of Louisiana or its agencies, boards and commissions. Monies thereafter remaining on deposit in said special fund, which cannot be expended immediately for the purpose hereinabove provided, shall be invested by the state treasurer, in such amounts as he in his discretion may deem advisable and in the best interest of the state. Such funds, including any interest earned thereon, shall be invested and reinvested in time certificates of deposit in state banks organized under the laws of Louisiana or national banks having their principal office in the state of Louisiana and in short-term United States Treasury bills and in bonds and other direct obligations of the United States Government.

Out of the total funds remaining in the said special fund on the last day of each calendar year there shall be set aside such amount as is needed to pay the principal of and interest on the outstanding bonded and other indebtedness of the state and its agencies, boards and commissions in the next succeeding calendar year, as hereinabove provided, and such funds so set aside shall be so used. Thereafter, not more than ten percentum of the total value of the said special fund remaining on the last day of each preceding calendar year, up to but not in excess of Ten Million Dollars, may be appropriated by the Legislature during the first calendar year following the adoption of this amendment in 1966 and

in any calendar year thereafter, for capital improvements, including the purchase of land, architect and engineering fees, construction costs and equipment for buildings and other costs.

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This Section shall be self-operative and shall require no further or other legislation to place it into effect.

Source: La. Const. Art. IV, §2(d)

Comment: This proposal provides no change from the present constitution.

PROPOSAL 5

The commissioner of agriculture shall be elected for a term of four years by the electors of the state as prescribed by law.

Source: La. Const. Art. V, §18

Comment: This proposal provides no substantive change from the present constitution except the provision authorizing the legislature to consolidate the office is deleted.

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PROVISIONS IN THE PRESENT CONSTITUTION DELETED FROM THE NEW CONSTITUTION

Art. IV, §2(c) Mineral revenues; payment into general highway fund

All reference to Register of State Lands and Commissioner of Conservation (Art. VI, §1(c) and Art. V, §§1, 18, 20)

Art. XIII, §6 Canal and hydro-electric developments; use of state waters; state ownership

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PROVISIONS IN THE PRESENT CONSTITUTION REFERRED TO OTHER SUBSTANTIVE COMMITTEES

Art. III, §37 (Bill of Rights Committee)

Art. X, §4 (Revenue, Finance & Taxation Committee)

Art. X, §21 (Revenue, Finance & Taxation Committee)

Art. X, §21(2) (Revenue, Finance & Taxation Committee)

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PROVISIONS TO BE CONSIDERED BY THIS COMMITTEE

Art. IV, §12(b) State Market Commission; guaranteed loans; agricultural facilities  
 §12(c) Commissioner of Agriculture; guaranteed loans; farm youth organization

Art. VI, §1 Wildlife and Fisheries Commission; Forestry Commission; Department of Conservation; powers; duties; functions, etc.

§1(A) Wildlife and Fisheries Commission; director

§1(B) Forestry Commission; state forester

§4 Public Service Commission (sale of natural gas to industry; prohibition)

§13 Agriculture; commission to direct department

§14 Agriculture; public policy

§19.3 Beautification of highways; regulation of outdoor advertising and junkyards

§27 Lake Pontchartrain; sale of submerged lands; islands; causeway

Art. XIV, §30 Improvements by riparian owners

§33 Agricultural industrial boards; bonds

§38 Jefferson Parish; public improvement districts (reclamation project)

§38.1 St. Charles Parish; reclamation project by public improvement district

§39 City of Lake Charles; reclamation and development of lake front

§44 City of Lake Charles; reclamation and development of lake front

§44.1 City of Lake Charles; reclamation and development of lake front

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PROVISIONS IN INITIAL COMPILATION BUT ASSIGNED TO OTHER SUBSTANTIVE COMMITTEES

Art. III, §33 Convict Labor (Education & Welfare)

Art. IV, §4 Prohibition of special laws relating to agriculture (Education & Welfare)

§7 Regulation of hours, wages (Education & Welfare)

§12 Loan or pledge of state funds or credit (Revenue, Finance & Taxation)

Art. VI, §2 Forestry acreage tax (Revenue, Finance & Taxation)

§11.1 Mosquito districts (Local & Parochial Government)

§22(1) Highway fund (Revenue, Finance & Taxation)

Art. X, §1 Specific taxes (Revenue, Finance & Taxation)

§11 Postponement of taxes in emergencies (Revenue, Finance & Taxation)

Art. XII, §17 L.S.U.; source of funds (dedication for benefit of agricultural arts) (Education & Welfare)

§21 Agricultural and mechanical college fund (Education & Welfare)

Art. XIV, §15.2 Compensation for families of law enforcement officers  
(Education & Welfare)

§16 Acquisition of servitudes  
(Local & Parochial Government)

-11-

Art. XV, §1-4 Drainage districts  
(Local & Parochial Government)

Art. XVI, § 7 Orleans Levee District  
(Local & Parochial Government)

Art. XIX, § 8 Gambling prohibited  
(Legislative Powers & Functions)

§14 Monopolies  
(Legislative Powers & Functions)

§16 Prescription against the state  
(Judiciary)

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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 pecuniary 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,

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CC/73 Research Staff

Committee on Natural Resources  
and Environment

May 17, 1973

Staff Memorandum No. 9

E. L. HENRY  
Chairman  
NORMA M. DUNCAN  
Director of Research

RE: State Public Utility Commissions and Their Regulatory Functions

Enclosed please find a staff memorandum concerning public utility commissions in all fifty states. It is noted that only twelve other states grant constitutional status to their commissions. Also attached are the relevant parts of these constitutionally created commissions.

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 comparison 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

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 may be found at Book of States, 1972-1973, pp. 557-558. Attachment III, consisting of constitutional provisions relating to Public Service Commissions from the following states: Arizona, California, Colorado, Georgia, Kentucky, Louisiana, Nebraska, New Mexico, North Dakota, Oklahoma, South Carolina, Texas and Virginia, is omitted.



STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973, P. O. BOX 17749 A, BATON ROUGE, LOUISIANA  
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CC/73 Research Staff  
Committee on Natural  
Resources and Environment  
June 15, 1973  
Staff Memorandum No. 10

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FINAL ACTION ON ALL PROVISIONS WITHIN JURISDICTION OF

COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

<u>Article and Section</u>	<u>Subject</u>	<u>Committees</u>	<u>Status</u>
IV, 2, ¶2	Alienation of Water Bottoms, Reservation of Mineral Rights	Natural Resources Local & Parochial Revenue, Finance, Tax (Coordinate)	Adopted
IV, 2, ¶3	Royalty Road Fund	Natural Resources Local & Parochial Revenue, Finance, Taxation (Coordinate)	Adopted
IV, 2b	Revenues Beyond Three-Mile Limit	Natural Resources Local & Parochial Revenue, Finance, Taxation (Coordinate)	Adopted
IV, 2c	Mineral Revenues, Payment into Highway Fund	Natural Resources Local & Parochial Revenue, Finance, Taxation (Coordinate)	Deleted
IV, 2d	Dedication of Mineral Revenues	Natural Resources Local & Parochial Revenue, Finance, Taxation (Coordinate)	Adopted
IV, 12b	Market Commission Guaranteed Loans	Natural Resources Executive (Coordinate)	Deleted (Conditionally) 1

<u>Article and Section</u>	<u>Subject</u>	<u>Committees</u>	<u>Status</u>
IV, 12c	Loans to Youth Organizations	Natural Resources Executive (Coordinate)	Adopted (Conditionally) 1
V, 1, 18, 20	Commissioner of Agriculture	Executive	Adopted
VI, 1	Statement of Policy	Natural Resources Executive (Coordinate)	Adopted
VI, 1a	Wildlife and Fisheries Commission	Natural Resources Executive (Coordinate)	Adopted
VI, 1b	Forestry Commission	Natural Resources Executive (Coordinate)	Adopted
VI, 1c	Conservation Commission	Natural Resources Executive (Coordinate)	Deleted
VI, 1d	Execution Clause	Natural Resources Executive (Coordinate)	Deleted
VI, 4	Public Service Commission	Natural Resources Executive (Coordinate)	Adopted



<u>Article and Section</u>	<u>Subject</u>	<u>Committees</u>	<u>Status</u>
VI, 13	Agriculture, Commissioner to Direct Department	Natural Resources Executive (Coordinate)	Adopted <sup>2</sup>
VI, 14	Policy on Agriculture	Natural Resources	Deleted
VI, 19.3	Regulation of Outdoor Ads and Junkyards	Natural Resources Executive (Coordinate)	Adopted (Conditionally) <sup>1</sup>
VI, 27	Lake Pontchartrain, Sale of Submerged Lands	Natural Resources	Deleted
XIII, 6	Canal & Hydroelectric Developments	Natural Resources Executive (Coordinate)	Deleted
XIV, 33	Agricultural Industrial Boards	Natural Resources	Deleted
XIV, 38	Jefferson Parish, Reclamation Project	Natural Resources Local & Parochial (Coordinate)	Deleted <sup>3</sup>
XIV, 38.1	St. Charles Parish, Reclamation Project	Natural Resources Local & Parochial (Coordinate)	Deleted <sup>3</sup>
XIV, 39	Lake Charles, Reclamation Project	Natural Resources Local & Parochial (Coordinate)	Deleted <sup>3</sup>
XIV, 44	Lake Charles, Reclamation Project	Natural Resources Local & Parochial (Coordinate)	Deleted <sup>3</sup>

<u>Article and Section</u>	<u>Subject</u>	<u>Committees</u>	<u>Status</u>
XIV, 44.1	Lake Charles, Reclamation Project	Natural Resources Local & Parochial (Coordinate)	Deleted 3
New	Geothermal - Geopressure Resources	Natural Resources	Adopted
New	Mineral Rights, Alluvion	Natural Resources	Adopted
New	Mineral Rights, Erosion	Natural Resources	Adopted

<sup>1</sup>Unless necessary to make exception to a constitutional prohibition  
<sup>2</sup>Included in proposal retaining commissioner as an elected official  
<sup>3</sup>Insofar as in conflict with constitution prohibition regarding public lands

NOTES

Text of provisions remaining to be considered are omitted as follows: Art. IV, Sects. 12-b, 12-C; Art. VI, Sects. 1(A), 1(B), 4, 13, 14, 19.3, 27; Art. XIV, Sects. 33, 38, 38.1, 39, 44, 44.1.

STAFF COMMENTS ON PROVISIONS WITHIN THE COMMITTEE'S JURISDICTION REMAINING TO BE CONSIDERED

Art. IV, §§12b, 12c

Article IV, Section 12 prohibits the state from loaning, pledging, or granting any of its property to or for any person. Subsections b and c provide exceptions to this general rule, since they guarantee certain loans to processors and marketers of agricultural products and to farm youth organizations. If the very restrictive prohibition of Article IV, Section 12 is deleted from the new constitution, the legislature would have the authority to provide for loan programs without need of constitutional provisions. Article IV, Section 12 has been assigned to the Committee on Revenue, Finance and Taxation and to the Committee on Local and Parochial Government. Though those committees have yet to make final proposals, the indications are that they will adopt a less restrictive successor to Article IV, Section 12; thus, these subsections will be unnecessary.

Art. VI, §1

Article VI, §1 provides for the protection, conservation, and replenishment of natural resources. The question is whether the scope of the policy should be expanded to include environmental protection and whether a right of action should be provided the

individual to secure environmental protection. (Refer to Staff Memo No. 6.)

Art. VI, §§1(A) & (B)

Art. VI, §§1(A) & (B) provide for creation of the Wildlife and Fisheries Commission and the Forestry Commission. The question is whether these commissions should continue to have constitutional status or whether they should be deleted from a new constitution and placed into statutory law. The Committee on the Executive has concurrent jurisdiction over these commissions and has deferred action pending a report of this committee.

Art. VI, §4

Art. VI, §§3-9 concern the powers and functions of the Public Service Commission. The Committee on the Executive has primary jurisdiction of this commission, with the jurisdiction of the Natural Resources Committee covering the provision which prohibits Public Service Commission control over direct sale of natural gas to industry (See Staff Memo No. 4). The question is whether to continue this exception to the jurisdiction of the Public Service Commission or whether to allow control over supply or price or both. The Subcommittee on Powers and Functions of Boards, Commissions, and Elected Officials of the Committee on the Executive has adopted the following which removes the constitutional prohibition on regulation of direct sales of natural gas to

industrial users:

The Public Service Commission shall consist of five members elected from districts established by law for overlapping terms of six years at the time fixed for congressional elections, provided that the legislature shall establish initial terms of less than six years to implement said composition.

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 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.

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.

Appeal from any decision of the commission shall be directed to a court of appeal as provided by law.

Art. VI, §§ 13 & 14

Art. VI, §§ 13 & 14 provide that the Department of Agriculture be directed by the commissioner and set forth a statement of policy. These provisions could either be made statutory or added to the provision which will retain the commissioner of agriculture as an elected official. It should be noted that the Committee on the Executive Department voted to delete the commissioner of agriculture from the new constitution.

Art. VI, §19.3

This amendment, adopted in 1966, expands the powers of expropriation and spending of dedicated funds to include the taking and regulation of billboards, junkyards, and other property adjacent to interstate highways, as was required to be eligible for certain federal highway funds. The amendment was necessary because existing provisions did not allow expenditures

of highway funds for such purposes. (Art. VI, §22).  
If the general highway fund provision is expanded, this amendment will be unnecessary.

Art. VI, §27

Added in 1936, this article envisioned a Lake Pontchartrain causeway being built by constructing artificial islands in the lake and connecting them with bridges. This article allowed the state to alienate its ownership of the bed of the lake where those artificial islands would be created. Since the causeway has been constructed through other means without the use of this provision, it could be classified as obsolete.

Art. XIV, §33

Article XIV, Section 33 provides for creation of agricultural industrial boards and for issuance of bonds by those boards. The Department of Agriculture's presentation to this committee indicated that this

39

provision could be classified as obsolete since it has not been used. Provisions for bonds and other industrial inducement projects exist in statutory law.

Art. XIV, §§38, 38.1, 39, 44, & 44.1

Art. XIV, §§38, 38.1, 39, 44, & 44.1 authorize political subdivisions to reclaim certain waterbottoms within their respective jurisdictions and allows the state to divest itself of its ownership in these lands. Under the present constitution, such provisions are unnecessary since the state has the power to alienate navigable waterbottoms for purposes of reclamation (Art. IV, §2). Thus, such could be provided by statute. Even if the reclamation exception in Art. IV, §2 is deleted, reclamation projects could still be undertaken. The only restriction would be that the state could no longer divest itself of ownership of navigable waterbottoms.

40

COMMITTEE PROPOSALS (ADOPTED)

41

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4

A PROPOSAL

5 For prohibition against alienation of navigable water-  
6 bottoms and reservation of mineral rights.

7 PROPOSED SECTION:

8 Article \_\_\_\_, Section \_\_\_\_. Alienation of Water-  
9 Bottoms; Reservation of Mineral Rights

10 Section \_\_\_\_. The legislature shall neither  
11 alienate nor authorize the alienation of the beds  
12 of navigable water bodies except for purposes of  
13 reclamation by the riparian owner to recover land  
14 lost through erosion occurring subsequent to the  
15 date of adoption of this constitution, provided such  
16 reclamation is effected within ten years from the  
17 date on which the erosion occurs. Except as provided  
18 herein, no bed of any navigable water body may be  
19 reclaimed except for public use. The mineral rights  
20 on all property sold by the state shall be reserved,  
21 except where the owner or other person having the  
22 right to redeem may buy or redeem property sold or  
23 adjudicated to the state for taxes. This shall not  
24 prevent the leasing of such lands for mineral or other  
25 purposes.

26

27 Source: La. Const. Art. IV, §2 (1921).

28

29 Comment: Provides no substantive change from the source  
30 provision except to restrict alienation of the beds  
31 of navigable water bodies to reclamation of land lost  
32 through erosion and to require that land formed by  
33 any other such reclamation project be dedicated to  
34 public use.

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4

A PROPOSAL

5 For creation of royalty road fund.

6 PROPOSED SECTION:

7 Article \_\_\_\_, Section \_\_\_\_. Royalty Road Fund

8 Section \_\_\_\_. From all mineral leases to be  
9 granted by the state, as well as from all mineral  
10 leases heretofore granted by the state on state-  
11 owned land, lake and riverbeds, and other water  
12 bottoms belonging to the state or the title to which  
13 is in the public for mineral development, it is here-  
14 by provided that ten percent of the royalties received

15 by the state from such lease or leases shall be placed,  
16 by the state treasurer, as received, in a special  
17 fund to the credit of the parish from which the pro-  
18 duction is had, said fund to be known as Royalty  
19 Road Fund and that said money so accumulated in said  
20 Royalty Road Fund to the credit of said parish in  
21 which the production is had, shall be subject to  
22 withdrawal by the State Department of Highways, or  
23 its successor, for the purpose and shall be used  
24 exclusively by said department or the successor thereof  
25 for the building and constructing of black top, concrete  
26 or other hard-surfaced roads, highways, bridges, and  
27 tunnels in said parish, and to purchase, operate,  
28 and maintain automobile ferries in said parish.

30 Source: La. Const. Art. IV, §2 ¶3 (1921).

32 Comment: Provides no change from the source provision.

43

CC-

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4  
5 A PROPOSAL  
6 For declaration of ownership in mineral revenues located  
7 beyond the three-mile limit and dedication of these  
8 revenues.

8 PROPOSED SECTIONS:

9 Article \_\_\_\_, Section \_\_\_\_. Minerals Beyond  
10 Three-Mile Limit

11 Section \_\_\_\_\_. All revenues and royalties of  
12 every nature and kind obtained from minerals of  
13 all kinds located beyond the three-mile limit of  
14 the coastal waterways of the State of Louisiana,  
15 shall be the property of the State of Louisiana,  
16 and all funds derived therefrom shall be deposited  
17 in the state treasury and dedicated to the retire-  
18 ment and payment of all existing bonded indebted-  
19 ness of the State of Louisiana.

21 Source: La. Const. Art. IV, §2(b) (1921).

23 Comment: Provides no change from the source provision.

44

CC-

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by

4 A PROPOSAL

5 For dedication of tideland mineral funds.

6 PROPOSED SECTION:

7 Article \_\_\_\_, Section \_\_\_\_. Tideland Mineral  
8 Revenues; Use of Funds

9 Section \_\_\_\_\_. Notwithstanding any other provi-  
10 sion of the constitution or of the laws of this  
11 state, all funds received by the State of Louisiana  
12 during the calendar year 1966 and thereafter from  
13 revenues derived from tidelands mineral leases and  
14 now or hereafter held in escrow under an agreement  
15 executed by and between the State of Louisiana and  
16 the United States government pending settlement of  
17 the claims of the State of Louisiana with regard  
18 to its portion of such revenues, but not including  
19 any portion of such funds derived from royalties  
20 received by the state from mineral leases which are  
21 required to be placed in the Royalty Road Fund  
22 to the credit of the parish from which production  
23 is had and not including any portion of such funds  
24 now dedicated or allocated to public education  
25 purposes, shall be credited by the state treasurer  
26 to a special fund in the state treasury.

27 So much of the monies credited to the special  
28 fund hereinabove provided for as are needed for  
29 the purpose shall be expended by the state treasurer,  
30 when authorized and directed to do so by the Board  
31 of Liquidation of the State Debt, to purchase and  
32 retire in advance of maturity the callable bonds  
33 or other evidences of indebtedness of the State of  
34 Louisiana or its agencies, boards, and commissions.  
35 Monies thereafter remaining on deposit in said

45

CC-

2

1 special fund, which cannot be expended immediately  
2 for the purpose hereinabove provided, shall be in-  
3 vested by the state treasurer, in such amounts  
4 as he in his discretion may deem advisable and in  
5 the best interest of the state. Such funds,  
6 including any interest earned thereon, shall be  
7 invested and reinvested in time certificates of  
8 deposit in state banks organized under the laws  
9 of Louisiana or national banks having their princi-  
10 pal office in the State of Louisiana and in short-  
11 term United States Treasury bills and in bonds and  
12 other direct obligations of the United States  
13 government.

14 Out of the total funds remaining in the said  
15 special fund on the last day of each calendar year  
16 there shall be set aside such amount as is needed  
17 to pay the principal of and interest on the out-  
18 standing bonded and other indebtedness of the state  
19 and its agencies, boards, and commissions in the  
20 next succeeding calendar year, as hereinabove pro-  
21 vided, and such funds so set aside shall be so used.  
22 Thereafter, not more than ten percent of the total  
23 value of the said special fund remaining on the  
24 last day of each preceding calendar year, up to  
25 but not in excess of ten million dollars, may be  
26 appropriated by the legislature during the first  
27 calendar year following the adoption of this amend-  
28 ment in 1966 and in any calendar year thereafter,  
29 for capital improvements, including the purchase  
30 of land, architect and engineering fees, construc-  
31 tion costs and equipment for buildings, and other costs.

32 This Section shall be self-operative and shall  
33 require no further or other legislation to place  
34 it into effect.

46

3

1 Source: La. Const. Art. IV, §2(d) (1921).  
2  
3 Comment: Provides no change from the source provision.

47

CC-

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 For election of commissioner of agriculture.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_, Section \_\_\_\_. Commissioner of Agriculture  
8 Section \_\_\_\_. The Department o. Agriculture shall  
9 be headed by the commissioner of agriculture, who shall  
10 be elected for a term of four years by the electors  
11 of the state as prescribed by law. The duties and  
12 powers of the commissioner shall be prescribed by the  
13 legislature.  
14  
15 Source: La. Const. Art. V, §18; Art. VI, §13 (1921).  
16  
17 Comment: Provides no substantive change from the present

18 constitution except deletion of the provision  
19 authorizing the legislature to consolidate the office  
20 and the provision mandating the legislature to enact  
21 laws fostering agriculture and authorizing the  
22 legislature to enact laws to limit or prohibit the  
23 cultivation of specified crops in certain areas with  
24 compensation provided for damages arising therefrom.

CC-

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 For creation of Royalty Road Fund.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_, Section \_\_\_\_. Royalty Road Fund  
8 Section \_\_\_\_. Ten percent of the royalties  
9 from any mineral lease granted by the state shall  
10 be placed in a special fund to the credit of the  
11 parish from which the mineral was severed. The  
12 fund shall be used to construct transportation  
13 facilities and to operate and maintain ferries  
14 in the parish.  
15  
16 Source: La. Const. Art. IV, §2 §3 (1921).  
17  
18 Comment: Provides no substantive change from the source  
19 provision.

50

CC-

1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 For declaration of ownership in mineral revenues lo-  
6 cated beyond the three-mile limit and dedication  
7 of these revenues.  
8 PROPOSED SECTION:  
9 Article \_\_\_\_, Section \_\_\_\_. Mineral Beyond Three-  
10 Mile Limit  
11 Section \_\_\_\_. All revenues derived from minerals  
12 located beyond three miles from the coastline of  
13 the state are the property of the state. These

14 revenues are dedicated to retirement of the state's  
15 bonded indebtedness.

16  
17 Source: La. Const. Art. IV, §2(b) (1921).

18  
19 Comment: Provides no substantive change from the source  
20 provision.

51

CC

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For dedication of tideland mineral funds.

6 PROPOSED SECTION:

7 Article \_\_\_\_, Section \_\_\_\_. Tideland Mineral  
8 Revenues; Use of Funds

9 Section \_\_\_\_. Revenues from tidelands mineral  
10 leases held in escrow under agreement between the  
11 state and the United States pending settlement of  
12 the claims of the state for such revenues, except  
13 that portion dedicated either to the Royalty Road  
14 Fund or to public education purposes, shall be  
15 credited to a special fund.

16 This fund shall be used, upon authorization by  
17 the Board of Liquidation of State Debt, to retire  
18 in advance of maturity the state's callable bonds  
19 or other evidences of debt; that portion of the  
20 fund not used immediately for such purpose shall  
21 be invested.

22 That portion of the fund remaining on the last  
23 day of each calendar year shall be used to pay  
24 principal and interest on the outstanding bonds  
25 or other debt of the state for the succeeding  
26 calendar year. Thereafter, ten percent of the total  
27 value of the fund remaining on the last day of the  
28 preceding calendar year, but not more than ten  
29 million dollars, may be used for capital improvements.

30  
31 Source: La. Const. Art. IV, §2(d) (1921).

32  
33 Comment: No substantive change from the source provision.

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DELEGATE PROPOSALS  
(TO BE CONSIDERED)

53

CC-82

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by: Mr. Singletary

4 A PROPOSAL

5 For public policy and legislative responsibility  
6 in regard to environmental protection and rights  
7 of individuals therein.

8 PROPOSED SECTIONS:

9 Article \_\_\_\_, Section \_\_\_\_. Public Policy;  
10 Legislative Responsibility

11 Section \_\_\_\_. The policy of the state and  
12 the duty of each person is to provide and main-  
13 tain a healthful environment for the benefit of  
14 this and future generations. The legislature  
15 shall provide by law for the implementation and  
16 enforcement of this policy.

17  
18 Article \_\_\_\_, Section \_\_\_\_. Rights of  
19 Individuals

20 Section \_\_\_\_. Each person has the right to  
21 a healthful environment and may enforce this  
22 right against any party, governmental or private,  
23 through appropriate legal proceedings subject to  
24 reasonable limitation and regulation as provided  
25 by law.

26  
27 Source: Ill. Const. Art. XI, §§1, 2 (1970)

28  
29 Comment: Sets forth the public policy of the  
30 state in regard to protection of the environment,  
31 directs the legislature to implement this public  
32 policy, and provides the rights of individuals in  
33 regard thereto.

54

CC-90

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by: Mr. Jack

4 A PROPOSAL

5 For public policy and legislative responsibility  
6 in regard to environmental protection and  
7 natural resource management and rights to  
8 individuals therein.

9 PROPOSED SECTIONS:

10 Article \_\_\_\_, Section \_\_\_\_. Public Policy

11 Section \_\_\_\_. Consistent with the health,  
12 safety, and welfare of all people including future  
13 generations, each person has the right to clean  
14 air, pure water, and an environment free from  
15 excessive and unnecessary noise; to adequate

16 public land, air, water, and other natural re-  
17 sources for recreation; to preservation of the  
18 natural, scenic, historic, and esthetic quality  
19 of the environment; and to protection of agri-  
20 cultural lands, wetlands, and shorelines.

21  
22 Article \_\_\_\_\_, Section \_\_\_\_\_. Rights of

23 Individuals

24 Section \_\_\_\_\_. Any person directly affected  
25 by any activity in violation of this section may  
26 enforce the right provided herein against any  
27 party, governmental or private, through ap-  
28 propriate legal proceedings subject to reason-  
29 able limitations and regulations as provided by  
30 law.

31  
32 Article \_\_\_\_\_, Section \_\_\_\_\_. Legislative

33 Responsibility

34 Section \_\_\_\_\_. The legislature shall promote  
35 the protection of the environment and the

55



E. L. HENRY  
Chairman  
NORMA M. DUNCAN  
Director of Research

CC/73 Research Staff  
Committee on Natural  
Resources and Environment  
September 27, 1973  
Staff Memorandum No. 11

RE: Scope of the Term "Common Carrier"

A carrier, according to the legal use of the term, is one who undertakes to transport persons or property from place to place. [Higgenbotham v. Public Belt Railroad Commission, 181 So. 65, rehearing denied 181 So. 221, affirmed 192 La. 525, 188 So. 395 (1938)]

A common carrier may be defined, very generally, as one who holds himself out to the public as engaged in the business of transporting persons or property from place to place, for compensation, offering his services to the public generally. The distinctive characteristic of a common carrier is that he undertakes to carry for all people indifferently; hence, one performing transportation services for himself only is not a common carrier. While a common carrier undertakes to carry for the public generally as a business, it is not necessary, in order to make him such, that this should be his exclusive occupation. He may combine it with another, or several vocations, and still be a common carrier. The doctrine that in order to be a common carrier one must hold himself out as ready to engage in the transportation of goods or passengers for hire as a business comprehends only those cases where the carrier does not hold himself out to carry for the public but merely makes a contract to furnish transportation for a particular person or persons. It is not necessary, in order to consider one a common carrier, that he make regular trips; moreover, a common carrier does not divest himself of that status because he may on occasion refuse to perform services for which he is equipped. [13 Am. Jur. 2d 560]

An oil company which owns and operates a pipe line as a public business, holding itself out as ready to transport oil for all persons who may offer it for transportation for hire, is a common carrier and is sometimes declared to be such by express statutory provisions; but a pipeline company transporting its own property exclusively is not a common carrier. [Interstate Natural Gas Co. v. Louisiana Public Service Commission, 34 F. Supp. 980 (1940)]. A company constructed solely to transport oil for particular persons under strictly private contracts is not a common carrier, and the state cannot by mere legislative fiat or any regulating order of a commission, convert such private line into a public utility or make its owner a common carrier. Whether the business conducted by a pipe line company is that of a common carrier is a question of fact. [Producers Transportation Co. v. Railroad Commission of State of California, 40 S. Ct. 131, 251 U.S. 228, 64 L. Ed. 239].

CC-90 page two

1 conservation, development, and utilization  
2 of all natural resources and shall provide  
3 for the efficient and coordinated management  
4 of these resources.

5  
6 Source: New

7  
8 Comment: Sets forth the public policy of the state  
9 in regard to protection of the environment and  
10 management of natural resources, directs the  
11 legislature to implement this public policy,  
12 and provides the rights of individuals in  
13 regard thereto. [See La. Const. Art. VI,  
14 § 1 (1921)]



April 9, 1973

MEMORANDUM

TO: Norma M. Duncan, Director of Research

FROM: Louis J. Lambert, Jr., Chairman  
Committee on Natural Resources and EnvironmentRE: (1) Constitutional provisions to be considered by the  
Committee on Natural Resources and Environment  
(2) Provisions not to be considered by the Committee  
(3) Provisions not assigned to any substantive committee

The Committee on Natural Resources and Environment has examined the present constitution to determine which provisions relate to natural resources and environment. The Committee decided definitely to consider all provisions outlined in Attachment No. 1 and to delete from the compilation of constitutional materials provisions outlined in Attachment No. 2. The Committee has encountered no provisions not assigned to any substantive committee. The Committee, however, retains the right to review reports from all committees prior to July 5, 1973, and to consider any recommendations from other committees which affect any aspect of natural resources and environment.

ATTACHMENT 1

NR&amp;E-2

Constitutional Provisions Which the Committee on  
Natural Resources and Environment Will Consider\*

ARTICLE III.	LEGISLATIVE DEPARTMENT
§ 33	Convict labor (work on state owned farms)
§ 37	Rights of way; roads of necessity; drainage
§ 44	Milk manufacturers, etc.; bond
ARTICLE IV.	LIMITATIONS
§ 2(¶2)	Alienation of public lands; reservation of mineral rights; mineral leases
§ 2(¶3)	Royalty Road Fund (dedication of mineral revenues)
§ 2(b)	Mineral revenues; minerals beyond three mile limit
§ 2(c)	Mineral revenues; payment into general highway fund
§ 2(d)	Revenue from tidelands mineral leases
§ 4(¶11)	Local or special laws; prohibited subjects (regulating labor, trade, manufacturing or agriculture)
§ 7	Price of manual labor (exception for agricultural or domestic purposes)
§ 12	Loan or pledge of public credit
§ 12(b)	State Market Commission; guaranteed loans; agricultural facilities
§ 12(c)	Commissioner of Agriculture; guaranteed loans; farm youth organization

\* Constitutional section titles are used except where the Committee's jurisdiction extends only to a limited aspect of a section, as indicated by material enclosed in parentheses.

NR&amp;E-1

ARTICLE V.	EXECUTIVE DEPARTMENT
§ 1	Executive officers; consolidation of offices (creation of Register of the State Land Office, Commissioner of Agriculture, and Commissioner of Conservation)
§ 18	Constitutional officers; election; term; vacancies; assistants (election of Register of the State Land Office and the Commissioner of Agriculture and appointment of the Commissioner of Conservation)
§ 20	Salaries of constitutional officers; fees; expenses
ARTICLE VI.	ADMINISTRATIVE OFFICERS AND BOARDS
§ 1	Wildlife & Fisheries Commission; Forestry Commission; Department of Conservation; powers; duties; functions, etc.
§ 2	Forestry; acreage taxes; homestead exemptions
§ 4	Public Service Commission (sale of natural gas to industry; prohibition)
§ 11.1	Mosquito abatement districts
§ 13	Agriculture; commission to direct department
§ 14	Agriculture; public policy
§ 16 & 17	Port of New Orleans
§ 19.3	Beautification of highways; regulation of outdoor advertising and junkyards
§ 22(1)	Refund on motor fuel tax used for agricultural purposes
§ 23(1)(F)	Mineral royalty (dedication to long range highway fund)
§ 27	Lake Pontchartrain; sale of submerged lands; islands; causeway
§ 28	Liquefied Petroleum Gas Commission
§ 29	Greater Baton Rouge Port Commission
§ 31	Greater Ouachita Port Commission

Article VI.	Administrative Officers and Boards (cont'd)
§ 32	Caddo-Bossier Port Commission
§ 33	Lake Providence Port Commission
§ 33.1	South Louisiana Port Commission
§ 34	Concordia Port Commission
§ 35	Avoyelles Port Commission
§ 36.1	Rapides Port Commission
ARTICLE X.	REVENUE AND TAXATION
§ 1	Taxing power; specific taxes (forest lands)
§ 4(1)	Tax exemptions; public property
§ 4(3)	Tax exemptions; agricultural products
§ 4(4)	Tax exemptions; irrigation, navigation and hydro-electric power systems
§ 4(5)	Tax exemptions; natural gas facilities
§ 11(¶5)	Postponement of taxes (cases of emergency)
§ 21	Severance tax on natural resources
§ 21(2)	Forestry Commission allocation
ARTICLE XII.	PUBLIC EDUCATION
§ 17	L.S.U.; source of funds (dedication for benefit of agricultural arts)
§ 21	Agricultural and mechanical college fund
ARTICLE XIII.	CORPORATIONS
§ 6	Canal and hydro-electric developments; use of state waters; state ownership

ARTICLE XIV. PAROCHIAL AND MUNICIPAL AFFAIRS

ATTACHMENT 2

§ 3(b) East Baton Rouge Parish; Recreation and Park Commission

Constitutional Provisions Which the Committee on Natural Resources and Environment Will Not Consider

NR&E-3

Article XIV. Parochial and Municipal Affairs (cont'd)

§ 6 Property for navigation canals

§ 15.2 Financial security for surviving families of law enforcement officers (including wildlife and fisheries agents)

§ 16 Prescription; public acquisition by prescription

§ 30 Improvements by riparian owners

§ 30.1 Port, harbor and terminal districts

§ 30.2 Lake Charles Harbor and Terminal District

§ 30.3 Navigation and river improvement districts

§ 30.4 Navigation and river improvement districts

§ 30.5 Red River Waterway

§ 31 Port, harbor and terminal districts

§ 34 Garbage districts

§ 36 Jefferson Parish, community center and playground districts

§ 38 Jefferson Parish; public improvement districts (reclamation project)

§ 38.1 St. Charles Parish; reclamation project by public improvement district

§ 39 City of Lake Charles; reclamation and development of lake front

§ 39.1 Calcasieu Parish; community center and playground district

§ 44 City of Lake Charles; reclamation and development of lake front

§ 44.1 City of Lake Charles; reclamation and development of lake front

§ 45 Sabine River Authority

§ 47 Louisiana Stadium and Exposition District

NR&E-4

ARTICLE XV. DRAINAGE DISTRICT

§ 1 Authorization; powers

§ 2 Existing laws continued

§ 3 Bayou Lafourche Fresh Water District

§ 4 Iatt Lake Water Conservation District

ARTICLE XVI. LEVEES

§ 1 Levee system

§ 4 Interstate districts

§ 5 Cooperation with Federal government

§ 6 Compensation for property used or destroyed

§ 7 Orleans Levee District

§ 8 Pontchartrain Levee District

ARTICLE XIX. GENERAL PROVISIONS

§ 8 Gambling; futures of agricultural products; lotteries

§ 14 Monopolies, trusts, combinations or conspiracies in restraint of trade

§ 16 Prescription against state

NR&E-5

ARTICLE IV. LIMITATIONS

§ 2(¶1) Public debt

§ 2(a) Bond of liquidation of the State Debt

§ 12(a) Bonds; state indebtedness

ARTICLE VI. ADMINISTRATIVE OFFICERS AND BOARDS

§ 1(A-1) District courts; jurisdiction in coastal waters

§ 19 State highways and bridges; construction and maintenance

ARTICLE X. REVENUE AND TAXATION

§ 11(¶1,2,3, & 4) Collection of taxes; tax sales; quieting tax titles

ARTICLE XIV. PAROCHIAL AND MUNICIPAL AFFAIRS

§ 24.23 New Orleans; street, water and sewer improvement

§ 31.6 New Orleans; Moisant International Airport improvements

ARTICLE XVI. LEVEES

§ 2 District taxes; Orleans Levee Tax District

§ 3 Bond issues

§ 8a Pontchartrain Levee District; additional bond issue

NR&E-6

CC/73 Research Staff  
Committee on Natural Resources and Environment  
July 31, 1973  
Staff Memorandum No.

RE: Texas Railroad Commission's Composition, Powers and Duties over Oil and Gas with comparison of Louisiana Conservation Commission's authority in this area.

Legislative creation of the Texas Railroad Commission is authorized generally in Article X, Section 2 of the Texas Constitution:

Article X, §2  
Section 2. Railroads heretofore constructed or which may hereafter be constructed in this state are hereby declared public highways, and railroad companies, common carriers. The legislature shall pass laws to regulate railroad freight and passenger tariffs, to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce the same by adequate penalties; and to the further accomplishment of these objects and purposes, may provide and establish all requisite means and agencies invested with such powers as may be deemed adequate and advisable.

Article 6447 of Texas Revised Civil Statutes creates the commission and provides for three members, one of whom shall be elected biennially at each general election for a term of six years. To qualify as a member of the commission the person must be a resident of the state, a qualified voter and not less than 25 years of age. No member shall be directly or indirectly interested in any railroad or in any stock, bond, mortgage,

security or earnings of any railroad; and should a member voluntarily become so interested, his office shall become vacant; or should he become so interested otherwise than voluntarily he shall within a reasonable time divest himself of such interest; failing to do so, his office shall become vacant.

The commissioners are authorized to elect a chairman. The chairmanship is now rotated so that each commissioner is chairman for two years immediately preceding the time for his re-election.

Article 6030 authorizes the commission to employ a chief supervisor, a chief deputy supervisor, and such deputy supervisors as may be necessary to create the Oil and Gas Division of the Commission. Article 6066d, §4, creates a separate and distinct Liquified Petroleum Gass Division and authorizes the commission to appoint a director and sufficient employees for this division.

The Railroad Commission is charged generally with the conservation of oil and gas in their production, storage, and transportation. It is its duty to prevent waste both underground and above ground. It is empowered to prevent such excess production of oil and gas beyond transportation and market facilities as would result in waste by evaporation or otherwise of oil or energy to bring it to the surfacr.

Specific powers and duties of the commission are:

Article 6008, §5 - the authority to fix and determine the oil-gas ratio of all oil wells, but no authority to limit production of marginal wells below the amount fixed by statute.

Article 6008, §6, and Article 6029---

The commission shall make an enforce rules, regulations, and orders

for conservation of natural gas and crude petroleum oil to prevent the waste thereof, including rules, regulations, or orders for the following purposes:

(1) to prevent waste in drilling, producing, and storage operations and in piping and distribution.

(2) to require dry or abandoned wells to be plugged in such way as to confine cruce petroleum oil, natural gas, and water in the strata in which they are found and to prevent them from escaping into other strate.

(3) for drilling wells and preserving a record thereof.

(4) to requie wells to be drilled and operated in such manner as to prevent injury to adjoining property.

(5) to prevent crude petroleum oil, natural gas, and water from escaping into other strata.

(6) to require records to be kept and reports made.

(7) to provide for issuance of permits and other evidences of permission when the issuance of such permits, or permissions is necessary or incident to the enforcement of the commission's blanket grant of authority to make any rules necessary to effectuate the law.

(8) to establish rules and regulations for shooting wells and for separating crude petroleum oil from natural gas.

(9) to do all things necessary for conservation of crude petroleum oil and natural gas and to prevent waste thereof.

Article 6008, §10 - It is the duty of the commission to prorate and regulate the daily gas well production from each common reservoir. It shall prorate and regulate such production for the protection of public and private interest:

# III. Proposals

## A. Committee Proposals

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For creation of Public Service Commission.

6 PROPOSED SECTIONS:

7 Article \_\_\_\_, Section \_\_\_\_. Composition

8 Section \_\_\_\_. The Public Service Commission is  
9 hereby created to consist of five members elected at  
10 the time fixed for congressional election from districts  
11 established by law for overlapping terms of six years,  
12 provided that the legislature shall establish initial  
13 terms of less than six years to implement said composition.

14  
15 Section \_\_\_\_. Authority

16 Section \_\_\_\_. The commission shall regulate all  
17 common carriers and other public utilities, adopt and  
18 enforce reasonable rules, regulations, and procedures  
19 for the discharge of its duties, and perform such other  
20 functions as provided by law.

21  
22 Section \_\_\_\_. Limitations

23 Section \_\_\_\_. The commission shall have no authority  
24 to regulate any public utility operated by the governing  
25 authority of a political subdivision except by the  
26 consent of a majority of the electors voting in an elec-  
27 tion held for that purpose, nor shall the commission  
28 have any authority to regulate the price of natural gas  
29 sold for industrial use.

30  
31 Section \_\_\_\_. Decisions; Appeal

32 Section \_\_\_\_. The commission shall render a deci-  
33 sion on a rate proposal within six months from the date  
34 of filing of such proposal; otherwise, the proposed  
35 schedule may be placed in effect by the utility under

CC-

2

1 bond or other security, in accordance with procedures  
2 to be fixed by the legislature. If the commission should  
3 fail to render its decision within an additional period  
4 of three months, the proposed schedule shall be deemed  
5 approved. Any decision so rendered shall be subject  
6 to judicial review in accordance with procedures other-  
7 wise provided in this constitution.

8  
9 Source: La. Const. Art. VI, §§ 3-9 (1921).

10

11 Comment: Changes composition of commission from three  
12 to five members, expands authority to include juris-  
13 diction over supply of natural gas to industry,  
14 requires a timely decision on all rate proposals, and  
15 provides for judicial review in accordance with this  
16 constitution.  
17

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For creation of the Forestry Commission.

6 PROPOSED SECTION:

7 Article \_\_\_\_, Section \_\_\_\_. Forestry Commission

8 Section \_\_\_\_. The practice of forestry in the  
9 State of Louisiana is hereby placed under a Louisiana  
10 Forestry Commission, which is hereby established in the  
11 Executive Department. The Louisiana Forestry Commission  
12 shall consist of seven members, five of which are to  
13 be appointed by the governor for terms of five years  
14 each, and two, namely the head of the Department of  
15 Forestry at Louisiana State University and Agricultural  
16 and Mechanical College and the director of Wildlife  
17 and Fisheries, who shall serve as ex officio members  
18 of the commission by virtue of their offices. Two of  
19 the members shall be owners or executive managers of  
20 interests owning and operating timberlands; one shall  
21 be the owner of farm lands interested in reforestation;  
22 one shall be a pulp and paper mill owner or executive  
23 manager; and the fifth shall be the owner or executive  
24 manager of interests manufacturing or treating poles,  
25 piling, posts, crossties, or veneer.

26  
27 Section \_\_\_\_. State Forester

28 Section \_\_\_\_. A state forester shall be appointed  
29 by the Louisiana Forestry Commission, and he must be  
30 a graduate of forestry from an accredited school  
31 and have at least four years of forestry experience  
32 in the south.  
33

34 Source: La. Const. Art. VI, §1(B) (1921).

35

2

1 Comment: Provides no substantive change from the source  
2 provision except deletion of provisions regarding

3 procedural matters, salary, duties of state forester,  
4 and domicile of commissioner.

5 CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For creation of the Louisiana Wildlife and Fisheries  
6 Commission.

7 PROPOSED SECTION:

8 Article \_\_\_\_, Section \_\_\_\_. Wildlife and Fisheries  
9 Commission

10 Section \_\_\_\_. The wildlife of the state, including  
11 wild game and nongame quadrupeds or animals, game,  
12 oysters, fish and other aquatic life, are hereby placed  
13 under the control and supervision of Louisiana Wildlife  
14 and Fisheries Commission, consisting of seven members,  
15 appointed by the governor, six of whom shall serve for  
16 a term of six years, and one of whom shall serve for  
17 a term concurrent with the term of the governor. Three  
18 shall be electors of the coastal parishes and representa-  
19 tives of the commercial fishing and fur industries, and  
20 three shall be electors from the state at large.

21 No member shall be eligible for reappointment who  
22 shall have served for as many as six years or more.

23 The specific functions, duties, and responsibilities  
24 of the Commission and the compensation of its members  
25 shall be as provided by the legislature.

26 Source: La. Const. Art. VI, §1(A) (1921).

27 Comment: Provides no substantive change from the source  
28 provision except deletion of provisions regarding  
29 dual office holding, salary, procedural matters, and  
30 selection of a director.

31 CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For policy regarding natural resource management and  
6 and environmental preservation.

7 PROPOSED SECTION:

8 Article \_\_\_\_, Section \_\_\_\_. Natural Resources and  
9 Environment; Public Policy

10 Section \_\_\_\_. The natural resources of the state,  
11 including air and water, shall be protected, conserved,  
12 and, insofar as possible, replenished, consistent with  
13 the health, safety, and welfare of all people. The  
14 healthful, scenic, historic, and esthetic quality

15 of the environment shall be preserved insofar as  
16 possible. The legislature shall implement this  
17 policy by appropriate legislation.

18

19 Source: La. Const. Art. VI, §1 (1921).

20

21 Comment: Provides no substantive change from the source  
22 provision except addition of an environmental policy  
23 statement and a legislative mandate directing the  
24 legislature to implement the public policy set forth  
25 in this article.

26

CC-

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For election of commissioner of agriculture.

6 PROPOSED SECTION:

7 Article \_\_\_\_, Section \_\_\_\_. Commissioner of Agriculture  
8 Section \_\_\_\_. The commissioner of agriculture  
9 shall be elected for a term of four years by the elec-  
10 tors of the state as prescribed by law.

11 Source: La. Const. Art. V, §18 (1921).

12

13 Comment: Provides no substantive change from the  
14 present constitution except the provision autho-  
15 rizing the legislature to consolidate the office  
16 is deleted.

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CC-  
1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 For public policy in regard to geothermal-geopressure  
6 resource development and utilization.  
7 PROPOSED SECTION:  
8 Article \_\_\_\_, Section \_\_\_\_. Geothermal-Geopressure  
9 Resources  
10 Section \_\_\_\_. The state shall conserve, manage, and  
11 regulate the development and utilization of geothermal-  
12 geopressure resources for the benefit of all people  
13 including future generations.  
14  
15 Source: New  
16  
17 Comment: Sets forth the public policy of the state in regard  
18 to development and utilization of geothermal-geopressure  
19 resources.  
20

CC-  
1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 For disposition of mineral rights to eroded land.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_, Section \_\_\_\_. Mineral Rights; Erosion  
8 Section \_\_\_\_. Mineral rights to land lost by  
9 erosion caused principally by acts of man, on a  
10 navigable waterbody, are retained by the riparian  
11 landowner.  
12  
13 Source: New  
14  
15 Comment: Provides for the riparian landowner to retain  
16 mineral rights which would otherwise have been  
17 lost by operation of La. Civil Code Art. 509 and  
18 Art. 510.  
19  
20

CC-  
1 Constitutional Convention of Louisiana of 1973  
2 COMMITTEE PROPOSAL NUMBER  
3 Introduced by  
4 A PROPOSAL  
5 For disposition of mineral rights to alluvion.  
6 PROPOSED SECTION:  
7 Article \_\_\_\_, Section \_\_\_\_. Mineral Rights; Alluvion  
8 Section \_\_\_\_. Mineral rights to land formed or  
9 exposed by accretion or dereliction caused principally  
10 by acts of man, on a waterbody the bed of which is

11 owned by the state, are retained by the state.  
12  
13 Source: New  
14  
15 Comment: Provides for the state to retain mineral rights  
16 which would otherwise have been lost by operation of  
17 La. Civil Code Art. 509 and Art. 510.  
18  
19

PROPOSAL NO. 16  
AS AMENDED THRU  
9/14/73

ARTICLE VIII. NATURAL RESOURCES

1 Section 1. Alienation of Water Bottoms  
2 Section 1. The legislature shall neither alienate nor  
3 authorize the alienation of the beds of navigable water  
4 bodies except for purposes of reclamation by the riparian  
5 owner to recover land lost through erosion, provided such  
6 reclamation is effected within ten years from the date on  
7 which the erosion occurs. Except as provided herein, no  
8 bed of any navigable water body may be reclaimed except for  
9 public use.  
10  
11 Section 2. Reservation of Mineral Rights  
12 Section 2. The mineral rights on all property sold by  
13 the state shall be reserved, except where the owner or  
14 other person having the right to redeem may buy or redeem  
15 property sold or adjudicated to the state for taxes. This  
16 shall not prevent the leasing of such lands for mineral or  
17 other purposes.  
18  
19 Section 3. Royalty Road Fund  
20 Section 3. Ten percent of the royalties from any  
21 mineral lease heretofore or hereafter granted by the state  
22 shall be placed by the state treasurer in a special fund  
23 to the credit of the parish from which the mineral was  
24 severed. This special fund shall be known as the Royalty  
25 Road Fund and shall be used by the state to acquire,  
26 construct, and maintain transportation facilities in the  
27 parish.  
28  
29 Section 4. Minerals Beyond Three-Mile Limit  
30 Section 4. All revenues and royalties of every  
31 nature and kind obtained from minerals of all kinds  
32 located beyond the three-mile limit of the coastal water-  
33 ways of the State of Louisiana, shall be the property of  
34 the State of Louisiana, and all funds derived therefrom  
35 shall be deposited in the state treasury and dedicated to  
1 the retirement and payment of all existing bonded indebted-  
2 ness of the State of Louisiana.  
3  
4 Section 5. Tideland Mineral Revenues; Use of Funds  
5 Section 5. Notwithstanding any other provision of the  
6 constitution or of the laws of this state, all funds re-

7 ceived by the State of Louisiana during the calendar year  
8 1966 and thereafter from revenues derived from tidelands  
9 mineral leases and now or hereafter held in escrow under an  
10 agreement executed by and between the State of Louisiana and  
11 the United States government pending settlement of the  
12 claims of the State of Louisiana with regard to its portion  
13 of such revenues, but not including any portion of such  
14 funds derived from royalties received by the state from  
15 mineral leases which are required to be placed in the  
16 Royalty Road Fund to the credit of the parish from which  
17 production is had and not including any portion of such  
18 funds now dedicated or allocated to public education  
19 purposes, shall be credited by the state treasurer to a  
20 special fund in the state treasury.

21 So much of the monies credited to the special fund  
22 hereinabove provided for as are needed for the purpose  
23 shall be expended by the state treasurer, when authorized  
24 and directed to do so by the Board of Liquidation of the  
25 State Debt, to purchase and retire in advance of maturity  
26 the callable bonds or other evidences of indebtedness of  
27 the State of Louisiana or its agencies, boards, and  
28 commissions. Monies thereafter remaining on deposit in said  
29 special fund, which cannot be expended immediately for the  
30 purpose hereinabove provided, shall be invested by the  
31 state treasurer, in such amounts as he in his discretion  
32 may deem advisable and in the best interest of the state.  
33 Such funds, including any interest earned thereon, shall be  
34 invested and reinvested in time certificates of deposit in  
35 state banks organized under the laws of Louisiana or

Page 2

1 national banks having their principal office in the State  
2 of Louisiana and in short-term United States Treasury bills  
3 and in bonds and other direct obligations of the United  
4 States government.

5 Out of the total funds remaining in the said special  
6 fund on the last day of each calendar year there shall be  
7 set aside such amount as is needed to pay the principal of  
8 and interest on the outstanding bonded and other indebted-  
9 ness of the state and its agencies, boards, and com-  
10 missions in the next succeeding calendar year, as hereinabove  
11 provided, and such funds so set aside shall be so used.  
12 Thereafter, not more than ten percent of the total value of  
13 the said special fund remaining on the last day of each  
14 preceding calendar year, up to but not in excess of ten  
15 million dollars, may be appropriated by the legislature  
16 during the first calendar year following the adoption of  
17 this amendment in 1966 and in any calendar year thereafter,  
18 for capital improvements, including the purchase of land,  
19 architect and engineering fees, construction costs and  
20 equipment for buildings, and other costs.

21 This Section shall be self-operative and shall require  
22 no further or other legislation to place it into effect.

23  
24 Section 6. Commissioner of Agriculture  
25 Section 6. The Department of Agriculture shall be  
26 headed by the commissioner of agriculture who, notwithstanding  
27 the provisions of Article IV, Section 23, shall be elected  
28 every four years for a term of four years by the electors  
29 of the state as prescribed by law. The department shall  
30 exercise such functions and the commissioner shall have such  
31 other powers and perform such other duties as may be au-  
32 thorized by this constitution or provided by statute.  
33 Qualification of candidates for the commissioner of  
34 agriculture, in addition to those in Article IV, Section 23,  
35 shall be as provided by law.

Page 3

1 Section 7. Natural Resources and Environment;  
2 Public Policy  
3 Section 7. The natural resources of the state,  
4 including air and water, and also the healthful, scenic,  
5 historic, and esthetic quality of the environment, shall be  
6 protected, conserved, and replenished, insofar as possible  
7 and consistent with the health, safety, and welfare of the  
8 people. The legislature shall implement this policy by  
9 appropriate legislation.

10  
11 Section 8. Wildlife and Fisheries Commission  
12 Section 8. The wildlife of the state, including wild  
13 game and nongame quadrupeds or animals, game, oysters, fish  
14 and other aquatic life, are hereby placed under the control  
15 and supervision of Louisiana Wildlife and Fisheries Com-  
16 mission, consisting of seven members, appointed by the  
17 governor, six of whom shall serve for a term of six years,  
18 and one of whom shall serve for a term concurrent with the  
19 term of the governor. Three shall be electors of the  
20 coastal parishes and representatives of the commercial  
21 fishing and fur industries, and three shall be electors from  
22 the state at large.

23 No member shall be eligible for reappointment who shall  
24 have served for as many as six years or more.

25 The specific functions, duties, and responsibilities of  
26 the commission and the compensation of its members shall be  
27 as provided by the legislature.

28  
29 Section 9. Forestry Commission  
30 Section 9. The practice of forestry in the State of  
31 Louisiana is hereby placed under a Louisiana Forestry Com-  
32 mission, which is hereby established in the Executive  
33 Department. The Louisiana Forestry Commission shall  
34 consist of seven members, five of which are to be appointed  
35 by the governor for terms of five years each, and two, namely

Page 4

1 the head of the Department of Forestry at Louisiana State  
2 University and Agricultural and Mechanical College and the  
3 director of Wildlife and Fisheries, who shall serve as ex  
4 officio members of the commission by virtue of their offices.  
5 Two of the members shall be owners or executive managers of  
6 interests owning and operating timberlands; one shall be  
7 the owner of farm lands interested in reforestation; one  
8 shall be a pulp and paper mill owner or executive manager;  
9 and the fifth shall be the owner or executive manager of  
10 interests manufacturing or treating poles, piling, posts,  
11 crossties, or veneer.

12  
13 Section 10. State Forester

14 Section 10. A state forester shall be appointed by the  
15 Louisiana Forestry Commission, and he must be a graduate of  
16 forestry from an accredited school and have at least four  
17 years of forestry experience in the South.

18  
19 Section 11. Public Service Commission

20 Section 11. The Public Service Commission is hereby  
21 created to consist of five members elected at the time fixed  
22 for congressional election from districts established by law  
23 for overlapping terms of six years, provided that the  
24 legislature shall establish initial terms of less than six  
25 years to implement said composition.

26  
27 Section 12. Authority

28 Section 12. The commission shall regulate all common  
29 carriers and other public utilities, adopt and enforce reason-  
30 able rules, regulations, and procedures for the discharge  
31 of its duties, and perform such other functions as pro-  
32 vided by law.

33 Section 13. Limitations

34 Section 13. The commission shall have no authority to  
35 regulate any public utility operated by the governing autho-

Page 5

1 rity of a political subdivision except by the consent of a  
2 majority of the electors voting in an election held for that  
3 purpose, nor shall the commission have any authority to  
4 regulate the price of natural gas sold for industrial use.

5  
6 Section 14. Decisions; Appeal

7 Section 14. The commission shall render a decision on  
8 a rate proposal within six months from the date of filing  
9 of such proposal; otherwise, the proposed schedule may be  
10 placed in effect by the utility under bond or other security,  
11 in accordance with procedures to be fixed by the legislature.  
12 If the commission should fail to render its decision within  
13 an additional period of three months, the proposed schedule  
14 shall be deemed approved. Any decision so rendered shall be  
15 subject to judicial review in accordance with procedures  
16 otherwise provided in this constitution.

17  
18 Section 15. Geothermal-Geopressure Resources

19 Section 15. The state shall conserve, manage, and  
20 regulate the development and utilization of geothermal-  
21 geopressure resources for the benefit of all people including  
22 future generations.

23  
24 Section 16. Mineral Rights; Alluvion

25 Section 16. Mineral rights to land formed or exposed by  
26 accretion or dereliction caused principally by acts of man,  
27 on a water body the bed of which is owned by the state, are  
28 retained by the state.

29  
30 Section 17. Mineral Rights; Erosion

31 Section 17. Mineral rights to land lost by erosion caused  
32 principally by acts of man, on a navigable water body, are  
33 retained by the riparian landowner.

34  
35  
Page 6

PROPOSAL NO. 16  
AS AMENDED THRU  
9/27/73

ARTICLE VIII. NATURAL RESOURCES

1 Section 1. Alienation of Water Bottoms

2 Section 1. The legislature shall neither alienate nor  
3 authorize the alienation of the beds of navigable water  
4 bodies except for purposes of reclamation by the riparian  
5 owner to recover land lost through erosion, provided such  
6 reclamation is effected within ten years from the date on  
7 which the erosion occurs. Except as provided herein, no  
8 bed of any navigable water body may be reclaimed except for  
9 public use.

10  
11 Section 2. Reservation of Mineral Rights

12 Section 2. The mineral rights on all property sold by  
13 the state shall be reserved, except where the owner or  
14 other person having the right to redeem may buy or redeem  
15 property sold or adjudicated to the state for taxes. This  
16 shall not prevent the leasing of such lands for mineral or  
17 other purposes.

18  
19 Section 3. Royalty Road Fund

20 Section 3. Ten percent of the royalties from any  
21 mineral lease heretofore or hereafter granted by the state  
22 shall be placed by the state treasurer in a special fund  
23 to the credit of the parish from which the mineral was  
24 severed. This special fund shall be known as the Royalty  
25 Road Fund and shall be used by the state to acquire, construct,  
26 and maintain transportation facilities in the parish.



27 Section 4. Minerals Beyond Three-Mile Limit  
28 Section 4. All revenues and royalties of every nature  
29 and kind obtained from minerals of all kinds located beyond  
30 the three-mile limit of the coastal waterways of the State  
31 of Louisiana, shall be the property of the State of  
32 Louisiana, and all funds derived therefrom shall be  
1 deposited in the state treasury and shall be used in the  
2 purchase, retirement, and payment of the bonded indebtedness  
3 of the State of Louisiana.  
4

5 Section 5. Offshore Mineral Revenues; Use of Funds  
6 Section 5. Funds derived from offshore mineral leases,  
7 which have been held or may hereafter be placed in escrow  
8 under agreement between the State and the United States  
9 pending settlement of the dispute between such parties,  
10 shall be deposited in the state treasury; and such funds,  
11 together with interest accruing from any investments thereof,  
12 except such portion thereof as is elsewhere in this consti-  
13 tution dedicated either to the Royalty Road Fund or to  
14 public education, shall be used by the state treasurer in the  
15 purchase, retirement, and payment in advance of maturity of  
16 the bonded indebtedness of the state.  
17

18 If any of the above funds cannot be so expended within  
19 one year following receipt thereof, the legislature may  
20 annually appropriate for capital improvements, or for the  
21 purchase of land, ten percent of such remaining funds, not  
22 to exceed ten million dollars in any one year.  
23

24 Section 6. Commissioner of Agriculture  
25 Section 6. The Department of Agriculture shall be  
26 headed by a commissioner of agriculture who, notwithstanding  
27 Article IV, Section 23, shall be elected every four years  
28 for a term of four years by the electors of the state as  
29 prescribed by law. The department shall exercise such  
30 functions and the commissioner shall have such other powers  
31 and perform such other duties as may be authorized by this  
32 constitution or provided by statute. Qualifications of  
33 candidates for commissioner of agriculture, in addition to  
34 those in Article IV, Section 2A, shall be provided by  
35 law.

-2-

1 Section 7. Natural Resources and Environment; Public  
2 Policy  
3 Section 7. The natural resources of the state,  
4 including air and water, and also the healthful, scenic,  
5 historic, and esthetic quality of the environment, shall be  
6 protected, conserved, and replenished, insofar as possible  
7 and consistent with the health, safety, and welfare of the  
8 people. The legislature shall implement this policy by  
9 appropriate legislation.  
10

11 Section 8. Wildlife and Fisheries Commission

12 Section 8. The wildlife of the state, including all  
13 aquatic life, is hereby placed under the control and  
14 supervision of the Louisiana Wildlife and Fisheries  
15 Commission, which shall consist of seven members appointed  
16 by the governor, six of whom shall serve for a term of six years  
17 and one of whom shall serve for a term concurrent with that of  
18 the governor. Three shall be electors of the coastal parishes  
19 and representatives of the commercial fishing and fur  
20 industries, and three shall be electors from the state at  
21 large.

22 No member shall be eligible for reappointment who shall  
23 have served for as many as six years or more.

24 The specific functions, duties, and responsibilities of  
25 the commission and the compensation of its members shall  
26 be as provided by the legislature.  
27

28 Section 9. Forestry Commission; State Forester  
29 Section 9. (A) Forestry Commission. The practice of forestry  
30 in the State of Louisiana is hereby placed under the Louisiana  
31 Forestry Commission. The Louisiana Forestry Commission shall consist  
32 of seven members, five of whom shall be appointed by the  
33 governor for terms of five years each, and two of whom,  
34 namely the head of the Department of Forestry at Louisiana  
35 State University and Agricultural and Mechanical College and

-3-

1 the director of the Wildlife and Fisheries Commission,  
2 shall serve as ex officio members of the commission. Two  
3 of the members shall be owners or executive managers of  
4 interests owning and operating timberlands; one shall be  
5 the owner of farm lands interested in reforestation; one  
6 shall be a pulp and paper mill owner or executive manager;  
7 and the fifth shall be the owner or executive manager of  
8 interests manufacturing or treating poles, piling, posts,  
9 crossties, or veneer.

10 (B) State Forester. A state forester shall be ap-  
11 pointed by the Louisiana Forestry Commission, and he  
12 must be a graduate from an accredited school of forestry  
13 and have at least four years of forestry experience, as  
14 provided by law.  
15  
16

17 Section 10. Public Service Commission  
18 Section 10. (A) Composition; Term. There shall be a  
19 Public Service Commission which shall consist of five  
20 members elected at the time fixed for congressional  
21 elections from separate districts as may be established by  
22 statute for overlapping terms of six years. The commission  
23 annually shall elect a chairman from one of its members.

24 (B) Powers and Duties. The commission shall regulate  
25 all common carriers and public utilities as provided by law.  
26 It shall adopt and enforce reasonable rules, regulations,  
27 and procedures necessary for the discharge of its duties,

28 and shall have such other powers and perform such other  
29 duties as may be provided by statute.

30 (C) Limitation. The commission shall have no power  
31 to regulate any class of common carrier or public utility  
32 owned, operated, or regulated on the effective date of  
33 this constitution by the governing authority of any one or  
34 more political subdivisions, except by the consent of a  
35 majority of the electors voting in an election held for

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1 that purpose; provided, however, that such political  
2 subdivision may reinvest itself with such regulatory power  
3 in the same manner as it was surrendered.

4 (D) Decisions on Applications, Petitions, and  
5 Schedules.

6 (1) The commission shall render its final decision on  
7 applications, petitions, and proposed rate schedules within  
8 twelve months from the date such application, petition, or  
9 proposed schedule is filed.

10 (2) If a decision is not rendered within six months  
11 from the filing date of any proposed rate schedule, it shall  
12 be deemed to be tentatively approved.

13 (3) If such proposed schedule results in a rate increase,  
14 it may be put into effect, subject to such protective bond or  
15 security requirements as may be provided by law pending  
16 final approval, modification, or rejection. If the com-  
17 mission disapproves the proposed increase, in whole or in  
18 part, the carrier or utility may place or continue the  
19 schedule in effect under the bond or security, subject to  
20 any appeal and final action by a court of last resort.  
21 Refund claims therefor in the manner provided by statute shall  
22 be filed within one year after such final action.

23 (4) Any utility filing a proposed rate schedule shall  
24 within twenty days, give notice thereof by publication in  
25 the official state journal and in the official journal of  
26 each parish within the geographical area in which the  
27 schedule would become applicable. Any person affected by  
28 the proposed rate schedule may intervene.

29 (E) Appeals. Should the commission not render its  
30 decision within twelve months, an appeal may be taken, as  
31 if a decision had been rendered. Appeals may be taken by  
32 any party or intervenor and must be filed with the district  
33 court, within the time provided by law, at the domicile of  
34 the Public Service Commission, with a direct appeal to the  
35 Supreme Court, as a matter of right.

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1 (F) Jurisdiction. The commission shall also have and  
2 exercise power and authority over the transportation and  
3 sale within this state of natural gas for industrial  
4 purposes (whether for use as fuel or for utilization in any  
5 manufacturing process) transported in or sold from intrastate

6 pipelines - whether such pipelines are controlled and operated  
7 by a common carrier or by the producer of such natural gas  
8 or by the operator of such pipeline.

9 Such jurisdiction shall not include the right to super-  
10 vise, govern, control, or regulate the terms of any contract  
11 heretofore or hereafter entered into for the purchase or  
12 sale of natural gas for industrial use or the price for which  
13 such gas may be purchased or sold; but shall include all  
14 necessary power and authority to require and enforce:  
15 1) the furnishing of adequate supplies of natural gas, at  
16 rates comparable to those at which said natural gas is being  
17 sold to industrial users, for use by domestic consumers,  
18 schools, hospitals, churches, food processing plants and other  
19 domestic, industrial, or commercial users connected to such  
20 pipelines which utilize natural gas for essential human needs;  
21 and 2) to the extent necessary to accomplish the foregoing,  
22 the curtailment of overall deliveries of natural gas from any  
23 gas pipeline or gas gathering line to industrial users  
24 supplied thereby.

25 The commission's jurisdiction over gas purchased, sold,  
26 and used for industrial purposes shall be self-executing  
27 and the commission shall issue and promulgate such orders  
28 and regulations as may be necessary to carry out the  
29 purpose and intent of this Section.  
30

31 Section 11. Geopressure-Geothermal Resources

32 Section 11. The state shall conserve, manage, and  
33 regulate the development and utilization of geopressure-  
34 geothermal resources for the benefit of all people including  
35 future generations.

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1 Section 12. Mineral Rights; Alluvion

2 Section 12. Mineral rights to land formed or exposed  
3 by accretion or dereliction caused principally by acts of  
4 man, on a water body the bed of which is owned by the state,  
5 are retained by the state.  
6

7 Section 13. Mineral Rights; Erosion

8 Section 13. Mineral rights to land lost by erosion  
9 caused principally by acts of man, on a navigable water  
10 body, are retained by the riparian landowner.  
11

-7-

NATURAL RESOURCES AND THE ENVIRONMENT

-- SUGGESTED ORGANIZATION --

A. Policy Statements

Section 1. Natural Resources and Environment;  
Public Policy

Section 2. Geopressure-Geothermal Resources

B. State Lands Management

1. Water Bottoms

Section 3. Alienation of Water Bottoms

2. Mineral Rights

Section 4. Reservation of Mineral Rights

Section 5. Mineral Rights; Alluvion

Section 6. Mineral Rights; Erosion

3. Mineral Revenues

Section 7. Royalty Road Fund

Section 8. Minerals Beyond Three-Mile Limit

Section 9. Offshore Mineral Revenues; Use of Funds

C. Officials and Agencies

Section 10. Commissioner of Agriculture

Section 11. Wildlife and Fisheries Commission

Section 12. Forestry Commission; State Forester

Section 13. Public Service Commission

CC-271

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For severance tax on natural resources.

6 PROPOSED SECTION:

7 Article \_\_\_\_, Section \_\_\_\_. Severance Tax

8 Section \_\_\_\_. Severance tax shall be the only tax on natural

9 resources.

10

11 Source: La. Const. of 1921. Article X, § 21

12

13 Comment: Provides for limitation of a tax on natural resources with no

14 substantive change in the present law. The remainder of Art. X, § 21

15 is reinstated in substance in another proposal except for the \$1.03

16 ceiling on sulphur.

17

18

CC-272

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For limitation on tax power of political subdivisions.

6 PROPOSED SECTION:

7 Article \_\_\_\_, Section \_\_\_\_. Subdivisions of State; Limitation on

8 Taxing Power

9 Section \_\_\_\_. Political subdivisions of the state shall not levy

10 taxes on income, natural resources, or motor fuel, nor shall any

11 occupational license tax levied by any political subdivision be

12 greater than that imposed by the state.

13

14 Source: La. Const., Art. X, §§ 5, 8, 21 and Art. XIV, § 24.1

15

16 Comment: Provides limitation on taxing power of political subdivisions

17 with no substantive in the present law except that tax on income is

18 added, and occupational license tax on alcoholic beverages (Art. X,

19 § 8) is deleted.

CC-274

1 Constitutional Convention of Louisiana of 1973

2 COMMITTEE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For dedication of royalties from mineral leases granted by state to the

6 Royalty Fund.

7 PROPOSED SECTION:

8 Article \_\_\_\_, Section \_\_\_\_. Royalty Fund

9 Section \_\_\_\_. Ten percent of the royalties

10 from any mineral lease granted by the state shall be remitted to the

11 governing authority of the parish from which the mineral was severed.

12

13 Source: La. Const., Art. IV, § 2 (13).

14

15 Comment: Provides for creation of a Royalty Fund with no substantive

16 change from the present law except the requirement that such funds

17 be used for transportation purposes is deleted.

## B. Delegate Proposals

CC-82

1 Constitutional Convention of Louisiana of 1973  
2 DELEGATE PROPOSAL NUMBER  
3 Introduced by: Mr. Singletary  
4 A PROPOSAL  
5 For public policy and legislative responsibility  
6 in regard to environmental protection and rights  
7 of individuals therein.

8 PROPOSED SECTIONS:

9 Article \_\_\_\_, Section \_\_\_\_. Public Policy;  
10 Legislative Responsibility

11 Section \_\_\_\_\_. The policy of the state and  
12 the duty of each person is to provide and main-  
13 tain a healthful environment for the benefit of  
14 this and future generations. The legislature  
15 shall provide by law for the implementation and  
16 enforcement of this policy.

17  
18 Article \_\_\_\_, Section \_\_\_\_. Rights of  
19 Individuals

20 Section \_\_\_\_\_. Each person has the right to  
21 a healthful environment and may enforce this  
22 right against any party, governmental or private,  
23 through appropriate legal proceedings subject to  
24 reasonable limitation and regulation as provided  
25 by law.

26  
27 Source: Ill. Const. Art. XI, §§1, 2 (1970)

28  
29 Comment: Sets forth the public policy of the  
30 state in regard to protection of the environment,  
31 directs the legislature to implement this public  
32 policy, and provides the rights of individuals in  
33 regard thereto.

CC-83

1 Constitutional Convention of Louisiana of 1973  
2 DELEGATE PROPOSAL NUMBER  
3 Introduced by: Mr. Derbes  
4 A PROPOSAL  
5 For natural resources and environment public policy  
6 PROPOSED SECTIONS:

7 Article \_\_\_\_, Section \_\_\_\_. Public Policy  
8 Section \_\_\_\_\_. The public policy of the state  
9 and the duty of each person is to provide a healthful  
10 environment, to maintain clean air, pure water, and  
11 the use and enjoyment for recreation of adequate  
12 public lands, air, waters, and other natural re-  
13 sources, and to preserve historical sites and  
14 buildings.

15

16 Article \_\_\_\_, Section \_\_\_\_. Right of Individuals  
17 Section \_\_\_\_\_. Each person has the right to a  
18 healthful environment and may enforce this right  
19 against any party, governmental or private, through  
20 appropriate legal proceedings subject to reasonable  
21 limitations and regulation as the legislature might  
22 provide by law.

23  
24 Article \_\_\_\_, Section \_\_\_\_. Legislative Responsi-  
25 bility; Natural Resource Management

26 Section \_\_\_\_\_. The legislature shall promote the  
27 protection of the environment and the conservation,  
28 development, and utilization of these natural re-  
29 sources. In furtherance of such policy, the legis-  
30 lature shall vest in one agency powers for the  
31 protection of the environment and the efficient  
32 management of natural resources.

33  
34 Source: La. Const. Art. VI, §1 (1921)

35

CC-83 page two

1

2 Comment: States the public policy of the state in  
3 regard to natural resources and environment,  
4 provides the rights of individuals, and directs  
5 the legislature in regard thereto.

6

CC-84

1 Constitutional Convention of Louisiana of 1973  
2 DELEGATE PROPOSAL NUMBER  
3 Introduced by: Mr. Derbes  
4 A PROPOSAL  
5 For public policy and legislative responsibility  
6 in regard to environmental protection and  
7 natural resource management.  
8 PROPOSED SECTIONS:

9 Article \_\_\_\_, Section \_\_\_\_. Public Policy  
10 Section \_\_\_\_\_. The policy of the state and  
11 the duty of each person is to provide a health-  
12 ful environment, to maintain clean air, pure  
13 water, and the use and enjoyment for recreation  
14 of adequate public land, air, water, and other  
15 natural resources, and to preserve the natural,  
16 scenic, historic, and esthetic quality of the  
17 environment for the benefit of all people  
18 including future generations.

19  
20 Article \_\_\_\_, Section \_\_\_\_. Legislative

21 Responsibility  
22 Section \_\_\_\_\_. The legislature shall promote  
23 the protection of the environment and the con-  
24 servation, development, and utilization of all  
25 natural resources and shall provide for the  
26 efficient and coordinated management of these  
27 resources.

28  
29 Source: La. Const. Art. VI, §1 (1921)

30  
31 Comment: Sets forth the public policy of the state  
32 in regard to protection of the environment and  
33 management of natural resources and directs the  
34 legislature in regard thereto.

35  
CC-85

1 Constitutional Convention of Louisiana of 1973  
2 DELEGATE PROPOSAL NUMBER  
3 Introduced by: Mrs. Miller  
4 A PROPOSAL  
5 For public policy in regard to geothermal resource  
6 utilization and ownership.

7 PROPOSED SECTIONS:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Geothermal  
9 Resources; Public Policy  
10 Section \_\_\_\_\_. The state shall conserve, de-  
11 velop and utilize geothermal resources for the  
12 benefit of all people including future gener-  
13 ations.

14  
15 Article \_\_\_\_\_, Section \_\_\_\_\_. Geothermal  
16 Resources; Ownership  
17 Section \_\_\_\_\_. Ownership of all geothermal  
18 resources is vested in the state. The state  
19 shall have the exclusive right to authorize  
20 the exploration for and the production and  
21 distribution of these resources.

22  
23 Source: New

24  
25 Comment: Sets forth the public policy of the state  
26 in regard to utilization of geothermal resources  
27 and declares its ownership in these resources.

CC-86

1 Constitutional Convention of Louisiana of 1973  
2 DELEGATE PROPOSAL NUMBER

3 Introduced by: Mrs. Miller

4 A PROPOSAL

5 For public policy in regard to water resource  
6 regulation.

7 PROPOSED SECTION:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Water Resources;  
9 Public Policy  
10 Section \_\_\_\_\_. The state shall conserve and  
11 develop water resources and regulate the use of  
12 these resources for the benefit of all people  
13 including future generations.

14  
15 Source: New

16  
17 Comment: Sets forth the public policy of the state  
18 in regard to regulation of water resources.

CC-87

1 Constitutional Convention of Louisiana of 1973  
2 DELEGATE PROPOSAL NUMBER

3 Introduced by: Mr. Singletary

4 A PROPOSAL

5 For public policy in regard to ownership of beds  
6 of navigable water bodies and reservation of  
7 mineral rights.

8 PROPOSED SECTION:

9 Article \_\_\_\_\_, Section \_\_\_\_\_. Beds of Navigable  
10 Water Bodies, Ownership; Reservation of  
11 Mineral Rights  
12 Section \_\_\_\_\_. Ownership of the beds of all  
13 navigable water bodies is vested in the state.  
14 The state shall neither alienate nor authorize

15 the alienation of these beds. The mineral rights  
16 on all property sold by the state shall be re-  
17 served, except property adjudicated to the state  
18 for taxes. This shall not prevent the leasing of  
19 such lands and rights for mineral or other  
20 purposes.

21  
22 Source: La. Const. Art. IV, §2 (1921)  
23

24 Comment: Provides for the ownership of the beds of  
25 navigable water bodies, prohibits their alienation,  
26 and reserves mineral rights on all property sold by  
27 the state.  
28

CC-88

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by:

4 A PROPOSAL

5 For election of public service commission members  
6 and limitation of their power.

7 PROPOSED SECTIONS:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Public Service  
9 Commission; Election of Members  
10 Section \_\_\_\_\_. The public service commission  
11 shall consist of five members, elected from five  
12 districts established by law at the time fixed for  
13 congressional elections.

14  
15 Article \_\_\_\_\_, Section \_\_\_\_\_. Public Service  
16 Commission; Powers  
17 Section \_\_\_\_\_. The commission shall regulate  
18 all common carriers and other public utilities, adopt  
19 and enforce reasonable rules, regulations, and  
20 procedures for the discharge of its duties, and per-  
21 form such other functions as provided by law.

22  
23 Article \_\_\_\_\_, Section \_\_\_\_\_. Public Service  
24 Commission; Limitation of Power  
25 Section \_\_\_\_\_. The commission shall have no  
26 authority to regulate any public utility operated  
27 by a municipal or parochial governing body unless  
28 a majority of the electors of such governing body  
29 consent.

30  
31 Source: La. Const. Art. VI, §§3-9 (1921)  
32

33 Comment: Provides for creation and composition of  
34 public service commission, election of its members,  
35 and its powers; prohibits the commission from

CC-88

page two

1 exercising any power over any public utility whose  
2 powers are already vested in any local or parochial  
3 governing body.  
4

CC-89

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by:

4 A PROPOSAL

5 For election of public service commission members  
6 and limitation of their power.

7 PROPOSED SECTIONS:

8 Article \_\_\_\_\_, Section \_\_\_\_\_. Public Service  
9 Commission; Election of Members  
10 Section \_\_\_\_\_. The public service commission  
11 shall consist of five members, elected from five  
12 districts established by law at the time fixed  
13 for congressional elections.

14  
15 Article \_\_\_\_\_, Section \_\_\_\_\_. Public Service  
16 Commission; Powers  
17 Section \_\_\_\_\_. The commission shall regulate  
18 all common carriers and other public utilities,  
19 adopt and enforce reasonable rules, regulations,  
20 and procedures for the discharge of its duties,  
21 and perform such other functions as provided by  
22 law.

23  
24 Article \_\_\_\_\_, Section \_\_\_\_\_. Public Service  
25 Commission; Limitation of Power  
26 Section \_\_\_\_\_. The commission shall have no  
27 authority to regulate any public utility operated  
28 by a municipal or parochial governing body unless  
29 a majority of the electors of such governing body  
30 consent.

31 Section \_\_\_\_\_. The commission shall have no  
32 authority to regulate direct sales of natural gas  
33 to industrial users.  
34

35 Source: La. Const. Art. VI, §§3-9 (1921)

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page two

1 Comment: Provides for creation and composition  
2 of public service commission, election of its  
3 members, and its powers; prohibits the  
4 commission from exercising any power over any  
5 public utility whose powers are already vested  
6 in any local or parochial governing body and  
7 any aspect of sales of natural gas direct to  
8 industrial users.  
9

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by:

4 A PROPOSAL

5 For public policy and legislative responsibility  
6 in regard to environmental protection and  
7 natural resource management and rights to  
8 individuals therein.

9 PROPOSED SECTIONS:

10 Article \_\_\_\_, Section \_\_\_\_\_. Public Policy  
11 Section \_\_\_\_\_. Consistent with the health,  
12 safety, and welfare of all people including future  
13 generations, each person has the right to clean  
14 air, pure water, and an environment free from  
15 excessive and unnecessary noise; to adequate  
16 public land, air, water, and other natural re-  
17 sources for recreation; to preservation of the  
18 natural, scenic, historic, and esthetic quality  
19 of the environment; and to protection of agri-  
20 cultural lands, wetlands, and shorelines.

21  
22 Article \_\_\_\_, Section \_\_\_\_\_. Rights of  
23 Individuals  
24 Section \_\_\_\_\_. Any person directly affected  
25 by any activity in violation of this section may  
26 enforce the right provided herein against any  
27 party, governmental or private, through ap-  
28 propriate legal proceedings subject to reason-  
29 able limitations and regulations as provided by  
30 law.

31  
32 Article \_\_\_\_, Section \_\_\_\_\_. Legislative  
33 Responsibility  
34 Section \_\_\_\_\_. The legislature shall promote  
35 the protection of the environment and the

CC-90 page two

1 conservation, development, and utilization  
2 of all natural resources and shall provide  
3 for the efficient and coordinated management  
4 of these resources.

5  
6 Source: New

7  
8 Comment: Sets forth the public policy of the state  
9 in regard to protection of the environment and  
10 management of natural resources, directs the  
11 legislature to implement this public policy,  
12 and provides the rights of individuals in  
13 regard thereto. [See La. Const. Art. VI,  
14 § 1 (1921)]  
15

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Mr. Velazquez

4 A PROPOSAL

5 For agricultural priority in percentage of clam and reef shell  
6 severed from state-owned water bottoms.

7 PROPOSED SECTION:

8 Article \_\_\_\_, Section \_\_\_\_\_. Clam and Reef Shell; Disposition  
9 Section \_\_\_\_\_. Ten percent of all clam and reef shell  
10 severed from state-owned water bottoms shall be first  
11 offered for agricultural purposes.

12  
13 Source: New

14  
15 Comment: Provides for agricultural priority in ten percent  
16 of all clam and reef shell severed from state-owned water  
17 bottoms.  
18

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Mr. Velazquez

4 A PROPOSAL

5 For creation of public service commission and limi-  
6 tation of its power.

7 PROPOSED SECTIONS:

8 Article \_\_\_\_, Section \_\_\_\_\_. Public Service  
9 Commission  
10 Section \_\_\_\_\_. The public service commission  
11 shall consist of nine members, one elected from  
12 each congressional district and one appointed by  
13 the governor.

14  
15 Section \_\_\_\_\_. The commission shall have the  
16 power to regulate all common carriers and other  
17 public utilities, adopt and enforce reasonable  
18 rules, regulations, and procedures for the dis-  
19 charge of its duties, and perform such other  
20 functions as provided by law.

21  
22 Section \_\_\_\_\_. The commission shall have no  
23 power to regulate any public utility operated by  
24 a municipal or parochial governing authority  
25 except by consent of a majority of the electors  
26 of the governing authority.  
27

28 Source: La. Const. Art. VI, §§3-9 (1921)

29  
30 Comment: Provides for creation and composition of  
31 public service commission; prohibits the commission  
32 from exercising any power over any public utility

33 whose powers are already vested in any local or  
34 parochial governing body.

35  
CC- 268

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For disposition of the mineral royalties

6 PROPOSED SECTION:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. Royalty Road Fund  
8 Section \_\_\_\_\_. Ten per cent of the royalties  
9 received by the state from any mineral lease shall be  
10 placed in a special fund to the credit of the parish  
11 from which the mineral was severed. This fund shall  
12 be administered by the state treasurer and used exclu-  
13 sively by the Department of Highways to build, construct,  
14 and maintain transportation facilities in such parish.

15  
16 Source: La. Const. Art. IV, § 2 (13).

17  
18 Comment: Provides for creation of the Royalty Road Fund  
19 with no substantive change from the present law.

13 natural resource was severed.

14

15 Source: La. Const. Art. X, § 1 and Art. IV, § 2 (13).

16

17 Comment: Provides for creation of Resource Severance  
18 Fund.

19

20

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CC-270

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For dedication of revenues to local governing authorities.

6 PROPOSED SECTION:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. Resource Severance Fund

8 Section \_\_\_\_\_. Three-fourths of the timber severance tax, one-third  
9 of the sulphur severance tax, one-fifth of the tax on all other natural re-  
10 sources, and one-tenth of the royalties from mineral leases granted by the  
11 state shall be remitted to the governing authority of the parish from which  
12 the natural resource was severed, provided that the amount of severance tax  
13 on minerals so remitted not exceed two hundred thousand dollars annually.

14

15 Source: La. Const. Art. X, §§ 1, 21 and Art. IV, § 2 (13)

16

17 Comment: Provides for dedication of revenues from severance taxes and

18 mineral royalties to parishes from which natural resources are severed

19 with no change from the present law except deletion of limitation on

20 use of such revenues for transportation purposes.

21

22

23

24

25

26

27

28

CC- 269

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by

4 A PROPOSAL

5 For dedication of revenue to local governing authorities.

6 PROPOSED SECTION:

7 Article \_\_\_\_\_, Section \_\_\_\_\_. Resource Severance Fund

8 Section \_\_\_\_\_. Seventy-five per cent of the  
9 proceeds from the timber severance tax and ten  
10 per cent of the royalties received by the state  
11 from any mineral lease shall be remitted to the  
12 governing authority of the parish from which the



CC-302

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Mrs. Miller

4 A PROPOSAL

5 For disposition of alluvion

6 PROPOSED SECTIONS:

7 Article \_\_\_\_, Section \_\_\_\_\_. Alluvion

8 Section \_\_\_\_\_. Land formed or exposed by accretion or  
9 dereliction caused principally by acts of man do not  
10 belong to the riparian owner.

11 Source: New

12 Comment: Restricts application of La. Civil Code Art. 509  
13 and Art. 510.

CC-460

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Dr. Asseff

4 A PROPOSAL

5 For creation of wildlife and fisheries commission.

6 PROPOSED SECTIONS:

7 Article \_\_\_\_, Section \_\_\_\_\_. Appointment of  
8 Members

9 Section \_\_\_\_\_. The Wildlife and Fisheries  
10 Commission shall consist of seven members, six  
11 of whom shall serve for six years and one of  
12 whom shall serve a term concurrent with that of  
13 the governor. Any vacancy shall be filled by  
14 appointment of the governor.

15 Article \_\_\_\_, Section \_\_\_\_\_. Powers

16 Section \_\_\_\_\_. The commission shall  
17 formulate policies to protect, conserve, and  
18 replenish the natural resources of the state,  
19 adopt and enforce reasonable rules, regulations,  
20 and procedures for implementation of this policy,  
21 administer laws relating to commercial fishing  
22 and wildlife, and perform such other functions as  
23 provided by law.

24 Source: La. Const. Art. VI, §1(A) (1921)

25 Comment: Provides for appointment of the members  
26 of the wildlife and fisheries commission and their  
27 powers.

CC-461

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Dr. Asseff

4 A PROPOSAL

5 For creation of forestry commission.

6 PROPOSED SECTIONS:

7 Article \_\_\_\_, Section \_\_\_\_\_. Appointment of  
8 Members

9 Section \_\_\_\_\_. The Forestry Commission shall  
10 consist of seven members, five of whom shall be  
11 appointed by the governor to serve for five years  
12 and two of whom shall serve as ex officio members--  
13 the head of the department of forestry at Louisiana  
14 State University and Agricultural and Mechanical  
15 College and the director of the Wildlife and Fisheries  
16 Commission.

17 Article \_\_\_\_, Section \_\_\_\_\_. Powers

18 Section \_\_\_\_\_. The commission shall formulate  
19 policies to foster the practice of forestry in the  
20 state, adopt and enforce reasonable rules regulations,  
21 and procedures for implementation of this policy, ad-  
22 minister laws relating to forestry, and perform such  
23 other functions as provided by law.

24 Source: La. Const. Art. VI, §1(B) (1921)

25 Comment: Provides for appointment of the members of the  
26 forestry commission and their powers.

CC-462

1 Constitutional Convention of Louisiana of 1973

2 DELEGATE PROPOSAL NUMBER

3 Introduced by Dr. Asseff

4 A PROPOSAL

5 For creation of state land office.

6 PROPOSED SECTION:

7 Article \_\_\_\_, Section \_\_\_\_\_. Election of  
8 Register

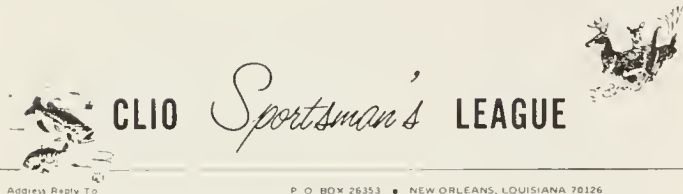
9 Section \_\_\_\_\_. The register of the State  
10 Land Office shall be elected for a term of four  
11 years by the electors of the state as provided  
12 by law. The governor shall fill any vacancy in  
13 said office by appointment with the advice and  
14 consent of the senate.

15 Source: La. Const. Art. V, §18 (1921)

16 Comment: Provides for election of register of the  
17 state land office.

# IV. Selected Correspondence and Miscellaneous Documents

## A. Selected Correspondence



attempts to relieve pressure from the smaller landowner and is aimed primarily at the large owners or conglomerates who buy up large tracts of land and clear it for such things as soy beans, etc. It is our belief that there are large companies who are making very large profits by clearing and planting with impunity, tens of thousands of acres of Louisiana lands. An oil industry would certainly have to pay a severance tax and it is only reasonable there should be taxation for removal of our wildlife habitat.

Your consideration of this proposal is urgently requested and your favorable opinion hoped for.

With kindest regards,  
CLIO SPORTSMAN'S LEAGUE

*John H. Parker, Jr.*  
John H. Parker, Jr.  
Vice-President

Members of the Constitutional Convention  
Committee on Natural Resources

Dear Sirs:

As a member and officer of the Clio Sportsman's League, a conservationist group numbering 550 members based in the New Orleans area, I am taking this opportunity to convey information which our club feels is of mutual concern to all sportsmen as well as to the Committee on Natural Resources of the Constitutional Convention.

Enclosed with this letter is a copy of a resolution passed by Clio Sportsman's League at the regular meeting held November 8, 1971. We have endeavored to have this submitted as a constitutional amendment since then, however, without success. Figures quoted in the resolution were derived from a study conducted by the Louisiana Wild Life and Fisheries Commission in 1970. You will note that the resolution deals with land use practices which we felt were detrimental to wild life of the state and therefore of concern not only to sportsmen but to all citizens who have a love of the outdoors.

According to the Commission, the hardwood forest is being cleared at such a rate that by 1990 there will be no hardwood forest left in the state. In the ten years between 1960 and 1970 alone, the available hardwoods were reduced from just over 10 million acres to just over 5 million acres--a reduction of 50%. Because these hardwoods form the necessary habitat for most of Louisiana's wildlife, this situation is of the gravest concern to all who desire

P.S. Also included is a reproduction of a newspaper article which appeared March 17, 1973. I would appreciate your reading this article as it points up just how serious this problem is. In our opinion the soy bean farmers are the principle villains in massive land clearing. The article brings to my mind the spectre of speculators buying up even more of our land to clear, so that they can make a killing in relieving the present shortage of soy beans.

RESOLUTION ADOPTED BY CLIO SPORTSMAN'S LEAGUE AT THE REGULAR MEETING HELD JANUARY 8, 1973

WHEREAS, Land use practices in the state of Louisiana have proven detrimental to the interest of sportsmen by the destruction of the hardwood forest, and

WHEREAS, Land clearing by private owners at the rate of 125,000 acres per year has reduced the hardwood forest from over 10,100,000 acres to 5,050,000 acres in ten years, and

WHEREAS, Continuation of the present rate of land clearing would eliminate all hardwood forest areas in approximately twenty years, and

WHEREAS, The hardwood forest forms habitat necessary for wildlife survival,

THEREFORE BE IT RESOLVED, That Clio Sportsman's League does hereby urge the preservation of hardwood forest by calling for legislation declaring as a natural resource any timber area, stream, swamp, and/or marsh which provides wildlife habitat; and further calling for a severance tax of 2% of market value of land to be paid by any land owner who clears or drains over 100 acres of his land; this first 100 acres of land shall be exempt from the 2% severance tax. Funds derived therefrom to be dedicated to the Wild Life and Fisheries Commission solely for the purchase of lands to be used as game management areas.

AFFILIATED WITH THE LOUISIANA WILDLIFE FEDERATION, INC.

Page 2

the survival of wildlife. Something needs to be done immediately if this trend is to be reversed. It would appear that a state which advertises itself as a "Sportsman's Paradise" can ill afford to lose that which makes it such--in this case, wildlife habitat in the form of hardwood forest, swamps, streams and marshes.

To alleviate the massive clearing of land in the state, Clio Sportsman's League proposes that all wildlife habitat be considered a natural resource and a severance tax be imposed for its removal; this would be similar to other natural resources such as gas, oil and minerals. As you will note, we have offered a formula for taxation; however, we are not adamant that this particular formula be used in any legislation dealing with the matter. We only expect that an equitable tax be paid in line with the value of the resource that has been removed from the state. Also note that our formula

*Robert E. Timberlake*  
Robert E. Timberlake  
Secretary-Treasurer



112 Coochope Street  
Merco, LA 70079  
April 13, 1973

Honorable Louis J. Lambert, Jr., Chairman  
Natural Resources and Environment Committee  
P. O. Box 44473  
Baton Rouge, LA 70804

Dear Mr. Lambert

Enclosed is a resolution that was unanimously adopted by the General Congress of the Louisiana Wildlife Federation Inc., assembled in convention April 1, 1973 at the Ramada Inn, Alexandria, La. This resolution opposes any constitutional consolidation of the Louisiana Wildlife and Fisheries Commission with any other state agency. Several other organizations have also endorsed our resolution.

Although we were not invited to make a statement in behalf of our Fisheries and Wildlife Resources, Honorable Lambert we urge you to enter this request and resolution in the minutes of your committee meeting held on April 9, 1973.

We concur with the statements of Director J. Burton Angelle and his staff.

The Louisiana Wildlife and Fisheries Commission was created in the State Constitution through the efforts of the Louisiana Wildlife Federation, Inc. Proposals to abolish the Wildlife and Fisheries Commission by a constitutional change was defeated twice by the efforts of the membership of the Louisiana Wildlife Federation, Inc. and their friends.

Therefore, we urge your committee to leave this agency in the constitution as a separate State Agency.

Respectfully yours

Francis J. Braud, 1st Vice President LWF  
Chairman Legislative Committee

cc: Governor Edwin Edwards  
Honorable J. Burton Angelle  
Edgar Veillon, President LWF  
Executive Committee

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.

June 22, 1973

MEMORANDUM

TO: Rep. Robert Munson  
Delegate, CC/73

FROM: Lee Hargrave  
Coordinator of Research

SUBJECT: Action Taken by  
Committee on Natural Resources and Environment

Enclosed please find a chart indicating the action taken by the committee, a brief summary of this action, and the final report of the committee to the convention delegates.

The Committee on Natural Resources and Environment has jurisdiction over matters concerning public lands, minerals, water resources, wildlife, environmental concerns, recreation and agriculture. The committee set forth the public policy of the state in regard to natural resource management and environmental preservation by adopting a proposal to provide for protection, conservation, and replenishment of natural resources and preservation of the environment. Another proposal provides for the protection of navigable water bottoms by prohibiting their alienation and reservation to the state of mineral rights on all other public land which is sold. This proposal also requires that any navigable water body reclaimed be dedicated to public use. The committee decided to retain in the new constitution the operation of the Royalty Road Fund and the dedication of certain offshore mineral revenues. The Royalty Road Fund provides that ten percent of the royalties from any mineral lease granted by the state be dedicated to the parish from which the mineral was severed. Other provisions provided that the state would retain mineral rights to land lost by formation of alluvion and that a riparian landowner, likewise, would retain mineral rights to land lost through erosion; one requirement, however, is that the loss of such land be caused by acts of man.

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The committee retained the Commissioner of Agriculture in the constitution as an elected official; it also retained in the constitution the Wildlife and Fisheries Commission and the Forestry Commission. The committee placed in the statutes both the State Land Office and the Conservation Commission. The Public Service Commission was reorganized to provide greater representation of the people; it was enlarged from three to five members. The provision which denied the commission jurisdiction over any aspect of the sale of natural gas to industry was deleted but regulation of the price of such gas was specifically excluded

from the authority of the commission; also under this provision the commission is required to render a timely decision on a rate proposal. Finally, the committee set forth the policy of the state in regard to geothermal-geopressure resources by adopting a proposal to provide for the development and utilization of this potentially valuable resource. The committee decided to retain in the new constitution the State Market Commission only if necessary to make exception to any other provision which would prevent its operation. The committee also decided to retain a

provision regarding beautification of the state's highways only if necessary to insure maximum participation of available federal funds. The committee deleted several other provisions including those concerning dedication of mineral revenues to the highway fund, canal and hydroelectric developments, agricultural industrial boards, and alienation of the state's navigable water bottoms to political subdivisions for purposes of reclamation.

## B. Miscellaneous Documents

### SPEAKERS

Committee on Natural Resources and Environment  
of the Constitutional Convention of 1973

Council on Environmental Quality  
Eddie Schwertz, Assistant Director of GCEQ  
W. B. DeVille, Director of Research for GCEQ  
Michael Duplantier, Special Counsel to Attorney General  
Devan D. Daggett, Executive Director, La. Legislative Council

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March 9, 1973

Andrew Martin, Chairman, State Mineral Board  
C. J. Bonnacarre, Executive Secretary, State Mineral Board  
Mr. Jerry Hill, Auditing Division, State Mineral Board  
Mr. Paul Jones, U.S. Geological Survey (NASA)

March 23, 1973

Ellen Bryan Moore, Register of State Lands  
George W. Hardy, Professor of Law at LSUBR and Reporter  
on Minerals for Louisiana State Law Institute  
Mr. Austin W. Lewis, w/Law Firm of Liskow and Lewis  
Ray Sutton, Commissioner of Conservation  
Thomas W. Winfield, Chief Engineer, Conservation Department  
John W. Smith, Businessman, Lockport, La.  
R. H. "Dutch" Meyer, Vice President, Sugar Bowl Gas  
Corporation  
Attorney Elliot G. Flowers, Sugar Bowl Gas  
Marc J. Hershman, Director, Louisiana Coastal and Marine  
Resources Commission  
Daniel Hurlley, Representative/Texaco, Inc.  
A. N. Yiannopoulos, Professor of Law at LSUBR and Member,  
Louisiana Law Institute  
Milton Duvielh, Attorney for Gulf Oil Corporation; Chairman,  
Legislative Committee of Mid-Continent Oil & Gas Corp.  
James R. Renner, Representative/Ecology Center of La., Inc.

April 9, 1973

J. Burton Angelle, Director, Wildlife and Fisheries Commission  
Jerry G. Jones, Chairman, WL&FC  
Dr. Lyle St. Amant, Assistant Director, WL&FC  
Dob LaFleur, Executive Secretary, Stream Control Commission  
Richard Yancey, Asst. Director, WL&FC  
William Matthews, Executive Director, La. Forestry Commission  
James E. Nixon, State Forester  
Dr. J. Norman Efferon, Chancellor, Center for Agricultural  
Sciences & Rural Development of the LSU System  
Dave L. Pearce, Commissioner of Agriculture, State of La.  
Mr. James Graugnard, President, Louisiana Farm Bureau  
Louis Curcet, Attorney for Louisiana Farm Bureau

April 10, 1973

Dr. Ramson K. Vidrine, State Health Officer  
John E. Trygg, Director, Environmental Health Division,  
La. State Department of Health

April 16, 1973

Robert R. Brooksher, Executive Vice President, Mid-Continent  
Oil & Gas Corporation  
Henri Wolbrette, Vice President, Louisiana Chemical Assoc.  
C. Fielding Early, Attorney, Texaco, Inc.  
Louis Quinn, Secretary, La. Public Service Commission  
Gary Keyser, Assistant Attorney General, State of La.  
Simmons Barry, Pipeline Consultant for Attorney General  
R. H. "Dutch" Meyer, Sugar Bowl Gas  
Elliot Flowers, Sugar Bowl Gas

April 30, 1973

Charles M. Smith, Jr., Executive Director, Department of  
Commerce and Industry, State of La.  
Dr. Sherwood M. Gagliano, Director, Coastal and Marine  
Resources Commission  
Fred Ellis, Professor of Law, LSUBR  
Dr. Douglas P. Harrison, Professor, Chemical Engineering,  
LSUBR  
Michael Osborne, President, Delta Chapter, Sierra Club  
Marc J. Hershman, Director, La. Coastal & Marine Resources  
Commission  
J. Arthur Smith, III, Attorney and Research Associate, LSUBR  
Doris Falkenhainer, Assistant Director, Legal Aid Society  
Henri Wolbrette, Executive Vice President, La. Chemical  
Association

May 1, 1973

Dou Whittinghill, Director, Joint Legislative Committee on  
Environmental Quality  
Clint Pray, Chairman and Executive Director, Governor's

May 7, 1973

Janet Burt, Representing League of Women Voters  
W. B. Dodd, U.S. Corps of Engineers  
Fred Benton, Attorney, Lake Charles Port Commission  
Vernon Burhorst, Director, Louisiana Coastal Commission  
(representing Senator Robert G. Jones, president  
of the Louisiana Coastal Seaway Association)  
Edward S. Reed, Executive Director and General Manager,  
Port of New Orleans  
Ross Vincent, Vice President and Director of Research,  
Ecology Center of Louisiana, Inc.  
Emile Maciasz, Assistant State Treasurer, State of La.  
Bob McHale (representing Howard Neeley, Executive Director,  
Port of Lake Charles

May 8, 1973

No speakers

June 15, 1973

No speakers

June 16, 1973

No speakers

July 12, 1973

No speakers

July 19, 1973

Henri Wolbrette, Executive Vice President, La. Chemical  
Association  
Paul Borrion, Attorney, American Sugar Cane League  
Ford S. Lacey, Executive Vice President, La. Manufacturer's  
Association  
James H. Thibaut, President, American Sugar Cane League  
(who recognized Gilbert Durin, VP and General Manager,  
Sugar Cane League; Ray Waquespack, Southdown Sugars;  
Charles Savoie, w/Dugas & LeBlanc of Assumption Parish;  
Charles Hobson, Economist; Neal Bolten w/Caldwell  
Sugars; J. J. Supple, w/J. Supple and Sons of Bayou  
Goula; Berkshire Terrell w/Cinclare Plantation;  
Joe Melancon of Napoleonville)

July 26, 1973

Gene Cretini, Director of Advertising, La. Department of  
Commerce and Industry  
Ed Kennon, Public Service Commissioner, Minden, La.

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James Thibaut, President, American Sugar Cane League  
Henri Wolbrette, VP, La. Chemical Association

July 27, 1973

Charles Pasqua, Executive Director, La. Municipal Assoc.  
Ford S. Lacey, Executive Vice President, La. Manufacturer's  
Association  
Gary Keyser, Assistant Attorney General  
Kenneth Kahao, Chairman, La. Farm Bureau Federation's Sugar  
Advisory Committee

August 15, 1973

Ory G. Poret, Deputy Register of State Land Office  
Arthur R. Theis, Assistant Chief Engineer, La. Department  
of Public Works  
Dave L. Pearce, Commissioner of Agriculture

August 22, 1973

Frederick W. Ellis, Professor of Law, LSUBR  
Mrs. Sandra Thompson, Director, Atchafalaya Basin Division

of Department of Public Works  
Mr. Pat Ryan, State Planning Office

September 13, 1973

Mr. Charles F. Gaiennie, Jr., State Treasurer's Office

September 14, 1973

No speakers

September 20, 1973

No speakers

September 21, 1973

No speakers

September 27, 1973

Jack Styron, President, Louisiana Menhaden Company

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October 4, 1973

No speakers

October 11, 1973

Mr. Ed Bordes, w/Louisiana Gas Service  
Mr. James Thibaut, American Sugar Cane League  
Paul Borron, Attorney, American Sugar Cane League  
Mr. Fred Veters, w/Texaco, Inc.

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RAPIDES WILDLIFE ASSOCIATION, Inc.

P O BOX 1227

ALEXANDRIA, LOUISIANA 71301

April 17, 1973



At the April Board Meeting, the following resolution was passed by the Rapides Wildlife Association Board of Directors:

"That the Delegates to the Constitutional Convention from Rapides Parish be requested to oppose any constitutional consolidation of the Louisiana Wildlife and Fisheries Commission with any other state agency."

*JL C Moser*  
JOHN C. MOSER  
Secretary

RESOLUTION

WHEREAS: It has been proposed and is being given consideration that the Louisiana Wild Life and Fisheries Commission be consolidated with several other State Agencies, including the Louisiana Forestry Commission, the Conservation Commission, the Parks and Recreation Commission, the Louisiana Stream Control Commission, and possibly several other now existing Commissions in the proposed revised Louisiana Constitution to be formulated by the Constitutional Convention; and

WHEREAS: The existing Louisiana Wild Life and Fisheries Commission presently operates on self-generated funds derived from the sale of hunting and fishing licenses, royalties from minerals or COMMISSION-OWNED Refuges and from severances paid on oyster

and clam shells; as well as from Federal funds such as the Dingell-Johnson and Pittman-Robertson Funds, as well as other Federal grants and funds; and

WHEREAS: These funds, particularly the Federal funds and grants are made to the Louisiana Wild Life and Fisheries Commission for the sole purposes of improving wildlife and Fisheries resources within the State, along with the conduct of experimental programs and projects to enhance Louisiana's wildlife and fisheries resources; and

WHEREAS: These Federal grants made to the Seafood Division are for specific programs tailored to match those made to other states for research and marine and estuarine studies that are part of a national program, and

WHEREAS: Funds for implementation of the Federal Boating Act of 1971 are made to the Louisiana Wild Life and Fisheries Commission for specific phases of the Federal Boating Act, including enforcement, registration of boats, and safe boating education, and

WHEREAS: Any departure from the existing system of Federal supervision of the use of those funds and grants from the Federal government could result in curtailment of those funds if they were diverted to any other Agencies within the State of Louisiana, and

WHEREAS: The loss of those funds would prove a serious and detrimental halt to existing and proposed programs that are specifically funded by the Louisiana Wild Life and Fisheries Commission for specific purposes, and

WHEREAS: Similar efforts to consolidate state wildlife departments and commissions with other agencies in several other states have proved unworkable and in some cases have stripped those departments and commissions of the ability to perform the duties and responsibilities designed to best serve the interests of those states, and

Resolution . . . . . 2

WHEREAS: It is felt the consolidation of the Louisiana Wild Life and Fisheries Commission with other State Agencies would bring about budgetary problems that would not be tolerated by the Federal government, including multiple use of equipment paid for in great part by Federal funds, new

THEREFORE BE IT RESOLVED: That the Louisiana Wild Life Federation does this date go on record as being opposed to any such consolidation of the Louisiana Wild Life and Fisheries Commission with any other State Commission or Agency under proposed changes in the present Constitution, and that it be continued as a separate agency in whatever new Constitution is adopted by the people of Louisiana.

BE IT FURTHER RESOLVED: That copies of this resolution be sent to the Governor of the State of Louisiana and to all delegates to the Constitutional Convention urging that the existing Louisiana Wild Life and Fisheries Commission remain an independent State Agency under any proposed new Constitution in order that it may best serve the citizens of Louisiana and best perform the many duties and responsibilities for which it was created.

March 31, 1973

Original Signed By  
Edgar Veillon

PRESTIGES  
LA WILDLIFE FEDERATION

April 24, 1973

Members of the Composite Committee, Ladies and Gentlemen:

I'm speaking as the Environmental Quality Chairman of the Lafayette League of Women Voters. We feel that:

Each citizen of Louisiana has the right to clean air and water, to wise land stewardship, to freedom from excessive and unnecessary noise and blight, to the enjoyment of the natural scenic, historic, and esthetic qualities of the environment, to the protection of unique lands, swamps, marshlands, and shoreline, and to the use and enjoyment for recreation of public lands. Each citizen and the government of the state of Louisiana, as trustee of these resources, shall conserve, manage, and enhance them for the benefit of all the people, including future generations.

We also feel that the natural resources of this state should be

defined and provisions made for their future wise use but that details of boards and commissions and the functions of these boards and commissions should not be in a basic constitution but dealt with in statutory law. We hope you will agree with this statement and give it careful consideration.

Mrs. Wayne L. Corno

JAMES H. THIBAUT, PRESIDENT  
DONALDSONVILLE, LA.

CHARLES L. SAVIDE, 1ST VICE PRESIDENT  
MONROE, LA.

F. A. CHASTANG, JR., SECRETARY  
ST. LOUIS, LA.

WARDEN J. HARRING, JR., TREASURER  
THIBODOXA, LA.

AMERICAN SUGAR CANE LEAGUE  
OF THE U. S. A., Inc.

416 WHITNEY BUILDING  
NEW ORLEANS, LA. 70130

GILBERT J. BOUDIN  
714 PINE AVE. SUITE 210  
NEW ORLEANS, LA.

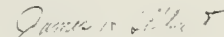
Phone  
325-3400  
325-6440

TO: Delegates of the Constitutional Convention of 1973

The constitution now provides that the Louisiana Public Service Commission shall have no authority to control any aspect of natural gas sales to industrial users.

This prohibition should be removed and the Louisiana Public Service Commission should be authorized to allocate available supplies of intrastate natural gas, whenever necessary. Present short supplies of natural gas should be allocated in accordance with priorities which reflect the public's needs.

We urge that you read the attached statement on this subject.

  
James H. Thibaut  
President

JHT:mg  
Attachment

Statement by James H. Thibaut, President of the American Sugar Cane League of the U.S.A., Inc., Before the Louisiana Constitutional Convention's Committee on Natural Resources and Environment

June 12, 1973

My name is James H. Thibaut. I reside at Donaldsonville, Louisiana.

I am a producer and processor of sugar cane, and I am President of the American Sugar Cane League. The membership of the League is composed of farmers in 19 Parishes who grow more than 95% of the sugar cane in Louisiana, and all of the sugar cane processors in the State. The processors own and operate 42 factories which process cane into sugar and molasses.

The Louisiana Constitution now provides that the Louisiana Public Service Commission shall have no authority to control any aspect of sales of natural gas to industrial users. This prohibition may have been sensible before the current energy crisis, but now it makes no sense at all.

It should now be obvious to everyone that there is a shortage

of natural gas. Therefore, some public agency should allocate or ration the available natural gas supplies in accordance with priorities which reflect the public's needs.

If you array the public's needs in order of importance, food will be at the top of the list. Therefore, the public's interest requires that the production and processing of life-sustaining food be uninterrupted.

A food crisis is developing in this country and also world wide. Unfortunately, some individuals in positions of authority are slow in recognizing or accepting this fact. They are some of the same persons who were slow to recognize or accept the developing energy crisis.

The energy crisis is accelerating the development of the food crisis. It takes gasoline and diesel fuel to power the tractors and other farm machinery necessary to produce food, and natural gas and other fuels are necessary for the processing of these foods.

Last month the Office of Oil and Gas of the U.S. Interior Department instituted a voluntary allocation program in an effort to assure farmers of adequate fuel for their farm machinery. I hope it works! If it does, there still are other steps that must be taken to assure consumers they will have adequate food. Natural gas and other fuels must be made available for the processing of many foods, otherwise there was no purpose served in producing such foods.

Take sugar cane for example. Consumers don't eat cane. They eat the sugar and molasses produced from the cane. Natural gas is needed to process the cane into sugar and molasses. If we can't have the natural gas to process the cane, then there is no point in producing the cane. It is economically infeasible for a sugar cane processor to make the investment necessary and incur the additional costs involved in a conversion to the use of fuel oil. Furthermore, fuel oil is in short supply.

There are many other similar examples. Natural gas is used to dry rice, corn, soybeans, wheat, and other grains, to keep them from spoiling. It is used in the processing and canning of vegetables, meats, and seafood.

Continuation of the provision in the Louisiana Constitution which prohibits the Louisiana Public Service Commission from taking any step to assure food processors adequate supplies of natural gas could be disastrous to farmers, food processors, and consumers. We urge that the Commission be allowed to ration natural gas, whenever necessary, to industrial users. Rationing of anything can be distasteful; but, like medicine, rationing is sometimes advisable.

If the Louisiana Public Service Commission is given authority to regulate the distribution of intrastate supplies of natural gas, the Commission may be able to prevent the placing of intrastate gas into interstate pipelines for sale to out-of-state users. This, of course, would increase supplies for Louisiana users.

We believe the federal government will step in and allocate intrastate gas supplies, if the State of Louisiana does not do so.

Maybe this federal intervention can be avoided if the Louisiana Public Service Commission is given the authority it needs.

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July 26, 1973

To: Tom Velazquez  
From: Victor A. Dubuclet, III  
Subject: Pennsylvania v. W. Virginia, 262 U. S. 553 (1923).

W. Virginia attempted to pass a statute requiring preference in the use of locally produced natural gas (not coal) to be accorded local consumers.

U. S. Supreme Court held that the pipe line company in transporting natural gas for consumption in producing state and in other states, is engaged in quasi public business, gives the state where the gas is produced no regulatory power over it which will interfere with its supplying customers in other states; the fact that there may be an insufficient supply to satisfy needs of domestic consumers and foreign consumers does not give W. Virginia the right to require a preference be given to local consumers - the effect would be to cause an unconstitutional interference with interstate commerce.

*live*

*This may be of some assistance to you in making a decision on the Public Service Commission  
TAV*

Statement by Kenneth Kahao, Chairman of Louisiana Farm Bureau Federation's Sugar Advisory Committee And Representing Louisiana Farm Bureau Federation

July 27, 1973

I am Kenneth Kahao, a member of Louisiana Farm Bureau Federation and Chairman of its Sugar Advisory Committee. I have been authorized by Louisiana Farm Bureau President James Graugnard to represent the organization here today and speak in support of the proposal to place intrastate gas under the jurisdiction of the Public Service Commission.

As you know, the present Constitution provides that the Louisiana Public Service Commission shall have no authority to control any aspect of sales of natural gas to industrial users. However, it is now obvious to everyone that a shortage of natural gas exists. We feel therefore that some public agency should have the authority to allocate or ration the available natural gas supplies according to priorities reflecting the public's needs. In order of importance, food items would have to be placed at or near the top of a list of human and public needs. We think it in the public's interest,

therefore, that the production and processing of life-sustaining food be uninterrupted.

The energy crisis is accelerating the development of the food crisis. There are many examples. I produce sugar cane. The Federal government has realized the importance of food by giving priority for fuel to farmers for the production of food. This priority will be useless if we do not have the gas to process these agricultural products after we produce them, and there is no economically available substitute as a source of energy. Other examples of Louisiana-produced products where natural gas is essential in processing are rice, corn, and soybeans. These grains must be dried to prevent spoiling. Natural gas is also used in the processing of vegetables, meats, etc. It is therefore vital to the economy of this state. If the Public Service Commission is given authority to regulate the distribution of intrastate supplies of natural gas as has been proposed by the Committee on Natural Resources and Environment, the Commission would find itself in a position to prevent intrastate gas from being placed in interstate lines for sale to out-of-state users and guarantee all users a fair share of the gas available. The net effect would be to increase supplies for Louisiana users. We strongly recommend that this proposal be adopted by the full Convention.



State of Louisiana  
DEPARTMENT OF JUSTICE  
Baton Rouge  
70804

August 8, 1973

Honorable Louis J. Lambert, Chairman  
Committee on Natural Resources and Environment  
Constitutional Convention of 1973  
P. O. Box 44473  
Baton Rouge, Louisiana 70804

Re: Jurisdiction of Direct Sales of Natural Gas to Industrial Users

Dear Mr. Lambert:

On July 27, 1973, I was requested by your committee to furnish statistical information on the use of natural gas in Louisiana.

Specifically, I was asked to furnish information on the use, transportation and consumption of natural gas in Louisiana, including volume and percentage figures for transportation both by intra-state and inter-state pipelines to Louisiana customers.

I have enclosed an explanatory statement accompanied by tables setting forth the various statistics requested, with citations of sources.

If you or any member of your committee would like further information on this subject, please advise me and we will be pleased to cooperate in whatever way possible.

Very truly yours,

WILLIAM J. GUSTE, JR.  
Attorney General

By  
GARY L. KEYSER  
Special Counsel

GLK:rmc

Encl.



STATISTICAL DATA ON THE  
USE, TRANSPORTATION AND CONSUMPTION  
OF NATURAL GAS IN LOUISIANA

Introduction --

On July 27, 1973, the Attorney General's staff was requested to furnish statistical information concerning use, transportation and consumption of natural gas in Louisiana.

This information often is difficult to obtain by reporting agencies, and the degree of accuracy is open to question. A great deal of study has been given to end use of natural gas at the federal level, and statistics in the future probably will be more accurate and more easily obtained.

United Gas Pipeline Company, for example, is obtaining data to evaluate end use in connection with a hearing under way before the Federal Power Commission, Docket Nos. RP 71-29 and 71-120. This data will be correlated and tabulated by November, 1973. In all probability similar questionnaires eventually will be sent to consumers throughout the United States.

End use of natural gas is likely to be a primary criteria in determining priorities for curtailment or, worst of all, abandonment. Some consider the use of natural gas for boiler fuel to be an inferior use and recently, for clarity, most reporting agencies have broken out utility electric generation from the industrial classification for this purpose. Utility boilers, as well as most other boilers in Louisiana, are fueled by natural gas. You may recall that the possibility of abandonment of natural gas supplies to most of the electric generating facilities in Louisiana was posed as a very real threat to Louisiana just a short time ago. The litigation is still pending before the Federal Power Commission in Docket Nos. CP 73-117, et al.

TABLES --

Table 1, using 1970 data, reveals production and consumption figures for the State of Louisiana, and also shows interstate movement.

Table II is the same presentation based on 1971 data. A comparison shows that production is up in 1971. Consumers within the state maintain their relative position, with most of the production increase going into interstate movement.

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A percentage difference in consumption by industry and electric utility generation can be noted, but this may be more in reporting than actual change. Some consumption by electric utility generation in 1970 may have erroneously been placed in the industrial classification.

Table 1B (1970) shows the percentage of gas used for both industrial and electric utility generation to be a total of 89.8%. The same double classification in 1971 totaled 86.9%. This ties in with previous figures mentioned before the committee by chemical industry representative, Mr. Henri Wolbrette.

The Louisiana Public Service Commission has jurisdiction over gas for resale by intrastate pipelines, but has no jurisdiction over industrial sales, under Article VI, Section 4 of the Constitution. The Commission has jurisdiction over retail sales in those cities served by a privately owned utility regardless of supplier. Public owned utilities are not regulated by the Public Service Commission and the City of New Orleans, served by New Orleans Public Service, Inc. (supplied by United Gas Pipeline Co.) is exempt from jurisdiction of the Louisiana Public Service Commission.

Table III shows distribution of gas by the three intrastate pipelines partially under the jurisdiction of the Louisiana Public Service Commission.

In 1970, the Commission had jurisdiction over 18,638 Mmcf of gas for resale by these intrastate lines, or 5.7% of the total volume of gas transported. The gas for resale by these lines today in the only gas for resale in the state under the jurisdiction of the Commission, since the

entire system of United Gas Pipeline Co. is now interstate. This means, then the Commission has jurisdiction over approximately 1 percent of the gas consumed in Louisiana (1,790,250 Mmcf in 1970) and only 0.2 percent of the gas consumed in Louisiana, plus net interstate transfer from the state (7,460,159 Mmcf in 1970).

In determining what amount of residential and commercial requirements are supplied by intrastate pipelines, we will assume that all natural gas for resale by intrastate pipelines, we will assume that all natural gas for resale by intrastate lines is destined for this high priority usage. While this may not be true (city gates may have small industrial customers) the quantity used for all other purposes is probably small. Under this assumption, the 18,638 Mmcf of natural gas supplied by intrastate lines in 1970 is 16.8 percent of the sum of the residential and commercial requirements. The bulk of the remainder of Louisiana residential and commercial gas is

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supplied by interstate lines. A small quantity is supplied by other public and private sources, a detailed breakdown of which is not available at this time.

TABLE I  
ANALYSIS OF PRODUCTION/TRANSFERS/CONSUMPTION  
STATE OF LOUISIANA, 1970

TABLE IA - ANALYSIS		(MMCF)
GROSS PRODUCTION		8,076,157
REPRESSURING		133,792
VENTED AND FLARED		154,089
MARKETED PRODUCTION		7,788,276
RECEIPTS, INTERSTATE		1,242,035
DELIVERIES, INTERSTATE		6,911,945
NET, INTERSTATE		- 5,669,909
CHANGE IN UNDERGROUND STORAGE		62,510
TRANSMISSION LOSS & UNACC. FOR		21,808
(1) CONSUMPTION, LA.		1,746,168

(EXCLUDING REPRESSURING, VENTED AND FLARE)

TABLE IB - CONSUMPTION

FIRM	MMCF	PERCENT OF LA. CONSUMPTION	PERCENT OF LA. PLUS INTERSTATE CONSUMPTION
RESIDENTIAL	89,556	6.2	1.5
COMMERCIAL	27,241		
INDUSTRIAL	1,181,538		
<b>ELEC. UTILITY GEN.</b>			
FIRM	315,274	19.8	4.8
INTERRUPTIBLE	40,054		
INTERRUPTIBLE	22,070		
(2) OTHER	120,517	8.0	1.9
(1) TOTAL LA. CONSUMP.	1,790,250	100.0	
INTERSTATE	5,669,909		76.0
TOTAL, LA. PLUS INTERST.	7,460,159		100.0

SOURCE: TABLE IA: BUREAU OF MINES  
TABLE IB: FUTURE REQUIREMENTS COMMITTEE, UNIVERSITY OF DENVER

- (1) AGREEMENT WITHIN 2.5%
- (2) INCLUDES SUCH ITEMS AS COMPANY USAGE AND UNACCOUNTED FOR LOSS, TRANSMISSION MAINLINE FUEL, AND ANY OTHER SALE OR USE NOT OTHERWISE CLASSIFIED.

TABLE II  
ANALYSIS OF PRODUCTION/TRANSFERS/CONSUMPTION  
STATE OF LOUISIANA, 1971

TABLE IIA - ANALYSIS		(MMCF)
GROSS PRODUCTION		8,318,551
REPRESSURING		133,080
VENTED AND FLARED		103,564
MARKETED PRODUCTION		8,081,907
RECEIPTS, INTERSTATE		1,140,333
DELIVERIES, INTERSTATE		7,050,301
NET, INTERSTATE		- 5,909,963
CHANGE IN UNDERGROUND STORAGE		69,964
TRANSMISSION LOSS & UNACC.		23,084
(1) CONSUMPTION, LA.		1,842,352

(EXCLUDING REPRESSURING, VENTED AND FLARE)

TABLE IIB - CONSUMPTION

FIRM	MCF	PERCENT OF LA. CONSUMPTION	PERCENT OF LA. PLUS INTERSTATE CONSUMPTION
RESIDENTIAL	81,694	6.0	1.4
COMMERCIAL	27,063		
INDUSTRIAL	1,128,398	62.4	14.6
<b>ELEC. UTILITY GEN.</b>			
FIRM	394,668	24.5	5.7
INTERRUPTIBLE	49,035		
INTERRUPTIBLE	24,102	7.1	1.7
(2) OTHER	104,326		
(1) TOTAL LA. CONSUMP.	1,809,284	100.0	
INTERSTATE	5,909,963		76.6
TOTAL, LA. PLUS INTERST.	7,719,247		100.0

works of man if the Esso v. Jones case and the Appellate Court opinion in the Cockrell case to the effect that the natural or artificial character of accretion is irrelevant provided it is "slow and imperceptible," could be overcome. Most people focusing upon the possible title loss of the State in the Atchafalaya Basin associated with the 30-mile long accretionary growths therein are not aware that there are possibly ten or fifteen times as much land loss whereby

Mr. Kendall Vick  
August 21, 1973  
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the State has been gaining title since its admission to the Union in most of the bays and many of the lakes of Louisiana. A six-mile growth, for example, formerly projected into East Bay. The Bayou Petit Caillou, the Bayou Caillou, the Terrebonne Bayou, and several bayous which formerly filled up much of Timbalier Bay have all had water supply artificially terminated as water supply was artificially increased in the Atchafalaya Basin. Bayou Lafourche's termination of water supply in 1904 has occasioned the loss of land east and west of it. The Scott case in which title to Timbalier Island was won by the State held in effect that that island's former location in the Gulf of Mexico was indicated by surveys. St. Bernard Peninsula has been decimated by erosion, doubtless tens of thousands of acres falling into Caminada and Barataria Bays since it was filled in 1839 and subsequently patented therein or transferred to levee districts. The area in interior portions of West Bay has now largely returned to water comprising alone an area perhaps one-fourth the size of accretion in Atchafalaya Basin. There are many oil fields as in West Bay, as in Timbalier Bay (which has an enormous density of wells and as much as 700 feet of sands in each well) which doubtlessly must be situated upon submerged lands that were formerly land. This discussion should make evident that if the price of strengthening the State's claims in the Atchafalaya Basin is sacrificing titles gained by the State to mineral rights in the bays and inlets of the coast, it would be a poor swap-off, even if one were to take into account new growth yet to occur at the mouth of the Atchafalaya.

I am uninformed about the political realities of the Convention but horse sense tells me that the many lay people in the Convention would be prone to buy the argument that if the State wants to retain mineral rights where accretion occurs, there is a fundamental balance of equity in favor of allowing the littoral proprietors to retain such rights where erosion occurs. As drafted, Section 15 draws no distinction between past and future applications and presumably by its language, might be claimed to operate retrospectively and prospectively. However, constitutionally, the State cannot divest vested private property rights.

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August 1973  
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The State can, however, divest its own vested rights. Consequently, Section 16 might operate both retrospectively and prospectively, or at least there would be the danger of litigation claiming such.

Moreover, Section 15 is subject to the risk that expanding federal involvement in the subject matter or riparian law might at some future date vitiate its favorable effect.

Thus, for two reasons I make the recommendation that the effort to obtain protection of the State's interests in cases of artificial accretion or dereliction be abandoned. The main reason is that it seems to carry with it another side of the coin which would divest the State of major parts of its most prolific oil fields involving production more significant than that in the Atchafalaya Basin. The second major reason is that Section 15 could be conceivably vitiated in major part while Section 16 would not be subject to the same legal problems that restrict or might restrict the State's powers to deal with private property.

The above analysis and recommendations have been made upon the policy assumption which I assume it to be of the Attorney General and of the Register of State Lands that they would desire the utmost in protection of the State's proprietary interest on balance. There is an additional policy consideration which I personally hold which may or may not

TABLE IIA: BUREAU OF MINES  
TABLE IIB: ESCAPE REQUIREMENTS COMMITTEE, UNIVERSITY OF DENVER  
(\*) INCLUDES 1.8%  
(\*) INCLUDES COMPANY USAGE AND UNACCOUNTED FOR LOSS, TRANSMISSION MAINLINE FULL, AND ANY OTHER SALE OR USE NOT OTHERWISE SPECIFIED.

TABLE III

GAS DISTRIBUTED BY INTRASTATE PIPELINES  
PARTIALLY UNDER JURISDICTION OF  
FEDERAL POWER COMMISSION  
1970

PIPELINE	TOTAL (MCF)	JURISDICTIONAL (MCF)	JURISDICTIONAL, PERCENT OF PIPELINE VOL.
MONTEREY (EXXON)	185,559,544	2,161,844	1.2
LA. INTRASTATE (CLECO)	80,212,756	13,194,104	16.4
SUGAR BOWL (ALLIED)	64,035,223	3,282,113	5.1
TOTAL	329,807,523	18,638,061	5.7

SOURCE: DATA FURNISHED LOUISIANA PUBLIC SERVICE COMMISSION  
DOCKET 11010



State of Louisiana  
DEPARTMENT OF JUSTICE  
CIVIL DIVISION  
WOODDALE TOWER, SUITE 717  
1865 WOODDALE BOULEVARD  
Baton Rouge, Louisiana 70806

WILLIAM J. GUSTE, JR.  
ATTORNEY GENERAL

August 24, 1973

MEMORANDUM

FROM: FREDERICK W. ELLIS  
TO: KENDALL VICK  
CC: HON. WILLIAM J. GUSTE, JR.  
MRS. ELLEN BRYAN MOORE  
MR. ORY PORET  
MR. C. H. MANDELL  
RE: RECOMMENDATIONS ON COMMITTEE PROPOSAL NO. 16 OF THE CONSTITUTIONAL CONVENTION'S COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT, ESPECIALLY SECTIONS 15 & 16

Section 15 was originally authored to protect claims to lands and mineral rights in connection with artificial accretion. One of the main arguments urged by the State in the Atchafalaya Basin Cockrell litigation, now again being re-argued in the Placid litigation in Barnett's Cove of Six-Mile Lake at Wax Lake outlet, relates to allegations of the State that the land growth involved was not "slow and imperceptible." Similar arguments had been made in a case, I believe Esso Standard Oil v. Jones, involving a bend of the Mississippi River. Many ten's of thousands of acres in the Atchafalaya Basin could be attributed to the

GOVERNOR'S SEMINAR ON  
GEOPRESSURE-GEOTHERMAL ENERGY IN LOUISIANA  
Vieux Carre Room of the LSU Union  
Louisiana State University, Baton Rouge  
OCTOBER 5, 1973

accord with that of the responsible authorities and that is this. While it is presently perhaps politically impractical to have different legal regimes for different parts of the State, this may not always be politically impractical and the fact is that there are some parts of the State where measures to prevent land loss or to create new lands may in time, especially as oil production declines, become the overriding policy consideration. This area, roughly extends to the geological area known as the Deltaic Plain along the coast from Marsh Island to the Mississippi border. The land loss here averaging more than sixteen square miles per year since 1925 is now even encroaching upon former sugar fields and not merely the marsh. The very

The governor's seminar on geopressure-geothermal energy in Louisiana was held on October 5, 1973, in the Vieux Carre Room of the LSU Union at Baton Rouge, Louisiana. Sponsoring the seminar was the Natural Resources and Environment Committee of CC/73 and the College of Engineering of LSUBR.

Mr. Kendall Vick  
August 21, 1973  
page 4.

Chairman E. L. "Bubba" Henry welcomed the representatives of the various electrical plants, members of the engineering field, convention committee delegates, and the news media. He stated that he is aware of the very serious energy crisis in this state and in the entire nation, but is hopeful that the governor and the legislature will be able to conserve Louisiana's remaining resources. He noted that fossil fuels which take millions of years to form are rapidly being depleted and that this nation will utilize more energy in the next three decades than is utilized in the entire history of this nation. He expressed confidence, however, in those present in that they would be able to resolve this energy crisis. He added that the Constitutional Convention, hopefully, would set the stage for a great deal of reformation in the state in regard to conservation of natural resources and related the following dialogue with Oliver Wendell Holmes, who began studying Greek at the age of ninety-four years: Someone asked

existence of some communities may become threatened within a decade or two. Much of what used to protect New Orleans from hurricanes is now gone and more is going. The last few years have seen the beginnings of scientific discussion to confect projects to reclaim land through diverting flow from the Mississippi to counterbalance the artificial termination of flow into many distributaries of the Mississippi which used to maintain the now disintegrating land masses. Policy considerations for causing the St. Bernard Peninsula to continue to exist may be markedly different from those involved in protecting Lake Pontchartrain and its ecology from land reclamation within the lake. In short, the whole subject matter is potentially so complex as to raise fears on my part of whether any simplistic overriding constitutional provision can reasonably anticipate the scientific knowledge and social needs to be developed or identified during the next two decades. The above personal thoughts are further reason for simply eliminating Sections 15 and 16. Discussion of reclamation problems affected by some of the above thinking is treated in a separate memorandum.

FWE/vu  
enclosure



this geopressure process. He added that some compensation scheme for damages caused by subsidence might have to be devised.

In closing, he stated the basic problems were "ownership and economics," and toward development of this resource, spoke of making provisions for this resource by putting it in the public domain.

An open panel discussion was then held and such topics as evidence of self-regeneration, ownership, economics, faults, geothermal economics in comparison with nuclear plants; legal

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aspects involving the "law of capture," and economy of using capped wells in this new development.

Mrs. Miller then recognized all of the members of the Committee on Natural Resources and the Environment who were present and thanked all those who had taken their valuable time to come to the seminar and for their participation in this most "enlightening development of a new energy."

[NOTE: Attached is a clipping from the October 5, 1973 issue of the State-Times newspaper, and a list of those in attendance]

NR&E Research Staff  
10/15/73

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LOUISIANA STATE UNIVERSITY  
AND AGRICULTURAL AND MECHANICAL COLLEGE  
BATON ROUGE · LOUISIANA · 70803  
Law School

SEA GRANT LEGAL PROGRAM  
52-60 Law Center

Oct. 29, 1973

Lee Hargrave, Research Director  
Constitutional Convention  
Law School  
Louisiana State University  
Baton Rouge, LA 70803

Dear Mr. Hargrave:

As per your request, attached is a memorandum concerning proposed Article VIII, §15 of the Committee on Natural Resources and the Environment dealing with accretion and dereliction caused principally by acts of man. The memo supports the following conclusions about the proposed provision:

1. It should be legislatively implemented rather than a constitutional provision; and,

2. the state should retain all ownership rights (both surface and mineral rights) to alluvion caused primarily by an act of man.

Yours truly,

*Marc J. Hershman*  
Marc J. Hershman  
Research Director  
Coastal Resources Law

MJH:gmk

Enclosure

MEMORANDUM

TO: Lee Hargrave, Research Director  
Constitutional Convention

FROM: Sea Grant Legal Program\*

SUBJECT: Proposed Article VIII, §15 of Constitutional Convention

INTRODUCTION

Proposed Article VIII, §15 of the Constitutional Convention reads:

Mineral rights to land formed or exposed by accretion or dereliction caused principally by acts of man, on a water body the bed of which is owned by the state, are retained by the state.

Article VIII, §15 is designed to preserve the state's interest in mineral rights under the beds of state owned water bodies where alluvion<sup>1</sup> is caused to be deposited by an act of man.

Under current law the rules of accretion and dereliction are as follows:

The accretions, which are formed successively and imperceptibly to any soil situated on the shore of a river or other stream, are called alluvion. The alluvion belongs to the owner of the soil situated on the edge of the water, whether it be a river or stream, and whether the same be navigable or not, who is bound to leave public that portion of the bank which is required by law for the public use (La.C.C. 509).

\*Research performed primarily by Elizabeth Williams, with assistance from Marc J. Hershman and J. Arthur Smith, III.

Lee Hargrave, Research Director  
Oct. 29, 1973  
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The same rule applies to derelictions formed by running water retiring imperceptibly from one of its shores and encroaching on the other; the owner of the land, adjoining the shore which is left dry, has a right to the dereliction, nor can the owner of the opposite shore, claim the land which he has lost. This right does not take place in case of derelictions of the sea (La.C.C. 510).

Under La.C.C. 509 and 510 ownership of the alluvion including ownership of mineral rights, would go to the riparian land owner. Presently these rules apply regardless of the cause of the accretion or dereliction, that is, whether the cause is natural or artificial.<sup>2</sup> The laws apply wherever the accretion is successive

and imperceptible.<sup>3</sup> Hence, if Article VIII, §15 were to become law in Louisiana, a significant change would occur in Louisiana property law. Two questions must be asked. To what extent is accretion and dereliction occurring, and does the resultant change in topography suggest a need for change in the law? What effect would new law have on current Louisiana property law principles and practice?

What impact would this proposed change in law have? There are four main areas of accretion and dereliction in the Louisiana coastal zone. In two of them, the Atchafalaya Bay and the Atchafalaya Basin, there is a net land gain.<sup>4</sup> Currently the state is involved in litigation over title to certain new land deposits and the mineral lease on the deposit (marked with an "X"

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on the attached map). Using current law, the state is arguing that the Atchafalaya is not a river or stream, but a lake. If a body of water is not a river or stream, La.C.C. 509 and 510 do not apply. Thus the usual rules of accretion and dereliction which vest title to alluvion in the riparian land owner are inapplicable. This means that if the Atchafalaya is held by the courts not to be a river, ownership of alluvion (which is deposited, not accreted) in the Atchafalaya, including new depositions of land over existing mineral leases, remains in the state.<sup>5</sup> If Article VIII §15 were law, the state would need prove only 2 points to retain mineral rights where deposition has occurred: (1) that the area under the deposition was formerly state-owned waterbottom, and (2) the deposition occurred primarily by acts of man. A determination of whether the Atchafalaya is a river or lake would be unnecessary.

Accretion is also occurring at certain locations at the Mississippi River Delta. However, the serious erosion problem in this same region results in a net loss of land. There is a similar serious erosion-accretion problem occurring in the Timbalier Islands resulting in a net land loss.

Land is building up in the Atchafalaya at a rapid pace, although exact figures are available. Several producing mineral leases exist on land either already under litigation or land recently built up. These are superimposed on the attached map. The several

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thousand acres that are built up each year are not all areas where mineral leases are located. However, considering the royalties that the state could potentially gain in these areas if minerals were discovered, the state's interest in retaining these lands is great.

Approximately 3,000-5,000 acres of new land were deposited in the Atchafalaya in 1972. (Acreage arrived at by estimating

quadrants.) Given this rough approximation, projections can be estimated of future land deposits. As can be determined from the attached map, some of the new deposits are over existing mineral leases and others are not.

In the 1971-1972 fiscal year the state received \$143,907,628.53 in royalties from mineral leases; \$2,182,737.76 in rentals; and, \$7,649,604.95 in bonuses. In 1972 alone, 105,742 new acres of mineral leases were leased by the state.<sup>6</sup> The potential income cannot be estimated either from existing leases on state owned water bottoms upon which new land has been deposited or from water bottoms upon which land has been deposited which may be subsequently leased. But considering the total state income from all mineral leases, there may be considerable potential revenue at stake.

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#### SHOULD ARTICLE VIII, §15 BE A CONSTITUTIONAL PROVISION OR LEGISLATION?

There are four points to consider. First, constitutions are normally reserved for broad statements of policy and creation of basic governmental structure. The description of rules relating to matters as specific as accretion and dereliction may not be in character with traditional constitutional statements of broad principles and policies. Matters subject to detailed treatment are usually dealt with by legislative implementation.

Second, the intent of Article VIII, §15 seems to be to create an exception to the general rules of accretion and dereliction (La. C.C. 509 and 510). If §15 becomes part of the constitution, then the exception to the rule affecting accretion and dereliction would be constitutional and the general rule would be statutory. This suggests that the change in law, if desirable, need not be a constitutional change. If both the rule and the exception were statutory, a court could read the provisions in pari materia, apply relevant jurisprudence, and determine the most equitable solution to specific cases.

If §15 were given constitutional status, the court would have great difficulty reconciling constitutional Article VIII, §15 with La.C.C. 509 and 510, since constitutional provisions supercede codal authority. The policy reflected in the exception to the rule

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would be of greater weight in judicial interpretation than the policy reflected in the general rules of accretion and dereliction of La.C.C. 509 and 510.

The forces of nature either build or erode land along the banks of rivers. La.C.C. 509 and 510 recognize this phenomenon and provide an equitable solution to ownership problems arising out of this possible loss or gain in land.<sup>7</sup> By focusing primarily

on the phrase "principally by acts of man" (Article VIII, §15, proposed constitution), the importance of considering "imperceptibility and successiveness" of 509 and 510 may be overshadowed, thus the equitable purpose of the general rule may be obscured.

Third, to deal with the problem of man-made alluvion many detailed rules are necessary. For example, surveys need be taken before each Corps of Engineers flood control program is undertaken where alluvion deposits are anticipated. This procedure would facilitate the determination of the beginning point of the alluvion. The administrative details needed to deal with surveys and other incidents of recordation are perhaps best dealt with by legislation and administrative regulations.

Fourth, separation of ownership proposed in Article VIII, §15 will also create an increased administrative burden on the public records laws when questions as to when surface ownership rights must be asserted will arise. As the law reads now, riparian landowner may sue to be recognized as owner of the batture built

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up in front of his property (La. R.S. 9:1102). If the landowner does not exercise this right, there may be no recordation of the state's servitude. Subsequent owners will consequently not be apprised of the state's ownership of the mineral rights. Changing property laws, even from a date in the future, will require surveying or registration of ownership of some sort in order to avoid litigation over where boundary lines are located when the new law takes effect.

SHOULD ARTICLE VIII, §15 PROVIDE FOR DIVISION OF OWNERSHIP OR SHOULD FULL OWNERSHIP BE RETAINED BY THE STATE?

There are two points to consider. First, the long-standing policy in favor of unity of ownership in Louisiana property law may be undermined by proposed §15. For example, mineral servitudes are lost by prescription when they are unused for a ten-year period, thus unity of ownership is restored. La. C.C. 509 and 510 do not divide ownership when alluvion is deposited, and courts have not divided ownership interests. By adopting §15 it is not clear whether a perpetual servitude would be imposed upon the riparian land owner on the alluvion in question, because prescription does not run against the state (La. R.S. 30:112 (B) and Constitution 1921, Article 19, §16), or whether there would be created a separate mineral estate.

Second, acts of man undertaken by the state using public

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funds are for the public good. Therefore, it may not be in the state's interest for riparian owners to benefit privately from any fortuities brought about through expenditure of public funds.<sup>8</sup>

The state's interest in retaining the lands in question is not limited only to mineral revenues. Surface rights in the

coastal zone are equally important. Plans for further development of public recreation areas and game and wildlife management are underway. For example, the Governor's Commission on the Atchafalaya Basin reported the tourist potential of the Atchafalaya region. It has suggested a major recreation center to capitalize on the unique character of the overflow plain.<sup>9</sup> In addition to recreation and wildlife management, the Atchafalaya Basin is important to offset the serious erosion problem in the coastal zone. Plans for public works designed to rebuild the eroded lands<sup>10</sup> would be more easily implemented if the land to be built were clearly in state ownership. In its final report--Louisiana Wetlands Prospectus--the Louisiana Advisory Commission on Coastal and Marine Resources made a number of recommendations concerning growth and conservation in the wetlands.<sup>11</sup> Some of the recommendations of the Commission, such as those designed to offset saltwater intrusion, land subsidence, and water pollution, would be facilitated by state ownership of alluvion in the Atchafalaya Basin and elsewhere in the coastal zone.

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FOOTNOTES

<sup>1</sup>Alluvion refers to the land that is built up by siltation--either accretion or deposition.

<sup>2</sup>Accretion refers to the process of land building caused by current, and it only takes place in a river or stream.

<sup>3</sup>In Esso Standard Oil Company v. Jones, 233 La. 915, 98 So. 236 (1957), the court determined that the natural or artificial cause of alluvion is not the determinative factor in deciding whether or not the laws of alluvion apply.

<sup>4</sup>State v. Cockrell, 162 S. 2d 361 (La. App. 1st Cir. 1964) writ refused 264 La. 243, held that if the rate of the growth of the alluvion deposits is not discernible, although such action may be accelerated by works of man, the formation is successive and imperceptible.

<sup>5</sup>The net land gain is regulated by Corps of Engineers Flood Control Projects in the Atchafalaya region. The Corps regulates the amount of water and the speed of water flow, which contribute to land deposition. If there were no federal flood control projects, deposition would occur, but it would be controlled by natural forces. S.M. Gagliano et al, "Geologic and Geomorphic Aspects of Deltaic Processes, Mississippi Delta System," Part I, Vol. I (1970), Coastal Resources Unit--Center for Wetland Resources, LSU, Baton Rouge, Louisiana.

<sup>6</sup>According to Stephens v. Drake, 134 So. 2d 674 (La. App. 2d Cir. 1961), the law of accretion does not apply to navigable lakes. Miami Corp v. State, 186 La. 784, 173 So. 315 (1936) holds that the 1812 boundary of lakes remains immutable (based on inherent sovereignty rights as Louisiana entered the Union in 1812) and are insusceptible of private ownership under La.C.C. articles 450 and 453. Therefore, title to newly deposited lands in navigable lakes remains in the state.

<sup>7</sup>Figures on total areas of state owned lands under lease at any given time are currently unavailable from the State Mineral Board.

<sup>8</sup>State v. Cockrell, see note 3 supra.

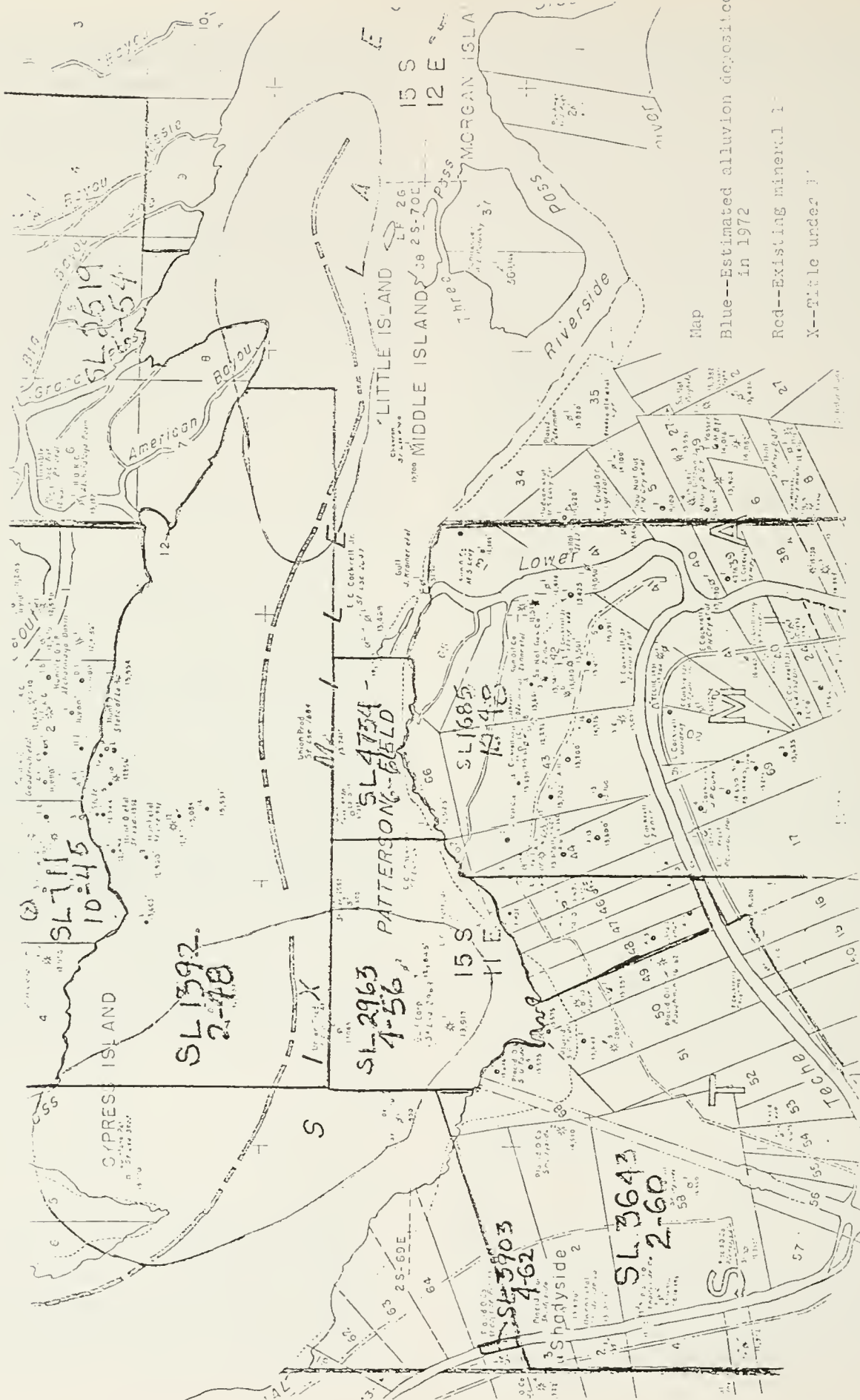
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<sup>9</sup>Bruning v. New Orleans, 165 La. 511, 115 So. 733 (1928).

<sup>10</sup>Governor's Commission on the Atchafalaya Basin, "Report to the Governor and Legislature," 1972.

<sup>11</sup>Snerman Gagliano, Hyuck J. Kwon, Johannes Van Beek, "Deterioration and Restoration of Coastal Wetlands", 12th International Conference on Coastal Engineering (1970).

<sup>12</sup>Louisiana Advisory Commission on Coastal and Marine Resources, Louisiana Wetlands Prospectus (1973). See especially Chapter 4.



Map

Blue--Estimated alluvion deposits  
in 1972

Red--Existing mineral interests

X--Title under





January 12, 1974

E. L. HENRY  
Chairman  
NORMA M. DUNCAN  
Director of Research

TO: Committee on Legislative Liaison and Transitional Measures  
FROM: Committee on Natural Resources and Environment  
RE: Disposition of Articles and Sections of the 1921 Constitution Assigned to the Committee on Natural Resources and Environment

In accordance with your Committee Resolution No. 11, the Committee on Natural Resources and Environment submits the following report regarding Committee Proposal No. 37 (First Enrollment):

- Articles and Sections of the Proposed New Constitution (carried over in some form from the 1921 Constitution)
 

1921 Constitution	Proposed New Constitution (First Enrollment)
VI 3	VIII 14(A) Composition; Term; Domicile
VI 4	VIII 14(B) Powers and Duties
VI 5	VIII 14(E) Appeals
VI 7	VIII 14(C) Limitation
- Provisions of the 1921 Constitution to be Made Statutory and Subject to Legislative Change Only by a Super Majority Vote  
None
- Provisions of the 1921 Constitution to be Made Statutory and Subject to Legislative Change by the Usual Majority Vote  
None
- Provisions of the Proposed New Constitution (First Enrollment) Which Require New Legislation for Implementation
 

VI 14(A)	Composition; Term; Domicile
VI 14(B)	Powers and Duties
VI 14(D)	Applications, Petitions, and Schedules; Protective Bond and Security
VI 14(E)	Appeals
- Material Which is Obsolete and Unnecessary (in the 1921 Constitution and Not Carried Over in the Proposed New Constitution, First Enrollment)
 

VI 6	Public Service Commission; Orders; Penalties for Violation
VI 8	Public Service Commission Districts
VI 9	Public Service Commission; Applicability of Laws Relating to Railroad Commissions

THE ORIGINS OF STATE OWNERSHIP IN LOUISIANA

A. Lands Derivatively Acquired  
Grants for Educational Purposes

The United States Congress made large grants of land to all the states for school and university purposes. The reservation of 16th sections from the townships for the maintenance of public schools had its origin in the ordinance of the Continental Congress of 1785 in an enactment concerning the disposition of lands in the western territory. This ordinance provided for the rectangular method of surveys now in use. Generally it provided for the survey of lands into regular sections containing 640 acres each, with the reservation of each 16th section of a township as school land. Whenever the regular sections encroached upon private claims, navigable water bottoms or Indian lands, the sections were altered to conform to what land remained after satisfying the prior grant.

The 16th sections were reserved by the United States to Louisiana under the Acts of Congress of April 21, 1806 and March 3, 1811. The school lands statute vested title to section lands in the state upon completion of survey of the township. A formal conveyance of school lands to the state was not necessary. The state was permitted to select other land where there was not a vesting of 16th section lands in the state due to a prior sale or because the township contained no 16th section in place.

Swampland Grants

The federal government made numerous efforts to sell or otherwise dispose of lands over a period of years. There was, however, a considerable residue left when the federal government by the 1st Swamp Act of March 2, 1849 granted to Louisiana swamp and overflowed lands which were unfit for cultivation. The federal government realized that there were vast areas of public lands which were subject to periodic overflow and these lands were thought to be worthless. In an effort to make these lands suitable for cultivation Congress enacted the Act of March 2, 1849 and Act of September 28, of 1850. The purpose of the 1849 Act was to aid the state of Louisiana in constructing the necessary levees and drains to reclaim the swamp and overflowed lands therein. In order to accomplish this end, the act granted swamp and overflow lands which were unfit for cultivation to the states. Provisions of the 1850 Act are nearly identical. Under these two statutes approximately 10 million acres of land equal to 1/3 of the total area of the state passed from the United States to the state of Louisiana. However no lands composing the beds of navigable streams, lakes, etc., or those within the tidewaters of the sea passed to the state under the Swampland Grant Acts since the federal government never had title to such lands because they are the property of the state by virtue of its inherent sovereignty. Even today the state still retains the right under these acts to select lands previously overlooked although such instances are rare.

The Swampland statutes directed the Secretary of the Interior to make accurate lists of the swamp and overflowed lands and to transmit these to the Governors of the interested states. Upon the request of the Governor, the state containing swamp and overflowed lands was allowed to issue patents to selected lands. In order to pass title to the state, three steps had to be completed: selection of land by a state, approval of the selection by the Secretary of the Interior, and issuance of a patent. However, prior to the issuance of a patent by the United States, a state had the right to deal with and to convey swamp land. This right was subject to the right of the Secretary of the Interior to determine the lands which passed to the state under the statutes. Because the states had so much trouble in compelling the Secretary to make out lists of those lands to which they were entitled securing approval in selections, Congress passed the Act of March 3, 1857 which confirmed all lands previously selected under the Act of 1850 which had been made or reported to the

Commissioner of the General Land Office.

Even though Congress provided for the use of the proceeds of the land for drainage purposes, it has been held that the lands were conveyed to the state as an absolute gift and that the judgement of the state as to the necessity of using the funds for drainage or otherwise is paramount and an application of the proceeds by the state to any other object is to be taken as the declaration of a judgement that the application of the proceeds to land reclamation is not necessary.<sup>16</sup>

B. Lands Acquired by Virture of Inherent Sovereignty

Both legislation and jurisprudence have established that the admission of Louisiana to the Union in 1912 vested ownership of the beds of navigable waterways and tidal overflow

lands in the new state by virtue of inherent sovereignty.<sup>17</sup>

The theoretical basis for the doctrine of inherent sovereignty is the principle of ownership by the king of all beds of tidal waters.<sup>18</sup> Under the common law, the original colonies became possessed of the same right and when the union was formed, this right of the colonies to beds and ~~title~~ <sup>title</sup> waters was preserved to them as a reserve power inhibited only by the federal control of navigation. When the remaining states were later admitted to the Union, they were admitted on an equal basis in the sense that the federal government could place no obstacles in the way of their entrance on a parity with the 13 original colonies. This meant that the younger states ~~also~~ generally acquired ownership of the beds of the navigable waters within the boundaries of each state.

Act 106 of 1886<sup>19</sup> initiated a series of statutes designed to encourage the development of the state oyster industry. For the first time the legislature expressly recognized the title of the state to all waters bordering on the Gulf of Mexico with the condition that they should continue and remain property of the state and that no sale or grant of these waters would be made thereafter. In State v. Bayou Johnson,<sup>20</sup> the court denied the validity of a private claimant's title to beds of navigable waters conveyed by a levee board because the state had conferred no authority to alienate navigable waterbottoms. The court reached this conclusion based on the fact that at the time of the creation of the levee district the beds of navigable waters had been reserved from sale by Act 106 of 1886 by virtue of the inherent sovereignty of the state.

The property rights in the beds of inland navigable lakes were not affected by Act 106 of 1886. However, in the enactment of Act 258 of 1910<sup>21</sup> the legislature declared that the beds and waters of all bayous and lakes not then the property of any person or firm henceforth would be the property of the state. The act applies to navigable as well as non-navigable waters and confirms the title acquired prior to the passage of the act by any private corporation or person. It was held at first that the act confirmed the title which levee boards and other political corporations had acquired

to the beds and bodies of water, but in State v. Board of Commissioners of Caddo Levee District<sup>22</sup> the court ruled that the effect of Act 258 of 1910 was to remove the beds of many waters from grants to political corporations when no third party rights had intervened. The apparent purpose of Act 258 of 1910 was to achieve harmony and stability with respect to property rights in the beds of waters, a fertile source of litigation in the past. The Act itself is not the origin but merely the statement of the rule that the state owns by virtue of inherent sovereignty all property within its borders not previously acquired or granted to the individual land owner.

The latest declaration of state ownership of navigable waterbottoms based on the inherent ~~sovereignty~~ <sup>sovereignty</sup> of the state is Act 727 of 1954.<sup>23</sup> In order to resolve the question of the effect of a prescriptive statute, Act 62 of 1912, on patents conveying navigable waterbottoms, the Louisiana legislature enacted Act 727 which states that the public policy of the state of Louisiana since its admission to the union has always been that navigable waters and beds within ~~the~~ <sup>its</sup> boundaries are public things owned by the state and that consequently the intent of Act 62 of 1912 which set out a six-year prescriptive period to annul patents issued by the state was only to ratify those patents which conveyed lands which were susceptible of ownership and not to ratify those patents which conveyed navigable waterbottoms. This act has not yet been applied by the Louisiana courts.<sup>24</sup> However in State v. Cenac, the Louisiana Supreme Court refused to grant writs when a lower court confirmed the validity of an 1889 patent conveying to private interests the beds of navigable waters. Neither the district court nor the court of appeal had discussed the pertinence of the 1954 act.

In addition to the legislative reliance on the doctrine of inherent sovereignty to vest title to navigable waterbottoms in the state the Louisiana courts have also soundly approved the state acquisition of ownership of beds of navigable waters upon its admission to the Union. Relying on the doctrine of inherent ~~sovereignty~~ <sup>sovereignty</sup>, the courts have declared the state to be the owner of lands underlying navigable lakes and streams to the mean high water mark with power to determine rights of riparian owners so that once a body of water is found to be navigable, the bed must be held to be the property of the state.<sup>25</sup> Furthermore even where a formerly navigable lake dried up, the state continues to own to the high water mark of 1912 by original title by virtue of its inherent sovereignty since the legally prescribed modes of acquiring property cannot be extended by implication.<sup>26</sup> The rule with respect to rivers that were navigable in 1812 and subsequently became nonnavigable is that the state owns the bed to the low water mark existing at the time of the litigation.<sup>27</sup> The courts have further extended state ownership of navigable water bottoms to vest in the state title to the lands which become a part of the bed of a navigable lake through subsidence or erosion.<sup>28</sup> Finally the courts have recognized the rights of the state

to grant mineral leases in the beds of navigable water bodies relying on the state ownership of these bodies by virtue of its inherent sovereignty.

28 Miami Corporation v. State. 186 La. 784, 173 So. 315 (1937).  
29 Smith v. Dixie Oil Co., 156 La. 691, 101 So. 24 (1924).

#### FOOTNOTES

<sup>1</sup> For a full discussion of United States grants to Louisiana for educational purposes, see H. While, Land and Homestead Laws of Louisiana (1926).

<sup>2</sup> 2 Stat 390 (1806); 2 Stat. 662 (1811).

<sup>3</sup> Board of Directors v. New Orleans Land Co., 138 La. 32, 70 So 27 (1915).

<sup>4</sup> 43 U.S.C. §851 (1946).

<sup>5</sup> 9 Stat 352, 43 U.S.C. §982 (1849).

<sup>6</sup> Id.

<sup>7</sup> 9 Stat. 519, 43 U.S.C §982 (1850).

<sup>8</sup> 9 Stat. 352 §1; 43 U.S.C. §982.

<sup>9</sup> Id.

<sup>10</sup> 9 Stat. 519; 43 U.S.C. §982.

<sup>11</sup> S. Mims, "Louisiana's Administration of Swamp Land Funds", 28 La. Historical Quarterly (1945).

<sup>12</sup> State v. Bayou Johnson Oyster Co. 130 La. 604, 58 So. 405 (1912).

<sup>13</sup> 9 Stat. 519, 43 U.S.C. §982 (1950);  
9 Stat. 352, 43 U.S.C. §982 (1949).

<sup>14</sup> Kittel v. Trustees of Internal Improvement 139 F. 941

<sup>15</sup> 11 Stat. 251, 43 U.S.C. §986.

<sup>16</sup> United States v. Louisiana 127 U.S. 182 (1887).

<sup>17</sup> La. Civ. Code ~~not~~ 453 vests in the state ownership of the waters and beds of navigable rivers.

<sup>18</sup> An excellent discussion and criticism of the doctrine is contained in 12 Tul L. Rev. 428 (1938).

<sup>19</sup> La. Act 106 of 1886; La. R.S. 49:3(1950).

<sup>20</sup> 130 La. 604, 58 So. 405 (1912).

<sup>21</sup> La. Act 258 of 1910; La. R.S. 1101(1950).

<sup>22</sup> 188 La. 1, 175 So. 678 (1937).

<sup>23</sup> La. Act 727 of 1954; La. R.S. 9L1107-9 (1950).

<sup>24</sup> 241 La. 1655, 132 So. 2d 928 (1960).

<sup>25</sup> State v. Richardson 140 La. 329, 72 So. 984 (1916).

<sup>26</sup> Slattery v. Arkansas 138 La. 793, 70 So. 806 (1916).

<sup>27</sup> Wemple v. Eastham 150 La. 247, 90 So. 637 (1922).

Since utility rate increases cannot be made retroactive, one of the prime problem areas of utilities regulation in Louisiana is regulatory lag -- the period between the date a utility petitions the Public Service Commission for a rate increase and the date on which a final decision concerning that request is made. Revenues now lost to regulatory lag affect the company's ability to serve properly and promptly, and it is the customer who suffers ultimately.

In Louisiana, there is no established time interval within which the Public Service Commission must act on a rate request before the rates can go into effect. Also, it is not clear as to whether the commission has authority to grant temporary or interim rates under bond while a utility rate case is being heard.

Currently, 46 regulatory commissions do have authority to allow interim rates. Louisiana's regulatory commission is not among those 46.

The rate-paying public is not penalized under bonded interim rates, since the company must make appropriate refunds from the revenues collected under bond if the proposed rate increase is subsequently found to be unreasonable. If the rate increase is subsequently granted, the effects of regulatory lag have been reduced, since the company has not been deprived of the revenues to which it is found to be entitled.

For your consideration, attached is a sample of regulatory controls in other areas of the country.

#### REGULATORY CONTROLS IN OTHER AREAS

ARKANSAS: The commission can suspend proposed rates for up to six months. If no final decision is made within 120 days of the date when new rates are filed, notwithstanding any suspension order, the company can place new rates into effect under bond, pending a final decision on the request.

MISSISSIPPI: The commission can suspend proposed rates for up to six months. The company has the right to put new rates into effect under bond, notwithstanding a suspension order, on the date when the rates would have been otherwise effective upon filing a bond with the commission.

KENTUCKY: The commission may suspend new rates for no longer than five months beyond the time when they otherwise would go into effect, if no order has been made concerning the proposed rates in effect after notification of the commission. The commission can require the utility to maintain such records as are necessary to enable the company to refund excess amounts to its customers. The company has an obligation to be able to make such refund; however, no bond is required.

NORTH CAROLINA: After new rates have been suspended for six months beyond the proposed effective date, the company can put them into effect under bond provided that no rate shall be in effect longer than one year, unless the commission has ruled upon its reasonableness. Rates may not be increased more than 20% in any single rate classification.

SOUTH CAROLINA: The commission can suspend new rates for no longer than six months. The company may put new rates into effect under bond on the date when they otherwise would have been effective.

VERMONT: The commission has six months from the proposed effective date of rate changes to make a final determination on the reasonableness of the new rates. If no decision is reached by that time, the company can put the proposed rates in effect under bond.

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WEST VIRGINIA: The commission can suspend proposed new rates for no longer than 120 days. If no final decision is reached at that time, the new rates go into effect and the commission can require the company to file bond.

CONNECTICUT, DELAWARE, IOWA and NEW HAMPSHIRE: All have laws similar to those above, with only the length of time during which the commission must act varying. In each of these states, if the commission has not reached a decision within the specified time limit, the company can put the proposed rates in effect under bond.

FEDERAL REGULATORY COMMISSIONS also operate under similar statutory provisions. The Federal Communications Commission may suspend the operation of proposed new rates for a period not exceeding three months. Where the hearing has not been concluded and an order issued within three months, the proposed rates go into effect, and the FCC may require that records be kept in order that any excess can be determined in the future, and in its final order may require refunds with interest.

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It appears that it would best serve the public interest if the Louisiana Public Service Commission were constitutionally established.

I would like to voice my particular support of the two issues on which Common Cause has taken a position. I support the New Orleans Common Cause group's environmental "bill of rights" and their request for the right to citizens' court action in environmental cases. It has been argued that such a provision as the latter one in the constitution might bring forth a large number of suits, flooding the courts. Though the comparison does not hold entirely, of course, this is almost as absurd as arguing that there should be no laws against burglary: the courts would be flooded. Just as human life and individually owned property should be protected by law, so should our forests, our water, and our air. The courts are for the administration of justice and the protection of all that is good in life; they do not exist for their own convenience. As for flooded dockets, the courts may, as at present, dismiss unworthy cases after preliminary reviews.

I also support a provision requiring disclosure of all legislative and executive lobbyists, and the amounts and sources of their support as well as requiring disclosure of all campaign contributions with a \$5,000 limit per person or organization with no loopholes for contributing through several different organizations. Though Louisiana may not quite be "the northernmost of the banana republics," as A. J. Liebling called it, it could use such laws as much as any other state--at least.

George Amos

[626]

#11  
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Nov 1 1968

Being deeply concerned over the extravagant and often wasteful uses of Louisiana resources, I ask for the inclusion of an Environmental Bill of Rights Statement in the La. State Constitution. The important points I would like to see included are those supported by Common-Cause:

- 1, that all the resources of the state be protected.
- 2, that all people benefit including future generations.
- 3, that the legislature shall implement this protection.
- 4, that records of grievances be available through the courts.

I feel that such a provision is essential to the Constitution. At this time in history men are awakening to the realization that this is a finite world with limited resources that must be wisely used. Some legal protection must be initiated now in order to insure a more sane use of our natural resources. If it is not, future generations will be burdened not only with environmental problems caused by lack of foresight, but also with the legal and governmental problems that developed from a shortsighted constitution.

I, regards to positions concerning  
the Louisiana state legislature, there  
are several points that I favor.

First, ~~Open Meetings~~, the formation  
of public policy is public business and  
should not be conducted in secret. Notice  
of meeting schedules, the keeping of a  
journal of all business, and voting which  
will be open to the public is essential.

Secondly, I favor completely the  
Common Cause stand on requiring elected  
public officials to file a statement  
of economic interests, in order to prevent  
conflict of interest and insure integrity.

Thirdly, I favor the identity,  
expenditures, and activities of lobbying  
groups and individuals be publically and  
regularly disclosed.

As a fourth point I would ask  
serious consideration be given to the  
adoption of a unicameral type of  
legislative body. In my opinion such  
a body would be more efficient  
economically, and would also be more  
responsive to the volunteer lobby  
groups who are the public interest  
rather than private interest center.

Another important provision that  
should be included in this Constitution  
is the need for Home-Rule. It is  
absurd for local issues to require  
state-wide approval.

Finally I would ask this Constitution  
Convention to write a brief Constitution,  
patterned after the United States Constitution,  
and eliminating the many unnecessary  
boards and organizations that could be  
handled much more effectively and with  
greater flexibility under Statutory Law.

Thank you.

Sincerely,  
Christine Herr

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I'm Richard W. Bryan, Jr. from Alexandria. I appreciate the  
opportunity to speak on behalf of the Louisiana Outdoor Writers'  
Association and the Louisiana Wildlife Federation.

First, on behalf of both organizations we are very strongly  
opposed to any change in the constitution which would merge the  
Louisiana Wildlife and Fisheries Commission with any other agency  
or which would consolidate the Commission into a single agency.

We are further opposed to any consolidation of conservation  
agencies unless specific provisions are included to assure a  
multi-disciplined approach and to assure the agencies will be head-  
ed by scientifically qualified people.

The Louisiana Wildlife Federation believes the constitution  
should detail the rights of the citizens of this state to clean  
air, clear water, freedom from noise and should recognize the  
value of the state's wetlands.

We further believe that no provision should be included in  
the constitution which force citizens or organizations to post  
excessive bonds in order to file environmental suits.

The Rapides Wildlife Assn. ~~has~~ and other organizations are  
involved in legal action to alleviate silt pollution damages on  
one of the most productive fisheries resources in Louisiana. Ours  
is a poor man's suit, financed with \$10 and \$2 contributions. Any  
provision requiring us to post bond would deny us the right to use  
the courts to redress a wrong.

Finally, the Louisiana Wildlife Federation is opposed to any  
change in the constitution which would ~~change~~ the powers of

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police juries over the waterways of this state and which would

nullify the Louisiana Natural and Scenic Rivers System.

*4/19/73  
The Louisiana Natural and Scenic Rivers System is being nullified by the State Commission on Waterways and Navigation. The Commission is recommending that the State Commission on Waterways and Navigation be abolished and that the Louisiana Natural and Scenic Rivers System be established by state action.*

*Marietta Kerr #7  
59 Oriole ST.  
NO. La 70124 4/19  
Nat. Res.*

We have reached a point in civilization at which aware persons can no longer tolerate the despoilment and dissipation of the earth and its resources by a few for immediate private gains, at the expense of many, and future public loss.

RESOLUTION

WHEREAS: It has been proposed and is being given consideration that the Louisiana Wild Life and Fisheries Commission be consolidated with several other State Agencies including the Louisiana Forestry Commission, the Conservation Commission, the Parks and Recreation Commission, the Louisiana Stream Control Commission, the Air Pollution Commission and possibly several other now existing Commissions in the proposed revised Louisiana Constitution to be formulated by the Constitutional Convention; and

WHEREAS: The existing Louisiana Wild Life and Fisheries Commission presently operates on self-generated funds derived from the sale of hunting and fishing licenses, royalties from minerals on Commission-owned Refuges and from surcharges paid on oyster and clam shells, as well as from Federal funds such as the Dingell-Johnson and Pittman-Robertson Funds, as well as other Federal grants and funds; and

WHEREAS: These funds, particularly the Federal funds and grants made to the Louisiana Wild Life and Fisheries Commission for the sole purpose of improving wildlife and fisheries resources within the State, along with the conduct of experimental programs and projects to enhance Louisiana's wildlife and fisheries resources; and

WHEREAS: These Federal grants made to the Fisheries Division are for specific programs related to research those made to other states for research and marine and estuarine studies that are part of a national program; and

WHEREAS: Funds for implementation of the Federal Boating Act of 1971 are made to the Louisiana Wild Life and Fisheries Commission for specific phases of the Federal Boating Act, including qualification, registration of boats and safe boating education; and

WHEREAS: Any departure from the existing system of Federal supervision of the use of these funds and grants from the Federal Government could result in mismanagement of these funds if they were diverted to any other Agencies within the State of Louisiana; and

WHEREAS: The loss of those funds would prove a serious and detrimental halt to existing and proposed programs that are specifically hinged to expenditure by the Louisiana Wild Life and Fisheries Commission for specific purposes; and

WHEREAS: Similar efforts to consolidate state wildlife departments and commissions with other agencies in several other states have proved unworkable and in some cases have stripped those departments and commissions of the ability to perform the duties and responsibilities designed to best serve the interests of

Resolution ..... 2

WHEREAS: It is felt the consolidation of the Louisiana Wild Life and Fisheries Commission with other State Agencies would bring about budgetary problems that would not be tolerated by the Federal government, including multiple use of equipment paid for in great part by Federal funds, now

THEREFORE BE IT RESOLVED: That the Louisiana Outdoor Writers Association, state affiliate of the Outdoor Writers Association of America, does this date go on record as being opposed to any such consolidation of the Louisiana Wild Life and Fisheries Commission with any other State Commission or Agency under proposed changes in the present Constitution, and

BE IT FURTHER RESOLVED: That copies of this resolution be sent to the Governor of the State of Louisiana and to all delegates to the Constitutional Convention; and to all member clubs and leagues of the Louisiana Wildlife Federation, urging that they adopt similar resolutions opposing the incorporation of the Louisiana Wild Life and Fisheries Commission with any group of existing State Agencies and urging that the existing Louisiana Wild Life and Fisheries Commission remain an independent State Agency under any proposed new Constitution in order that it may best serve the citizens of Louisiana and best perform the many duties and responsibilities for which it was created.

March 31, 1973

PRESIDENT

You delegates to the constitutional convention have a unique opportunity to broaden human rights of the citizens of this state by including in the constitution a strong position on the environment in the State Bill of Rights.

Clean air, clean water, wise use of land, open spaces in which nature can predominate, freedom from excessive noise, blight and ugliness are all necessary for a strong, vital and continuing society, and should be our rights.

Inclusion of these rights in the constitution should encourage the development of a technology which can produce and maintain a livable environment. The absence of such rights could mean that an opposite type of technology will prevail, one which has predominated thus far and sullied our habitat.

Inclusion of these rights will strengthen the Environmental Protection Agency and its much needed and long overdue policies.

Inclusion will also serve as an educational factor, alerting citizens of the necessity and importance of a proper environment.

Furthermore if these rights are contained in the state constitution Louisiana can be a leader among states in demonstrating its willingness to recognize and protect our Creator's gifts.

Delegates! do not permit this opportunity to pass for insuring our present and future generation of rights that are essential to our existence.

I would further hope the constitution will be brief, concise, easily understandable, free of legal jargon, flexible enough to meet the needs of future generation while insuring inalienable rights. And please eliminate the need for voting on all those amendments.

*Marietta Kerr  
59 Oriole ST  
NO. La 70124*

Yvonne Kerr, Land Use Chairman LWF of N.O.  
59 Orleans St  
NO La 70124

League of Women Voters of Louisiana  
Municipal Auditorium  
Shreveport, Louisiana 71101

To: State Local League Presidents  
Unit-at-Large Chairmen  
Local League Environmental Quality Chairmen

From: Jane Burt

Re: Environment and the new Constitution

The May 1972 consensus called for a constitution that is based on fundamental law, free from statutory material; it also called for the constitution to be written in clear and simple language. Thus the League will advocate a short concise statement on the natural resources and environment of the State in the new Constitution. The proposed language is:

Each citizen of Louisiana has the right to clean air and water, to wise land stewardship, to freedom from excessive and unnecessary noise and blight, to the enjoyment of the natural scenic, historic, and esthetic qualities of the environment, to the protection of unique lands, swamps, marshlands, and shorelines, and to the use and enjoyment for recreation of public lands. Each citizen and the government of the state of Louisiana, as trustee of these resources, shall conserve, manage, and enhance them for the benefit of all the people, including future generations.

A member wishing to appear before the Composite Committee touring the State could advocate this position. A statement that you thought the natural resources of the State be defined and provision for their future wise use would be sufficient. Or the idea that details of Boards, and Commissions need not be in a basic Constitution, but dealt with in statutory laws, could be given.

RECOMMENDATIONS  
OF THE LOUISIANA PUBLIC SERVICE COMMISSION  
TO THE COMMITTEE ON EXECUTIVE DEPARTMENT  
AND THE  
COMMITTEE ON NATURAL RESOURCES OF THE  
CONSTITUTIONAL CONVENTION OF 1973

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On Thursday, July 26, 1973, the Committee requested the written statement setting forth the Commission's views on what the new Constitution should contain.

The Commission feels that the powers and duties delegated to it would be less susceptible to misinterpretation if the new Constitution traced, to some extent, the illustrative list found in the present Constitution. Accordingly, the Commission suggests the following language:

The Commission shall have and exercise all necessary power and authority to supervise, govern, regulate, and control all common and contract carrier railroads and motor carrier and express, telephone, telegraph, gas, electric, and other public utilities and common carriers, including all gas and petroleum product pipelines, and to fix reasonable and just single and joint line rates, fares, tolls, or charges for the commodities furnished and services rendered by such common carriers and public utilities except as herein otherwise provided.

The power, authority and duties of the Commission shall affect and include all matters and things connected with, concerning, and growing out of the service to be given or rendered by the common carriers and public utilities hereby, or which may hereafter be made subject to supervision, regulation, and control by the Commission.

The Commission shall have the power to adopt and impose such reasonable rules, regulations, and methods of procedure as it may determine proper for the discharge of its duties, and it may summon and compel the

attendance of witnesses, compel the production of books and papers, take testimony, and punish for contempt as fully as is provided by law for the District Courts.

The present Constitution contains by implication the notion that Commission Orders affecting rates may be enjoined, while Orders directing service may not. If the Convention, as a matter of policy, wishes to adopt that philosophy then the following language is additionally suggested.

Orders of the Commission fixing or establishing any rate, fare, toll, or charge shall go into effect at such time as may be fixed by the Commission, provided that if it be shown that irreparable loss or damage would result to appellant unless a temporary restraining order is granted, the Court

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having jurisdiction may grant a temporary restraining order; orders of the Commission fixing or establishing any service to be rendered to or for the public by any common carrier or public utility named herein shall not be so enjoined.

There has been considerable discussion about enlarging the Commission from three to five members. Apparently, a good many delegates feel that more Commissioners would result in a greater response to public needs. Certainly, it is difficult to understand clearly how additional department heads will serve the citizens of the State at the expense of the badly needed staff personnel, particularly when the whole thrust of the proposed Constitution is to streamline government and reduce the number of departments and elected officials.

The Report of the Committee of the Executive Department concerning the powers of the Attorney General, and particularly paragraph 3 of the recommendation, is particularly unsuitable to Public Service Commission business:

"(3) For cause, supersede any attorney representing the State in any civil or criminal proceeding."

This provision could easily be interpreted to mean that any alleged cause whatsoever, such as "public interest," could be used by the Attorney General in an effort to supersede a State Agency's duly selected Attorney.

In the case of the Public Service Commission, the expertise required of its Attorney differs considerably from that of usual practice. The general practitioner is infrequently familiar with the Public Service Commission Practice involving tariffs, rate filings, rate authorities, and transportation authorities, and often relies upon the Attorney for the Public Service Commission for consultation and advice. Historically, the office of the Attorney General found it advantageous to support legislation to permit the Commission to have its own attorney, an indication of the highly specialized type of experience required. A sweeping change, such as that suggested and quoted above, ignores years of experience which have resulted in an effective and visible system for training and representation.

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Insofar as the public Service Commission is the duly elected body charged by the Constitution to regulate public utilities and common carriers, it would seem appropriate that it be permitted to develop its own expert legal staff without a possible conflict with unspecialized legal consultants over whom it has no control and who are not responsive to it. Indeed, the spectre is raised of a conflict, either personal or professional, which could cripple the operation of the Commission, confuse the public, and make placement of ultimate responsibility difficult. Conflicts in legal opinions would almost invariably result, which also would result in a confused client.

From a realistic standpoint, the office of the Attorney General, represents the State of Louisiana, in many instances, one of the largest consumers in the State. Accordingly, it is inconsistent that he, as potential attorney for the Commission, also be charged with the duty of impartially participating in and advising the Commission on maintaining the financial integrity of utility companies serving the State. In short, an attorney should not be placed in a position such that his objective, good service at fair rates, would be compromised by his principal duty of representing the State proper as a consumer.

A degree of consistency is required in the Commission's approach to its legal business. The probability that multiple attorneys will lead to multiple approaches and inconsistent advice is very real, particularly when the office of Attorney General has no expertise whatsoever in the regulation of common carriers or public utilities. Moreover, there is no assurance that consistency would be shown by multiple attorneys working out of the Attorney General's Office on a case to case basis.

On the contrary, the experience of the Public Service Commission in hiring its own attorney has been effective, since coordination with the staff of the Commission has been and continues to be on a daily basis. Its present General Counsel has held several other Commission positions, including that of Secretary, a fact which has been highly beneficial to the development of his expertise in the field and in the confidence which the Commission places in him. There is every reason to believe that future Counsel will be equally trained, so long as the Commission retains its right to supervise its own staff.

It is probable that controversial cases would result in the Attorney General superseding the Commission's Counsel, quite possibly with different attorneys in different cases. Such a practice would clearly detract from the Commission's consistency and confidence in its legal advisor, and could easily result in less efficient administration.

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It is suggested that paragraph 3 be amended to read as follows:

"(3) Upon request of any State Agency or Board, assist or supersede any Attorney representing the State in any civil or criminal proceeding."

LEASING OF STATE LANDS IN LOUISIANA

The Louisiana State Mineral Board, composed of the Governor and seventeen members appointed by him, is vested with authority to grant and/or approve leases of the public lands for the development and production of minerals, oil and gas, (Chapter 2, Title 30 of the Louisiana Revised Statutes of 1950). (See: Biennial Reports of the Board for details regarding its organizational structure; Attachments 1 and 2). The most recent report of the Board indicates that there are 1,074 active mineral leases on State owned and State Agency tracts. In the four year period of 1964 - 67, some 799 leases were granted. The vast majority of these leases (735) were of state owned tracts.

Leases on state owned tracts (R.S. 30:124) and school indemnity lands (R.S. 30:154 (C) ) are granted exclusively by the Board. State Agency tracts may be granted by an agency itself (R.S. 30:153) or by the Board at the direction of the agency (R.S. 30:153). Information obtained from the Board indicates that most agency tracts are leased by the Board at the direction of the agency. In those instances where state agency tracts are leased by the agency owning such lands, the lease is subject to approval by the Board. Unless such a lease is approved by the Board and counter-signed by a duly authorized officer thereof, it is null and void (R.S. 30:158). Except for minor differences, the procedure regarding application, advertising and bidding is the same as that followed by the Board (See R.S. 30:153 - 156 ) .

- 1 -

Furthermore, minimum rental and royalty requirements are the same for leases on state owned and state agency tracts (R.S. 30:127, Resolution adopted by the Board on June 14, 1956). Lease forms for state owned tracts and state agency tracts are identical except for designation of the Lessor as the State of Louisiana or the State Agency owning the lands, (See: Attachment No. 3 - Louisiana State Lease Form and Attachment No. 4 - Louisiana State Agency Lease Form). For the foregoing reasons,

the attention of this memorandum is directed basically to state owned lands. Detailed provisions concerning the application, advertisement and bidding on leases of state owned and state agency tracts are found in the Rules and Regulations of the Louisiana State Mineral Board (Attachment No. 5) . Differences in the procedures followed in the leasing of state owned and state agency tracts are noted therein. With respect to lands leased by a state agency itself, the procedure is established for approval of the lease by the Board, (See Page 5 of Rules and Regulations). Where the Board leases state agency tracts on behalf of the agency, the agency must submit the information enumerated on pages 5 and 6 of the Rules and Regulations.

A. LANDS SUBJECT TO LEASING

(1) LANDS LEASED EXCLUSIVELY BY THE LOUISIANA STATE MINERAL BOARD

(a) The State Mineral Board is authorized to lease any lands belonging to the state, or the title to which is in the public, for the development and production of minerals, oil and gas. Included within these lands are road beds, water bottoms and lands adjudicated to the state

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at a tax sale, (R.S. 30:124). These classifications are illustrative, not exclusive. The phrase "Title to which is in the public" refers to property owned by or used for the benefit of any subdivision of the state, Placid Oil Co. v. Herbert, 194 La. 788, 194 So. 893 (1940). However, where the recorded title to lands is in the name of the state and not directly vested in any state agency, even though such lands are subject to the general control and administration of specific agencies, the State Mineral Board has exclusive authority to lease these lands as state owned lands under the provisions of R.S. 30:124, (Op. Atty. Gen. 1942 - 44, p. 1313; 1950 - 52, p. 168; and 1960 - 62, p. 32). The reference in R.S. 30:124 to water bottoms is directed to those lands beneath water bottoms that were navigable in 1812 or that have become navigable since that time. (Revised Civil Code Art. 455; La. Const. Art. IV, §2; and Leasing of Public Lands in Louisiana, Leslie Moses, 1 So. Tex. L. Journal 243, 245 (1954) ).

(b) Under the provisions of Act 353 of 1952, incorporated into the Louisiana Revised Statutes of 1950 as R.S. 30:154 (C) school indemnity lands may be leased by the Board only. These lands are leased in accordance with procedures for the leasing of state owned tracts.

(2) STATE AGENCY LANDS

R.S. 30:151 defines an "agency" as a levee district, drainage district, road district, school district, school board, or other board, commission, parish, municipality, state university, state college, state penal or charitable institution or agency, unit or institution of the state or any subdivision thereof. Each such agency is authorized to lease its land for the development and production of minerals. School boards are authorized

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to lease its lands for the development and production of minerals. School Boards are authorized to lease sixteenth section lands, (R.S. 30:152). Nevertheless, where a navigable water bottom is within a sixteenth section, it may not be leased by a school board or by the Mineral Board at the direction of the school board as a state agency tract because the beds of all navigable waters within the boundaries of the State of Louisiana belong to the state in its sovereign capacity, Op. Atty. Gen. 1956 - 5B, p. 760. Thus such water bottoms would have to be leased as state owned lands by the Mineral Board.

#### B. QUALIFICATIONS OF APPLICANTS FOR LEASES

Any interested person may make application for lease of state lands if he is "in good faith", (R.S. 30:125). This is evidenced by complying with the standards enumerated in R.S. 30:125 and the rules of the Board as enumerated in Part (C) of this Memorandum. No personal qualifications other than the good faith requirement are required by statute or by Rule of the Mineral Board.

#### C. STANDARDS

A person desiring to lease state lands must comply with the following procedures:

- (1) He must make application in writing to the Board for the advertising of said lands;
- (2) The request must contain a detailed description of the area involved and approximate acreage contained therein, and, a plat outlining in red the area to be advertised;
- (3) Duplicate copies of the application and plat must be submitted; and
- (4) A certified check for \$100.00 payable to the Board (or in the

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case of state agency lands, to the state agency) as evidence of good faith. If the applicant subsequently bids on the tract in question, the deposit is returned. If the applicant does not bid on the tract, the deposit is forfeited to cover advertising costs.

These standards are established in R.S. 30:125 and by the Rules and Regulations of the Board (See Page 1 thereof). The Form approved by the Board for APPLICATIONS TO LEASE is enclosed herewith as Attachment No. 6 .

#### D. ACREAGE LIMITATIONS

The law imposes a five thousand acre limitation on leases granted (R.S. 30:126) . Additional limitations have been imposed by Resolutions adopted by the Board under its general supervisory powers which authorize it to "take any action for the protection of the interests of the state" (R.S. 30:129). These restrictions on the tract to be advertised provided that no such tract shall be more than three and one half miles in length and width (Resolution of May 21, 1953) and that no lease shall include two or more non-contiguous tracts (Resolution of August 19, 1953) .

#### E. BIDDING METHODS

State lands may be advertised for leasing on motion of the Board or upon application of any interested party, subject to requirements that such party is in "good faith" and complies with the standards for the

application, (R.S. 30:126). In addition to advertising, the Board may send notices to "those whom it thinks would be interested in submitting bids" (R.S. 30:126) .

Bids are submitted on a form prescribed by the Board (See "BID FORM STATE MINERAL BOARD - Attachment No. 7) . The Bid may be for the entirety

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or any portion of the tract described in the advertisement. However, if the bid covers only a portion of the lands advertised, a plat showing the portions outlined in red should be submitted together therewith. Bids are required to be publicly opened at the State Capitol in Baton Rouge, Louisiana (R.S. 30:127; Op. Atty. Gen. 1960 - 62, p. 181). Bids may be submitted in person or by mail, and procedures for the submission thereof are enumerated in the Rules and Regulations of the Board (See page 2 thereof). The Board is authorized to accept the bid most advantageous to the state, but the Board may reject all bids, or it may lease a lesser quantity of property than advertised and withdraw the remainder, (R.S. 30:127). A lease of a lesser quantity of property than that which is advertised cannot be granted for any less proportionate bonus and delay rental than the lesser quantity bears to the total area advertised or embraced in the most favorable bid submitted, (R.S. 30:127).

If the Board rejects all written bids, it may immediately offer for competitive bidding a lease upon all or any designated part of the land advertised, upon terms most advantageous to the state. This lease is subject to the aforementioned acreage limitations, and it must not be for less bonus or delay rental than was offered in the most favorable written bid for the same property, (R.S. 30:127) .

#### F. DURATION OF LEASES

Lands are leased by the Board "upon whatever terms it considers proper", (R.S. 30:127). The policy of the Board prohibits the leasing of inland lands and water bottoms for primary terms in excess of three years, and of water bottoms in the Gulf of Mexico area for primary terms in

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excess of five years, unless otherwise specified in the advertisement, (See: Rules and Regulations, page 3 for Resolution adopted June 14, 1956; see also, BID FORM - STATE MINERAL BOARD)

#### G. ASSIGNMENT OF LEASES

Under the provisions of R.S. 30:128, a transfer or assignment of any lease must be approved by the Board in order to be valid. (See: Attachment No. B - State Mineral Board - Form B: STATEMENT OF CONVEYANCE.) .

#### H. BOND REQUIREMENTS

There is no specific statutory provision regarding bond requirements for leases. Inquiry on the subject was directed to the Louisiana State Mineral Board. The Board is of the opinion that it may require lessees

to furnish bond under its general authority to take any action for the protection of the interests of the state, as provided in R.S. 30:129; however, the Board has not exercised this right. It was stated that speculation is avoided and the state's interest is protected by requiring the \$100.00 certified check when applications for advertising are made and by requiring that a certified check for the amount of the cash bonus offered be enclosed with the bid.

#### I. STANDARD PROVISIONS OF LEASES

See Attachment No. 3 - Louisiana State Lease Form; and Attachment No. 4 - Louisiana State Agency Lease Form.

#### J. BONUS, RENTS, ROYALTIES AND PENALTIES

(1) CASH BONUS: No minimum amount is required as a cash bonus. However the bidder must enclose a certified check with the bid for the

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full amount of the bonus offered, payable to the Register of the State Land Office, (R.S. 30:136).

(2) RENTS: The minimum annual rental must be at least one-half of the cash bonus offered (See: R.S. 30:127; Rules and Regulations of Board - page 3 ).

(3) ROYALTIES: Minimum Royalties are established for leases of state lands in R.S. 30:127 and by the Rules and Regulations of the Board as follows:

- (a) One-eighth of all oil and gas produced and saved;
- (b) \$2.00 per long ton on sulphur produced and saved; (Note: The minimum required by law is 75 ¢/long ton on sulphur - R.S. 30:127; however, the Rules and Regulations and the Bid Form (See Attachments No. 5 and 7) establish the \$2.00/long ton minimum royalty);
- (c) 10 ¢ / long ton on potash produced and saved; and
- (d) One-eighth of all other minerals produced and saved.

By policy of the Board the minimum rents and royalties enumerated in (2) and (3) are applicable to all state agency leases, whether awarded by the Board or by the Agency itself, (Resolution: June 14, 1956; See page 3 of Rules and Regulations.) .

(4) OTHER PAYMENTS: Provision is made in Clause 6 (d) of both the State Lease (See Attachment No. 3) and the State Agency Lease (See Attachment No. 4 ) for the payment of "shut-in" royalties in order to maintain leases in force on wells capable of producing gas in paying quantities, but gas is not being used or marketed therefrom because of the lack of a reasonable market or marketing facilities or governmental restrictions

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and if such lease is not then being otherwise maintained by separate operations or production.

#### (5) OTHER ACTIONS BY MINERAL BOARD - PENALTIES

(a) Other Actions: The Board has authority to amend a lease. (See R.S. 30:129 for certain prohibitions concerning the extension of

primary terms of leases and the reduction [except as to unitization and pooling agreements.] of the bonus, rental, royalty or other consideration stipulated in the lease.) Thus, an amendment to a state mineral lease is permissible where it merely rectifies a clerical error in the description of a body of water which was actually included in the advertisement and the lease, but which did not attempt to enlarge the area covered by the lease by including therein property which had not been advertised or described, State v. Texas Co., 211 La. 326, 30 So. 2d 107.

(b) Penalties: The State Mineral Board may institute actions to annul a lease upon any legal ground, (R.S. 30:129). Thus, it is authorized to bring an action for cancellation of mineral leases for the failure to develop said tracts, (Op. Atty. Gen. 1940 - 42, p. 2072). No other penalties are prescribed by law. The Board is of the opinion that in view of its power to institute actions to cancel mineral leases, other penalties are unnecessary .

#### K. MISCELLANEOUS INFORMATION

- (1) Forms required for Division Orders are enclosed herewith, (See: Attachment No. 9) (See Rules and Regulations for procedures concerning such orders.)

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- (2) Statutes relative to Oil and Gas Leasing and Development of State owned Lands and Water Bottom and State Agency Lands are enclosed herewith, (See: Attachment No. 10).

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#### ATTACHMENTS

1. Louisiana State Mineral Board, Biennial Report, 1964 - 65
2. Louisiana State Mineral Board, Biennial Report, 1966 - 67
3. Louisiana State Lease Form
4. Louisiana State Agency Lease Form
5. Rules and Regulations of the Louisiana State Mineral Board for the Leasing of Oil, Gas and Minerals on State Owned and State Agency Tracts.
6. State Mineral Board - Approved form for application to lease State owned lands and water bottoms
7. State Mineral Board - Bid Form
8. State Mineral Board - Form B - Statement of Conveyance
9. Miscellaneous Division Orders
10. Related Statutes relative to Oil and Gas Leasing and Development of State Owned Lands and Water Bottoms and State Agency Lands - Compiled by the Louisiana State Mineral Board.

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THANK YOU MR. CHAIRMAN -- I APPRECIATE YOUR ASKING ME TO ATTEND YOUR HEARINGS. I SHALL BE MOST HAPPY TO DISCUSS WITH YOU AND YOUR COMMITTEE THE WORKING RELATIONSHIP BETWEEN THE STATE LAND OFFICE AND THE VARIOUS LEVEE BOARDS OF THE STATE OF LOUISIANA.

I'M SURE MOST OF YOU ARE AWARE THAT THE LARGE MAJORITY OF OUR PRESENT LEVEE DISTRICTS WERE CREATED BY LEGISLATIVE ACTS DURING THE PERIOD BETWEEN 1884 - 1892. THESE LEVEE DISTRICTS, TO BE UNDER THE JURISDICTION OF APPOINTED LEVEE BOARD MEMBERS, WERE DESIGNED AS LOCAL HOME RULE COMMITTEES DELEGATED WITH THE RESPONSIBILITY OF DRAINING LANDS, BUILDING ROADS, AND IN GENERAL, SEEKING TO MAKE THEIR PARTICULAR AREA MORE DESIRABLE FOR PEOPLE TO SETTLE IN.

AS A SOURCE OF REVENUE, WHENEVER A LEVEE DISTRICT WAS CREATED, THE LAW STIPULATED THAT TITLE TO ALL STATE LANDS WITHIN THAT LEVEE DISTRICT BE TRANSFERRED BY THE STATE LAND OFFICE TO THAT PARTICULAR LEVEE DISTRICT.

RECORDS OF THE STATE LAND OFFICE SHOW THAT FROM 1884 TO 1959, SOME 3,062,642 ACRES WERE TRANSFERRED TO 12 LEVEE DISTRICTS THROUGHOUT THE STATE.

HOW MUCH OF THIS ACREAGE IS STILL HELD BY THE VARIOUS LEVEE DISTRICTS? I FRANKLY DO NOT KNOW.

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IN AN EFFORT TO DETERMINE WHAT REAL PROPERTIES THE STATE DOES OWN -- INCLUDING THAT OF LEVEE BOARDS, I SUBMITTED TO THE LEGISLATURE A BILL, NOW ACT 150 OF 1962, WHICH STIPULATES THAT ALL AGENCIES AND DEPARTMENTS OF THE STATE REPORT A LISTING OF ALL IMMOVABLE PROPERTY UNDER THEIR JURISDICTION TO THE REGISTER OF THE STATE LAND OFFICE.

THE VAST MAJORITY OF AGENCIES COMPLIED. THREE OUT OF 19 LEVEE BOARDS DID NOT COMPLY, EVEN THOUGH REQUESTED SEVERAL TIMES.

THE 16 LEVEE BOARDS REPLYING SHOWED THAT THEY HELD TITLE TO APPROXIMATELY 115,000 ACRES, ALL STILL UNDER THEIR JURISDICTION.

REALIZING FOR MANY YEARS THAT SOME LEVEE DISTRICTS WERE ACTUALLY NOT AWARE OF HOW MUCH LAND THEY OWNED NOR WHERE THEIR LANDS WERE LOCATED, WE HAVE IN THE LAND OFFICE WORKED WITH THESE LEVEE DISTRICTS IN AN ATTEMPT TO ENCOURAGE A LAND MANAGEMENT PROGRAM, SO AS TO BETTER ADMINISTER THEIR HOLDINGS.

WE'VE COMPILED PLAT BOOKS FOR THREE LEVEE DISTRICTS. THESE PLAT BOOKS SHOW, FIRST, LANDS ORIGINALLY

TRANSFERRED TO THAT LEVEE DISTRICT, SECOND, LANDS STILL HELD IN FEE; AND THIRD, LANDS WHERE ONLY MINERAL RIGHTS ARE STILL HELD. WITH THESE PLAT BOOKS AVAILABLE IN THEIR OWN OFFICES, I'M CONFIDENT THAT THE BOARD IS IN A POSITION TO BETTER MANAGE ITS LAND.

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PERHAPS I SHOULD POINT OUT THAT THIS PLAT BOOK IS NOT CONSIDERED A COMPLETE TITLE ABSTRACT OF LAND HOLDINGS OF A PARTICULAR LEVEE DISTRICT BECAUSE IT WAS BASED ON A COMPILATION OF MATERIAL SUPPLIED BY THAT LEVEE BOARD.

SHOULD YOU ASK WHY THIS WAS NOT DONE FOR EACH LEVEE DISTRICT -- A LACK OF AVAILABLE PERSONNEL IN THE LAND OFFICE WHO COULD BE ASSIGNED TO THIS JOB. IT IS MOST TIME CONSUMING AND WAS DONE ONLY AT TIMES WHEN REGULAR EMPLOYEES FOUND A LITTLE EXTRA TIME.

SOME LEVEE DISTRICTS ARE WELL MANAGED AND, THEREFORE, ARE GOOD LAND MANAGERS. I AM AWARE, THOUGH, THAT MANY ARE NOT.

A COMPLETE INVENTORY OF ALL LAND HOLDINGS OF ALL LEVEE DISTRICTS AND THE INITIATION OF A GOOD LAND MANAGEMENT PROGRAM IS A MUST IF VALUABLE REMAINING PROPERTIES ARE NOT TO BE SQUANDERED.

I WILL BE MOST HAPPY TO COOPERATE IN ANY WAY POSSIBLE WITH THIS COMMITTEE AND THE RESPECTIVE LEVEE BOARDS. WE HAVE IN THE LAND OFFICE ALL BASIC TITLE RECORDS NEEDED TO MAKE A TITLE RESEARCH -- WE DO NOT HAVE SALES BY LEVEE DISTRICTS, BUT WE DO KNOW WHAT WAS GIVEN EACH BOARD INITIALLY AND WE DO HAVE THE MAPS AND PLATS SHOWING THE LOCATION OF THE LANDS IN QUESTION.

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IF THE BOARD CAN FURNISH A PROPER ACCOUNTING OF ALL SALES WITH THE ASSIGNMENT OF NECESSARY PERSONNEL, THE LAND OFFICE CAN DO ALL RESEARCH NECESSARY.

SHOULD THE LEVEE DISTRICTS BE ABOLISHED, I STRONGLY URGE THAT REMAINING LEVEE BOARD LANDS BE TRANSFERRED BACK TO THE STATE LAND OFFICE -- I FURTHER SUGGEST TO YOU THAT THE LAND OFFICE IS THE PROPER AGENCY TO MAKE AN INVENTORY OF PROPERTIES HELD BY LEVEE DISTRICTS. WE HAVE A LAND MANAGEMENT PROGRAM NOW FOR STATE LANDS AND COULD EASILY, WITH ADDITIONAL PERSONNEL, MANAGE LEVEE BOARD LANDS.

LANDS SUITABLE FOR GAME MANAGEMENT PURPOSES

COULD THEN BE TURNED OVER TO WILD LIFE AND FISHERIES; LANDS NEEDED FOR STATE PARKS, TO THE STATE RECREATION AND PARKS COMMISSION, ETC. EACH TRACT WOULD BE EVALUATED FOR ITS BEST LAND USE -- WITH BOTH THE CITIZENRY AND THE ECONOMY OF THE STATE IN MIND.

HOW MANY ACRES NOT NOW CLAIMED BY LEVEE BOARDS CAN BE RECOVERED -- I DON'T KNOW. HOW MANY ACRES HAVE BEEN LOST BY PRESCRIPTION AGAINST LEVEE BOARDS--I DON'T KNOW. HOW MANY LAW SUITS WOULD BE REQUIRED BEFORE CLEAR TITLE CAN BE CONVEYED TO THE STATE -- I DON'T KNOW, BUT I DO FEEL THAT IT WOULD BE FINANCIALLY WORTHWHILE FOR EITHER THE STATE OF LOUISIANA OR LEVEE BOARDS TO ACTIVELY PURSUE GOOD LAND MANAGEMENT PRACTICES.

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THE LEGISLATURE, REALIZING THAT LANDS SHOULD NO LONGER BE TRANSFERRED FROM THE STATE TO LEVEE DISTRICTS, ENACTED DURING THE EXTRA SESSION OF 1958, ACT 12, PROHIBITING FURTHER LAND TRANSFERS. I HAD INITIALLY PREPARED SUCH A BILL IN 1952 -- IT FAILED TO PASS.

(AS REGISTER OF THE STATE LAND OFFICE, I AM CALLED UPON TO SET A MINIMUM VALUATION) WHENEVER A LEVEE BOARD DESIRES TO SELL A TRACT OF LAND UNDER THEIR JURISDICTION, THE REGISTER OF STATE LANDS SETS A MINIMUM PRICE FOR WHICH THE PROPERTY CAN BE SOLD. IN THE PAST 10 YEARS, ONLY 9 SALES HAVE BEEN HELD COVERING APPROXIMATELY 202 ACRES -- MOST OF THESE HAVING BEEN OFFERED BY THE PONTCHARTRAIN LEVEE BOARD IN JEFFERSON PARISH.

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE JOINT LEGISLATIVE COMMITTEE ON THE REORGANIZATION OF LEVEE BOARDS.

AS YOU MAY RECALL, WHEN I INITIALLY APPEARED BEFORE THIS COMMITTEE, I STATED THAT "IF THIS COMMITTEE RECOMMENDED ABOLITION OF LEVEE BOARDS AND YOUR RECOMMENDATIONS WERE THEN ENACTED INTO LAW, I ASKED THAT ALL LANDS HELD BY THESE LEVEE DISTRICTS BE TURNED BACK TO THE STATE LAND OFFICE, RATHER THAN PLACING THEM WITHIN SOME OTHER AGENCY OF THE STATE."

THE REASONING FOR MY COMMENTS WAS BASED ON THESE FACTS:

(1) ALL OF THE LANDS HELD BY THE LEVEE BOARDS WERE ORIGINALLY TRANSFERRED TO THEM BY THE STATE LAND OFFICE.

(2) THE LAND OFFICE HAS ON FILE ALL OF THE MAPS, PLATS AND OTHER RELATED DOCUMENTS PERTAINING TO THE TRANSFER OF TITLE.

(3) THE OFFICE ALSO HAS THE NUCLEUS OF TRAINED PERSONNEL NECESSARY FOR THE EXPANSION OF ITS LAND MANAGEMENT PROGRAM WHICH WOULD BE REQUIRED SHOULD THE LANDS REVERT BACK TO THE STATE.

NOW THAT THIS COMMITTEE WILL RECOMMEND THAT LEVEE DISTRICTS NOT BE ABOLISHED, THERE ARE TWO ALTERNATIVES THAT

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MIGHT BE CONSIDERED INsofar AS LEVEE BOARD LANDS ARE CONCERNED:

1. LEVEE BOARD LANDS COULD BE TRANSFERRED BACK TO THE STATE WITH THE STIPULATIONS THAT FUTURE FUNDS DERIVED FROM SUCH LANDS BY MINERAL LEASES, SURFACE LEASES OR TIMBER SALES, BE EARMARKED FOR THAT BOARD.
2. SECONDLY, EACH LEVEE DISTRICT COULD RETAIN THE INDIVIDUAL MANAGEMENT OF ITS LANDS AS IS NOW PRESENTLY BEING DONE.

UNDER EITHER PLAN, THE PRIME OBJECTIVE WOULD BE TO ASCERTAIN ALL OF THE LAND HOLDINGS OF EACH LEVEE DISTRICT. TO DO SO, A SIZEABLE AMOUNT OF TIME AND MONEY WILL HAVE TO BE SPENT CHECKING THE TITLE TO SOME THREE MILLION ACRES OF LAND. UPON DETERMINATION OF WHAT LAND IS STILL BEING HELD BY THE BOARDS, SURVEYS WILL HAVE TO BE MADE AND THE PROPERTY MARKED. THIS WILL BE A VERY TIME-CONSUMING TASK.

THERE ARE MANY FACTORS THAT MUST BE CONSIDERED SHOULD THE LANDS BE TRANSFERRED BACK TO THE STATE.

FIRST, WHAT WILL BE THE COST OF THE TITLE RESEARCH?  
SECOND, HOW INVOLVED AND EXPENSIVE WILL BE THE LOCATING

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AND SURVEYING OF EACH TRACT STILL OWNED BY THE LEVEE BOARDS?

THIRD, HOW MANY LEGAL SUITS WILL HAVE TO BE INITIATED WHERE PERSONS HAVE ENCLOSED ON THE LEVEE LANDS AND WHAT WILL BE THEIR COSTS?

NATURALLY, I DON'T HAVE THE EXACT DOLLAR COST OR THE AMOUNT OF TIME SUCH PROCEEDINGS WOULD TAKE -- I CAN ONLY GIVE AN ESTIMATE -- A TEAM OF PERHAPS TWENTY ABSTRACTORS WITH AT LEAST A THREE YEAR PERIOD FOR TITLE RESEARCH; LOCATING AND SURVEYING THE PROPERTIES WOULD PROBABLY TAKE ANOTHER THREE TO FIVE YEARS AND THE LEGAL COMPLICATIONS WOULD PROBABLY BE VERY EXTENSIVE.

THE QUESTION ARISES, "COULD THIS TASK BE ACCOMPLISHED MORE EFFICIENTLY ON A LOCAL LEVEL RATHER THAN ON THE STATE LEVEL?"

I CAN ONLY ANSWER THE QUESTION WITH ANOTHER, "COULD EACH LEVEE BOARD WHOSE LAND HOLDINGS ARE NOT CLEARLY KNOWN AFFORD TO HIRE TWO OR THREE TITLE ABSTRACTORS, AND THEN SURVEYORS, AND THEN ATTORNEYS?"

I BELIEVE EVERY LEVEE BOARD PRESIDENT SHOULD SPECIFICALLY BE REQUIRED TO STATE WHETHER REAL PROPERTY UNDER THE BOARD'S JURISDICTION HAS BEEN LOCATED AND SURVEYED AND A GOOD LAND MANAGEMENT PROGRAM INSTITUTED.

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I HAVE ALREADY RECOMMENDED TO TWO CONSTITUTIONAL CONVENTION COMMITTEES THAT THE STATE'S CENTRAL LAND MANAGEMENT PROGRAM UNDER ACT 150 OF 1962 BE REASSESSED AND THAT THE STATUTORY LAW NOW IN EFFECT BE MADE MANDATORY. I WOULD FURTHER RECOMMEND THAT ANY LAND HOLDING BODY, WHETHER IT BE A LEVEE BOARD, SCHOOL BOARD, THE STATE PARKS AND RECREATION COMMISSION, THE WILD LIFE AND FISHERIES COMMISSION, OR ANY STATE AGENCY CREATED BY THE LEGISLATURE -- GIVEN STATE LANDS -- SHALL BE COMPELLED TO INVENTORY, LOCATE, MARK AND PROPERLY MANAGE ALL OF THEIR HOLDINGS AS WELL AS FILE AN INVENTORY WITH THE STATE LAND REGISTER.

FOR A GOOD CENTRALIZED LAND INVENTORY PROGRAM, ANY TRANSACTION DEALING WITH ANY REAL PROPERTY, WHETHER IT BE AN ACQUISITION, LEASE, OR ANY OTHER TRANSACTION SHOULD BE RECORDED IN THE STATE LAND OFFICE.

THE FINAL DECISION WILL COME FROM YOUR COMMITTEE -- AND WHATEVER FINAL ACTION IS TAKEN BY YOU OR BY THE LEGISLATURE YOU MAY BE SURE IT WILL HAVE MY FULL SUPPORT IN THAT MY INTEREST IS IN SEEING THAT ALL STATE PROPERTIES ARE PROTECTED, MANAGED AND UTILIZED TO THE STATE'S BEST ADVANTAGE.

#### ILLINOIS WATER RIGHTS LAW

Law does not exist in a vacuum. Only as the problems of men become so acute as to be incapable of solution on a personal basis does the role of law become apparent. If high quality, arable land were so plentiful that each individual could have all he desired without conflict with his neighbor, there would be no law of real property. As land becomes scarce in relation to demand, the problem of deciding "who gets what" becomes more complex and law becomes more complicated. The law of water is a perfect illustration of this truism. In the areas of the world where water is scarce and an industrious population has created a heavy demand, the law is voluminous and intricate; in the humid areas where water is ordinarily sufficient for all, or nearly all, demands, the law is sparse and poorly developed. It may depend on a few cases, an occasional statute and a large amount of conjecture. Illinois, like most of the Middle West and East, falls in the latter category; the West belongs in the former.

But what happens when the relationship between supply and demand changes more or less suddenly? The answer is obvious; serious problems are created and there is no mature and established body of law available to solve them. This can lead to judicial and legislative panic in the rush to fill the void. Illinois is in a rather unique and enviable position. The state normally has vast sources of water supply, but faces the prospect of steadily increasing demand. Local water transportation, purification, financing and shortage difficulties have arisen already in many localities. The state must, however, recognize and give thoughtful consideration to the coming problems in order to be prepared. Since some of the most critical problems have already occurred in sister states, Illinois will have the advantage of studying how those jurisdictions have met the issues. Each of the forty-eight states is a legal laboratory and the experiments in one are useful to all of the others.

The time to begin a thorough study of Illinois water problems is at hand. The pressures are already beginning to appear and it is apparent that population growth plus increased industrial, municipal and agricultural use can lead only to ever-increasing demands.<sup>1</sup> The place to begin is with an analysis of the existing law of water in Illinois. This must include the common law (case law or individual judicial decision), the statutory law and administrative law.

However, Illinois law will be more meaningful if it is discussed in relationship to the broad body of American law. A brief statement of our national corpus juris is needed to furnish the perspective for a more detailed study of local law.

#### PART I. AMERICAN WATER LAW<sup>2</sup>

"All the rivers run into the sea; yet the sea is not full; unto the place from whence the rivers come, thither they return again."<sup>3</sup>

The modern scientist with less poetry but more accuracy refers to this phenomenon as the hydrologic cycle. He recognizes but one source of water--precipitation. It is the endless cycle of evaporation, transpiration, condensation, precipitation and flowage to the sea that constitutes the scientific law of water. Since all supplies of water are thus interrelated, one might suppose that there is

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just one classification of water law.<sup>4</sup> However, different rules have developed for the water in natural watercourses (rivers, streams and lakes), for diffused surface water and for groundwater (really underground or subterranean water, called percolating water if it is not in a well-defined major stream). The discussion of water law will therefore follow these three major classifications, bearing in mind that there is some overlapping between the categories.

#### Water in Natural Watercourses

A cleavage exists between the seventeen western states (Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wyoming) and the thirty-one eastern states in regard to water in natural watercourses. This is not to say that there is uniformity within the two basic groupings, indeed the differences may be pronounced between neighboring states, but the fundamental distinction is the east-west division.

The western group, representing the areas of relative scarcity, follow the doctrine of prior appropriation; the eastern group, representing the humid areas of relative plenty, follow the common-law doctrine of riparian rights. To further confuse the uninitiated, nine of the western states originally recognized the riparian rights doctrine and then superimposed the system of prior appropriation. The result is a blend called the California doctrine and more or less followed in California, Kansas, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas and Washington. The other eight western states, following the lead of Colorado, rejected the riparian doctrine as unsuited to their climate and economic conditions. The riparian doctrine itself is subject to modifications, interpretations and local twistings to conform to special fact situations. All of this means that generalizations are difficult, if not misleading, and that concrete statements had best be reserved for the law of a particular state. However, an outline of the two basic legal doctrines is essential to an understanding of the problem.

Riparian Doctrine. Although this is the recognized doctrine of the common law, it was actually borrowed from the Roman law. In early common-law England there was little litigation over the use of water. "First come, first served" was the guiding principle and in those days it was an adequate rule. The Industrial Revolution altered the factual base of the law and inevitably changed the law itself. The United States was facing the same challenge to the then existing law and under the leadership of Justices Kent and Story, who were learned in the Code Napoleon (based on Roman law), this country developed the doctrine of riparian rights, adopting the word itself from the French. Story used the word riparian for the first time in Tyler v. Wilkinson in 1827 and set out the rights of riparian proprietors, both individually and collectively. The doctrine was then adopted in England in the classic case of Embrey v. Owen<sup>5</sup> and, thus sanctified by Baron Parke, became the rule of the common law.

Briefly stated, a riparian proprietor is one who owns land bordering on a natural watercourse and hence has certain rights to use the water that flows therein. All other landowners are excluded from using the water except as they may contract with a riparian owner. Water does not belong to the public generally (except for certain rights in navigable streams and public waters) or to the state but constitutes a property interest to be adjusted among those who have access to the stream or lake from their own land. The doctrine embodies the principle that all riparian proprietors on a watercourse or lake have equal rights in respect to the use of the water, and that none can use to the extent of depriving others of an equal opportunity to use.<sup>7</sup> The application of this principle to concrete cases is not an easy task and

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the courts have differed widely in their efforts to solve the inevitable usage. Some courts have followed the "natural flow or natural law theory"; others have adopted the "reasonable use theory." Frequently it is difficult to tell which the court is following and the two theories tend to blend in many states.

An accepted statement of the two theories is as follows:<sup>8</sup> Under the natural flow theory "the primary or fundamental right of each riparian proprietor on a watercourse or lake is to have the body of water maintained in its natural state, not sensibly diminished in quantity or impaired in quality. Each proprietor, however, is recognized as having a privilege to use the water to supply his 'natural' wants, and each also has a privilege to make 'extraordinary' or 'artificial' uses so long, but only so long, as such uses do not sensibly or materially affect the natural quantity or quality of the water and are made on or in connection with use of the riparian land. These limited privileges in each proprietor qualify the primary rights of the other proprietors to have the stream or lake maintained in the status quo of nature. Thus, according to this theory of riparian rights, all proprietors have equal rights to have the water flow as it was wont to flow in the course of nature, qualified only by the equal privileges in each to make limited uses of the water.

"Under the reasonable use theory the primary or fundamental right of each riparian proprietor on a watercourse or lake is merely to be free from an unreasonable interference with his use of the water therein. Emphasis is placed on a full and beneficial use of the advantages of the stream or lake, and each riparian proprietor has a privilege to make a beneficial use of water for any purpose, provided

only that such use does not unreasonably interfere with the beneficial use of other. Reasonable use is the only measure of riparian rights. Reasonableness, being a question of fact, must be determined in each case on the peculiar facts and circumstances of that case. Reasonableness is determined from a standpoint of a court or jury and depends not only upon the utility of the use itself, but also upon the gravity of its consequences on other proprietors."

The importance of these two theories is not readily apparent from an abstract statement such as that just set forth. However, the theories are more than academic rationalizations of what the courts do in fact; they are based on different concepts of the law of water and once a jurisdiction specifically adopts a given theory, it may have considerable influence on the result of litigation. Thus, the natural flow theory grew out of the early English common law, based on the maxim *aqua currit et debet currere, ut currere solebat* (water runs, and ought to run, as it has used to run). This concept of water rights stressed the status quo of water use and treated deviations from the norm as violations of the law. As corollaries to this theory, the use of water on non-riparian land or for a purpose not connected with riparian land was unprivileged. This was so even if other riparian owners suffered no actual damage because of the use. It also followed that a riparian owner could not transfer his interest in the water apart from the land itself. An even more serious consequence of this theory was that any sensible diminution of flow or change in quality of the water gave rise to a cause of action without proof of actual damage. Thus, an owner might sue to vindicate a right (and in some instances secure an injunction) even though he was not hurt by the particular use. An even more unfortunate by-product was that the statute of limitations started to run when the sensible change in the watercourse occurred and a lower riparian owner could find himself barred by prescription after the statutory period, despite the fact that a change in circumstances had by then made the use injurious.

The reasonable use theory, on the other hand, evolved from the natural flow theory and is based on a more realistic and flexible concept of water law. The mere fact of use on non-riparian land or the transfer of water rights to a non-riparian owner apart from the land does not necessarily involve a violation of law. The place

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of use is only one factor to be considered in deciding on the reasonableness of the use; it is, of course, an important factor. Similarly, there is no right to sue in the absence of actual damages since the use does not become unreasonable until some riparian owner suffers actual harm. It follows that the statute of limitations does not begin to run until a cause of action arises, i.e., until actual harm occurs from an unreasonable use. One authority, Professor Powell of Columbia Law School, sees this as a distinct advantage of the reasonable use theory: "The extent to which the prevailing American rule of reasonable use makes it more difficult to acquire a prescriptive right, modifying the basic pattern of stream rights, is one of its outstanding superiorities, because it helps to keep the local law as to a particular stream adaptable to changing conditions in its locality."<sup>9</sup>

The first theory is more definite and each owner can come closer to determining his rights, but it lacks flexibility and tends to be non-utilitarian in that it prevents many beneficial uses of water that would not cause harm to anyone. The second theory has more flexibility and tends to promote the maximum beneficial use of water resources, but it lacks certainty and affords a poor basis for prior determination of legality.

It would be a mistake to assume that each of the eastern states has specifically adopted one theory or the other as a guiding rule of law. One writer<sup>10</sup> concludes that four jurisdictions (Georgia, New Jersey, Pennsylvania and West Virginia) follow the natural flow theory and that four more (Maine, Missouri, Mississippi and South Dakota) appear to do so. Several other states, including Illinois, have used the language of the theory in early decisions but may have drifted away from its full implications. The trend is toward the reasonable use theory and it can probably be called the prevailing American view in those states following the riparian doctrine.

Prior Appropriation Doctrine.<sup>11</sup> While a form of prior appropriation was recognized in parts of the present southwestern United States during the period when they were under Spanish and Mexican rule, the modern doctrine originated after the California gold rush. The first man to stake out a good claim had a right against subsequent claimants and this right was extended to include the water supply needed to successfully work the claim. This idea was expanded until it applied to other water uses as well, including the vital matter of irrigation. "Basically, the resulting doctrine of prior appropriation provides a means by which an individual may acquire a right to divert a given quantity of water, at given times and from a given place, and--initially at least--for use at a given place (which of course need not be on riparian land) and for a given purpose. When there is insufficient water to meet the claims of all possessors of such appropriative rights, their positions depend on the dates when their respective rights were acquired. The system is based on the principle of 'first in time, first in right,' each appropriator being entitled to receive his full quantity of water before appropriators junior to him become entitled to any water at all. The value of an appropriative right then depends upon its place in the priority schedule."<sup>12</sup>

This western doctrine has been implemented by state administrative agencies with centralized control over the following areas: (1) adjudication of existing rights in cases of dispute; (2) procedures for acquiring new rights; and (3) methods for controlling the actual diversion of water in accordance with established rights. Of course, the details of administration vary from state to state but tend to follow the same general pattern.

The basic assumption of the prior appropriation doctrine is that the water resources of the state belong to the public generally rather than to the riparian owners, hence the administrative agency represents the people in establishing the right to use water and this right can be given to any individual or group quite

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apart from the ownership of adjacent lands. Once the right is given, it becomes a vested property interest. It is readily apparent that any attempt to engraft the western doctrine on a well-established system of riparian rights will lead to constitutional as well as property law problems.<sup>13</sup>

#### Water in the Ground<sup>14</sup>

If groundwater flows in a well-defined underground stream, its use will generally be governed by the same rules that apply to surface watercourses. How-

ever, there is a legal presumption that groundwater does not follow such a stream but is percolating water and most cases are therefore governed by a different set of rules.

The English Rule. Under the English rule as originally set forth in the leading case of *Acton v. Blundell*<sup>15</sup> the landowner could do about as he pleased with the groundwater on his land. He could pump out all he could reach and use it for any purpose on his own or any other land. He could even waste the water if he chose and apparently the only limitation was that he must not maliciously injure his neighbor.<sup>16</sup> This doctrine was based on the old Latin maxim, *cujus est solum, ejus est usque ad coelum et ad inferos* (to whomsoever the soil belongs, he owns also to the sky and to the depths), but ignored the scientific fact that percolating groundwater moves as does surface water, although at a lesser rate. Moreover, each owner had similar rights and this doctrine could lead to a costly battle between deeper wells and larger pumps.

Reasonable Use Doctrine. The reasonable use doctrine (sometimes called the American rule) recognizes the rights of the landowners, but only so long as the use is beneficial and reasonable in relationship to the surface of the land. Negligent or wasteful disposition of water may be prevented and sale of the water for use on distant land may be prohibited if this unreasonably reduces a neighbor's supply.

Correlative Rights Doctrine. The correlative rights doctrine is similar to the rule of reasonable use as applied to surface watercourses. California, where this doctrine has been the subject of considerable litigation, gives the proprietors of land overlying a common supply of percolating water equal rights to make reasonable beneficial use of the water on the overlying land.

Prior Appropriation Doctrine. "A number of western states have adopted some version of the 'appropriative doctrine' as a basis for administering the use of percolating or other specified groundwaters, as well as surface watercourses. In general, the appropriative doctrine, as applied to the use of percolating water in the ground, provides that a landowner who legally establishes an appropriative right is entitled to the use of a given quantity of water on designated lands, subject to the rights of any prior appropriators and perhaps certain other preferred uses, and subject to the requirement of beneficial use and some degree of continuity in such use. This landowner may be able to enjoin persons who later establish appropriations of water from a common groundwater supply from interfering with his rightful use of the allotted quantity of water, or he may at least be able to claim damages for interference with his use of the water. Appropriations may be granted for use on overlying or more distant lands. There are, however, several variations. In some states, for example, certain types of uses may be preferred over others in one way or another."<sup>17</sup>

#### Diffused Surface Water

Diffused surface water is usually defined as water which flows on the surface of the earth following a rain or snow but which does not flow in a well-

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defined watercourse, i.e., it flows vagrantly over the earth's surface. There is little law dealing with the use of such water and most of the concern has been with drainage, not use. There is no necessity for discussing the general American law on this subject.<sup>18</sup> It is significant that no jurisdiction has ever questioned the right of a surface owner to make full use, even to the point of exhaustion, of all the diffused surface water found within his boundaries. The problems arise when the water crosses the artificial property lines, but this is a matter of drainage control.

#### Footnotes

1. See for example, *Illinois Water Supply (A Vital Necessity - A Growing Problem)*. A report on Illinois water resources and problems prepared for the membership of the Illinois State Chamber of Commerce. (August, 1956).
2. For extensive treatment, see Wiel, *Fifty Years of Water Law*, 50 Harv. L. Rev. 252 (1936); Busby, *American Water Rights Law*, 5 S. C. L. Q. 106 (1952); 6-A *American Law of Property* 156-202 (Casner ed. 1954); 5 Powell, *Real Property* 345-491 (1956).
3. *Ecclesiastes* 1:7.
4. For an amplification of this point, see Coates, *Present and Proposed Legal Control of Water Resources in Wisconsin*, 1953 *Wis. L. Rev.* 256, 262.
5. 4 Mason 397, Fed. Case No. 14, 312 (1827); 3 Kent Com. 439 (1828).
6. 6 Exch. 353 (1851).
7. *Restatement, Torts*, Chapter 41 (1939). This chapter contains an excellent exposition of the basic principles of riparian rights.
8. *Id.* at 342-346.
9. 5 Powell, *Real Property* 391 (1956).
10. *Id.* at 359.
11. See Hutchins, *Selected Problems in the Law of Water Rights in the West*, U.S.D.A. Misc. Pub. 418 (1942).
12. Narquis, Freeman and Heath, *The Movement for New Water Rights Laws in the Tennessee Valley States*, 23 *Tenn. L. Rev.* 797, 821 (1955).
13. For a discussion of this aspect of the problem in the western states that followed the California doctrine, see Hutchins, *History of the Conflict between Riparian and Appropriative Rights in the Western States*, Production Economics Research Branch, Agricultural Research Service, U.S.D.A. (1954).
14. See Ellis and Bausman, *Some Legal Aspects of Water Use in Delaware*, University of Delaware Agricultural Experiment Station Bulletin No. 344 *Technical* 7 (1955).
15. 12 Mees. and W. 324, 152 Eng. Reprint 1223 (1843).

16. Even a malicious use may be tolerated in extreme applications of the English rule. Thus, in the leading Wisconsin case of Huber v. Merkel, 117 Wis. 355, 94 N.W. 354 (1903), the defendant was maliciously wasting water to lower the neighboring well water level. Nonetheless, the court decided that, even accepting that Merkel acted from pure malice, "the exercise of a property right cannot be affected or curtailed by a malicious motive." The case has been much criticized but is still followed in Wisconsin. Two recent cases, City of Fond du Lac v. Town of Empire, 273 Wis. 333, 77 N.W. 2d 699 (1956), and Menne v. City of Fond du Lac, 273 Wis. 341, 77 N.W. 2d 703 (1956) relied on Huber v. Merkel in spite of dissent by two justices. However, neither waste nor malice were issues in the two cases. The dissenting justices argued persuasively for the

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reasonable use test and relied on a similar case in Michigan, Schenk v. City of Ann Arbor, 196 Mich. 75, 163 N.W. 109 (1917) which did adopt such a test. They

quoted from J. Farnham, The Law of Waters and Water Rights, p. 271B sec. 93<sup>10</sup> where he stated with reference to Huber v. Merkel: "There is absolutely no principle on which that decision can be founded. It is opposed to good morals, good sense, and all common-law principles which are applicable to analogous subjects, and the later and better considered cases are beginning to recognize correlative rights in percolating waters and confine landowners to a reasonable use of it."

17. See note 14 supra at 15.
18. It seems apparent that diffused surface water could be stored and used for beneficial purposes. The time may come when this will be the subject of litigation, but according to Mr. C. E. Busby, a leading authority on the law of water and water rights, there are only five cases in the English-speaking world which deal with the use of diffused surface waters. Water Rights in Ohio, Research Report No. 1, Ohio Legislative Service Commission, 8 (January, 1955).















