Records of the 
Louisiana Constitutional 
Convention of 1973: 
Committee Documents

VOLUME XI
Records of the
Louisiana Constitutional
Convention of 1973:
Committee Documents

VOLUME ELEVEN

by

LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

Moise W. Dennery, Chairman
A. Edward Hardin, Coordinator of Research
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    W. Lee Hargrave
    C. B. Ellis
    Thomas Jacques
    Donald J. Lemieux
    Norma M. Duncan
    Sallie Farrell (February, 1975 - June, 1975)

A. Edward Hardin, Coordinator of Research
USER GUIDES ARE REPRODUCED IN VOLUME XIV.
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THEATRICAL BYTULAE
I. Minutes

A. Full Committee Minutes

MINUTES

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

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

State Capitol, Baton Rouge, Louisiana

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

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

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

Present

Mr. Mack Abraham
Rev. Avery C. Alexander
Mr. Joseph E. Ahzalone
Mr. Greg Arnette
Dr. Emmett Asseff
Mrs. Hilda Brien
Mr. Stanwood R. Duval
Mr. Camille P. Gravel
Mr. Tom Stagg
Rev. James L. Stovall
Rep. Einer R. Tapper

Absent

Mr. Moise W. Denney

Others Present

Mr. Sheldon Beychok
Executive Council to the Governor

The following Agenda was read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

He said that the chart, with some minor variations could be used as a reorganizational plan. The chart was discussed at length.

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

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

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

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

The meeting reconvened with the resuming of business at hand.

A lengthy discussion ensued on Constitutional Agencies appearing before the committee. A tentively approved list of those agencies is attached hereto and made a part of these minutes. It was suggested that committee members might wish to invite someone to appear that they feel would have a point of view to present.
It was suggested to the staff that in addition to the materials already given to the committee, that back-up material be distributed along with any relevant material from The Project and the Model State Constitution, and other thought leads or suggestions the staff feels would aid the committee.

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

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

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**Constitution of the State of Louisiana**

(Topic II; by AN.)

A. Distribution of Powers

B. Executive Officers or Officers


Art. IV. Limitations

Sec. 1. Appropriation and granting loans
Sec. 12(c). Commissioner of Agriculture and Immigration; farm youth and loans; farm

Art. V. Executive Department

Sec. 6. Lieutenant Governor; precipitation for senate; vote; presidential preference
Sec. 10. Repeal: pardons; commutation of sentences; restoration of fines and
forfeitures
Sec. 11. Appointment of officers
Sec. 12. Appointment of officers; recess appointments
Sec. 13. Reports to Governor; information and recommendation to legislature
Sec. 14. Governor, execution of laws; extraordinary sessions of legislature; restriction on power to legislate;
resignation; time, proclamation and notice
Sec. 15. Signature of bills; veto
Sec. 16. Appropriation of bills; veto of items
Sec. 17. Acts not requiring Governor's signature; legislative investigations
Sec. 21. Commissions; formalities

Art. VI Judicial Department

Sec. 69. Vacancies; appointments; special elections; notices (local officers)
Sec. 72. Vacancy (coroners)
Sec. 93. Vacancies; temporary filling by district judges (Orleans)

Art. VII Suffrage and Elections

Sec. 14. Election returns, officers appointed by governor
Sec. 15. Ballots; methods of voting; secrecy; independent candidates; statements of candidacy
Sec. 18. Registrars of Voters; board of registration

Art. IX. Impeachment and Removal from Office (Deleted)

Art. XIX. General Provisions (Deleted)


Art. III. Legislative Department

Sec. 2. Legislative Department
Sec. 10. Session of Legislature, delivery to Governor
Sec. 21. Effective date of laws; publication
Sec. 32. Governor and legislative officers; executive and administrative officers

Art. XII. Public Education

Art. XIX. General Provisions

Sec. 1. Oath of Office
Sec. 4. Ineligibility of federal officer or officers of other states; dual office holding
Sec. 6. Performance of duty, successor, indiction
Sec. 15. Peas, franking privileges; discriminatory rates for public officials; penalties; testimony

2. Powers and Duties

Art. XVII. Militia

Sec. 2. Governor; Commander-in-Chief; powers
Sec. 3. Adjutant General
Sec. 4. Preservation of records, banners, and relics

Art. XIX. General Provisions (Deleted)

3. Administrative Officers and Boards

Art. IV. Limitations

Sec. 1(a). Board of Liquidation of State Debt
Sec. 12(b). State Market Commission; guaranteed loans; agricultural facilities

Art. VI. Administrative Officers and Boards

Sec. 1. Wildlife and Fisheries Commission; Forestry Commission; Department of Conservation; powers, duties, functions, etc.
Sec. 3. Public Service Commission
Sec. 4. Public Service Commission; powers
Sec. 5. Public Service Commission; orders; effective date; injunction; review; enforcement; appeals
Sec. 6. Public Service Commission; orders; penalties for violation
Sec. 7. Public Service Commission; local regulation of utilities; retention or surrender

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

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

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

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

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

Page 3

Article X, Section 4 ... Reference to duties of a "State Board of Engineers".
Article X, Section 31.7 ... Constitutional authority granted to executive agency; Department of Highways authorized to cooperate with and expend funds on New Orleans Inner Harbor Navigational Canal and New Orleans Harbor.
Article X, Section 38 ... Constitutional authority granted to State Land Office relative to public improvement districts.

Article XV, Section 38.1 (d) ... Duties of State Land Office and Department of Public Works relative to public improvement districts.

Page 4

Article XVI, Section 1 ... Governor to fill vacancies on levee boards.
Article XVI, Section 7 (b) ... A state agency under control of governor appoints member of Lake Pontchartrain sanitary district.
## CONSTITUTIONAL AGENCIES

<table>
<thead>
<tr>
<th>Agency Name</th>
<th>Number of Gubernatorial Appointees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Adjutant General, <strong>Military</strong> Department</td>
<td>1</td>
</tr>
<tr>
<td>2. Agriculture, Commissioner and Department</td>
<td>1</td>
</tr>
<tr>
<td>3. Attorney General and Department of Justice</td>
<td>1</td>
</tr>
<tr>
<td>4. Banking, Sec &amp; Commissioner and Department</td>
<td>1</td>
</tr>
<tr>
<td>5. Bond and Tax P'rd, State (referred to Coordinating Committee)</td>
<td>1</td>
</tr>
</tbody>
</table>

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

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

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**Minutes**

Minutes of the meeting of the Executive Department Committee on the Constitutional Convention of 1973
Held pursuant to notice mailed by the Secretary of the Convention on March 15, 1973

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

President: Tom Stagg, Chairman of the Executive Department Committee

Absent: Moise Dennery


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

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

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

Comparing the Secretary of State’s office in Louisiana to that in other states, Mr. Martin said that there are only four or five states where the Secretary of State’s office has more functions than that of Louisiana. Mr. Martin suggested that the Commissioner of Insurance office be separate from that of the Secretary of State’s office.

He further suggested that land titles of the state be transferred to the Secretary of State’s office because they justly deserve to be treated as records in the archives department. Several members requested that Mr. Martin submit a recommendation on how he feels the language should read in the new constitution concerning the Secretary of State’s office. He agreed, with the understanding that his recommendation apply in the event the State Land Office was abolished. Mr. Martin urged the committee to state in the constitution the general areas of jurisdiction of each office and what that office shall constitute.

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

Mr. Theriot stated reasons why the state comptroller’s office should continue as an elective office. He said that when the people are given the right to elect state officials, then democracy is working at its best. He also said that since the advent of Huey Long into the political world, Louisiana has had a powerful governor and a weak legislative branch. He remarked that through the years, the comptroller’s office has been weakened tremendously. Many of the duties of the comptroller have been distributed to the Division of Administration.

Mr. Theriot recommended that the Division of Administration be abolished. He also advised the committee that twenty-five (25) out of fifty (50) states in the Union have comptrollers. Mr. Theriot then explained the functions of the comptroller’s office, the main function being to provide a check and balance of the treasurer. A lengthy interview followed.

The Committee on the Executive Department recessed at 11:00 p.m. and reconvened at 1:30 p.m.

A motion was offered by Mr. Gravel that about the time that the Attorney General appears before the committee, the committee also hear from a representative of the District Attorney’s Association in order to get facts regarding the removal of the attorney general and the district attorney from the Judiciary Committee to the Executive Department Committee. The motion was seconded by Representative Tapper and approved.

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

Chairman Stagg introduced former Governor John J. McKeithen. Governor McKeithen yielded to the first question. Some basic information brought out by the committee and Governor McKeithen are as follows:

Governor McKeithen stated that when he was in office, he refused to go along with anything that gave more power to the governor. He also stated that the chances of getting good government are better with the governor controlling the legislature. He also stated that the Civil Service could be too strict.
Governor McKeithen recommended that the levee board be eliminated and further, that if they are going to be appointed by the governor, they should serve at his pleasure. Governor McKeithen noted that there is not a department that could be combined. He also advised the committee "If you try to do too much, you are going to lose it all. We need strong leadership."

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

Mr. Charles Roener of the Division of Administration was introduced by the Chairman. A copy of Mr. Roener's presentation is attached hereto as Exhibit B and made a part of these minutes. Mr. Roener stated that the Division of Administration is an extension of the governor's office, to serve at the governor's pleasure and report to him directly. He stated that the Division of Administration has been set up since 1940 and that merging with the office of Comptroller would be taking power from the governor. A discussion ensued on the materials handed out.

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

<table>
<thead>
<tr>
<th>Present</th>
<th>Absent</th>
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<tbody>
<tr>
<td>Mack Abraham</td>
<td>Joseph E. Anzalone</td>
</tr>
<tr>
<td>Reverend Avery C. Alexander</td>
<td>Elmer R. Tapper</td>
</tr>
<tr>
<td>Greg Acnette</td>
<td></td>
</tr>
<tr>
<td>Emmett Asseff</td>
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<td>Hilda Brion</td>
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<tr>
<td>Moise W. Dennery</td>
<td></td>
</tr>
<tr>
<td>Stanwood R. Duval</td>
<td></td>
</tr>
<tr>
<td>Camille F. Gravel</td>
<td></td>
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<tr>
<td>Tom Stagg</td>
<td></td>
</tr>
<tr>
<td>Reverend James L. Stovall</td>
<td></td>
</tr>
<tr>
<td><strong>Others Present</strong></td>
<td></td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

The Committee on the Executive Department recessed at 12:00 p.m. and reconvened at 1:10 p.m.

The Chairman introduced Lieutenant Governor James Fitzmorris. A copy of Governor Fitzmorris' presentation is attached hereto as Exhibit F and made a part of these minutes. Governor Fitzmorris stated that there are advantages of the Lieutenant Governor and the Governor running on the same ticket. He urged the committee to spell out the duties of the Lieutenant Governor.

Governor Fitzmorris also stated that it is very improper to give an elected official the responsibility of serving as chairman of the Pardon Board merely making recommendations.
Chairman Stagg introduced Mary Evelyn Parker, State Treasurer. A copy of Mrs. Parker's presentation is attached hereto as Exhibit G and made a part of these minutes. Mrs. Parker reiterated her presentation stating that the most general function the treasurer performs is that the Treasurer and Comptroller act as a check and balance on each other. It was requested by the members that Mrs. Parker provide the committee with a list of all funds which are not received by the Treasurer's office, and why. It was also requested that Mrs. Parker prepare a recommended statement that might be put into the new constitution.

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

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

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

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

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

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

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

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

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

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

A brief by the research staff was held.

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

NOTES

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

10:00, March 19th

Mr. Roemer:

Re: Your appearance before the Executive Committee of CG73

Time and Date: 10:00, Monday, March 26th

The Committee would like a report on the following:

1) Constitutional and statutory dedicated revenues, and the collections for the most recent year.

2) Information on the size of the State Budget allocation -- cost of personnel, equipment, etc. -- information on all of the large segments.

3) Relationship between our office and the Office of the Governor -- what functions do we? Division of Administration perform for the Governor's Office, etc.

4) Types of State funds which do not flow through this office and over which you have no control, such as investment of idle funds, etc.
1. The specific constitutional and statutory dedications can be found in the State Budget (copies enclosed).

Revenue estimates for FY 72-73 are $1,457,000,000.
Dedicated Revenues for FY 72-73 $1,011,500,000.

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

<table>
<thead>
<tr>
<th>Personnel Services</th>
<th>$826,000,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Includes wages, Student Labor, Professional Services and Fringe Benefits. Also, includes school personnel of about $400,000,000.</td>
<td></td>
</tr>
<tr>
<td>Equipment</td>
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<td>Supplies</td>
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<td>Contractual Services</td>
<td>44,000,000</td>
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<td>Debt Service</td>
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<td>Welfare Payments</td>
<td>299,000,000</td>
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<tr>
<td>Highways</td>
<td>289,000,000</td>
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</tbody>
</table>

3. Functions of the Division of Administration

- Budget Preparation and Control
- Property Insurance
- Property Rental
- Purchasing
- Fiscal & Administrative Research
- Accounting
- Admin. of Group Insurance
- Public Information System
- Administrative

(See detailed list of functions attached)

4. Investment of idle funds

(See copy of Act 341 - Cash Management Bill)

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

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

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

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

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

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

2. Coordination of all the procedures for financial administration and financial supervision so as to integrate them into an adequate and unified system, including the devising, prescribing and installing of accounting procedures for all State agencies.

3. Formulations of financial plans and programs for approval and adoption by the Governor and the Legislature and exercising such supervision as is necessary to provide for carrying out such financial plans and programs as are adopted by the Legislature.

4. Accounting supervision and fiscal reporting for all State agencies and the State as a whole.

5. Investigating the financial affairs and operations of the State and its agencies, as hereinabove defined.

6. A central purchasing agency is constituted and created in the Division of Administration and shall exercise those powers and functions as hereinafter set forth and as may be further provided by law. The Commissioner of Administration through the State Purchasing Officer shall be required to purchase or contract for all supplies, material, and contractual services, including institutions, boards, commissions, budget units and other agencies which derive support from public funds and which are hereinabove referred to as the using agency, except as otherwise expressly provided herein. The Purchasing Department shall in all its purchasing and related activities pursue a policy of securing the greatest possible economy consistent with grades or quality of supplies and services that are adapted to the purposes to be served, including standardization of materials, management of inventories, and the projection of the needs of State agencies. Whenever in his opinion the best interest of the State will be served, thereby, the Commissioner of Administration may delegate in writing the authority to purchase any materials, supplies and contractual services in any degree for any State agency covered by this Chapter. When such delegation of purchasing authority to any agency is made, the Purchasing Agent or other purchasing authority shall be considered to be a deputy purchasing agent of the central purchasing agency and shall be subject to all of the requirements of this Chapter and shall be under the supervision of the Division of Administration.

7. Controlling surplus property and assigning such property for use as required and prescribing and enforcing regulations governing the condemnation and disposition of movable properties of no further use to the State or its agencies.

8. The rental, purchase, erection or construction of any building structure, or space to be used by State administrative agency for housing its personnel or facilities or carrying on its business, The Commissioner,
however, shall at all times utilize property owned by the State to house State agencies insofar as this is practical and shall, to the best of his ability and consistent with their functions, house all State departments in a single building.

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

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

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

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

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

(E) All other duties which the Commissioner, Division of Administration may deem essential to the carrying out of the above stated duties and those duties and responsibilities as required by Title 49 shall be performed by the Commissioner, Division of Administration.

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

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

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

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

NOTES

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

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

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

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

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

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

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

Let us consider the Swiss plan where the Governor of Louisiana would not be elected at all. Under this ultra democratic system, we would elect only the several constitutional officers of the state. Then each one of these elected officers, in turn, would hold the additional title "Governor of Louisiana" in addition to his other title, for one year only. He would shake hands with all visiting insurance commissioners; kiss the Gumbo Queen, the Oyster Queen, the Crawfish Queen and the Sweet Potato Queen. At the end of the year, the next elected officer would assume the additional burden of duties. He would get $2,000 extra during this year in office.

The Governor would have no appointive powers at all beyond the power to name honorary governors of Louisiana. That would bring a true Swiss democracy to Louisiana.
CONSOLIDATION:
COMMISSIONER OF INSURANCE OFFICE
LA. INSURANCE RATING COMMISSION

Exhibit C

Comm. Insurer

Exec Secretary
(Administrative Assistant)

Deputy Insurance Commissioner

Chief Actuary

Secretary to Deputy

Assistant Deputy Comm.

Assistant Deputy Comm.

Assistant Deputy Comm.

Executive Assistant

Accounting
Purchasing
Attorney Claims
General Files
Investigation Rate Staff
Mail Printing
Personnel
Fleet
General Liability
Experience Rating
Boiler Inspection

*See #1 for present duties & extra shown here. This is total departmentalization idea.
COMMISSIONER OF INSURANCE

COMMISSIONER'S OFFICE

Sherman A. Bernard
Commissioner of Insurance

Shirley F. Toups
Executive Assistant

Raymond C. Vinet, Sr.
Deputy Commissioner of Insurance

Jean Y. Reily
Personnel Officer

Brenda Landry
Stenographer Clerk III

Richard E. Britson
Attorney (Unclassified)

Sidney O. Robertson
Deputy for Financial Solvency

Thomas L. Bernard
Deputy for Revenue and Taxation

Elward H. Wright
Deputy for Consumer Affairs

Mary M. Robinson
Deputy for Administration
COMMISSIONER OF INSURANCE

DIVISION OF CONSUMER AFFAIRS

Elward H. Wright
Deputy for Consumer Affairs

Donald K. Boudreaux
Insurance Policy & Claims Analyst II

Richard Doyle
Rating Commission Coordinator

N. Louis Jordan
Rating Commission Coordinator

William Lawless
Investigator IV

Joyce G. Gordon
Secretary

Simon N. Ball
Insurance Policy & Claims Analyst I

A. G. Gaudin, Jr.
Investigator III

Sylvia F. Simmons
Typist Clerk III

Jerre Hurst
Investigator II

Mary Vance Landers
Stenographer Clerk III

Catherine Busnaw
Typist Clerk II

Jane Killen
Stenographer Clerk II
COMMISSIONER OF INSURANCE

DIVISION OF REVENUE & TAXATION

Thomas L. Bernard
Deputy for Revenue & Taxation

Inogene Jenkins
Accountant II

Ethel B. Pittman
Accountant II

Norma Hurst
Account Clerk II

Richard Doyle
(Ancillary Receiverships)

Robert Thompson
(Municipal & Parish Occupational Tax)

Hazel Lewis
(Surplus Lines)

Field Examiners
(Office Review of Tax Statements for Foreign & Alien Insurers)
STATEMENT OF E. J. STEIMEL, EXECUTIVE DIRECTOR OF PAR

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

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

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

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

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

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

-2-

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

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

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

1. Officers.

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

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


-3-

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

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

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

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

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The Treasurer is the custodian of all state funds, receives and disburses of state money, and many feel should be maintained as an elective office to provide a check against the other officials, primarily the governor, who spend the money. This is less true than it was before the legislative auditor was created in 1964, which is the primary agency that provides a check by one branch (the legislative) on the executive. Nevertheless, the Treasurer does provide another accounting of the cash. In addition, there have been enormous improvements in bond issuing procedures, investment of idle funds, and central cash management--all of which are under the Treasurer's office--in the past five years. Most of these improvements are largely attributable to the aggressiveness of an elected treasurer who wanted to make a record of solid performance. This office has served as a check on the financial practices
of the state on a current basis, and it has brought under control what once was looked upon as a large area of political patronage for governors. Most states (40) currently elect their treasurer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Legislative acquiescence in gubernatorial meddling in the selection of legislative officers and committees.

2. Direct grants to the governor of the power to appoint legislators in some 40 cases to executive branch committees and commissions.

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

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

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

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

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

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

2. Terms of Office

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

3. Eligibility

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

4. Gubernatorial Vacancy and Succession and Disability

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

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

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

5. Vacancies in Other Elective Offices

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

6. Appointments, Removals, Pardons

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

7. Reorganization

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

8. Compensation

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

9. Assumption of Office

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

10. Legislative Powers

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

11. Veto Power

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

Summation

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

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

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

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

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

3/27/73
JOHN W. COLEMAN
NOTE
Statement of Register of State Lands
Ellen Bryan Moore follows.

Thank you Mr. Chairman and members of the constitutional convention committee on the executive department, I have been asked to appear here today to discuss the powers, duties and responsibilities of the state land office in relation to the Louisiana constitution as it now exists as well as suggesting changes for a new constitution. As the name implies, the office deals primarily with matters relating to state lands and water bottoms.

For your convenience, we have prepared a list of the constitutional provisions in which the land office is now either directly or indirectly concerned. We have divided the articles into four major categories: (1) the constitutional structure of the land office; (2) the provisions affecting minerals, navigable streams, and reclamation; (3) the provisions affecting taxation, and (4) other constitutional provisions.

In category 1, article 5 covers the constitutional structure of the office which was created by act 91 of the 1844 Louisiana legislature.

The register of the state land office has been an elective official since 1808 and was given constitutional status in the Louisiana constitution of 1921. Section 1, provides that the register of the state land office be a member of the executive department. Other sections in article 5 provide for the election, salary, term of office and the procedure should a vacancy take place. Article XIV, section 15a allows the register to have a principal assistant, an attorney, and one person with a confidential position unclassified.

The second group comprises extremely important articles designed to protect real properties and navigable water bottoms in the state, as well as minerals from state lands, and reclamation of water bottoms.

How and why is the land office involved?

Statutory law requires the register to keep title records given to the land office by the federal government. These federal records, many dating prior to the Louisiana purchase, have a direct bearing on every acre of land and water bottom in the state. The official plat of the original surveys by federal surveyors commencing in 1807 delineate on these plats all navigable streams within each township. When Louisiana became a state in 1812, the state itself had not one acre of land in its name but it did have title to the beds and bottoms of all navigable streams.

How can you tell which streams were navigable by the records on file in the state land office.

As you will note, many of the articles set the pace for additional articles. For instance, article 4, section 2 states that there can be no alienation of the fee of the bed of any navigable stream, lake or other body of water except for the purpose of reclamation. This then leads to articles XIV and XVI wherein based on the reclamation clause, several parishes are given specific authority to reclaim state properties.

Then article IV, section 2 further states that the legislature may authorize the leasing of state lands for minerals or other purposes. This article opens the door not only for mineral leasing but for surface leasing and the leasing of lands for recreational and other purposes. This same article further provides that mineral rights on properties sold by the state shall be reserved perpetually, and that 10% of any royalty received by the state from mineral leases, shall be credited to the parish wherein production occurs.

Many statutory laws directly related to these constitutional provisions have been passed, with the register assuming many additional responsibilities and duties.

The third major source of articles imposing duties upon the register are the ones on taxation.

Why 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. Once title is in the state, the property can be either redeemed, cancelled or offered for sale. If the property is redeemed, the land office must compute the interest and collect various taxes provided for through the constitution. The property can be cancelled by the terms set forth in the constitution under article X, section 11. If the property is sold, the minerals are reserved in perpetuity as provided for in article IV, section 2. Again, many statutory requirements have been imposed upon the register in matters relating to taxation and are a continuation of the constitutional provisions listed in this third category.

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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 LIEN AGAINST STATE PROPERTIES.

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

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

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

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(2) THERE ARE STATUTORY PROVISIONS FOR:

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

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

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

R.S. TITLE 36 PROVIDES NUMEROUS PROVISIONS RELATING TO MINERAL LEASES AND THE DUTIES OF THE REGISTER CONCERNING MINERALS. ONE OF THE MORE IMPORTANT STATUTORY PROVISIONS IS R.S. 30:130 WHICH DIRECTS THE REGISTER TO BE CUSTODIAN OF ALL MINERAL LEASE RECORDS. THIS INCLUDES ALL LEASES AND BIDS, PROPOSALS, ASSIGNMENTS OR TRANSFERS PERTAINING TO LEASES. THIS PROVISION ALLOWS FOR MORE CENTRALIZED AND COMPLETE LAND TITLE RECORDS.

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

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

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

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

THIS COULD BE DONE BY COMBINING ALL AGENCIES DIRECTLY DEALING WITH PUBLIC LANDS AND NATURAL RESOURCES; STATE PARKS, FORESTRY, WILD LIFE AND FISHERIES, MINERAL BOARD AND PERHAPS CONSERVATION (UNLESS DETERMINED STRICTLY A REGULATORY BOD) CONTINUITY IN OFFICE IS AMONG THE TOP CONSIDERATIONS IN MAKING ANY CHANGE. IF NOT, PERHAPS CHAOS EVERY 4 YEARS WITH A COMPLETE CHANGE OF TOP MANAGEMENT WOULD OCCUR.

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

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

MOST IMPORTANT DUTIES OF THE STATE LAND OFFICE:

1. CUSTODIAN OF LAND TITLE RECORDS GIVEN THE STATE OF LOUISIANA BY THE U. S. GOVERNMENT.

2. ADMINISTRATIVE CONTROL OF LANDS ADJUDICATED TO THE STATE FOR NON-PAYMENT OF TAXES.

3. PROCESSING OF REVENUE AND CUSTODIAN OF ALL RECORDS PERTAINING TO MINERAL LEASING OF STATE LANDS.

4. STATUTORY CONTROL OVER NAVIGABLE WATER BOTTOMS IN MATTERS OF LEASING FOR STORAGE FACILITIES, RECREATION, TREASURE, AND RIGHTS-OF-WAY.

5. MAINTAINING A LISTING OF REAL PROPERTY OWNED BY ALL STATE AGENCIES.

6. LAND MANAGEMENT OF LANDS UNDER THE JURISDICTION OF THE STATE OF LOUISIANA.

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

COMMISSION OF NATURAL RESOURCES

DEPARTMENT OF PARKS AND RECREATION

DIVISION OF STATE LANDS

DEPARTMENT OF MINERAL RESOURCES, MINE AND RESEARCH

WILDLIFE AND FISHERIES DEPARTMENT

FORESTRY DEPARTMENT

AIR POLLUTION CONTROL DIVISION

DIVISION OF WATER RESOURCES

LAND AND COASTAL RESOURCES DIVISION
NOTES
Executive Budget form for Fiscal Year 1973-1974 showing source of funds for State Land office is omitted.

1971 Constitution
ARTICLES PERTAINING TO THE STATE LAND OFFICE

1. 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. 16a Allows Register to have one assistant, one attorney and one person with a confidential position as unclassified Civil Servant.

II. MINERALS, NAVIGABLE STREAMS AND RECLAMATIONS:

Art. IV Sec. 2 No alienation of fee of bed of navigable stream, lake, etc., except for reclamation. This shall not prevent leasing for minerals and other purposes.
Mineral rights reserved in perpetuity on sales by the State.
10% of royalties dedicated to the Parish Road Fund.
Art. IV Sec. 7a Minimum royalties are paid to State Treasury.
Art. XIV Sec. 38 State shall grant title to all lands within levees and seawalls and reclaimed by certificate issued by Register. Mandatory for Register to issue the certificate of title upon notice of completion of such a district, though minerals are reserved in State.
Art. XIV Sec. 38 Jefferson Parish allowed to create Public Improvement Districts, the title which is in the public.

III. TAXATION PROVISIONS:

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.

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 L'94. Session. 465. Session. 1971).
Art X Sec. 11 Sale of property for taxes due by Sheriff. Must be held three years.

Art X Sec. 11 cont'd. The Register must retain tax adjudicated lands for three years before alienating such property in full title.

Art X Sec. 14 Property sold to the State may be redeemed by paying the price given, including cost and 1% penalty thereon, and 1% per month thereafter.

Art X Sec. 20 Taxes may be postponed in cases of flood, general destruction of public calamity.

Art X Sec. 20 Constitutional provision specifying tax adjudicated procedure is extended to parish, district, ward, etc.

Art X Sec. 19 Annulment of tax adjudications to State that occurred prior to 1890.

Art X Sec. 19 Tax liens shall lapse in three years on reredeemable 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.

Art. VI Sec. 19 State can transfer to U. S. through authorized representatives of the State, lands and property for certain certain public uses.

Art. XIII Sec. 6 Every parish, municipality or political subdivision shall have the right to build or acquire bridges over navigable lakes, rivers and streams.

Art. XIV Sec. 30 Corporations for constructing canals, etc. for irrigation, navigation or hydroelectric power are able to use navigable streams.

Art. XIV Sec. 30 Errection of wharves and improvements for public purposes in municipalities of over 5,000.

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Art XIV Sec. 30.3 Legislature is able to create navigation and river improvement districts for improving and maintaining navigation on rivers and streams.

Art XV Sec. 1 Legislation 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 (Rev. Tax Adjudicated Lands).
ARTICLES TO BE REVIEWED

1) Article VI, Section 27, Selling of islands in Lake Pontchartrain. The 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 overruled this provision.

4) Article X, Section 20, Title to property adjudicated to the State prior to 1800 is declared null and void. Consideration should be given to this article whereby title to all lands adjudicated to the State for a period of over 50 years be declared null and void.

5) Article X, Section 11, The interest on all adjudications redeemed after 1931 is 5% plus 1% per month. The interest now being charged on some adjudications is reaching 50%. This should be studied. I recommend a change.

6) Article IV, Section 2, The reservation of minerals on the sale of tax-assessed lands should be reviewed. Little tax-assessed acreage is available — mostly city lots — perhaps sales of lots of one acre or less should not be subject to mineral reservation. The decision to reserve or not to reserve might be determined by the State Geologist when concurred in by the Register, the Mineral Board or both.

7) Article 14, Section 30, (and others) Special constitutional provisions authorizing the holding of state property (navigable water bottoms) by various parishes should be reviewed and possibly require the approval of the State Planning Commission before any reclamation occurs.

RECOMMENDED ADDITIONS TO THE CONSTITUTION

1) In order to improve the provisions of Act 150 of 1962 which initiated the first state land management program, the state land office should be designated as the official repository 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 of acquisition; by any state agency or other political subdivision and would result in a comprehensive land use program — centralized. The states 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 assure protection of the state's property for the benefit of all citizens. — "What's everyone's business is no one's 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) Fixed 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 this environment. Time element should be considered so as not to place undue hardship on industry which has been Louisiana's mainstay.

THE OFFICE OF LIEUTENANT GOVERNOR

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

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

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

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

On the federal level we have seen significant changes in the status of the office of vice president. His importance has been recognized and the responsibilities of the job broadened. He presides over the National Space Council until it was done away with just recently. He presides over the National Security Council. His job is a far cry from what it was 20 years ago and it is recognized that the demands and pressure upon the president --2--

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

Although in this report I attempt to inform you of the present duties of the office of the Lt. Governor in Louisiana and other states and other recommendations for your consideration, my message and recommendation to you is simple, sincere, and direct.

We should either change the Lt. Governor with meaningful duties and responsibilities or we should abolish the office. Hopefully, the Constitutional Convention will adopt the first of these alternatives as the more desirable because there are many areas of state government where the Lt. Governor can be of effective and useful service to this state.

PRESENT DUTIES OF THE LIEUTENANT GOVERNOR IN LOUISIANA

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

These duties have restricted the holder of the office to primarily a legislative officer.

Until just recently, the office has been considered a part-time position with very few if any, executive duties.

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

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THE ROLE OF THE LT. GOVERNOR IN OTHER STATES

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

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

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

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

- Presiding over the Senate - most states
- Appointing certain or all committees - 10 states
- Tie-breaking vote: Bill passage - 17 states, Amendments and Motions - 30 states, Organizational matters - 16 states
- Bill Assignment - 11 states

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

RECOMMENDATIONS:

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

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

We in Louisiana must attempt to achieve the delicate balance of an office, which is the second highest elected position in the State, that can encompass both the necessary legislative functions and the executive responsibilities in order to assure continuity of administrative policy. The following recommendations are offered for your consideration:

Legislative Duties:

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

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

Executive Duties:

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

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

Other Duties:

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

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

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

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

James E. Fitzmorris, Jr.
Lieutenant Governor

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

The State Treasurer has been a constitutional office in Louisiana since

[30]
the inception of statehood in 1812. The first Constitution provided for the election of a Governor and a State Treasurer.

In 1844 the Constitution added the office of Lieutenant Governor and all the other constitutional offices have been added piecemeal since then. The office of State Treasurer became a popularly elected office under the Constitution of 1852 and at the same time the office of Secretary of State was made elective.

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

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

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March 27, 1973

In Louisiana the State Treasurer performs these functions:

1. Receives and deposits nearly 90% of all state funds and from 35 to 40% of all Federal funds. In the current fiscal year this will amount to about $1 billion 300 million dollars.

2. Disburses money to all units in accordance with the General Appropriations, Special Acts and Dedications provided by legislation.

3. Maintains proper audit control for a check and balance with the State Comptroller on all receipt and disbursement transactions of the State Treasurer.

4. Initiates and determines the daily investment portfolio for the money management program of funds in the State Treasury. Today the Treasurer's office has invested $360 million with interest earnings averaging approximately $55,000 per day.

5. Maintains all safekeeping receipts deposited and assigned for State agencies' bank accounts.

6. We maintain in the State Treasurer's vault for the Commissioner of Insurance all securities required for deposit by insurance companies doing business in Louisiana. This represents almost $100 million in negotiable securities.

7. We provide comprehensive accounting for bond servicing of all General Obligation, State Agency and Parish Road Royalty bonds.

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March 27, 1973

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

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

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

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

1. Directs a centralized program of Debt Management and provides a single issuing agency for all State Revenue and General Obligation bonds.

2. Supervises the management of State Debt and is responsible for the development of legal documents, the advertising of bond sales, developing the prospectus, and receiving competitive bids for the public sale of all bonds of the State and its agencies.

3. Must act on all requests of local governmental units to borrow money, incur debt, issue bonds, or to levy taxes, where they are authorized by the Constitution or laws of the State.

4. Supervises the State's capital construction program.

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

NOTES
Statement of the Custodian of Voting Machines Douglas Fowler follows.

I would like to thank you for inviting me here today. After having served as the appointed State Custodian of Voting Machines and now in my fourth term as the elected State Custodian of Voting Machines, I feel that I can speak with some knowledge of the appointive side, as well as the side that has been prescriptive to the will of the people.

I come today to represent the interests of the state of Louisiana. So first, I would like to talk the personalities out of my remarks and begin by forgetting about Douglas Fowler, Governor Edwards or any other individual and concentrate upon thoughts for the next few minutes on whether this job should be elective or appointive.
TO ME, TODAY IS A SAD DAY AND A DARK DAY IN THE STATE OF LOUISIANA, BECAUSE WHEN YOU ARE TALKING ABOUT TAKING AWAY THE RIGHT OF THE PEOPLE TO VOTE OR AGAINST THE CANDIDATE OF THEIR CHOICE IN ANY JOB, TO ME THIS IS A MOST SERIOUS QUESTION THAT WE HAVE TO FACE.

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

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

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

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

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

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

I BEGAN MY POLITICAL LIFE ON A REFORM MOVEMENT, HAVING BEEN ELECTED TO MY FIRST PUBLIC OFFICE IN 1940, WHEN GOVERNOR SAM JONES WAS ELECTED. POLITICS HAVE BEEN MY LIFE, MY PROFESSION, AND IT IS AN HONORABLE PROFESSION. IN ALL THIS TIME, NO ONE HAS EVER PUSHED WITH ANY DEGREE OF AUTHORITY FOR THE ABOLITION OF ELECTED OFFICES TO MAKE THEM APPOINTIVE.

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

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

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

I COME FROM VERY HUMBLE SURROUNDINGS. I WAS BORN AND REARED ON A SMALL HILL FARM IN NORTH LOUISIANA. "HE USED TO SAY, "THE LAND WAS SO POOR IT WOULD TAKE TEN BARRELS OF WHISKEY AND TWO OUTLAWS TO RAISE A FLOOD ON IT." FROM THESE HUMBLE SURROUNDINGS, I WAS ABLE, BY A VOTE OF THE PEOPLE, TO BE ELECTED TO ONE OF THE HIGHEST OFFICES IN THE STATE. THE 1964 AND 1968 CIVIL RIGHTS ACTS WERE PASSED TO GIVE OUR PEOPLE, THE MINORITY PEOPLE, THE RIGHT TO VOTE, BUT IF YOU MAKE ALL THE OFFICES APPOINTIVE WHAT GOOD IS THIS RIGHT?

AND KEEP IN MIND, AS I MENTIONED ABOVE, OUR PRESENT GOVERNOR HAS NO AMBITION TO SET UP A DICTATORSHIP. FOR AT THE MOST YOU WILL HAVE HIM FOR ONLY APPROXIMATELY SEVEN MORE YEARS AND THEN WHO WILL YOU HAVE? YOU DON'T KNOW AND NEITHER DO I. BUT WE DO KNOW THAT THERE ARE THOSE WHO WOULD LIKE TO HAVE A POLITICAL DICTATORSHIP OVER THE PEOPLE IN THE STATE OF LOUISIANA; BUT I KNOW AND YOU KNOW THAT AS LONG AS YOU GIVE THE PEOPLE THE RIGHT TO VOTE FOR THE STATE OFFICIALS, THEN THIS COULD WELL ALWAYS BE BEYOND THE REACH OF ANYONE WHO WANTS TO SET UP A DICTATORSHIP.
THE RIGHT OF THE PEOPLE TO VOTE SHOULD NEVER BE TAMPERED WITH, REGARDLESS OF WHAT OFFICE IS INVOLVED, BECAUSE WHEN YOU PLACE TOO MUCH POWER IN THE HANDS OF ONE PERSON YOU ARE HEADED FOR TROUBLE. ALL THE GRIPES, POLITICAL CHALLENGES, AND ELECTION CHALLENGES THAT WE NOW HAVE, AND THAT ARE SETTLED WITHIN THE DEPARTMENT, WOULD WIND UP IN THE GOVERNOR'S OFFICE. THAT IS THE REASON THIS OFFICE WAS PLACED IN THE CONSTITUTION TO BEGIN WITH.

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

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

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

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

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

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

NOTES

Statement of the Commissioner of Agriculture Dave L. Pearce follows.
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 regulatory 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 hereinafter, to perform all those powers and duties prescribed by law.

S14. **Agriculture; public policy**

Section 14. The Legislature is hereby directed to enact laws fostering agriculture implementing those duties and powers reserved to the Commissioner of Agriculture, and preventing the spread of pests and diseases injurious to plants and domestic animals. It may enact laws prescribing additional powers and duties of the Commissioner of Agriculture, without in any manner limiting those powers and duties set forth in Art. 6, S13 of this Constitution, and limiting or prohibiting the cultivation of specified crops in definite zones or areas and providing the necessary funds to compensate for damages caused by such limitations or prohibitions. (As amended Acts 1965, No. 548, adopted Nov. 8, 1966.)

On the subject of taxation and tax exemptions as they relate to agriculture, it is my recommendation that the substance of Article 6A of the Constitution, Section 1, be maintained. This Section provides for exemption of tax on tractor fuel. I also feel very strongly that the provisions of Article 10, Section 4, Paragraph 3, of the Con-

stitution should be retained insofar as agriculture is concerned. This section provides for the exemption from taxation of various enumerated property including the following: "Agricultural products while owned by the producers; agricultural implements used in the cultivation, production, and harvest of crops, as well as other machinery and equipment used exclusively for agricultural purposes, consistent with present day mechanized farm operations. All cattle, livestock, animals and poultry..." In like manner the provisions in Article 10, Section 4, Paragraph 4, having to do with the 10 year exemption of property used in connection with irrigation and navigation systems should be maintained as being consistent with similar exemptions granted other Industries.

I feel strongly that the provisions of Article 4, Sections 12b and 12c, should be maintained. The programs for agricultural plant construction, as provided for by Article 4, Section 12b, and the guaranteed loans for the youth of our State to purchase and raise livestock, as provided for by Article 4, section 12c, have both proven to be tremendously effective and have added much to the im pertus 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 need of the money which has come from the guaranty program which underwrites bank financing of livestock for 4-H, FFA and similar young farmers programs. I can tell you success story after success story of young boys who got into this program while still in high school who are now successful farmers and substantial tax payers as a result of the help they received through this program. I do feel that both of these programs should be consolidated into one agency responsible for making or guaranteeing agricultural 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 cent 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 cent 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 processing, marketing, selling or distributing of livestock, poultry and eggs produced in Louisiana, to the end that more of these products of the State may be raised and sold. The Legislature is authorized to make such appropriations as it may deem necessary to effectuate the provisions of this Section.

This is substantially the present language in the Constitution covering these two programs. An alternative would be an abbreviated section to read as follows:

**Section 12b. State Commission on Agribusiness:**

In order to promote the construction, improvements and expansion of agricultural plants and in order to underwrite or guarantee the repayment of insured loans to youth programs fostering agriculture and the raising and sale of livestock, the Legislature is hereby authorized to create a State Commission on Agribusiness, which Commission shall have the power and authority to lend monies or underwrite, participate in or guarantee loans as provided for by the Legislature.
There are several sections in the Constitution which relate to agriculture which would appear to no longer be of any real need or utility and should therefore be deleted from any new Constitution. In my opinion the provisions of Article 3, Section 33, are obsolete and unnecessary. This provision has to do with limitations on the use of "convict labor." With many of the evolving programs for work release, it seems to me that this provision should be eliminated. In like manner Article 3, Section 44, providing for the bonding of milk handlers would appear to be properly a matter that can be handled by legislation. Similarly, Article 4, Section 7, having to do with wage rates and hours and limitations on working conditions of females would appear to be totally obsolete and preempted by federal legislation. For this reason, I would suggest that this provision should also be deleted from the Constitution.

The language of Article 19, Sections 8 and 14, as they relate to agriculture, would appear to be totally obsolete and inconsistent with present day economic conditions with reference to trading 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 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 auditional study and thought must be given to them and I and members of my staff are available at all times to confer with your committee or any sub-committee that you might designate in order to implement the suggestions I have made today.

MINUTES

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

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

State Capitol, Baton Rouge, Louisiana, Room 205

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

Presenting: Tom Stagg, Chairman of the Executive Department Committee

Present on April 2:

J. B. Lancaster
Former Legislative Auditor
Guy F. Lemieux, President
Orlens Levee District
Clebert E. Smith
State Banking Commissioner
J. Burton Angeile, Director
Wild Life and Fisheries Commission
Charles H. Smith, Jr., Executive Director
Department of Commerce and Industry

Raymond Oliver
State Fire Marshal
Gray Sexton, Attorney
Louisiana Commission on Governmental Ethics:
Louisiana Board of Ethics for State Elected Officials
James E. Nixon
State Forester
Senator F. E. Lauricella, Chairman
Joint Legislative Committee on Reorganization
of Levee Districts
James S. Riley
Former Commissioner of Administration
Edwin J. Frielow
Liquified Petroleum Gas Commission

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

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

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

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

Mr. Lancaster stated that he would submit a written statement to the committee at a later date. Mr. Lancaster urged the committee to retain the office of Legislative auditor in the new constitution. He also stated that he would submit to the committee a draft containing four short paragraphs of basic provisions. He stated that the functions of pre-audit and post-audit should be separate. Combining these two functions would not provide proper fiscal checks. He further stated that pre-audit is an executive function and post-audit is a legislative function. The committee members requested that Mr. Lancaster prepare suggested language for possible inclusion in the constitution.
Chairman Stagg introduced Mr. Guy F. Lemieux, President, Orleans Levee District. Mr. Lemieux stated that he would mail a written presentation to the committee. He recommended that levee boards remain in the new constitution, and have some type of fiscal constitutional protection. The primary function of the levee boards is involvement in long term capital improvements which must be budgeted far in advance. He stressed that levee boards are responsible for their own funds, and that the legislature should not have the power by simple vote to move these monies around.

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

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

Chairman Stagg introduced Mr. Charles M. Smith, Jr., Executive Director, Department of Commerce and Industry. Mr. Smith submitted a written presentation to the committee. A copy of the presentation is attached hereto, marked Exhibit C, and made a part of these minutes. The committee requested that Mr. Smith provide a list of tax sources and revenue generated by industry. Members of the committee also requested that Mr. Smith provide a list of other states which have departments of commerce and industry in their constitution.

The Committee on the Executive Department recessed at 12:15 and reconvened at 1:10 p.m.

Chairman Stagg introduced Mr. Raymond Oliver, State Fire Marshal. Mr. Oliver submitted a written statement to the committee, a copy of which is attached hereto, marked Exhibit D, and made a part of these minutes. Mr. Oliver urged that the committee not combine the State Fire Marshal office with another office. He further stated that he would like to see the powers of the fire marshal increased. Mr. Oliver pointed out the following functions of the State Fire Marshal's office:

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

Chairman Stagg introduced Mr. Gray Sexton, Attorney for the Louisiana Commission on Governmental Ethics and the Louisiana Board of Ethics for State Elected Officials. Mr. Sexton presented a written statement to the committee, a copy of which is attached hereto, marked Exhibit E, and made a part of these minutes. Mr. Sexton noted several reasons for retaining the board and the commission in the new constitution. He stated that functionally, one agency could perform all administrative duties. He suggested that the preamble to the ethics acts could be deleted.

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

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

The Chairman introduced Mr. Edwin J. Krielow of the Liquefied Petroleum Gas Commission. Mr. Krielow submitted a written statement to the committee, a copy of which is attached hereto, marked Exhibit H, and made a part of these minutes. Mr. Krielow read a letter from Mr. Wade O. Martin, Jr., a copy of which is attached hereto, marked Exhibit I and made a part of these minutes. Mr. Krielow stated that the commission is seventy-five percent self supporting. He recommended that the present structure of the agency be retained in the present constitution.
The Committee on the Executive Department recessed at 4:30 p.m. and reconvened on April 3, 1973, at 8:30 a.m. All members were present.

Others Present:
William T. Taylor, Director
Department of Highways
Gladney Manuel, Chairman
Board of Highways
Dr. Charles Mary, Commissioner
Health, Social and Rehabilitation Services Administration
Dr. Ramson Vidrine
State Health Officer
Ray T. Sutton
Commissioner of Conservation
Colonel Karl J. Smith
Chief of Staff, Louisiana National Guard
Gordon Johnson, Chairman
Louisiana Tax Commission
Leon Tarver, Executive Director
Louisiana Commission on Intergovernmental Relations
Pat Ryan, Executive Director
State Planning Office
Joseph R. Traigle
Collector of Revenue
J. M. Burris
Legislative Auditor
Allison R. Kolb
Former State Auditor

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

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

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

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

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

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

He also stated that three (3) members serving on the committee are sufficient. Mr. Johnson stated that the tax percentage on real estate varies with each parish and that adjustments by the commission are made. Following Mr. Johnson's presentation, Mr. Anzalone made the following statement:

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

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

Chairman Stagg introduced Mr. Leon Tarver, Executive Director, Louisiana Commission on Intergovernmental Relations. Mr. Tarver submitted a written statement to the committee, a copy of which is attached hereto, marked Exhibit N, and
made a part of these minutes. Mr. Tarver stated that the State Planning Office is composed of six (6) senators, five (5) representatives, with five (5) others appointed by the governor. A study was taken of the reorganizational plans of twenty-three (23) states. Mr. Tarver stated that combining agencies would mean a great savings in the future for Louisiana. 

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

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

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

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

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

-11-

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

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

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

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

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

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

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

The Attorney General District Attorneys State Civil Service

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

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

NOTES

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

State of Louisiana

WILD LIFE AND FISHES COMMISSION

NEW ORLEANS, LA 70130

PRESENTATION

LOUISIANA'S CONSTITUTIONAL CONVENTION

by JERRY C. JONES, CHAIRMAN

LOUISIANA WILD LIFE AND FISHERIES COMMISSION

[38]
Article VI, Section 1 (A) of the Constitution established the Louisiana Wild Life and Fisheries Commission in 1921. This provision authorizes that the Commission shall consist of seven members, six of whom serve six-year terms, and one who serves a four-year term concurrently with the Governor. The members serve at large except the Constitution requires that three shall be from the coastal parishes and represent the commercial fishing and saltwater industries. No member is eligible for reappointment after serving the six-year term. Each member is paid $25 per diem for each meeting day and actual expenses. During the past three years, the average per diem in expenses per year for all members was $6,001.

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

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

Prior to the creation of the Commission, a study was conducted by the Wildlife Management Institute, a private conservation organization headquartered in Louisiana, which recommended that the fish and wildlife management program in Louisiana could best be managed by a commission or board of businessmen rather than by a single executive director, which was the procedure that was in use before 1921. After careful review and approval of the Institute’s report by the various conservation groups in Louisiana, a Constitutional amendment was then approved by the people in 1921, creating the seven-man Louisiana Wild Life and Fisheries Commission. Some of the main thrusts of the Institute’s report were that better budgetary controls would be effected, more continuity of programs would be realized, and political influence within the operations of the Department would be minimized. Since 1921, various Constitutional amendments have been made by the people of Louisiana either to do away with or drastically alter the Commission’s form of administration; however, these were rejected.

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

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

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

The Commission employs between 750 and 800 people, most of whom work in the field as biologists. These people are primarily located in 72 areas throughout the State where they are hired to carry out the Commission’s goals. The Commission would surely acknowledge that there is always room for improvement in any organization. It is the conclusion of the Louisiana Wild Life and Fisheries Commission that the present form of administration is still the best system for managing fish and wildlife resources in the State.

Some states have consolidated their natural resource agencies. On March 26, 1973, we talked with the President of the Wildlife Management Institute in Washington, D.C., in an effort to obtain information as to whether or not consolidation benefited fish and wildlife resource management. The President agreed and advised that most of these consolidations only recently occurred, in the various states is having. We are awaiting the results of their survey, which should be in shortly. There is a real danger that consolidation would result in watering down the fish and wildlife resource management programs, while increasing the cost of administrative overhead. To our knowledge, we have no problem of overlapping responsibilities in jurisdiction with any other State agency at this time.

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

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

Presentation to Louisiana’s Constitutional Convention by Jerry G. Jones, Chairman
April 7, 1973

[Page 3]

and it is too early to speculate if programs would be benefitted.

The National Wildlife Federation, also located in Washington, D.C., circulated a questionnaire in early February to determine the extent and effects that consolidation of natural resource agencies in the various states is having. We are awaiting the results of their survey, which should be in shortly. There is a real danger that consolidation would result in watering down the fish and wildlife resource management programs, while increasing the cost of administrative overhead. To our knowledge, we have no problem of overlapping responsibilities in jurisdiction with any other State agency at this time.

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

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

[Page 3]
8. Do you detect any movement to replace a "conservationist" with a "developer" as head of the Department in the foreseeable future?

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

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

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

10. If the status of your fish and game department recently was known to women as non-political independent state, by combining its function with other agencies of government (a move apparently taking place for too often in a number of cities) would you venture an opinion as to whether such moves are part of a larger placed national conspiracy designed to reduce the effectiveness of traditional spirit and objections to certain development and exploitation modes which invariably arise in conflict with conservation principles as you feel that such organizational changes (all being promoted nationally and state by state at this time) are merely coincidental?

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

11. If your answer to #10 above indicated your speculation that such changes are part of a planned orderly move to reduce the effectiveness of traditional spirit and objections to certain development and exploitation modes which invariably arise in conflict with conservation principles as you feel that such organizational changes (all being promoted nationally and state by state at this time) are merely coincidental?

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

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

- "I think it's time we realized what I think about the various problems of the Department reorganization."

- "I think it's a matter of two things: one, the overload of work and two, the overload of the employees."

- "I'm very happy to submit this information and want to say that the DP is the engine of this, and the DP is the one who wants us to submit this information."
advantage with every other state in the nation. Currently, it is estimated that there are nearly 20,000 groups of agencies competing for the 1,000 or so new industries that opened each year. If you averaged out this figure, it would mean 20 new plants would be built in each state annually.

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

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

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

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

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II.

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

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THIS SERVICE BE MAINTAINED AT THE HIGHEST PRIORITY POSSIBLE.

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III.

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

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

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

March 29, 1973

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

Constitutional Convention of 1973 - April 2, 1973

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

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

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

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

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

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

Constitutional Convention of 1973 - April 2, 1973

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

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

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

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

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

Constitutional Convention of 1973 - April 2, 1973

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

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

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

Sincerely yours,

R. Gray Sexton
Attorney

NOTES

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

CONSTITUTIONAL CONVENTION STATEMENT

by

LOUISIANA FORESTRY COMMISSION

1973

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

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

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

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

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

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

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

[42]
Today forests are still a major economic force in Louisiana. They constitute the foundation and raw material for a permanent, revitalized and expanding wood products industry -- a major and top ranking industry. It directly provides jobs for 40,000 families and another 40,000 in secondary industries. It generates annually in excess of $1.5 billion dollars of economic activity.

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

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

The terms of the commissioners are five 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 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 assurance for all existing and new forests...adequate insect and disease protection to prevent catastrophic epidemics;

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.

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. McIvor, State Forester
April 2, 1973
DISTRICT BOUNDARY CHANGES

Effective July 1, three Louisiana Forestry Commission districts had boundary changes. District 1, formerly all of the Florida Parishes (east of the Mississippi River) was divided into two districts. District 1 under District Forester Leo Westmoreland now comprises the parishes of Tangipahoa, Washington and St. Tammany. District 10 under District Forester Carlton Hurst comprises the parishes of East and West Feliciana, St. Helena, Livingston and East Baton Rouge, with headquarters in Clinton.

The South Delta District, formerly District 10, became District 11 under District Forester Ernest George Miller with headquarters in Lafayette. Acadia Parish has been incorporated into District 2 under Beverly Griffin, primarily for fire control and education reasons. Cameron Parish has been incorporated into District 7 under District Forester Robert Watt primarily for education reasons.

All other districts remain the same.
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<td>Contracts &amp; Data</td>
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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. Scho
of Forestry & Wildlife Management)

STATE FORESTER

ASSOCIATE STATE FORESTER

Secretary
Radio Operator-Receptionist

Forest Protection
Chief
2 Staff Foresters
1 Communications Eng.
1 Law Enforcement Officer
1 Staff Assistant-Inspector
1 Steno-Clerk

Dist. I
Dist. For.
Man. For.
For. Pilot
Radio Tech.
Investigator
Equip. Opr.
Steno Clerk
5 Parishes
2 Unit For.
3 Rangers
11 Crews
3 Res. War.

Dist. II
Dist. For.
Man. For.
2 For. Tech.
Investigator
Typist Clerk
4 Parishes
5 Towers
7 Crews
1 Res. War.

Dist. III
Dist. For.
Man. For.
For. Tech.
Investigator
Typist Clerk
3 Parishes
1 Unit For.
2 Rangers
14 Towers
14 Crews
1 Res. War.

Dist. IV
Dist. For.
Man. For.
For. Tech.
Investigator
Typist Clerk
5 Parishes
5 Towers
4 Unit For.
2 Rangers
17 Towers
16 Crews

Dist. V
Dist. For.
Man. For.
F.C. For.
For. Tech.
Radio Tech.
Investigator
Steno-Clerk
4 Parishes
4 Parishes
1 Unit For.
2 Rangers
13 Towers
15 Crews
4 Res. War.

Dist. VI
Dist. For.
Man. For.
F.C. For.
Radio Tech.
Auto, Mech.
Typist Clerk
4 Parishes
3 Parishes &
Seed Orchard
1 Unit For.
2 Rangers
14 Towers
13 Crews
3 Res. War.

Dist. VII
Dist. For.
Man. For.
Radio Tech.
Investigator
Pilot
Steno-Clerk
3 Parishes
2 Unit For.
2 Rangers
14 Towers
7 Crews
1 Lab. Util.

Dist. VIII
Dist. For.
2 Parishes-State
For.-Lake Rec.
1 Unit For.
1 Ranger
6 Towers
7 Crews
1 Lab. Util.

Dist. IX
Dist. For.
Man. For.
For. Pilot
Radio Tech.
Investigator
Steno-Clerk
5 Parishes
2 Unit For.
2 Rangers
10 Towers
11 Crews

Dist. X
Dist. For.
All So., Delta
Parishes
Centralized Services
Executive Assistant
Radio Operator
Pilot
Steno-Clerk
Typist-Clerk
1 Cabinetmaker
9 Shop personnel
2 Radio Technician
7 Service Personnel

Southwest Nursery
Foreman
2 Lab. Util.

Columbia Nursery
Nur. Supt.
Foreman
3 Farmers
Typist-Clerk

Bellemead Nursery
Nur. Supt.
Foreman
3 Farmers
Typist-Clerk
MEMO
From the desk of:
EDWIN J. KRIELOW
Director

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

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

FUNCTIONS AND DUTIES
OF THE
LIQUEFIED PETROLEUM GAS COMMISSION
AS DEFINED IN
ARTICLE VI, SECTION 28
OF THE
CONSTITUTION

The Liquefied Petroleum Gas Commission has jurisdiction over approximately 300 Liquefied Petroleum Gas dealers, 700 bob-tail and transport trucks traveling throughout the State. Every public installation, bulk plant, transport and bob-tail must be inspected to meet safety requirements. Every employee must be given a test for a card of competency (approximately 2000) to handle LP-Gas as well as a spot check for meeting safety requirements.

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

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

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

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

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

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

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

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

At this point, if I may, I would like to close this introduction and tell you briefly of the creation of the Division of Administration and my suggestion and make the remaining time available for your questions if any.
The Commission conducts monthly hearings at which it accredits the qualifications of individuals and firms to engage in the LP-Gas industry in Louisiana, considers and rules on such violations as have been reported to it. The Commission issues permits which it has established into 11 classes covering all phases of the LP-Gas industry and has set appropriate annual permit fees for each.

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

Page 2, Liquefied Petroleum Gas Commission

The Commission at its monthly meetings in 71-72 approved 26 applications after hearings and received $1450.00 in filing fees. The Commission held hearings on 50 violations in 71-72 and assessed penalties of $1200.00. The Commission issued 2680 cards of competency in 71-72 and collected $4416.00 in fees. It expects to handle approximately 1000 new examinations for cards during 72-73 due to the new class permit which will require having qualified personnel.

The Commission anticipates an increase in applications to 1000 in 72-73 for the reason this Commission has ruled that all manufacturers as well as dealers who install piping and sell LP-Gas containers and appliances on mobile homes, motor homes, travel trailers, or any recreational vehicle must have a permit with this Commission. Due to the increasing number of explosions, fires, serious accidents and deaths, (according to our records, in one month alone, November 1972, 10 persons died in LP-Gas equipped mobile homes, and in the same year many were seriously injured, 12 mobile homes equipped with LP-Gas systems were destroyed by fire or explosion) the Commission through official action on 12-14-72 assumed jurisdiction of all mobile homes, motor homes, travel trailers and recreational vehicles equipped with LP-Gas systems sold within the State of Louisiana. As far as we can determine we are the first state to go to this extent for the protection of its citizens who live in this type home or who use recreational vehicles. We hope to minimize these accidents, explosions and deaths by strictly enforcing the LP-Gas Rules and Regulations.

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

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

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

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

The Director and his staff in 1971-72 obtained drawings and data on 1200 new tanks and issued 325 seals for the reinstallation of tanks. The Director approved 177 prints and sketches which had been submitted. He and his staff expect a large increase in all of these areas. The Director in 1971-72 traveled 20,000 miles throughout the State at the direction of the Commission to assist and maintain contact with the inspectors in the field, to make spot-check inspections and to confer with those engaged in the LP-Gas Industry. He acts as a liaison between the Industry and the Commission on questions of policy, standards and enforcement. At the request of the Commission and the Louisiana LP-Gas Association the Director participates actively in Safety Schools conducted around the State to upgrade safety standards in the LP-Gas industry. The Director generally handles all of the correspondence and official business of the Commission and keeps them informed on all matters related to the Commission.

The Commission through its inspectors instruct and give written examinations to personnel engaged in the LP-Gas Industry in Louisiana. They participate in Safety Schools as instructors and lecturers. The inspectors investigate and report on all fires and accidents involving LP-Gas and thus are on call twenty-four hours a day, seven days a week. They inspect all underground tanks before they are installed as well as inspecting periodically all transport trucks and equipment used in the handling, storage and transportation of LP-Gas in Louisiana.

The Inspectors in 71-72 conducted 514 examinations and made 3152 inspections, condemned 22 tanks and investigated 128 fires and accidents.

Anhydrous Ammonia Division

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

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

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

Of equal importance to use of anhydrous ammonia in the State is increased production. There are at present 11 plants in Louisiana with a rated capacity of 3,700,000 tons per year. This represents 23% of the nation’s production. Much of this volume is transported by trucks throughout the State. Inspection and constant safety surveillance are maintained an anhydrous ammonia transportation moving throughout the State. This phase of inspection responsibility continues to increase in volume as a greater number of transports are being used. This is a growing field.

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

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<td>Tanks condemned</td>
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<td>Fires &amp; accidents investigated</td>
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UNAVAILABLE FUNDS COLLECTED THRU DEPARTMENT

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<tr>
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<th>Actual 71-72</th>
<th>Estimated 72-73</th>
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SPECIAL GENERATION

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

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

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

E. J. Krielou, Director

STATE OF LOUISIANA

Secretary of State

March 28, 1973

Mr. Edwin J. Krielou
Director
Liquefied Petroleum Gas Commission
Post Office Box 2149
Baton Rouge, Louisiana 70821

Dear Mr. Krielou:

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

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

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

With best regards, I am

Sincerely,

Wade O. Martin, Jr.
Secretary of State

Board of Highways: Director; powers, duties and functions

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

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

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

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

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

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

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

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

The Board shall appoint the director of highways, the chief engineer, the maintenance engineer, and the general counsel of the department of highways. All other functions of the director, the chief engineer and the maintenance engineer may be exercised only under the supervision, direction and control of the board of
Highways. No appointed member of the board may prescribe or direct the conduct of the department or the action of the executive officer of the department or any subordinate member thereof in any matter or case, unless first authorized by the Board.

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

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

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

Every lawful act of the Director performed in his official capacity is the act of the Department.

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

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

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

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

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

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

The experience of the Board of Highways has not always been a happy one. Some governors and legislatures have refused to let it function as well as it should. Several members of the Board were addressed out of office in 1958 and others were threatened in 1960 so that they resigned rather than carry over into an unfriendly administration. Governor Edwards is the first Governor to allow more than one appointee of a previous administration to carry over into the succeeding term, so that often the experience which has been accumulated by individual members has been prematurely wasted.

The present constitutional board is characterized by a breadth of coverage of the State, a depth of understanding of the problems of the public with the highway system and equally an understanding of the problems of the Department of Highways. The
Board feels confident that its services are needed by the State and useful to the individual citizens, thousands of whom present their views to the individual members actually. Members talk to police juries, to school boards and to municipal governing bodies; they are in contact with the numerous special district governing bodies and other administrative agencies of the State.

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

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

W. T. TAYLON, JR.
Director

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

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

Thank you for this opportunity to appear before you on behalf of the Military Department and the National Guard.

Constitutional authority for the National Guard rests in Article I, Section 8, Clauses 15 and 16 of the Constitution of the United States of America, which reads as follows:

Clause 15: The Congress shall have the power to provide for calling the militia to execute the laws of the Union, suppress insurrections and repel invasions.

Clause 16: The Congress shall have the power to provide for organizing, arming and disciplining the militia and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of officers and the authority for training the militia according to the discipline prescribed by Congress.

The foregoing are known as the militia clauses.

Title 32 United States Code Annotated, is entitled "National Guard" and provides for its organization, personnel, training, service, supply and procurement. It also establishes the general policy which States in substance that in accordance with the traditional policy of the United States, it is essential that the strength and organization of the Army and Air National Guard as an integral part of the first line of defenses of the United States be maintained and assured at all times and that when Congress deems that more troops are needed than are in the regular forces for national security, the Army and Air National Guard or such parts as may be needed for a balanced force shall be ordered to active federal duty and retained as long as needed.

Title 32 also reserves to the Governor the authority to appoint the Adjutant General.

The organization and composition of both services, Army and Air, shall be the same as those prescribed for the active federal military forces.

Revised Statute 29, Chapter 1, entitled "Military forces of the State" provides the general laws regulating the militia and other military forces. Of particular interest is Section 1 constituting the militia, dividing it into two classes, organized and unorganized, with the organized consisting of the National Guard and other organized forces authorized by law. The history and source of law, to include the constitutional provisions, are footnoted to Section 1 of Title 19.

The value of the militia to the State cannot be estimated in dollars and cents but in its value in the preservation of law and order, flood, hurricanes, search and rescue and community projects. Since 1959 we have been called on some 50 times to preserve law and order and to aid in natural disasters, explosions, fires and the like.

There are some changes in Article XVII which we feel are necessary.

Section 1 now reads: A well regulated militia shall be maintained, and the Legislature shall provide for its organization, equipment and discipline, which shall conform as nearly as practicable to the organization, equipment, and discipline of the regular Army and Navy of the United States.

We feel that part which reads "and discipline of the regular Army and Navy of the United States" should be changed to read "and discipline of the regular armed forces of the United States," the reasoning is that there are more than just the Army and Navy and by use of the phrase "armed forces" it will meet the national criteria more adequately.

Section 2 reads: The Governor shall be the Commander-in-Chief of and shall have the power to call the militia into active service for the preservation of law and order, to repel invasion and to suppress insurrection.
ALTHOUGH IT CAN STAND AS WRITTEN, IT IS BELIEVED THAT A SHORT PHRASE 'AND AID IN NATURAL DISASTERS' SHOULD BE ADDED TO THE END. OUR LEGAL STAFF FEELS THAT 'PRESEVATION OF LAW AND ORDER' COULD BE INTERPRETED AS COVERING AID FOLLOWING FLOODS, HURRICANES, TORNADOS, EXPLOSIONS, Etc., BUT FROM THE LAYMAN'S STANDPOINT, IT IS BELIEVED THAT IT SHOULD BE SPelled OUT SO THAT THERE IS NO ROOM FOR MISINTERPRETATION.

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

OUR ADJUTANT GENERAL, STAFF AND SENIOR MEMBERS OF THE GUARD FEEL THAT THIS SECTION SHOULD BE AMENDED DO AS TO NEGATE THE POSSIBILITY OF POLITICAL PRESSURE TO CHANGE THE QUALIFICATIONS OF A PROSPECTIVE CANDIDATE FOR ADJUTANT GENERAL. THIS HAS BEEN DONE IN THE PAST. FURTHERMORE, WE ARE STRONG IN OUR BELIEF THAT THE ADJUTANT GENERAL SHOULD BE AN INDIVIDUAL WHO HAS BEEN ASSOCIATED WITH THE GUARD FOR AT LEAST FIVE YEARS DURING WHICH TIME HE WOULD HAVE ACCUMULATED THE KNOWLEDGE NECESSARY TO SERVE IN THE POSITION AND ADVISE THE GOVERNOR ON ITS USE FROM AN OVERALL UNDERSTANDING OF ITS RESOURCES AND CAPABILITIES. THIS CANNOT BE DONE BY SOMEONE WHO HAS NEVER BEEN AFFILIATED WITH THE GUARD. FURTHER, THAT HE SHOULD BE QUALIFIED FOR PROMOTION TO THE RANK OF COLONEL OR HIGHER. TO DO ANYTHING LESS WOULD BE DETRIMENTAL TO THE GUARD.

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

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

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

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

PROPOSED CONSTITUTIONAL MILITIA PROVISIONS

Article XVII, Section 1
A well regulated militia shall be maintained, and the Legislature shall provide for its organization, equipment and discipline, which shall conform as nearly as practicable to the organization, equipment, and discipline of the Regular Armed Forces of the United States.

Article XVII, Section 2
The Governor shall be the Commander-in-Chief of and shall have the power to call the militia into active service for the preservation of law and order, to repel invasion, to suppress insurrection, and aid in natural disasters.

Article XVII, Section 3
An Adjutant General shall be appointed by the Governor by and with the advice and consent of the Senate and shall be federalized in the Louisiana National Guard who have had at least five years of federal recognition and commissioned service thereon and who are federally qualified for promotion to the rank of colonel or higher.

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

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

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

R.S. 47:1899.

The Tax Commission mails approximately 50,000 report forms, annually, to the taxpayers to be filled out and returned by April 1st of that year. These reports are checked against the assessments made by the Assessor and adjustments are made by the Commission, if found to be necessary. The total assessed value of property in all parishes in the state for the year 1972 (Orleans Parish 1973) was $6,084,637,584.00. A comparative statement attached shows this is an increase of $263,975,222.00 over the previous year. This is the largest increase on record in any one year.

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

The state tax of $1 3/4 mills amounted to $4,959,041.04 and parish taxes amounted to $247,468,197.32, making a total of $332,427,208.36. The $1 3/4 mills in Orleans Parish for 1973 is included in the above and this figure might change as there is some question about the collection of this tax. Of course, the state tax of $1 3/4 mills was repealed January 1, 1973.

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

The Tax Commission makes many adjustments in assessments which are requested by the taxpayers and approved by the assessors and tax collectors. If found to be in order, some requests are rejected and others are not given the full adjustment requested.

A number of protests are made to the Commission by taxpayers after they have discussed their assessment with the assessor and have been unable to agree. When these protests are made, the Commission makes a thorough investigation, by checking the property itself, contacting the Assessor and taxpayer before a final decision is made.

PERSONNEL AND 1972-1973 APPROPRIATION: There are 40 employees in the Tax Commission and the 1972-73 state appropriation is $515,997.00, plus federal funds of $24,632.00. (Attached as Organizational Chart).

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

The total amount of all 10-year tax exemptions covering manufacturing plants as of January 1, 1973, amounted to approximately $6,500,000.00.00.

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

COOPERATIVE STATE REPORTING TOTAL ASSESSMENTS BY PARISHES FOR THE YEAR 1971 - 1972 (1972 - 1973 in Orleans Parish)
<table>
<thead>
<tr>
<th>Parish</th>
<th>1971</th>
<th>1972</th>
<th>Increase/Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acadia</td>
<td>$5,282,662,382</td>
<td>$6,086,677,564</td>
<td>$804,015,182</td>
</tr>
<tr>
<td>Allen</td>
<td>$18,575,340</td>
<td>$18,598,170</td>
<td>$22,839</td>
</tr>
<tr>
<td>Ascension</td>
<td>$3,287,630</td>
<td>$3,368,450</td>
<td>$80,820</td>
</tr>
<tr>
<td>Assumption</td>
<td>$5,206,271</td>
<td>$5,125,900</td>
<td>$80,371</td>
</tr>
<tr>
<td>Beauregard</td>
<td>$19,253,900</td>
<td>$19,221,700</td>
<td>$32,200</td>
</tr>
<tr>
<td>Bienville</td>
<td>$13,893,390</td>
<td>$14,010,340</td>
<td>$117,950</td>
</tr>
<tr>
<td>Bossier</td>
<td>$12,451,400</td>
<td>$12,480,000</td>
<td>$28,600</td>
</tr>
<tr>
<td>Calcasieu</td>
<td>$13,167,400</td>
<td>$13,227,900</td>
<td>$60,500</td>
</tr>
<tr>
<td>Cameron</td>
<td>$6,379,240</td>
<td>$6,339,490</td>
<td>$40,750</td>
</tr>
<tr>
<td>Claiborne</td>
<td>$10,742,630</td>
<td>$10,742,630</td>
<td>$0</td>
</tr>
<tr>
<td>Caddo</td>
<td>$2,197,120</td>
<td>$2,197,120</td>
<td>$0</td>
</tr>
<tr>
<td>Grant</td>
<td>$10,742,630</td>
<td>$10,742,630</td>
<td>$0</td>
</tr>
<tr>
<td>Iberia</td>
<td>$10,742,630</td>
<td>$10,742,630</td>
<td>$0</td>
</tr>
<tr>
<td>Jefferson</td>
<td>$10,742,630</td>
<td>$10,742,630</td>
<td>$0</td>
</tr>
<tr>
<td>Vermilion</td>
<td>$10,742,630</td>
<td>$10,742,630</td>
<td>$0</td>
</tr>
<tr>
<td>Webster</td>
<td>$10,742,630</td>
<td>$10,742,630</td>
<td>$0</td>
</tr>
<tr>
<td>West Carroll</td>
<td>$10,742,630</td>
<td>$10,742,630</td>
<td>$0</td>
</tr>
<tr>
<td>West Feliciana</td>
<td>$10,742,630</td>
<td>$10,742,630</td>
<td>$0</td>
</tr>
<tr>
<td>Total</td>
<td>$163,085,800</td>
<td>$168,387,700</td>
<td>$5,301,900</td>
</tr>
</tbody>
</table>

### Louisiana

- **Public Service Commission:**
  - **Parishes:**
    - Acadia
    - Allen
    - Ascension
    - Assumption
    - Beauregard
    - Bienville
    - Bossier
    - Calcasieu
    - Cameron
    - Claiborne
    - Caddo
    - Grant
    - Iberia
    - Jefferson
    - Vermilion
    - Webster
    - West Carroll
    - West Feliciana
  - **Increase/Decrease:** $804,015,182

- **Total Revenue:**
  - 1971: $163,085,800
  - 1972: $168,387,700

- **Net Increase:** $5,301,900
I. A. ORGANIZATION CHART

LOUISIANA TAX COMMISSION

Executive Division
Chairman (1)
Members (2)

Personnel - 5

Administrative Secretary (1)
Steno Clerk II (1)

Executive Secretary (1)

Personnel - 5

Secretary (1)
Tax Commission Auditor II (2)
Tax Commission Auditor III (1)

Accounting and Personnel
Accountant III (1)
Steno Clerk III (1)

Oil and Gas Division
Engineer IV (1)
Engineer III (1)
Typist Clerk III (1)

Personnel - 2

Industrial and Exemptions Division
Tax Commission Auditor IV (1)
Steno Clerk III (1)
Typist Clerk III (1)
Property Value Examiner III (1)

Personnel - 4

Personal Property Division
Tax Commission Auditor III (2)
Property Value Examiner I (10)
Steno Clerk III (1)
Typist Clerk III (1)

Personnel - 14

New Orleans Office
Property Value Examiner II (1)
Steno Clerk III - (2)
Tax Commission Auditor III (1)

Personnel - 3

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

Present Personnel Allocation 40
NOTES

April 3, 1973

Exhibit 0

Report to
COMMITTEE ON THE EXECUTIVE BRANCH
Constitutional Convention of 1973
by
Legislative Auditor

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

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

The arrangement for an elected state official to be the post-auditor was statutorily provided for in Louisiana during the period from 1933 to 1956. This arrangement, in my opinion, has a number of fatal disadvantages. Firstly, the elected official charged with the responsibility of post-auditing should never be concerned with obtaining campaign funds. Secondly, such an official should never be concerned with political alliances with other candidates for public office for which he has an auditing responsibility. Thirdly, such an official should be in a position to devote his total time and effort to his official duties and should not be concerned periodi
cially with the necessity of engaging in a political campaign.

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

The West German Audit Authority in 1956 submitted to the second international Congress of Supreme Audit Institutions "Five Basic Freedoms" essential to the inde-
You will note that Section 26 of Article VI of the present constitution does provide that the employees of the Legislative Auditor’s office shall be classified under the Civil Service System. While I personally feel that the activities of my office may have been hampered somewhat by low salaries, particularly when compared to other governmental auditors, both state and federal, this is not the reason why I have deleted this particular item from my draft. The Department of Civil Service performs many personnel services which are most valuable to the Legislative Auditor.

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

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

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

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

DRAFT
PROPOSED CONSTITUTIONAL PROVISIONS

Legislative Auditor

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

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

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

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

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

Allison R. Kolb
Chairman of the Committee on the Executive Department
Constitutional Convention of 1973
State Capitol
Baton Rouge, Louisiana

April 3, 1973

Mr. Tom Stagg
Chairman of the Committee on the Executive Department

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

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

1. Retain the office of State Comptroller as an elective position but rename it "The Office of Auditor General". Provide that this be an elective office; that it maintain the basic control of the receipt and distribution of funds through the Treasurer's office; that this officer must be either a Certified Public Accountant or have ten years or more experience as a senior auditor in that office or the office of the Legislative Auditor, and provide that this office is to post audit all of the Executive Departments of the State, under the supervision of the Governor, his appointees or other elected officials. He would audit the Highway Department, the Education Department, the State Colleges, L. S. U., the Welfare Department and all other agencies of the State government.

2. That the Legislative Auditor's qualifications be the same as that of the Auditor General, but that his functions be limited to auditing of local government, such as School Boards, Police Juries, Levee Board and Drainage Districts. Sheriffs, Assessors and all other local offices.

This office should also audit municipalities of under ten thousand (10,000) inhabitants. While the reasoning for the above may seem obvious, I believe that it should deserve some comment:

(a) The Legislative Auditor should not audit the book of the executive branches.

Frankly, I see very little difference in the auditor being appointed by the Governor and everyone knows that one (the Governor) should not audit himself or his appointees. It should be an independent

Mr. Tom Stagg
Page 72
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Auditor. Therefore, a qualified auditor, responsible only to the electorate, should be called upon to perform this duty.

Mr. Tom Stagg
Page 70-
April 3, 1973

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

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

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

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

Very truly yours,

Allison B. Kolb

ARK.srt

MINUTES

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

Held pursuant to notice mailed by the Secretary of the Convention on April 21, 1973

State Capitol, Baton Rouge, Louisiana

Monday, April 10, 1973, 9:00 a.m.
Tuesday, May 1, 1973, 9:00 a.m.
Wednesday, May 2, 1973, 9:00 a.m.

Presenting: Tom Stagg, Chairman of the Executive Department Committee

Present on all days: Absent:
Mack Abraham Noise W. Denney
Avery C. Alexander Joseph E. Anzalone Greg Arnott
Emmett Asseff Hilda Brien
Stanwood R. Duval Camille F. Gravel
Tom Stagg James L. Stovall
Elmer R. Tapper

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

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

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

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

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

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

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

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

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

After discussion, the motion was approved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman Stagg introduced Mr. Harry Howard, secretary of the Louisiana Board of Pardons. Mr. Howard presented the committee with a copy of rules governing applications for pardons. A copy is attached hereto and made a part of these minutes. Mr. Howard stated that he has been secretary to the Board of Pardons for six (6) years. He commented on the general confusion between the Pardon Board and the parole system. He stated that the Pardon Board is an advisory board to the governor. Mr. Howard said that he does not feel that the board need have a professional staff. Mr. Howard stated the following functions of the Pardon Board:

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

Mr. Howard stated that the law could be statutory.

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

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

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

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

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

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

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

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

There are presently thirteen (13) principal cabinet departments. He pointed out that the budget is not decreased because of reorganization.

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

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

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

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

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

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

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

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

The committee resumed discussion and changes of provisions on worksheets.

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

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

THE EXECUTIVE BRANCH

ARTICLE V

The Executive Department

Section 1. Composition; cabinet

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

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

Alternatives:

Add to or delete from the constitutional offices.

Delete the provisions relative to a cabinet of elected officials.
Extend the composition of the cabinet to include heads of administrative departments.

Other


Section 2. Qualifications

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

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

Alternatives:

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

Lower (raise) age requirement.

Lower (raise) citizenship requirement.

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

Other


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Section 3. Election, terms.

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

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

Comment: The provisions of (A) relative to terms and time of election are the same as in the 1921 constitution.

Use of the phrase "and none other" in (A) is to prevent the creation of other state-wide elective positions outside of the executive branch.

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

Alternatives:

- Add to or delete from the list of elective officials, in keeping with provisions of Section 1.
- Change terms for one, none, or all officials.
- Change time of electing officials.
- Projet: ("Each, except the auditor, shall be elected at a general state election for a term of four years.") The auditor is elected for 6 years at the general election for members of U.S. House of Representatives "next preceding the beginning of the new term").

Other


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Section 4. Time of taking office; election returns.

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

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

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

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

Alternatives:

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

Other


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Section 5. Assistants

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

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Section 6. Vacancies

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

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

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

(For Recess Appointments, See Section 1F.)

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


Section 8. Supreme executive power

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

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

Alternatives:
- 1921 Constitution
- Projet
- Other

Section 9. Term

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

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

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

Louisiana Constitution, Art. V, Sec. 3, Para. 2.

Section 10. Vacancy: succession: absence: disability

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

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

C. If the governor should leave the state, he shall prior to his departure, file with the secretary of state a written declaration of the time of the beginning of his absence, and upon his return to the state he shall immediately file with the secretary of state notice of his return.

D. While serving in the place of the governor, the succeeding or acting officer shall have the powers and duties and receive the compensation of the governor.

Model State Constitution, Art. V, Sec. 5.08.
Florida Constitution, Art. V, Sec. 3.
Federal Constitution, Amendment XXV.

Section 11. Removal, impeachment

A. All state and district officers, whether elected or appointed, shall be liable to impeachment for high crimes and misdemeanors in office, incompetency, corruption, favoritism, extortion, or oppression in office, or for gross misconduct, or habitual drunkenness.

B. All impeachments shall be by the House of Representatives, and shall be tried by the Senate, whose members shall be upon oath or affirmation for that purpose, and two-thirds of the senators elected shall be necessary to convict. When the governor is on trial the chief justice or an associate justice of the Supreme Court shall preside. The Senate may sit for said purpose whether the House be in session or not, and may
adjourn as it thinks proper. Judgement of conviction in such cases shall remove and debar the accused from holding any office under the state, and shall disqualify any judge or district attorney, or attorney general from practicing law, but whether of conviction or acquittal, shall not prevent prosecution and punishment otherwise according to law. Such proceeding shall suspend any officer, except the governor or acting governor, and the office shall be filled by the appointing power until decision of the impeachment.

Comment: The above provision is taken verbatim from the 1921 Constitution, with styling changes in use of capitalization.

Alternatives:
- Project (Impeachment procedure entirely changed, and as of the date of research, unlike proceedings of any other state) provides impeachment trial in special court on charges brought by three or more representatives and approved by majority of members elected to House and Senate.
- Other

References: Louisiana Constitution, Art. IX, Secs. 1, 2.

Section 12. Executive Clemency.
The governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses and may delegate such powers, subject to such procedures as may be prescribed by law.

Comment: This provision is verbatim with the executive clemency provision of the Model State Constitution.

Alternatives:
- La. 1921 Constitution. (Governor may grant reprieves for all offenses; pardons, commutation of sentences, remission of fines and forfeitures to be granted by governor on recommendation of pardon board; automatic pardons for first offenders on completion of sentences; governor may grant temporary reprieves for treason.)
- Project. (Governor may grant six-month reprieves to persons sentenced for violation of state laws and temporary reprieves for treason.)
- Florida Constitution. (Governor authorized to grant sixty day reprieves and suspend collection of fines and forfeitures; pardons granted by governor on approval of three cabinet members; temporary pardons for treason; creation of a parole and probation commission permitted.)
- Illinois Constitution. (Governor granted general authority to grant reprieves, commutations, and pardons "on such terms as he thinks proper"; procedure for applying "may" be set by law.)
- Other

References: Louisiana Constitution, Art. V, Secs. 11, 12.

Section 13. Appontive Power
A. The governor shall nominate and, with the advice and consent of the Senate, appoint all officers whose nomination, appointment, or election is not otherwise provided for.
B. The governor shall appoint heads of all administrative departments, provided, however, that no member of the legislative branch shall serve by appointment or otherwise in executive or administrative positions in agencies, or on boards or commissions of the state.

Comment: Paragraph (A) is similar to the Project, the 1921 Constitution, and the Illinois provisions. It differs from the 1921 constitutional provision in that the power to appoint extends to all officers whether statutorily or constitutionally created; it differs from both the Project and the 1921 Constitution in that no reference is made to the power of the legislature to determine the method of filling vacancies in positions created by it.

Paragraph (B) is modeled after the concept of gubernatorial appointment in the Model State Constitution and in the Florida and Illinois constitutions. The last provision was added to meet recent criticisms of the practice of allowing legislators to serve in executive positions.

Alternatives:
- La. 1921 Constitution. (Governor is authorized to nominate, with senatorial confirmation, all constitutional officers whose election or nomination is not provided for in the constitution; the legislature, however, can provide the manner of filling legislatively created offices.)
- Project. (Governor may appoint any officer, constitutional or otherwise, if his appointment or election is not otherwise provided for, but where the constitution provides for a particular nominating procedure, senatorial confirmation is not necessary; also, the legislature can provide the mode of filling offices which it creates.)
- Florida Constitution. (Governor required to appoint and remove administrative department heads; other administrative positions filled "as provided by law.")
- Illinois Constitution. (Similar to recommended provision except that the Illinois provision contains additional information on senatorial confirmation of appointments and appointment to vacancies.)
- Other

References: Louisiana Constitution, Art. V, Sec. 10.
Model State Constitution, Art. V, Sec. 5.03.
Florida Constitution, Art. IV, Sec. 6(a).
Section 14. Removal power

In addition to any other means of removal from office which this constitution may provide, the governor may remove without cause any executive officer whom he appoints. Removal of any other officers appointed by the governor shall be as provided by law.

Comment: Neither the La. 1921 Constitution nor the Project seem to have a general authorization for the governor to remove those whom he appoints to administrative positions. The above provision is an adaptation of a similar provision in the Model State Constitution.

Removals in both the 1921 Constitution and the Project appear to be confined generally to impeachments, legislative address, recall and removal by suits in district courts.

Alternatives:

☐ La. 1921 Constitution. (Provides for removal by impeachment, legislative address for cause, suits to remove, and recall; governor may suspend fiscal officers.)

☐ Project. (Provides for removal by impeachment, legislative address for cause, suits to remove, recall, and for gubernatorial suspension of fiscal officers found in arrears.)

☐ Model State Constitution. ("The Governor shall appoint and may remove the heads of all administrative departments.")

☐ Florida Constitution. ("When provided by law, confirmation by the Senate or the approval of three members of the cabinet shall be required for...removal from any designated statutory office." The governor is authorized to suspend state officers and the suspended official may be reinstated by the governor or the Senate.)

☐ Illinois Constitution. ("The Governor may remove for incompetence, neglect of duty, or malfeasance in office, any officer who may be appointed by the Governor.")

☐ Other

References: Louisiana Constitution, Art. IX, Sec. 6.
Project, Art. VIII, Secs. 1, 2, 3, 4, 5, 6.
Model State Constitution, Art. V, Sec. 12, 13, 14, 15, 16, 17.
Florida Constitution, Art. V, Sec. 5, 6,

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Section 15. Filling of vacancies, recess appointments

If not otherwise provided for in this constitution, the governor shall have the power to fill by appointment any vacancy in any state, municipal, and parochial office.

Commissions for such appointments shall expire at the end of the next regular session of the Senate, unless the appointee is sooner approved or rejected by the Senate or unless the vacancy has been filled by election.

The failure of the governor to send to the Senate at the next regular session thereof the name of any persons so appointed shall be equivalent to a rejection. No person who has been nominated for office and rejected by the Senate shall be appointed to the same office during the recess of the Senate.

Comment: The above provision is taken verbatim from the Project. It is a very similar to the 1921 constitutional provision, but references to offices concerned, and conditions under which commissions expire are more specifically worded in the Project provision.

The governor's power to fill vacancies also derives from Article VII, Section 69 of the 1921 Constitution and from statutory law (La. R. S. 42:371-374). The general constitutional provision in Section 15 above should not conflict with other constitutional provisions on the filling of specific vacancies, or with provisions controlling conduct of special elections to fill vacancies.

Alternatives:

☐ Require legislative approval of executive reorganization plans at the next regular session. 

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Section 16. Administrative departments, reorganization, meetings

A. The governor shall have sole authority to organize all executive and administrative functions of government into not more than twenty administrative departments, such departments to include appropriate organizations for the administration of health, education, welfare, natural resources, agriculture, transportation, tax collections, elections, employee retirement systems, and such other executive functions as the governor deems necessary.

B. It shall be the sole prerogative of the governor to merge and consolidate all administrative departments of state and otherwise to reorganize the executive branch of government as he deems necessary, and to convene departmental administrators into executive meetings for the purpose of conducting the state’s business.

C. The governor's power to organize and reorganize shall not extend to constitutionally elective positions and their constitutional functions.

The above provision is an improvisation of the CC/73 staff. The Louisiana Constitution (1921) provides for reorganization by the legislature. The above section is a marked departure from the present practice in that it gives the governor exclusive power to reorganize the executive branch.

The Project deleted the constitutional section permitting the legislature to reorganize state government, but it retained the concept that reorganization is a legislative function. (See Vol. I, Part II, p. 794)

Alternatives:

☐ Exclude quasi-judicial and certain regulatory agencies from the limitation of 20 departments.

☐ Increase the number of departments.

☐ La. 1921 Constitution. (Legislative reorganization)

☐ Model State Constitution. (Twenty principal departments: regulatory, quasi-judicial, temporary agencies excluded from limitations; legislative as well as executive reorganization, with legislative approval of executive changes.)

☐ Florida Constitution. (Twenty-five departments exclusive of constitutional offices.)

☐ Illinois Constitution. (Executive reorganization with legislative approval of changes which contravene statutes.)

☐ Other
Section 19. Proposals, reports to the legislature

The governor shall at the beginning of each session of the legislature, and may at other times, make reports and recommendations and give information to the legislature concerning the affairs of state.

Comment:

This provision is verbatim with the Projet provision on this topic. The 1921 Louisiana Constitution contains substantively the same provision. The Projet provision is more specific about when the reports are to be made.

Alternatives:

☐ 1921 Louisiana Constitution. (The governor is required to give the legislature information from time to time, and to recommend measures for its consideration.)

☐ Other


Section 20. Signature of bills; veto

A. Every bill which shall have been passed by both houses shall be presented to the governor. If he approves it, he shall sign it; if not, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large in the journal, and proceed at once to reconsider the bill. If, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered, and if passed by two-thirds of the members elected to that house it shall be law; but in such cases the votes of both houses shall be taken by yeas and nays, and the names of the members voting for or against the bill shall be entered in the journal of each house, respectively.

B. The governor shall have ten calendar days after any bill shall have been presented to him within which to approve or veto it; any bill approved or not vetoed within said period shall be law, notwithstanding the term of the legislature has expired. The date and hour when the bill is delivered to the governor shall be endorsed thereon. Such bills as become effective after adjournment of the legislature by reason of failure to veto, or by approval of the governor, shall be deposited in the office of the secretary of state, which officer shall then give notice by publication in the official journal of the approval or failure to veto said bills, and shall promulgate the same; and the governor shall report thereon to the next session of the legislature.


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The above provision is verbatim with the veto provision found in the Executive Article of the 1921 Louisiana Constitution. Another provision relative to the veto appears in the Legislative Article. The Project recommendation was not substantially different from the 1921 provision.

This provision should be read with any provisions for vetoes which will be placed in the new constitution by the Committee on the Legislative Department.

**Alternatives:**

- Change legislative vote required to override governor's veto.
- Change number of days within which the governor must veto.
- Pocket veto. (A bill does not become law if governor fails to sign.)
- Place provision in Legislative Article.
- Other

**References:**

- Louisiana Constitution, Art. III, Sec. 8.2; Art. V, Secs. 15, 16.
- Model State Constitution, Art. IV, Sec. 4.16.

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Section 21. Appropriation bills: item veto

The governor shall have the power to disapprove of or reduce any item or items of any bill making appropriations for money, embracing distinct items, and the part or parts of the bill approved shall be law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed for the passage of other bills over veto.

**Comment:**

The above provision is the same as in the 1921 Constitution except for the insertion of the words "or reduce" after the words "to disapprove of."

The Projet made no substantive change in the 1921 constitutional provision.

**Alternatives:**

- 1921 Louisiana Constitution and Projet. (Same as Section 20 of this draft except that reduction of items is not permitted.)
- Include provision as part of previous section. (Section 20 of this draft)
- Place provision in Legislative Article.
- Other

**References:**

- Louisiana Constitution, Art. V, Sec. 16.
- Model State Constitution, Art. V, Sec. 4.16(B).
- Illinois Constitution, Art. IV, Sec. 9(d).

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Section 22. Extraordinary sessions of legislature

A. The governor may, on extraordinary occasions, convene the legislature at the seat of government, or, if that should have become dangerous from an enemy, or epidemic, at a different place. It shall become his duty to convene the legislature in extraordinary session whenever petitioned to do so by two-thirds of the members elected to each house. The petition shall be filed with the secretary of state, who shall immediately deliver a certified copy of it to the governor, and shall mail or deliver a certified copy to the lieutenant governor and to the speaker of the House of Representatives, and shall file return of such service with the original petition.

If the governor should fail to issue, within five days after a certified copy of the petition is delivered to him, his proclamation convening the legislature in accordance with the petition, then either the lieutenant governor or speaker of the House, or both of them shall give notice in the official journal, not less than ten days before the day fixed in the petition for the session, that by virtue of the petition signed by two-thirds of the members elected to each house the legislature will convene in extraordinary session, at noon on the day, for the purposes, and for the period of time stated in the petition.

B. The power to legislate, under the penalty of nullity, shall be limited to the objects specially enumerated in the proclamation of the governor, or petition and notice, convening such extraordinary session and the session shall be limited to the time named therein, which shall never exceed thirty days.

C. Whenever the governor on his own initiative desires to convene the legislature in extraordinary session in addition to the requirements hereinabove set forth the governor shall be required in his proclamation to fix the date of the commencement of said extraordinary session and shall have given five days notice in writing to each member of the legislature that he will call said extraordinary session on the day fixed in the proclamation and which date shall be not less than five days subsequent to the date on which said notice to said legislature was mailed, except on such occasions as epidemics, attacks by the enemy, or public catastrophe.

**Comment:**

The above provision is unchanged from the 1921 constitutional provision except for changes in capitalization and lettering of paragraphs. (Provisions of this section should be coordinated with other proposed provisions on legislative sessions.)

**Alternatives:**

- Projet. (Governor permitted to call sessions "when he deems necessary"; secretary of state to issue call when sessions are convened on call of the legislature; official notice of legislative calls to be five days; 30-day limit retained.)
- Grant governor the right to call special sessions in Article V; place procedure in legislative article.
Section 23. Acts not requiring governor's signature

Orders, votes, and resolutions of either or both houses of the legislature, affecting the prerogatives and duties thereof, or relating to adjournment, to amendments to the constitution of this state or of the United States, to the investigation of public officers, and the like, shall not require the signature of the governor; and such resolutions, orders and votes may empower legislative committees to administer oaths, to send for persons and papers, and generally make legislative investigations effective.

Comment: The above provision is verbatim with the 1921 Louisiana constitutional provision, with changes in capitalization. The Projet provision made no substantial change in the present constitutional provision.

Alternatives:
- Place in Legislative Article
- Other

References:
- Model State Constitution, Art. IV, Sec. 4.08.

Section 24. Nomination and election

A. The lieutenant governor shall be nominated in the manner provided by law for nominating candidates for other elective offices.
B. In the general election the votes cast for a candidate for governor shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.

Comment: The above provision is taken from the Alaska Constitution, and was approved by the voters of that state in 1970. The purpose of the provision is to provide for joint (team) election of the governor and lieutenant governor. The procedure followed in 18 states and recommended by the National Conference of Lieutenant Governors.

Alternatives:
- Delete the provision.

References:
- Louisiana Constitution, Art. V, Sec. 2.

Section 25. Duties

The lieutenant governor shall succeed to the office of governor at such times and in such a manner as provided for in this constitution and as may be further provided for by law. He shall be a full-time executive officer, shall hold membership on every statutory, intrastate committee, board, and commission on which the governor serves, and shall perform such other duties as the governor and the legislature may assign.

Comment: The above provision is based on certain recommendations of the National Conference of Lieutenant Governors; it does not embrace all of the conference recommendations.

Alternatives:
- Retain the present practice of having the lieutenant governor serve as presiding officer of the Senate.
- Add or detract from the above stated functions.
- Delete the office altogether.
- Other

References:
Representatives shall be responsible for the receipt, custody, and disbursement of such funds, including all taxes, licenses, fees, operating receipts, federal funds, private grants, and collections, all of which shall be paid into the state treasury by all state instrumentalities immediately upon receipt.

B. The treasurer shall annually report to the governor and the legislature on its receipts and disbursements and on all other fiscal transactions performed by that office.

Comment: The Columbia Index to State Constitutions was consulted for comparative constitutional provisions on the duties of state treasurers. A majority of states provide that the duties shall be as provided by law. The Missouri Constitution and recommendations from the present Louisiana treasurer served as guides for the above provision.

Alternatives:

- Duties to be "as prescribed by this constitution or other law."
  In addition to the above, provide that the treasurer shall be chairman of an investment council responsible for investing all public funds.

Project: "A. The treasurer shall be the head of the department of finance. He shall receive directly or through designated state depositories and have custody of and be responsible for the safekeeping of all moneys, securities, and funds belonging to the state or for which the state is responsible. He shall keep accounts and records of all such moneys, securities, and funds and shall disburse them as may be provided by law. He shall be the investment agent of the state and shall manage its investments, subject to the direction of the governor. He shall be responsible for the safekeeping of all bonds and other securities owned by the state or for which it is responsible, and subject to the direction of the governor acting in a manner not inconsistent with the requirements of law, for all sales, redemptions, payments, and retirements of state bonds and other securities and obligations. He shall report quarterly to the governor and to the auditor and shall render a report to the legislature one month in advance of the first day of each of its regular sessions.

B. He shall maintain an accurate, current, indexed record of all bonds and funded debt issued by the state and by each of its political corporations, and of all property of the state, other than public lands."

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References: Columbia Index to State Constitutions, 1967.
Missouri Constitution, Art. IV, Sec. 15.
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Section 28. Qualifications, duties

The auditor general shall be a certified public accountant licensed to practice in the State of Louisiana. He shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of the State, whether created by the constitution or not. He shall have no duties other than those herein prescribed.

The Columbia Index to State Constitutions was consulted for comparative data on functions of auditors. The above language, modeled after the Michigan Constitution, seemed appropriate for ensuring that the auditor general perform as his function the post audit of state agencies, but not of local governments.

Alternatives:

- Delete, in preference for a legislative auditor.
- Add to, or delete from, functions.
- Other

References: Columbia Index to State Constitutions, 1967.
Project, Art. V, Sec. 6. (Vol. I, Part I, pp. 31-32; Part II, pp. 496-503.)
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ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

Section 29. Creation

There shall be a department of justice consisting of an attorney general, a first and a second assistant attorney general, and other necessary assistants.

Section 30. Duties

The department of justice shall attend to and have charge of all legal matters in which the state has an interest or to which the state is a party, with power and authority to institute and prosecute or to intervene in any suit or other proceeding, civil and criminal, as it may deem necessary for the assertion
then proceeded to "turn over" most or many of them; and this resulted in

hiring new employees
1. Who were not fully qualified for their jobs.
2. Who were not trained in carrying out the programs and projects
to which they were assigned.
3. Who did not possess the vital knowledge of what had gone before
in their projects and programs.
4. And who owed him their political loyalty, but did not necessarily
owe the people their operational loyalty.

The old type of machine also resulted in some other things, such as
political favoritism, widespread dead-endism, unequal treatment of the
employees, inefficiency, unsatisfactory service to the people, etc.

Today the new Governor is handed a machine which is made up of
employees
1. Who have been tested and found best qualified for their jobs.
2. Who have been given in-service and on-the-job training.
3. Who have been non-politically appointed, in the main.
4. Who are familiar with their supervisors, who in turn form a
strong chain of command from the top official on down.
5. Who have chosen State Service as their career.
6. Who know the history and present status of their programs.
7. Who have established lines of communications leading to
scores of people and hundreds of sources which can assist them
in their work.

8. Who have good morals when their working conditions are
reasonable.
9. And who owe their operational loyalty - but not their political
loyalty - to the people and to him.

The Governor can still persuade the Legislature to enact statutes and
adopt resolutions supporting his personnel management policies; and he still
possesses his power of Executive Order in that functional area.

Additionally, he has the Civil Service Commission to implement his
policies through the use of its rule-making powers, to the extent that they do
not conflict with the wording and intent of the Civil Service Law; and he has the
Department of Civil Service to advise him on personnel management matters,
conduct surveys and studies, and audit agencies for compliance with his policies.

The Director of the Department of Civil Service is a staff adviser to
the Governor and his Cabinet.

THE CIVIL SERVICE COMMISSION

Our present Civil Service Law, which of course is a part of the
Constitution, establishes two separate and distinct units of the government.
One of these is the State Civil Service Commission; and the other is
the State Department of Civil Service.

The Civil Service Commission is a five member body whose duties
are somewhat limited, but nevertheless very important. The duties consist of

1. Adopting uniform pay plans for classified employees, following
public hearings. Such pay plans do not become effective until
they are approved by the Governor.

2. Adopting uniform classification plans to maintain the proper
relationships and alignments between the same 1600 and 1700
different types of jobs we use in the service. The classification
plan sets out the duty and responsibility context of each type of
job, as well as the qualifications required to be possessed by
the incumbents; and therefore it is an essential part of the
uniform pay plan.

3. Adopting rules, following public hearings, to implement the
wording and intent of the Civil Service Law and of applicable
statutes. The rules have the effect of law; and only those rules
which establish hours of work for the employee must be approved
by the Governor before becoming effective.

4. Hearing and deciding appeals filed by employees who have been
disciplined for one reason or another. These appeals are heard
at public hearings, where evidence can be offered and witnesses
are examined and cross-examined under oath. Decisions of the
Commission following public hearings can be appealed to the
Civil Courts of the State by either party.

5. Conducting investigations of alleged or suspected violations of the
Civil Service Law or Rules. Such investigations are conducted
by public hearings; following which the Commission can apply
sanctions if they are justified by the evidence.

6. Hiring the Director of the Department of Civil Service and the
State Examiner and the Deputy State Examiner of the Municipal
Fire and Police Civil Service.

7. Hearing and deciding charges which might be filed against the
Director of the Department of Civil Service or against the State
Examiner or the Deputy State Examiner of the Municipal Fire
and Police Civil Service. The Commission has power to dismiss
or otherwise discipline these officials if such action is justified
by the evidence.

8. Overstopping these duties in the larger duty which they support.
The Civil Service Commission's supreme duty is to provide
the people of the State with the most efficient, productive, and
stable work force possible at all times; to fashion - and refashion
whenever necessary - a system of policies and actions which will
produce this result, and to then safeguard that system against
unfair attacks by political or other special interest individuals or groups.

To successfully discharge this supreme duty, the Commission
must - and must be free to - protect not only the people themselves
and their governmental services, but also to protect the
employees of the government. The Commission furnishes
the employees this protection

(a) By guaranteeing their tenure so long as they perform
their work in a competent manner;
(b) By providing them qualified co-workers, so that they
will not have to do their neighbor's work in addition
to their own;
(c) By providing fast and effective means by which
incompetent and unsuitable fellow employees can be
removed from the scene;
(d) By providing policies which will permit them to compete
for promotions;
(e) By guarding them against compulsory political contribu-
tions or personal services;
(f) By equalizing their rate of pay as closely as possible to
the rates being paid other employees who are doing
substantially the same level of work;
(g) By providing machinery for them to air their grievances;
(h) By providing them an avenue of appeal from removals
and other acts of discipline which they believe to be
undeserved, excessive, capricious, or illegally discriminatory;
(i) Etc.

In essence, those are the Commission's duties. It is able to discharge
them successfully because of the flexibility provided it by its rule-making
powers. The Rules it adopts, however, must be solidly founded and must
reflect the wording and intent of the Civil Service Law and of applicable statutes, legislative resolutions, and Executive Orders.

The individual Commissioners can be removed from office for cause; and the Commission's Rules and actions can be challenged in the courts.

Therefore, while the Commission is not responsible to the Legislature or the Governor, it is responsible to the people and the Courts.

The Commission discharges its duties through its operational arm, the Department of Civil Service. The Commission has no staff of its own.

THE DEPARTMENT OF CIVIL SERVICE

The Director of Personnel is the executive and administrative head of the Department of Civil Service and serves as the Commission's Secretary.

He is appointed by the Commission, with or without competitive examination; and is a classified employee. He may be removed from office for cause.

The Director, with the consent of the Commission, appoints such employees, experts, and special assistants as may be necessary to carry out the Department's program.

He directs and supervises all of the activities of the Department, including:

1. Establishing and maintaining rosters of all classified employees and of certain unclassified employees of the State.
2. Formulating and prescribing procedures, consistent with the Civil Service Law and Rules, governing the personnel management activities of the State agencies.
3. Developing and administering training and educational programs for the employees of the State.
4. Making and publishing annual and special reports.
5. Referering appeals filed by employees.
6. Manufacturing and conducting Civil Service examinations.

THE DEPARTMENT HEADS

The Department heads are either elected or appointed; and all but two or three of them are in the unclassified service and have chief assistants who are also in the unclassified service.

Almost all of the Department heads, however, employ classified personnel; and to that extent they become a part of the Civil Service System.

Their classified staffs are governed by the Civil Service Rules.

The Department heads, whether elected or appointed, are governed by applicable Constitutional Law, legislative statutes and resolutions, and Executive Orders; and they generally cooperate with the Governor in the furtherance of his policies and programs.

Thus, they have substantially parallel relationships with the Governor's Office, the Civil Service Commission, and the Department of Civil Service. This arrangement further strengthens the connection between the Governor's Office and the rest of the Civil Service System.

Neither the Civil Service Commission nor the Department of Civil Service has any authority to specify the number of persons which any State agency (other than the Department of Civil Service) can employ. The agency head makes this decision, subject to any controls or restrictions placed upon him by Constitutional Law, the Legislature, the Governor, or the Division of Administration.

Therefore, if, for example, a given agency head decides to employ 100 additional engineers, the Civil Service Commission and the Department of Civil Service will not challenge his authority to do so, nor will they attempt to substitute their judgment for his. The Department of Civil Service will, however, classify the positions by assigning a name tag and a place tag to each one, as is its responsibility, in order to guarantee the integrity of the uniform classification and pay plans.
Middle management and supervisory personnel of agencies which utilize classified personnel are also subject to the Civil Service Law and Rules, and they receive guidance from both those sources and their Department heads.

THE PERSONNEL OFFICERS

Each State agency of any significant size employs a Personnel Officer. These officers occupy a dual role: they are employed and paid by the particular agencies for which they work and they concern themselves with the administrative policies of their agencies, but they are also extensions of the Department of Civil Service - the central personnel agency - and concern themselves with the Civil Service Law and Rules.

Thus, they are firmly welded into the Civil Service System and provide a constant and open channel of communication between the Department of Civil Service and their Department heads and on to the Governor's Office and the elected officials.

The agency personnel officers are the main connecting links between the Civil Service Commission and the Department of Civil Service on the one hand, and the agency heads and agency employees on the other hand.

THE STATE PERSONNEL COUNCIL

The State Personnel Council is a professional group made up of personnel officers of the Departments, agencies, boards, and commissions of the State of Louisiana. It is not controlled by the Civil Service Commission or the Department of Civil Service.

The Council meets periodically to discuss operational problems and their solutions, to assess developing trends in the field of personnel management, and to alert the Department of Civil Service to such trends by suggesting or proposing changes in the Civil Service Rules.

The Council studies and evaluates, in advance of their consideration by the Civil Service Commission, all Rules changes drafted and proposed by the Civil Service Department; and where advisable, suggests modifications of the proposals on the basis of the operating experiences of its members.

After Rules changes have been adopted by the Civil Service Commission and made operational, the Council assesses the results on a continuing basis and reports any developing problems to the Department of Civil Service.

The Council thereby represents the group evaluation agent of the several agency personnel officers insofar as the practical effect of the Civil Service Rules upon daily operations is concerned.

THE EMPLOYEES

The classified employees are a part of the Civil Service System because they are governed by the provisions of the Civil Service Law and Rules.
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 removed on the basis of his political or religious beliefs or by reason of race, sex, national origin, or any other non-merit factor. Any classified employee so discriminated against or subjected to such disciplinary action shall have the right of appeal to the State Civil Service Commission.

The burden of proof on appeal, as to the facts, shall be on the employee.

F. No member of the State Civil Service Commission and no officers or employees 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 have any action 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 commission, or official advisor or as 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, appointment, and disbursement of employees, and generally to carry out and effectuate the statutes 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, or suspension or discharge from, position with attendant loss of pay.

H. 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 as prescribed by provisions of statutes enacted by the legislature.

The present constitution contains two provisions with regard to our retirement system. One, Act 18, Section 9, provides for a Retirement Fund for aged and incapacitated officers and employees of the State and the other, Act 19, Section 25, that a 30-day notice of the intent to amend or change the existing laws.

There are other references to other retirement systems that may be better explained by those concerned since I was not commissioned to speak for them.

Our system would like to have the constitution contain the following provisions:

"The rights to and equities in benefits provided at the time a member has a vested right in the Retirement System provided by the Legislature shall not be abridged and the funds for the payment of such retirement benefits shall be guaranteed by the full faith and credit of the State of Louisiana." This statement in my opinion is concise and affords the legislature flexibility. The benefits could be modified to provide increased benefits or reduced benefits depending on the financial condition of the system and living standards but once a member has a vested right in these benefits, they cannot be denied. Vesting in itself is flexible since it can be defined by the legislature in the Retirement Law. You have a vested right on the day you are given an irrevocable right to a future pension. Our law defines vested right to mean when a member obtains retirement eligibility as to age and service.

"Please include member's Social Security Number with all correspondence"
There are number of bills in Congress with varied vesting provisions and some of these bills apply to public retirement systems. Should Congress impose vesting that would conflict with our State law, it would only require an act of the Legislature to comply with the Federal Law.

The guarantee of the full faith and credit of the State of Louisiana would assure the members that the State will meet its obligation. Also, it would assure the Congress that the State will meet its obligation and not require Federal legislation requiring the State to pay reinsurance premiums. Reinsurance is a plan in at least two bills in Congress whereby the retirement systems pay a premium to the Pension Benefit Insurance Corporation. Then in the event a plan is terminated for reasons of financial difficulty or bankruptcy, the Corporation is given the authority to investigate and pay claims. Congress is very concerned that all retirement systems meet their obligations to their members at the time of retirement.

The section of the constitution covering the intent to amend or change the existing laws be advertised 30 days prior to the session is good in principle but is not always the practical solution. The advertisement may be vague and not serve the real purpose. Then, the bill may be amended to the extent that there is no relation to the advertisement. This section could be better defined and controlled by Legislative act.

In conclusion, the only reference to retirement that is required in the constitution concerning our system is the above statement.
LOUISIANA HEALTH AND SOCIAL AND REHABILITATION SERVICES ADMINISTRATION

COMMISSIONER

Dr. Mary

POLICY BOARD

DEPUTY COMMISSIONER

Dr. Vidrine

DIVISION OF SOCIAL AND REHABILITATIVE SERVICES

Jefferes

DIVISION OF HUMAN SERVICES

DIVISION OF INCOME MAINTENANCE

Bonin

DIVISION OF MENTAL RETARDATION

Estes

CHARITY HOSPITAL OF LOUISIANA

Brinkman

DIVISION OF HEALTH MAINTENANCE AND AMBULATORY PATIENT SERVICES

Sweeney

DIVISION OF ADMINISTRATIVE AND PLANNING SERVICES

DIVISION OF MENTAL HEALTH

Addison

DIVISION OF EDUCATION AND RESEARCH

Cook

DIVISION OF HOSPITALS
COMMUNITY DEVELOPMENT PROGRAMS

GOVERNOR

Department Of Community Development

Office of Administration

Office Of Planning
Office Of L.E.A.A.
Office Of Housing Finance
Office Of Consumer Protection
Office Of Manpower Training
ECONOMIC DEVELOPMENT PROGRAMS

GOVERNOR

DEPARTMENT OF ECONOMIC AFFAIRS

Office of Administration

BOARDS

OFFICE OF COMMERCE

OFFICE OF FINANCIAL INSTITUTIONS

OFFICE OF OCCUPATIONAL STANDARDS

Office of Tourist Development

Office of Employment Security

OFFICE OF LABOR
HUMAN RESOURCES PROGRAMS

GOVERNOR

Department Of Human Resources

Office Of Administration

Boards

Office Of Social & Rehabilitation Services
Office Of Income Maintenance
Office Of Mental Health
Office Of Health Maintenance And Patient Service
Office Of Hospitals
Office Of Corrections
Office Of Education And Research
VERBATIM OF MR. LYLE C. KYLE
DIRECTOR OF THE LEGISLATIVE COUNCIL
DENVER, COLORADO

I appreciate this opportunity to visit with you. I graduated from college in 1949 and got my master's degree from the University of Kansas in political science. I started my career in the research department of the Kansas Legislative Council in 1949. I spent three years there being involved at that time with the reorganization of the executive branch of Kansas. I spent two and one-half years at the University of Kansas at the Governmental Research Center and then I spent three and one-half years as Secretary of the Taxpayers' Association in Sioux City, Iowa, and I became involved with the director of the Colorado Legislative Council in 1958.

Now, if you don't mind, I'm kind of folksy. I feel much more comfortable that way, that's the reason I prefer to remain seated. I don't mind at all if you want to interrupt me although you may have to help me get my train of thought back. I don't have a prepared set of remarks to give you. I visited with a number of states on the experiences that we have had with the constitutional reorganization that we had in Colorado. And as I have done this, they always seem to enjoy some of the little side lights.

I think it's important that you get the perspective on the whys and wherefores that got us where we are in Colorado. I don't think that reorganization of state government is something that you ever reach. I think it's a continuing process that goes on each and every year because things do change. We have a new fad that comes along just about every year. One of the things you have to guard against, I think right now, is the environmentalist; everybody wants to change the whole structure of state government to take care of that current fad. Two years from now it may be something else, and I don't think you can reorganize the executive branch every time a fad comes along.

Every governor, and I think every legislator, in the last fifty years in Colorado has come to the conclusion that the Executive Branch prior to 1968 was not a very workable creature. The governor had tremendous responsibilities. The people elect the legislature, of course, and members thereof. They also elect the governor. But generally, if something goes wrong, the governor is the guy that catches the heat first and perhaps then members of the legislature as they campaign for re-election.

In the early 1940's, Griffenhagen and Associates were brought into Colorado on a contract to come up with a reorganizational plan, and we took advantage of the report that group had made, to quote precisely from their report in 1968 when we issued another report. And the same things that Griffenhagen said in '41, were still true in 1968. Now Griffenhagen couldn't come back and say that today. In 1959, the General Assembly passed a joint resolution directing one of our commissioners to look at the organizational structure of state government.

This was assigned to what we call our joint budget committee, because that committee is involved in writing appropriation measures. It frankly didn't do a great deal and the chairman of that committee came to me two years later, prior to the 1961 legislative session, and said, "Lyle, would you draft us a report?" And I looked at him rather quizzically, and I asked him, "Well, what am I going to put in it? Because I have not met with your committee, I don't know what you have done." And then he said, "We haven't done anything." And I said "Well, how am I going to write a report if you haven't done anything?" And he said, "That's one of the reasons why I came to you." So, I put together a brief report. One of the things that I suggested in that was that reorganization was not one of the things that you accomplish in one shot. It is constant, year in and year out, just as you do a budget. Consequently, that committee ended up recommending that the legislative council establish, more or less, a permanent committee on the organizational structure of the executive branch of state government. That was done by the legislature in the 1961 session, and for three years thereafter we had a committee of the council made up of members of the legislature.

It was largely the same membership for several years. The leadership participated in this. It was a small committee, but it had the legislative power to follow through once we provided for it. For three years we had great fun. We had one agency head come in and point out to us that another state agency should be abolished, and it happened to be one on veterans' affairs, and this is a committee on educational training of veterans. And he said that if that one is abolished, then mine ought to be abolished. Well, we obliged them both, and got rid of two. In those three years, the legislature, as a result of activities of this committee, abolished twenty-two separate and distinct agencies of the executive branch of government.

I sat down with one of my staff members one day, it wasn't news to us, but we had to make it dramatic before the committee, to get the committee to realize it, so we prepared a memorandum and pointed out to our committee that twenty-three new, separate, and distinct state agencies had been created while we were abolishing twenty-two, so we had a net loss of one as far as our objectives were concerned. This brought the committee then, to start thinking seriously about how we could more or less draw a fence around the legislature. I don't mean this, I work for the legislature. I have a high regard for the members thereof, or I would not be a part of it, but as a member of the legislature strives to pass a bill to resolve a problem that has arisen in state government, he's got enough problems in passing that bill to the legislature, without having to light the battle of saying where does he belong in the organizational structure. That comes after the fact. So, our committee came to the conclusion that we would
follow the Michigan example, and propose a constitutional amendment to the electorate which would limit the number of departments in the executive branch of Colorado state government. Now, let me back up here just a little bit, and indicate more or less a sidelight. But after we had come to the conclusion that we were making no headway in the piecemeal approach that we had chosen, a couple of staff members and myself sat down in our offices one day and said, "If we could push the magical button and reorganize the executive branch ourselves, how would we do it? What would it look like?" So we got us a big roll of brown wrapping paper, that stuff that's three feet wide, and we had one twenty-four feet long and we concocted an organizational chart that as students of public administration, that we would put together if we could. Well, as members of that committee dropped by the office we would show them this chart and they became intrigued with it. But, if the press will pardon me, if the press is here, we didn't want to stir the animals up, because, you know, if you get all of the agency heads barking at you and the press barking at you and all the constituents barking at you, you never seem to accomplish anything. And we decided that it would be nice to have a little steak fry out at my house, and after a couple of elbow bends, we went down in my basement. I've got a wall that I can put this chart on and I played professor in all reality.

Mr. Abraham: Excuse me, who was at this steak fry?

All of the members of the committee. And I should emphasize that this was not the legislature acting without counseling with the governor or vice versa. The governor was also invited that night, along with the lieutenant governor, but neither of them were able to make it. But we spent time going over this, and what we got was this. Every governor that occupied the office said something had to be done and they usually zeroed their attentions on the fact that all of our department heads were under civil service. Those civil servants just ignore the elected officials, whether it be the legislature or the governor. Well, that was not quite the case, but that was the scope of it. And so, every governor would attempt to reorganize by lumping a rewrite of the civil service article into reorganization and getting a little cabinet system all at the same time and the people would vote it down and had voted it down three consecutive times that it had been placed on the ballot. So, we tried to point out that there were three separate and distinct problems that the executive branch had. Number one was the span of control. I understand you have in excess of two hundred separate and distinct agencies. We had one hundred and thirty-eight. We tried to make the point that with 138 people supposedly directly responsible to the governor, that how could he manage such a structure? We just simply calculated that if the governor would spend just ten minutes with each of those department heads once a week that it would take more than half of his working hours to meet with them and what could you do in ten minutes, other than say hello and goodbye?

Now what was happening, the reason why those civil servants were doing what they wanted to do instead of what the governor wanted to do is the only time the governor ever saw them was when they got in trouble, and then he would call them in and say why did you do that? Well, the legislature, when it creates a function and establishes an organizational structure assigns statutory duties. You're the head of that statutory agency or I'm the head of it and the boss man hasn't let me know what his policies are, then I'm going to carry out the statutory duties. If I don't, then I should be removed from office because I'm not doing what the statute tells me I should be doing. So, we got this point across; and I hope you'll excuse me for using the personal pronoun too loosely, because I don't want you to get the idea, and I want you to know for darn sure that it wasn't Lyle Kyle, it was a committee and the governor working very closely together that resulted in all of this being adopted. But I'm telling you the story through my eyes so that's why I'm using that pronoun rather loosely.

The second point that we were trying to make concerns the role of boards and commissions. You know, this comes I guess, from the people coming to this country from Europe in an era and a fear of the king. Because if there's anything that seems to be rather apparent around this nation in terms of legislative bodies, whether it be congress or any of the fifty state legislative bodies, whenever we create something, we seldom give the governor the authority go do along with the responsibility of carrying the function out. We set up the boards and commissions or something else to make sure that the governor go off here and carry out something and be held responsible for it but he can't carry it out. So, we pointed out how many boards, commissions, committees, and councils we had and there were almost as many as we had departments, or so-called departments, because we don't trust the governor, and this is one that legislators constantly argue with themselves about. Whether they really want to give the governor that much authority. They still want to keep that grassroots input, but what happened, the guy that is appointed to run that department ends up and if he doesn't like what the governor says he goes to the council and says, you know, "The governor's not doing what he really should be doing for the state. You guys had better try to back me up here." If he doesn't like what his advisory, committee board, or council says, then he goes to the governor and says, "That
bunch of clowns you appointed over here don’t know what they’re doing, so you better countermand them.” Well, the director does what he damn pleases. He doesn’t pay attention to the governor or the board or the committee. Then the third act was whether department heads were under civil service, and I maintain that it’s really not that important if you resolve the first two problems, if you give the governor a manageable standard of control and if you clarify the role of boards and commissions, and minimize them as far as I’m concerned. Then whether the department head is under civil service or not, politically, it’s very attractive to have department heads appointed by the governor, and if I were going into the governor’s chair, I’m sure I would probably feel that way. I use the illustration as the director of the legislative council of Colorado. I am not responsible to the governor, I am responsible to the legislature, but I made the point that night in my basement. If the governor-elect had called at that very moment and asked me, “Would you come to the office or to the little white house,” whatever you want to call it, the mansion, “I need to talk to you about something.” I would have excused myself and gone. I think that’s a courtesy that any department head owes the chief executive. Now you can’t tell me that if a guy is under civil service that he wouldn’t go if the governor said, “Come.”

But anyway, the committee decided then, at that meeting, that the route they were going to go as to submit the constitutional amendment to first resolve the standard control problems, and this was when we copied the Michigan constitutional provision. We simply say that the general assembly shall be organized, the executive branch of Colorado state government shall have no more than twenty (20) principal departments by June 1, 1968.

We put that time limit in there, because there was an excellent chance not by any deliberate attempt not to fulfill the requirements of it, but the real question as to whether the legislature could arrive with an agreement. So we put the June 30, 1968, deadline on it. This was voted on in the November, 1966, election and approved by the electorate by something like a three-to-one margin. By the way, in the process of trying to draft the implementing legislation there were several times that all of us asked, “What’s the penalty if we don’t get it done?”

Gravel: What was the time span? I missed it. The first day. January 1, 1968, was the....How long was the period?

Two years. The electorate passed it in the November, 1966, election and the committee was established by the legislature in its 1967 session. That meant we had to have this proposal ready for the ’68 session. We only had six months, because the legislature lasted until almost July 1st of ’67, and we had twenty-two solid, long days of committee meetings to arrive at the recommendation that we submitted to the general assembly in the form of Senate Bill 1 of the 1968 legislative session. And that was adopted by the legislature and in carrying this mandate out, we didn’t use the original chart we had on brown paper, and by the way, I should back up, if I may, for a moment, to indicate that after we had the session out at my house, the next morning we called and asked for an appointment with the governor, and the full committee went to the governor’s office. We didn’t have a wall big enough, so we laid it out on the floor and the governor paced back and forth looking over that chart for the better part of two hours, visiting with the committee. And he thought it out, and he said, “I wouldn’t say that I can agree 100% with what has been put here on paper, but the concept makes sense.” He said, “I would certainly agree with you that we need a constitutional amendment to limit all of us and force us that every time we create a new function of state government, that we stop and give thought as to where it belongs in the organizational structure.” So, the governor and his opposition candidate of the 1966 election both supported this. The members of the general assembly supported it; it passed by something like over a three-to-one majority. Now, as we started in a series of committees to implement the constitutional amendment, the members of the committee, and this was largely the leadership of both parties of both houses, strictly a bipartisan committee. Four senators, four house members, two democrats, two republicans from each house. An eight-member committee, so you had to reach agreement, and one of the first things they agreed to do was, unless they had a majority of the committee even though they could operate with one, unless five members of those eight agreed on a recommendation, that they would not submit it.

We spent three or four of those twenty-two meetings trying to do the whole thing at once, the functional structure and everything else, but we slowly came to the conclusion. By the way, we prefaced this activity by sending a letter, not only to the governor and lieutenant governor but to every one of those 138 department heads, and we asked them, “Now that we have the mandate, we have to do it. Will you tell us where in the twenty-department layout you think you would best fit?” “What are other related functions in the executive branch that you think fit together?” You would be amazed, once we had that fence drawn around us, how close the final outcome resembled what those department heads suggested in terms of their relationships. The smaller the agency the more likely the department head would answer, “Well, I should just be one of those principal departments, once you put everything else together.” We finally came to the conclusion that there
was no way that we were going to be able to identify every specific function performed by the executive branch, and to then decide by shuffling, that here are fifteen functions that belong in this department and here are fifteen functions over here, and so forth, so we came up with what we call a structural reorganization, where we took the boxes on the reorganization chart and fit them together leaving functions largely within the existing framework. We came up with seventeen principal departments and we debated for a while. Finally, we concluded there is no logic to having twenty immediately. One of the big arguments at the time was whether the personnel function should be a separate department or whether it should be lodged within budgeting, accounting, purchasing as a department of finance and administration. In the proposal that was submitted and adopted by the legislative session of 1968, we put personnel as a division within the department of administration. We came to that conclusion then, submitted that bill to the legislature in the 1968 session; it was adopted with a lot of persuasion used. Both the governor and the lieutenant governor, of opposite political parties, supported the bill. It was not a partisan issue at all.

One of the continuing debates is whether we should build a substructure. Most members of the legislature as well as the governor feel that you should not have that substructure in the statutes. We should leave the chief executive with authority; his department head and the chief executive be able to reorganize within a department, not across a department, but within a department to make it as manageable as possible.

Now that doesn't mean that the chief executive would or should have the authority to discontinue or shift a statutory function that the legislature has specifically designated. Take the public utilities commission as an example, where specific statutory powers are lodged with that commission. That was transferred by what we call a Type One transfer. We use Type One, Type Two, and Type Three transfers. Type Three meant that the legislature simply eliminated that function or eliminated the body that was performing that function. Type Two left it up to the governor and his department head if they wanted to later abolish it they could. Type One was one where we transferred something in toto to another department, lock, stock, and barrel. The governor and the department head could not alter it. Take the department of highways, for example, where we transferred the state patrol in as a division. The executive director of the department of highways could not alter that substructure without statutory changes. Now we gave in this bill budgeting, purchasing, and related management activities. But we transferred those that gave the executive director authority over all of these, whether it was Type One, Type Two, or Type Three transfers, over budgeting, purchasing, and over related management functions, so that he could have the say-so in that.

Now I don't want to tell you that this is the panacea. We've had difficulty in getting enthusiasm, because that took a monumental effort to get that far, and we felt that after passing that bill in the '68 session, we felt that the governor and his department heads ought to have a shake down cruise, a year or a year and a half to try out the new structure, to see, because we knew we had made errors. For example, we had one department that we should have labelled miscellaneous because that was where we put everything that was left over after we finally arrived at sixteen. But we've had a difficult time creating the necessary will to go ahead with the functional follow-up. After a year we sent a letter to the governor and to each of the new seventeen principal departments, and we asked them, "Now that you've had a chance to operate for a year, what functional changes would you recommend that we make or structural changes?" We got one letter back that suggested some changes. That director had given some thought to it. I'm not sure the others had, because they wrote back that everything was going great. Well, I just know it isn't working that well, maybe they were just afraid to stir the animals up again. Following that, we then submitted still two other constitutional amendments that originated with this reorganization committee and again the legislature is the one that took the lead here, but with the blessing and the cooperation of the delegates all through it, and we've had the same governor through this same period as well. The employees' association had long argued and fought for a modernization of the so-called civil service article of our constitution and the veterans' affairs part needed straightening out. We had a 'rule of one.' If all of us took a test in this room under the provisions of the constitution, whoever came out number one got the job. He was the one appointed.

The governor had no choice. And this would just hamstring people. We have now changed it to a "rule of three," where the top three who come out ahead can be chosen.

There are a number of things that needed to be revised, that both the employees and the legislature, as well as the governor have agreed on. When we set up our seventeen principal departments, and I don't mind telling you, that by every device we could find in that constitution, we tried to get those seventeen department heads out from under civil service. The constitution had long said that the governor was entitled to five, exempt employees in his office, in his immediate office. Now we interpreted that broadly, to allow the director of revenue, director of purchasing, and the director of institutions to be exempt. Well, we interpreted it even more broadly after we reorganized and we added two
So we took five of the seventeen out from under civil service by using that mechanism. And then there was a very well-hidden provision in the constitution that referred to something about a deputy labor commissioner that could be exempt and we took that; so that made six. And then another provision of the constitution said that every elected official could have a deputy out from under civil service. Well, we had never used that for the governor, or for the secretary of state or for the treasurer, so we used that one, that gave us seven. And then there was something about the commissioner of mines who could be exempt. That was way down on the substructure chart in the three-member civil service department of natural resources, so we used that one and that gave us eight. We had three elected officials, so that was eleven. Eleven out of the seventeen, leaving six under civil service.

All during this whole process of reorganization either the governor, the lieutenant governor, or members of their staff met with the committee, even though they did not have a vote, they participated actively in the meetings. After we came to the conclusion to take that many out from under civil service, the Public Employees' Association finally just said that if you push this too far, we will take this to court and sue you. One of the committee told them to go ahead and do it, and they did and they won. Consequently, our department heads went back under civil service. But, I think this was a mistake on the part of the Public Employees' Association because it did influence public opinion. Employees had always argued before if you take 138 department heads out from under civil service, then you create a spoils system. But it was kind of hard to convince the public that if you had seventeen, including three elected officials, out from under civil service that you were destroying the personnel system of the state. Consequently, two constitutional amendments were submitted to the electorate - and I believe it was in '68; it may have been in '70 - one to rewrite the civil service article itself to give the employees the changes that they wanted in that article, and the second one was a simple addition to this original amendment that says that those principal department heads shall be exempt from civil service. The employees' association did support the rewrite of the civil service article. They did not support the exemption from civil service, but they also did not fight it. Both amendments passed by a sizeable margin something like three and one-half to one.

We now have eighteen principal departments, three of which are headed by elected officials, namely the attorney general, secretary of state, and the treasurer. So, we are now in the process year-by-year of taking a department or a function at a time and reviewing it through this same committee.

Also, we have looked very closely at the role of boards and commissions on an individual basis; for example, we have a three-member tax commission that supervises "assessment administration of real property." We abolished the tax commission and substituted a part-time board of assessment appeals and put one man in the department of local affairs. Same way with the personnel board, we had a three-member civil service committee full-time and they couldn't accomplish anything, so we got rid of that and set up a part-time personnel board with a department head over some personnel functions. We've got a lot to go, no question about that, but we are going to undergoing a major effort in this line starting as soon as this legislative session is over, and the governor and his staff and the department heads have all agreed that we do need to follow up on this. I think this time when we ask for their opinions, that we are going to find a great number of suggestions.

I'm sorry I've taken so long, but I hope I have done what you asked me to do. Also, we required the governor and lieutenant governor to run on the same ticket as a team.

A question and answer period followed with

Representative Tapper leading:

Rep. Tapper: Mr. Kyle, you mentioned that there were five constitutional offices.

Mr. Kyle: Yes, attorney general, secretary of state, governor, lieutenant governor, and the treasurer are elected.

Rep. Tapper: I think you made a comment about the latitude should be taken up.

Mr. Kyle: It was general agreement that first of all that we have a philosophy that we don't try to get the whole loaf of bread at once, but we take a slice at a time; it digests better that way. My own guess is that the next elected official will be the secretary of state. We've taken just about everything except election administration and bingo away from the secretary of state. They use to regulate liquor and the regulations thereof, but we transferred that to the department of revenue for reorganization. My guess is that, sooner or later, the state treasurer will become an appointed position. I don't really know if we need an elected state treasurer, it ought to be under the department of finance.

Rev. Stovall: Is it correct that five of the eighteen department heads were elected and the other thirteen were appointed by the governor?

Mr. Kyle: Yes, except for the department of education which supervises secondary and elementary
education which has a state board. That state board appoints a commissioner of education, with the state board itself being elected by congressional districts. There is also a commission on higher education which appoints the director of the department of higher education but the commission members are appointed by the governor.

Mrs. Brian: Should the boards and commissions have legislative or judicial controls only?

Mr. Kyle: They should not be administrative but ought to be quasi-judicial, but not be involved in the day-to-day administrative affairs.

Mr. Arnette: Has this brought about a financial savings; has it been an economy move?

Mr. Kyle: No.

Mr. Arnette: What about the auditing function?

Mr. Kyle: We have the preaudit function. It is performed in our department of administration in the executive budget agency and the state comptroller office. The postaudit function, and again I forgot to tell you, we submitted a constitutional amendment to the people about eight years ago. We use to have an elected state auditor that performed the postaudit function. We abolished that and the legislature now appoints a legislative audit committee which in turn recommends to the legislature the appointment for a five-year term of a post auditor, who is a legislative auditor.

Mr. Anzalone: Are there only five elected officials?

Mr. Kyle: Yes.

Mr. Anzalone: In your opinion, do you think that two of them should be abolished?

Mr. Kyle: I see little reason to elect a secretary of state or a treasurer.

Mr. Anzalone: Is there any reason why this abolition was not included in the plans for reorganization?

Mr. Kyle: Yes, you're just trying to minimize the number of enemies you have.

Dr. Asseff: What you're really saying is that they were leaving it to the legislature itself rather than doing it in the convention. You've actually given us the tricks of the trade, the methods by which you accomplished your reorganization plan in the state of Colorado. But what worked in the state of Colorado will not necessarily work in the State of Louisiana. In other words, a general statement directing which you yourself conceded is not enforceable, that's about all you have suggested for the constitution. You have suggested how to reorganize the statutory laws, but did the legislature do it on its own without any penalties?

Mr. Kyle: The legislature initiated this from the very beginning but it was in cooperation with.... But if I had to put my finger on the place where it was originated, it was in the legislature.

Dr. Asseff: What I mean is, that you tried to bring everybody into it in order to minimize your opposition.

Rev. Alexander: Does your plan, when you changed the system, require that the governor and the lieutenant governor run on the same ticket to more or less avoid having a democratic governor and a republican lieutenant governor in a two-party state?

Mr. Kyle: I lived there fifteen years, and this is the first time that the state had elected the two from the same party.

Rev. Alexander: Were the departments set up according to structure or according to function?

Mr. Kyle: They were originally set up according to structure and then we were in the process of eliminating some of those 138 departments by simply consolidating functions since that time. But that's what we are still working on, and we will continue working on, because we are not going to accomplish it tomorrow or five years from now; it's a continuing process.

Rev. Alexander: Unlike Colorado, we have a racial problem in Louisiana, and I wonder why they changed, from the rule of one to the rule of three in Colorado. We have the rule of three in Louisiana, and it has worked against blacks.

Mr. Kyle: One of the things that concentrated attention on this specific problem was after the court decision which said that we couldn't use those devious routes to hassle non civil service department heads. One of the people that had been a misfit as assistant budget director started taking tests, and he came out number one on about five different department headings. People began to see how ridiculous it was; a guy could do good on the test, but he had had the opportunity in the administration to prove whether he could do the job, and he couldn't. And the question you are raising, was raised there as a possibility that it could happen if we changed to the "rule of three", but it could be used against the
minority to always exclude one of the three, the black or the Mexican. We have a very strong civil rights commission. We have real problems, and it was one of the arguments used in changing from the 'rule of one' to the 'rule of three' because it could very well be used against them.

Mr. Abraham: Does your commissioner for lower education and your commissioner for higher education fit into the executive department as two separate departments?

Mr. Kyle: Yes, and they are considered executive department heads.

Mr. Abraham: What was the purpose in having the lieutenant governor and the governor run on the same ticket? What duties would you give the lieutenant governor, and if there were no duties for him, do you need him at all?

Mr. Kyle: The lieutenant governor and the governor ran on the ticket the last race and won, so this was an accomplished fact. Secondly, the lieutenant governor is the presiding officer over the senate, but there is really no answer as to whether a lieutenant governor is really needed.

Mr. Abraham: Does the newly-created personnel board cover all state employees, whether classified or not?

Mr. Kyle: It covers primarily those under the classified service. We have a separate personnel system for the judiciary. Legislative employees are not under classified service. University employees are not either.

Mr. Abraham: I noted that when you were talking about grouping the various departments together you said you did it structurally rather than functionally and you weren't real clear on what you meant.

Mr. Kyle: Visualize an organizational chart with the 138 departments labelled to combine them into eighteen principal departments, we did not try to go into the statutory functions of each department and try to combine them solely by functions.

Verbatim Statement of Governor Edwin W. Edwards
May 22, 1973

If I may reiterate and point out, I am very pleased to be here. But I am here at the invitation, and I might say it's almost the insistence, of the chairman who called me prior to the time you wrote the letter. I make that observation because I want to make it perfectly clear to this committee and to the convention and to the people of the state, that it is this convention, and not I, that is charged with the responsibility of writing the new constitution. And it is this convention and not to me that the people of the state are looking to for a successful task. However, as governor of the state, as one who has served in all three levels of government, in city, county, and state, a portion of a term in the state senate, four terms in National Congress, and now governor of the state, I think it would be less than appropriate if I didn't afford this committee and reiterate to the people of the state some things that I said during the campaign. May I point out that I probably say that I, more than any other candidate running for governor in the last gubernatorial race, emphasized repeatedly the need for a new constitution. I did so aware of the fact the polls at the time and my own feedback from talking to people left me with the definite impression that a very small minority of people in Louisiana were aware of the need, were aware of the problems that we have with the constitution, and I did so recognize them but it really was not a campaign issue because of the small number of people who were aware of the problem, but I made it an issue because I felt like a new constitution was a bust in the last third of the twentieth century. And because I'm totally dedicated to a principle that I have said many times before and it is simply this—that the system by which we govern this state is not working, and will not work adequately for a state of four million people; and one that has moved from primarily an agricultural state as it existed in 1921 when the last constitution was written, to the complex economic and social structure we now have in Louisiana today, and which will get more complex in the thirty years between now and the next millennium. I do not have an easy, popular, acceptable answer to the need for restructuring state government. Any change is bound by fifty years of tradition and which has entrenched groups of people, organizations, and vested interests in the system is going to be resistant. I was impressed by an article in one of the newspapers of the state which pointed out simply that the more resistance there would be and the more human pride in the adoption of the new constitution, the more it will probably respond to the public interest. Because if there is no opposition and no resistance, and people who do the talking in the state, and who occupy the positions of responsibility and power, are basically satisfied with it then the chances are it will only be a carbon copy or replay of what we already have. What I point out is that any meaningful change is going to be resisted by people who are satisfied with the system we now have. I am not, I never have been, I was not satisfied in 1964 when I served in this chamber as a state senator, I am less than satisfied as governor. I think the people of this state are entitled to deserve and get better officers, but I sometimes say jokingly that I went around the state for eighteen months campaigning for governor talking about new bad things were, and one of the things that shocked me most is that after I became governor I found out I was right—they were bad. Alright, I believe rest of all that we have too many officials elected on a statewide basis. Certain functions of government now being supervised or under the control of elected officials, in my opinion, should be consolidated with other functions of government, and the need to elect a statewide official for that function doesn't exist. I refer specifically to the office of controller which as you know has been abolished effective at the end of this administrative term. The office of insurance commissioner, the office of state land, the office of agriculture and the office of superintendent of education. Now let me point out again that any time you make that kind of a statement you are inviting mockery, but it is not the first time I have made it. I made it repeatedly during the campaign by hundreds of people in person and to thousands by television. Apparently no one was listening, because it wasn't until the general election that all of a sudden people who didn't like the idea began to oppose it. But I made it then and believe it was in the public interest and I reiterate the same reason, although I might be better off politically if I availed myself of a cloak of secrecy and say to everyone, "Well, that's the convention's job but not mine. Let them do what they wish." You've asked my opinion and I've expressed it. I believe that the state could best be run by a system of five elected officials and I'm not married to that number—it could be six or it could be seven. But I circulate among you a break-
these five elected officials a department, an agency, a board of regents, a cabinet system—of twelve principle departments to be created in and under the executive department—could be twenty, could be fifteen, could be eighteen, there's no magic number. I just have my own experience talking to people who have looked at this problem with me during the last twelve months since I have been governor, came up with twelve department heads. All of these department heads would be appointed and selected by the governor, with the exception of the superintendent of education who would be selected by the Board of Education, and all of it confirmed by the State Senate. And let me be the first to say that I doubt seriously if anybody who has the intelligence and the drive to be governor, would demean himself to appoint someone who wouldn't be raider or confirmed by the Senate. But nevertheless, I think that it's a psychological safeguard, if nothing else, in that the people know that one would not control the men who head these various departments, and there will always be a counterbalance or check with the state Senate. In my plan, the governor will also have the authority to remove a department head. I must say that I have changed my comment on this. There was a time during the campaign when I took a different view, and said that once appointed, the governor would no longer have the power to appoint or remove. I do not believe that would be in the public interest. At this time my view now is that the governor should retain the power to control a department head who does not respond properly. Now, many things wrong with our system is that—good or bad, right or wrong—the governor is in the middle of thinking of a vast number of people in the state, responsible for everything that goes. He claims credit for the good and is blamed for the bad, but in the minds of everyone good and bad and what goes on in state government is the responsibility of the governor. I have no constitutional or legal authority over a large amount of the functions of government. The control and direction of elected officials who, as I were elected to public office to serve their constituents, and I am neither the director or the insurance commissioner or the secretary of agriculture, or the superintendent of education, what should do with his functions than any other citizen. I do have some budgetary control, but then it would not be an appropriate function of government for a governor who can not otherwise control an elected official to say to him that if you don't do this or this, and I'm thinking I will do violence to you at the time the budget comes up—that's just a poor system of government. Hence, I find myself as governor with the responsibility of everything, but having little authority in your agency's—important to people, education being one of them, probably one of the most important to the people. I'm very pleased, and just to make it clear, I very clearly have had no basis philosophical differences with any of the elected officials, voted officials of the insurance commissioner, who as everyone knows was wrong, (and that of course, I say jokingly) that was resolved as soon as I set down with him and explained to him that I had no intention of running his department—how he ever got that notion, I don't know. But that's not the purpose of my testimony here, the point that I want to make is that the lack of control over the budget, over how the tax is collected, and how it is handled is a most essential thing we just can't afford to do without. The most visible effect of effective consolidation that we have by experience of the state in the limited time I have been governor, relates to the field of health, education, and welfare. I mean health and welfare. We consolidate over 50 percent of the agencies working in health and welfare. A very capable group of people involved in this consolidation. This time last—last report yesterday from Dr. Mary which indicates that the 23,000 employees, total number of employees is 50 percent and another 1,000 positions already have been vacated by attrition and not filled, and the report indicates that at least a 5% reduction in employees to operate the same functions of government in the consolidated agency. We already have some experience of savings, that they are copying and xeroxing these things. There's an annual savings already projected of about 60 to 80,000 dollars a year for the small amount of savings we've done in a very small area. In the area of purchase of medicines—6 million dollars a year. This is a very small example of something that has been done. I don't have it, to make a final decision, I would come pretty close to adopting a plan such as the one I have circulated before you. The other thing that I want to close with—instead of real months as governor I've met on a monthly basis with department heads, now subject to my appointment, superintendent of schools director of public works, head of division of administration, and people of that extent. I can say that it's only a small fraction of the 260-odd people that I still have to appoint who have various commissions and boards throughout the state. We have found that these meetings are very productive and has resulted in savings in consolidating some functions of government in let's say—each agency know what functions each are involved in and has provided, I think, a very wholesome cabinet-type arrangement for the state. I believe that the experience that we have witnessed in this particular field under this bad system can be translated into, again, an argument in favor of this type of a departmentalized or executive-type system of government under the leadership of the governor. Because I think that if you had twelve or fifteen or twenty department heads under whose jurisdiction all those functions of government now involved in about 200 agencies used to be 267, if you had twelve or fifteen or twenty department heads appointed by the governor and subject to his direction or control, it would be very easy for the governor on a regular basis every two or three times, it is necessary, to meet with these people and provide a very good dialogue between the department heads for real, effective functioning of government and to get programs down to people and to coordinate the activities. It is impossible for me to order to meet on any meaningful basis with everyone who now has some jurisdiction and discretionary power in state government. I do it as often and as much as I can, but some of these people have a difficult time even getting to me because of the press of time and the obligations that I have to meet with the people, and everybody who has a problem in state government. I merely say that based on my own experience working with these department heads, any kind of a self-oriented cabinet system of government, in my experience, has and I think they would all tell you, that has been most helpful, and it has made it easier and better and more effective for me to render a service to the state in the system of laws that we now operate. I close on this note, simply this—my feelings are that a minority of people in the state recognize, even at the same time, the pressing need that we have for a new constitution, but those who have exhibited some interest and who have some awareness of the problem, I think by large majority, subscribe to the theory that we should keep as many of the functions of government as possible, and that the constitution to be submitted should be consistent with the state constitution. I say concise I don't mean short because length is not sacramental. Constitution is, in my opinion, I do not believe we should place in this constitution things which can be handled by a legislative body. I don't think we should try to write a constitution which regulates our lives or which provides a system which is rigid and which can be changed by constitutional amendment, because as times and attitudes change we're going to find out those things we've done in the last several years and the more we leave out of the constitution which can be handled on a legislative
basis, the easier it will be to deal with these problems as circumstances and attitudes change. I was asked whether or not we should put in the constitution a provision to fix salaries of state officials, and, of course, the answer is no—something like that does not belong in the constitution—because salaries must change depending on economic conditions, and other conditions which certainly cannot be predicted in the constitution. I merely point out that to the extent that you can't, take my advice, you should try to keep the constitution as concise as possible and develop of as many matters as can be handled on a legislative basis, so that we can deal with them on a year by year, decade by decade basis, without agonizing over constitutional amendments because if you don't do that you will end up twenty years from now in another complicated, heavily amended, conflicting constitution similar to the one we now have. Now I'll be very pleased to engage in a dialogue and try to respond to questions that you have in mind.

Rev. Alexander: How would reorganization of the Executive Department affect existing agencies, boards, etc.?

Governor Edwards: Oh, there would definitely be some left out of the functions fused with the functions of other boards, for when I became governor we had 267 state agencies. Only 8 states in the nation have the average state 40. And with 267 we had by far the most. We succeeded in abolishing or consolidating about a 100 which left about 167. Administration some of the 100 we abolished were nonfunctioning, but, nevertheless, they were there on the books. I think that any meaningful, effective change is going to require the elimination completely of a large number of minor agencies.

Rev. Alexander: The next question revolves around civil service. How civil service in the state has been accused of a policy of the exclusion of blacks—(tape failure)—and not saying, however, civil service has been accused, the appointing department executive has been accused, and, of course, there have been suggestions about remedial changes in the constitution and legislative acts to correct the problem. What do you see possibly that we can do to correct this problem of exclusion of blacks, especially of being hired responsible positions and then upward mobility after they have been hired?

Governor Edwards: The most unpopular statement I'll probably make is that civil service does not belong there, nor does anything of that nature belong in the constitution. It should be handled by legislative act, but I'm practically embarrassed to recognize that those who are wedded to an archaic system of civil service and the one we have is archaic in that respect, would never recognize that didn't have civil service in it. Therefore, I would recommend to this convention at least the concept of civil service be retained in the constitution simply for the sake of getting it passed. Sort of kill the cow to save the cat. I repeat, my general philosophy is that that kind of thing doesn't belong in the constitution. But I know the attitude of the people and they're scared to death of the politicians who would kill the first chance they have. And of course I know better than that, but that's the attitude of people. Rather than jeopardizing passage of the constitution I would suggest that the concept of civil service be kept in the constitution. Some would simply say there shall be a civil service system and then establish how the commission shall be formed. But that's what the matter with the thing now. When it was put in the constitution it was provided how the civil service commissioners would be appointed and they're appointed by the governor on recommendations of the presidents of the white state and design or accident, lists submitted to the governor never contain the black. As you may know, the first commissioner was subjected to appointment by the president of LSU, and I asked them by letter and by telephone call to list the black on his recommended list so that I could appoint one—the first one in the history of civil service. Now I want to say two things about the exclusion of blacks. 1) everyone and no one is to blame, but I would say that more than anybody that the hiring heads, through the decades since civil service became the system, the public is equally responsible. They're responsible because an attitude developed that didn't avail the black to take a civil service examination because no matter what kind of qualifying scores you make; no one would consider them for the position. For example, and in the same vein, I consider don't qualify and developed of as many matters as can be handled on a legislative basis, so that we can deal with them on a year by year, decade by decade basis, without agonizing over constitutional amendments because if you don't do that you will end up twenty years from now in another complicated, heavily amended, conflicting constitution similar to the one we now have. Now I'll be very pleased to engage in a dialogue and try to respond to questions that you have in mind.

Governor Edwards: I do not consider them in the executive branch.

Arnette: Do you favor keeping Public Service Commission?
Governor Edwards: Yes, and I also favor expanding it. The number of commissioners should be increased from two, but not more than five, because of the purposes of the Public Service Commission, greatly expanded and will continue to be expanded.

Arnette: Well, do you think possibly the duties could be expanded to include such things as regulation such as the Conservation Commission doesn't do? Board things like this, or possibly another regulatory agency?

Governor Edwards: It would be a concept that I would have no trouble with if you provided specifically for that function for the retaining by the Public Service Commission. That are equalized parts that would have that function. I'm not married to any particular concept as to how you get these things formulated through a limited number of working agencies. I see no problem.

Mack Abraham: One thing we have been wrestling with is the role of lieutenant governor, where does he fit in, and what duties should he have, should he run on the same ticket as the governor? Can he be given specific duties within his organization, such as chief aide of the governor, administrative aide, something like that?

Governor Edwards: He is certainly given specific duties, and I think the functions of the lieutenant governor should be greatly expanded. I know he isn't going to appreciate my saying so, but I don't think he should continue presiding over the Senate. I think that's a waste of his talents at this time. I think the lieutenant governor should be a member of the Senate, and that's what he is, and that's what he should be doing.

Governor Edwards: If I were to run on this ticket, I would run on the ticket with you, with you as chief aide of the governor, administrative aide, something like that.

Mack Abraham: Did you have a plan previously to be on the ticket together?

Governor Edwards: I don't think so. I just think about that and the state will not rise and fall on that issue. You ask I tell you, I think he should be insulated from the work of the Senate, and he should spend more of his time as an administrator in the executive branch with the governor. Whether or not he runs on the ticket, is something that I have no fixed opinion about at all, I don't think the attitude of the people is such they would like to see that required. Many capable people want to run for governor and they want to run for lieutenant governor and do not want to align themselves with a particular candidate for the other offices. I would prefer in day and age independent voters and independent candidates to allow him to run on his own. I think any two people who are elected to positions that category would work well together and certainly the lieutenant governor and I did not run together. I couldn't imagine any person easier to work with in helping me and vice versa than Jim Fitzmorris.

Governor Edwards: He is a very capable person and was the chairman of the Board of Public Affairs, and let him fill this category.

Governor Edwards: Absolutely, as a matter of fact to the extent that I could in budgetary limitations, I have Kelly Mix on my staff, people working under him whose sole functions relate exactly to funding.

Rev. James L. Stovall: Governor, you mention these five elected officers; you do not mention the function of auditing. What general do you think of a general auditor for the state being elected? Do you feel that the function of auditing might be taken care of through a legislative auditor?

Governor Edwards: I definitely think it should be a legislative auditor, I think this is not going to be popular, because people like to think that the elected person is totally responsible, but I think that the person who is elected auditor, if he did the kind of job that's expected of him he couldn't get re-elected in four years. If he didn't do the kind of job, he would not be asking for the position. Now Mr. Lancaster, who was the auditor for many years, is sitting back there. I don't have any idea what his position is, I think he should be someone appointed—someone under the system we have now, which gives him the maximum independence, insulated from political pressure, and the ability to do a job that is of an ombudsman for the people of the state, checking up on these things. I think that—these might come up with a better system. I don't know, but I think electing an auditor on a statewide basis it would be a bad mistake, because you would end up with people who would get elected, unnecessarily obligated to a large number of people who help finance campaigns, and get involved in campaigns. Mr. Lancaster may disagree with me but it would be awfully difficult for anybody facing reelection to go to a police jury and stigmatize them or criticize them for practices which he knows are wrong. It would take a devil of a strong man to do this.

Dr. Assoff: Governor, since I considered the unpredictable one, I'm liable to say almost anything and I don't want to ruin my reputation at this point. I am delighted that you are here. You did raise some questions whether you should be here. As far as I'm concerned I feel that as the chief executive it is your duty to be here and give your recommendations. I certainly hope that we will be free to send memos to your office and speak to you myself. If you were here. That doesn't mean the committee has to observe. Now my question is this—AnI'm always accused of consistency. As I recall one of the newspapers that the board be controlling the vote. Now I'm not asking the question on that. I'm making a point. Now on the other hand, if we recommend that the board be controlling the vote, you would be accused of strengthening your power. Now my question is this, what is your view on funding? If you are elected? Do you think it is an inhuman task being governor under this particular situation.

Mrs. Hilda Brien: Governor, do you think that a governor could provide a plan of system that could consist of like financial (tape failure) broad function category—federal, state (tape failure)?

Governor Edwards: I don't think the answer to that would be very clear. It would be a very complex issue.
suggestion very candidly—should be done. You decide whether you want these five people elected statewide and what their functions will be. You know I’m not married to these five, and I think a large deal of public sentiment for making the secretary of agriculture elected. I don’t think that is necessary. I think that on all of these positions specifically like the superintendent of education shall be a person who has a master’s degree in education, has been a school teacher for five years, a principal for two years, a working administrator. Spell out his qualifications from which the state board can make the appointment. Now, getting back specifically to your question. Once you decide how many of these people are to be elected, and I’m not married to these five, I think you should then in a simple statement direct the legislature, within a one-year period or two-year time period, to come up with a system, a cabinet system, a department system, an agency system, call it what you will—if more than fifteen, twenty, or thirty departments and to submit the plan to the governor who may either veto it or approve it. If it’s vetoed then it goes back to the legislature, or if you want to, just say that the legislature will come up with a plan by the time most of this body begins to grab hold, I’ll no longer be governor, so I would gladly give up any hope that I have for another term if it resulted in a good working system for this state. And I will never put the possibility of a second term. I have value in the constitution for the people of this state. And if when it comes time to get this thing ratified, and I think it’s a good constitution and I come through the people would ratify it if they knew I would not be governor of the state for another four years I would publicly announce, “If you reject this constitution, somebody else will be the next governor.” If I thought that was necessary to get it passed.

I believe that strongly in this constitution, I suggest that you make a very good point. Simply say that the rest of the functions of government—a cabinet system, a department system, of not more than five or number of departments to be provided for by the legislature would be prior. And that way if you say twenty may come up with eighteen and leave two vacant slots, for ten years or fifteen years. On the other hand, if you have twenty and call them departments a,b,c,d,e. Five or ten years from now we determine whether they want to call them 1,2,3,4,5 and would be able to change it without running back to the people with a complicated misunderstanding and you would also avoid many of the pitfalls of the controversy in getting the right constitution ratified, as people look at what you have suggested and say, “Well, I don’t like this particular sentence, therefore, I’m against the constitution.” And you’re going to have a lot of it.

Camile F. Gravel: Governor, do you have a suggestion or recommendation as to what changes if any might be made with respect to pardons im the governor’s role in giving the pardons?

Gov. Gravel: Number one, the governor has no business being a part of the pardon business. What happens from a practical standpoint. I go home at 11:00, 12:00 at night and among the things that I have to do is to review twenty or twenty-five applications for pardons or paroles which have been approved by the pardon and parole board. Most of the time files are one-fourth inch thick. I usually have to make an arbitrary decision whether the pardon or parole board voted for it, I just sign them. Or I have to sit there as do I review each case, and then sign or disapprove then. It is a function that I have to do, and I don’t have the knowledge and I certainly shouldn’t make a decision that important to the life of one person to society in general—based on reviewing the whole file. The least that a man has an ultimate responsibility to do is spend a half an hour talking with the fellow, because a lot of times he can get his feelings off of people, not all people, but sometimes you can get a feeling as to how sincere he would be. In the past, the governor has no business, signing pardons or paroles; it is a function that shouldn’t be relegated to him. You should have, in my opinion, a professional board working on a continuing basis with parole officers, probation officers, the knowledge of sociologists, psychiatrists those involved in the system who themselves will make final decisions. If this board ultimately determines that this man should or shouldn’t be pardoned, that decision should be final. That’s been an unpopular position, but now decisions are made by the attorney general, lieutenant governor and the judge who happens to sentence a person. I don’t think the sentencing judge should be involved in the determination on whether a man has an early release. The sentencing judge had his shot at the fellow when he sentenced him, and an arbitrary decision whether he should be in the penitentiary for ten years or three years. So it’s inappropriate for a judge who sentenced a man to take part when he could have given him three in the first instance four years later to have to determine whether or not his sentence should be cut to four years. Besides, I don’t think it’s a responsibility of the judge and I think we should remove the system from all of that and provide for a board which would come from the same background, a business man, a housewife, a psychiatrist, a sociologist, a penologist, and they would make a decision.

Mr. Gravel asked a question relative to the structure of board (Parole) and the functions of the board; whether to include this in the constitution.

Gov. Gravel: For goodness sakes, don’t put that in the constitution. It’s one of the hundreds of things that have been about being considered by the convention. And I shouldn’t say this, but it shouldn’t be considered as constitutional material. The pardon board doesn’t belong in the constitution. I don’t care whose pardon board it is. The pardon system doesn’t belong in the constitution because ten years from now it will be as much change in attitude about pardons and paroles as there has been in the last two hundred years. And if we’re locked into a system in the constitution we’re going to have to go back to a million and one-half voters to determine whether we need a changed system and that isn’t too good.

Mr. Anzalone: Governor, we have heard some proposals concerning the possibility of placing certain things in the constitution, which are taken out of the constitution and which would require, say not a majority rule of the legislature, but some percentage of good standing. For example, a particular section without being in the constitution. How do you feel about that?

Gov. Gravel: The most controversial and the one that’s best known is the two-thirds vote for raising taxes. I would leave it in the constitution, because I don’t think you can pass the constitution if it’s not in it. However, it doesn’t belong in the constitution. A system where one-third of a deliberative body can impede two-thirds—it’s bad. We operate this country by a majority. We decide whether people get killed by majority rule, we decide whether twenty million people in the last two hundred years have been drafted to go and put their lives on the line by a majority rule; yet we have a system here one-third can stop two-thirds from raising taxes. It’s a bad rule, but you better leave it in because we’ll never get the constitution passed. Now, we do remember that I don’t think that should be any impediments to the deliberations of the legislature in the constitution.

Reverend Stovall: Governor, I have a question that has not been covered to this point concerning the veto power of the governor—whether it should be modified, and what length of time would you suggest (having been through one legislative session) that you think the governor should have to veto bills that come to the governor’s desk, for instance, the day the legislature adjourns?

Gov. Edwards: The time by which the governor can veto assigned bills is thirty days. But this day of the legislative session should be extended to at least thirty days. It would give the governor more time to consider the effect of the legislation.
It would give the public more time to react to proposed legislation. In other words, it would kind of be similar to a referendum. A constitutional amendment could be considered by the public.

The governor would have an opportunity to get feedback in helping him make decisions as to the attitude of people and that would be especially true in a local bill. And if you think it would give him a greater amount of time to make an in-depth search of what the legislation provides for and take into account the constituencies and lapses.

Insofar as the veto power is concerned, since you do not have a continuing body as the National Congress operates, I don't know how you can work it any different than the way you work it now. In the system of things, whether it's sixty days or thirty days, a flood of bills reaches the governor's desk in the last days of the session and he is set down and all the moment they got to his desk, there would be no time to have any kind of reasonable consideration of any other. And I don't know of another way to do it except something to let the legislators do themselves, as they do now, a system called the veto session where they veto a bill. That is a very impractical way of doing it, but I don't know of any other substitutions; but I'll be pleased to hear from anyone who has any opinions on it personally. I think that if you cut it down to sixty or sixty days or any number of days you could amend the law to provide for a veto while they're still in session, so I'll simply say a veto system.

I think basically the system we now have on veto and overriding vetoes is as good as any. And I would say there are some changes that could be made on the legislative level. I think that if you strip the constitution of unnecessary matters, we can do it legislatively. For instance, the archaic rule that a bill should be read three times, as Dr. Asseff knows he worked with the Legislative Council eighty-eighth session in 1923, possibly, when a roll had a bill he would write it off on the back of an envelope or a scrap of paper and go hand it to the clerk. In order for people sitting out here to know what it said, have to have it read to them by the clerk, and in order to make sure everybody knew about it, they read it two more times. But now when a bill is filed copies are instantly available to members of the legislature. There's a digest of what it says and what it provides for and a very good digest of what effects it would have. And there's absolutely no reason at all to have a bill read to the members of the house; and there really need to have it read--it's a waste of time. Another rule is the five-day rule for appropriation, I suppose there was a time when the governor and the legislature needed five days to look at the budget and figure out where to cut and decide whether or not the appropriation on the governor's desk was consistent with a balanced budget. But those days are no longer with us.

We have computerized services now, and we know from moment to moment how much money we're using and how much we're in the red. Although we've been in the black for the past ten months, it isn't necessary for a governor to have an appropriation bill on his desk five days before the end of the session. It's an archaic rule that has no business in our present day of operations.

Mr. Stegg: Governor, how soon before the legislature meets should the governor be sworn into office in your opinion?

Governor Edwards: At least sixty days. Now, I'll explain that. Anybody who has been a governor will tell you that one of the worst things is to stick your right hand up and then have to shake hands with one hundred and forty-four members of the legislature. It's a very bad system.

Mr. Anzalone: Governor, we have had some discussion as to just what you're talking about. Now, of course, on call of the assembly, if it is in continuous session, the term of the governor, the term of any elected official, could be extended in the constitution. How do we get that this, and specifically, to change the time of election?

Governor Edwards: What would I do if I were in this convention I recommend the constitution contain a provision directing and authorizing the legislature to adopt a new election code. There's a very bad system of elections in this state, and I'm thinking of trying to change it. It would require about seventeen constitutional amendments and about forty different acts of the legislature. We have a stack of bills about this tall, and finally decided it was just too cumbersome a task to try to change it by amending statutes and by amending constitutional provisions. And if that were possible, then I think the legislature would adopt a model election code to provide a new system of elections, which should include, incidentally, a provision, a moving away from the primary system we have and the general election system we have and providing simply for some other type of election. This would have a minimum time of campaigning, shorten the cost of campaigning, cut down the bitterness that follows in the week of the primaries, and then have it all set down into a time slot the change-over in administrative positions. Since you would have the general election; you could have that three-months period which now exists between the second primary and the first primary or whatever period of time it is. You could have that period for the new governor and the new state officers to take office sixty days or ninety days before the legislature.

Dr. Asseff: First, I want to say that I said it, not you, because that happened before. I'm in complete agreement with one exception—that the constitution should not fix salaries. However, with my years of experience, I doubt very seriously that any governor is going to get a bill passed for a salary of fifty thousand dollars because I do not feel that any person in this state who works under the governor should receive more or less than a maximum--but please point out in all of these deliberations that these people listen to, that the present governor does not want an increase in salary.

Governor Edwards: Well, I tell you for the next seven years the governor wouldn't sign it.

Dr. Asseff: We could make it effective for the next.

Governor Edwards: If you were to do that I would suggest that you set the governor's salary shall not be less than fifty thousand dollars because thirty years from now fifty thousand dollars may be equivalent to—and I would make it a floor rather than an ceiling to have a governor's salary, that is, a maximum but not a minimum, if you go below a maximum than a maximum but please point out in all of these deliberations that these people listen to, that the present governor does not want an increase in salary.

Governor Alexander: Mr. Governor, I think the citizens of the state have come to the point where they are willing to accept equal rights for which we have been fighting for a long time. We have reference to one or two areas where there is still discrimination, where the legislature goes so far as to campaign outside of New Orleans legally, but most people know that. Now there are in intrastate fair housing areas. We have complained repeatedly in the state as a separate document opposes itself. But here we have an opportunity in this convention for the first time in fifty years to correct some of these inadequacies. We need some kind of system to guarantee rights to live where they can afford to rent or purchase property, to have access to accommodations, to remedy discrimination, possibly private and public. I don't know how. This is my question, that if the general statement is made to that effect that no citizen be deprived of certain inalienable rights.

Governor Edwards: First of all, I question whether or not that would have the legislative effect that you seek. I think experience has shown us that the passage of hundreds of federal fair housing is one of them, public accommodations is the other, doesn't bring results, however, any statement in the constitution to the effect there should be no discrimination against race, creed, color, sex; I think it would be appropriate. We're going to continue opposition whether you do it or whether you don't. The supporters of Equal Rights Amendment are going to fight the constitution no matter what else it says, unless the ERA provision is in it. And the opponents say they're going to fight it no matter what else it says if the ERA provision is in it. So what are you going to do? We're going to all be in trouble unless we can find some way of pacifying that particular thing. The point that I'm making to you is that whatever the constitution should not be ratified or concerned on any single issue alone, but rather total effect. I merely say that
a clause guaranteed through the equal protection of the law is in my opinion a proper provision of the bill of rights.

Mr. Arnette: You mentioned a while ago in the reorganization plan how the legislature wanted to do it. Do you think that the legislature should do that or do you favor possibly the executive committee to veto...

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Governor Edwards: If I had my druthers, I would rather the governor do it, because I think that the present system of making decisions, I think he'd be more sellable - of course that's something you can work under. People thought the legislature, and I might say the press reported one comment not subject to the civil code, I don't think it really makes that practical difference because under either system, I think the governor would have a strong say-so.

Mr. Abraham: Should the treasury be responsible for revenue inflation rather than the department where you have it?

Governor Edwards: It really doesn't make much difference. I would prefer to see it stay under the leadership of the governor, but I'm not married to any particular concept.

Mr. Abraham: Now you show on your department of insurance you show that a separate department than you have under those in the office of conservation but not that better be a department of consumer affairs in which you would place insurance regulations, public service-type commissions, regulations, this type of thing?

Governor Edwards: Probably as a concept it would be better. But as an item of selling to people, I think an insurance office is important because insurance rates are much in the minds of the people.

Mr. Abraham: You would have it in office, but it would be an office under a particular department of consumer affairs?

Governor Edwards: It's probably a neater way of doing it.

Mr. Abraham: One more question...if you had a separate pardon and parole board, a professional board, wouldn't that be an office under the department of human resources?

Governor Edwards: Yes sir.

Mrs. Brien: Governor, you talked about election, about how much a campaign costs. There was a recommendation that the governor's term should be only two years. What is your feeling about this?

Governor Edwards: I think that the four year term is a minimum, and I think that the present system of limiting the governor to one term succeeding himself is a good one. Saying it another way, there are arguments to be made in every direction, but if I had the authority to make the decision I would say the governor's term should be four years and he should be allowed to succeed himself one time. And I think much of the opposition that comes to the four year term and the succession for one term would be watered down under a system where there would be a dissemination of his power.

Representative Tapper: Governor, insofar as veto power the governor now has, do you feel the governor should have veto power....district appropriation bills on top of another legislation financial status of the state. All other bills, other than those, do you think the governor should have veto power?

Governor Edwards: Yes, I do, but probably I'm in a minority with the legislation on that. I think the governor, unlike an individual member of the legislature, is elected at large and can look at the piece of legislation from a total involvement or with total impact on the state as distinguished from a legislator. You and I know a legislator with a large number of friends who is very persuasive can sometimes get legislation passed, because many members of the legislature are not really concerned about it and their people in their areas are not concerned about it and so its an accommodation of the legislator, for many reasons, all good. A decision is made to pass it and on the other hand, serves as a safety valve against that sort of thing. I'm not suggesting that it happens often or deliberately or against the public interest or in some kind of a criminal atmosphere, but I do think that one person elected statewide who has the responsibility of the governor, should have last final say on legislation. I wouldn't lose sleep if it was taken away from the governor, for instance, if you limited the legislation, which is over 60% of both houses, cannot be vetoed. You know if you limited--or took it away, I wouldn't lose sleep by it, but I think the system of veto in the governor, as the president has, is a good one.

Rep. Tapper: Do you feel the same way about purely local legislation?

Governor Edwards: I feel that way especially about local legislation, because that's the easiest time for a member to get it passed without regard to the total impact of the state, because a legislator can go easily to other members of the legislature...it just affects my parish and all the people want it and there's an inclination for other legislators to say, "Well, it's just St. Mary's or St. James's or St. Peter's, I don't care." But many times local legislation or special legislation won't mesh with the total picture of the state.

Reverend Stovall: Governor, would it be wise to elect the governor and the other statewide officials at a time other than the national elections?

Governor Edwards: Yes, sir. That's my judgment. Many states do it at the same time, but I think the importance of the state. I think the governor, police juror, and the number of candidates, the number of positions that we have are such that it's enough to command the full attention of the electorate, and I think confusing it with national elections would not be in the public interest.

Reverend Stovall: Should we write a constitution that will draw opposition from people who oppose good government or those who are afraid of it? Or to say it another way, should we write the kind of constitution that will be the lowest common denominator or that will embody what we feel should be in the constitution for the future of the state?

Governor Edwards: I think you should write a constitution that addresses the needs and things you want to put into a system by which we can govern ourselves. Nothing else, no pardon board and none of the multiple provisions of highway districts and how many roads we can have in the state, whether or not Galliano will have a port authority and how much the jurisdiction limit of the city court in Shreveport will be. It doesn't have any business in the constitution, and I think if we could move in that area, those two basic concepts that if we would engage some opposition from the people who like the system as it is, and from others who are afraid of losing what they have, tax exemptions for instance, say in the constitution, That's a matter which could change from year to year or decade to decade depending on the circumstances and the economies; but people who have tax exemptions now in the constitution are going to want to keep it in the constitution. But I would oppose it if I were in this convention on the basis that it doesn't belong in it. It's not whether it's a good exemption or not, but it should not be in the constitution. I would say that you adopt a bill of rights and adopt a system of government, mine, or like mine, or one that you come up with, or one that you think responds to the needs of people; and then provide that all constitutional matters not covered here by other related tax authority be operation of this constitution. Then the legislature over a period of years could begin to knead it out, deal with it, consolidate it, and repeal it. Now all those things would remain in the statutory law. Exemptions on property, which the legislatures could from time to time look at. I think it's the best way to do it, and I think if you get too far away from that concept you'll never get ratified.

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Dr. Assief: My question is this--you did state that we should retain the veto power, not because we thought it ought to be that way, but rather because it would jeopardize ratification. Am I correct, sir?

Governor Edwards: Yes

Dr. Assief: My question is this--do you feel that we should put in it what we think is best; or should we put in it what we think is best, but in certain we put nothing in it that will jeopardize ratification?
Governor Edwards: Well, I am so committed to the need for a new constitution, I would urge you to compromise. You cannot have a perfect constitution. If you do, it won't get ratified, and we're going to have to make some concessions. I have to make compromises, and you're going to have to make compromises. As I said before I don't believe the two-thirds rule in civil service and a dozen other things belong in the constitution, but if they're not in it I don't think you could get it ratified. And the need for a new constitution far transcends the principle that you should keep the constitution devoid of this material.

Dr. Asseff: Well let me be specific, I don't think length is involved. Let me just state two things because I agree that we should shorten it. For example, I am under a mandate...tape failure...one sentence and I don't mean putting you on the spot and also on a homestead exemption, now I'm giving those as examples of what I would feel. Maybe I don't think they should be in the constitution, but in my opinion, they would jeopardize ratification of the document just as much as you stated the two-thirds vote would.

Governor Edwards: I know the homestead exemption, if it were not in the constitution, would probably jeopardize ratification. I don't know about the $3.00 license plate, it's not my judgment...

Dr. Asseff: No, sir. I'm asking your general opinion as to whether we should be careful to go as far as we can go to bring reorganization-good government-to Louisiana, but not at the same time jeopardize ratification?

Governor Edwards: That's a good way of putting it.

Mr. Duval: There's been some discussion about when we submit this constitution to the people, but there are maybe a very few select alternate proposals I'd like to get your thoughts on that.

Governor Edwards: I think that's a good concept, I think you're going to have to have that in order to get it ratified. Now some of them were controversial things. I suggested to the ERA, and the opponents of the ERA, that is one area where there should be an alternate proposal. Don't make the constitution rise and fall on something that's that limited in scope. I would suggest if you're going to consider it rather than put or not put an ERA provision in the constitution since there's such agitation for and against it, that it be put on an alternate basis.

Question: Does the treasurer really need to be elected or could the treasury department be merely an appointment within the executive branch?

Governor Edwards: Easily.

Reverend Alexander: I wonder if you have available any document that shows the ratio of blacks throughout the government in the past?

Governor Edwards: I have and I'll be very happy to provide this.

MINUTES

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

Held pursuant to notice mailed by the secretary of the convention on May 1, 1973

Presiding: Tom Stagg, Chairman of the Committee on Executive Department


Absent on May 11, 1973: Camille F. Gravel, James L. Stovall

The roll was called and all members were present. A motion was offered by Mr. Arnette that the minutes be adopted. Mr. Gravel seconded the motion and it was approved.

A lengthy discussion ensued on the worksheets handed out by the research staff.

The committee took tentative nonbinding votes on the following sections in Article V of the 1921 Louisiana Constitution:

Section 1:

Mr. Abraham submitted his recommendations for those articles under the executive department. A copy is attached here to and made a part of these minutes.

Mr. Arnette offered the motion that the governor be retained as an elective position. The motion was unanimously carried.

Mr. Abraham offered a substitute motion that "the executive branch shall consist of a governor, lieutenant governor, secretary of state, an attorney general, and such other elected officers of state." After discussion, Mr. Abraham withdrew his motion.

Reverend Alexander offered the motion that the office of lieutenant governor shall be retained in the constitution and be elective. The motion carried.

Mr. Gravel offered the motion that the offices of treasurer, secretary of state, and attorney general be retained as statewide elected offices in addition to the governor and lieutenant governor as approved. After discussion, Mr. Gravel withdrew his motion.

Mr. Abraham offered the substitute motion that the secretary of state and attorney general be retained as elective offices. Dr. Asseff objected to the substitute motion stating that it was out of order.

Reverend Stovall offered the motion that the office of comptroller be eliminated as an elective office. The motion carried. Dr. Asseff and Mr. Anzalone voted against the motion.

A motion was offered by Mr. Abraham that the office of treasurer be eliminated as a statewide elective office. Mr. Gravel offered the substitute motion that the office of treasurer be retained as a statewide elective office. After discussion, the substitution motion was carried.

After a lengthy discussion, a motion was offered by Dr. Asseff that the superintendent of education be eliminated as a statewide elective office. Dr. Asseff recommended that the office be an appointed one. A substitute motion was offered by Mr. Anzalone that the superintendent of education be retained as a statewide elective office.

Mr. Gravel stated that practically all of these offices should be retained as statewide elective offices, subject
to whether or not they will be acted on by the legislature, and then he is willing to change his position. Mr. Asseff stated that he will vote to reflect the views of his people, however, if the incumbent himself suggests that he be appointed, then he would go along with it if he agrees.

Mr. Anzalone offered the motion that the office of superintendent of education remain elective. The motion failed. Dr. Asseff offered a substitute motion that the office of superintendent of education remain an elective one. The substitute motion carried with a vote of eight (8) for and two (2) against.

Mrs. Brien offered the motion that the office of secretary of state remain elective. The motion was approved.

A motion was offered by Mrs. Brien that the register of state land office be eliminated as an elective office. A substitute motion was offered by Mr. Anzalone that the office remain elective. The original motion was approved.

Mrs. Brien offered a motion that the commissioner of agriculture be eliminated as an elective office. Representative Tapper offered a substitute motion that the office be retained as an elective one. The original motion was approved. Dr. Asseff is recorded as voting for an elective commissioner of agriculture.

A motion was offered by Dr. Asseff that the commissioner of conservation be an appointed office. The motion carried.

Mrs. Brien offered the motion that the commissioner of insurance be an appointed office. A substitute motion was offered by Mr. Anzalone that the commissioner of insurance remain a statewide elective office. The original motion by Mrs. Brien was approved. Mr. Anzalone and Dr. Asseff voted for the office to remain elective.

Mr. Denney offered a motion that the custodian of voting machines be an appointed office. A substitute motion was offered by Mr. Anzalone that the office be retained as a statewide elective office. The original motion by Mr. Denney was approved with a vote of eight (8) for and two (2) against. Dr. Asseff is recorded as voting for the office to remain elective and stated that it should be combined with the secretary of state.

Mr. Abraham offered a motion not to consider further the office of auditor general. Mr. Gravel seconded the motion and it was unanimously approved.

Reverend Stovall offered a motion that the attorney general be retained as a statewide elective office and placed in the executive branch of government in the constitution. The motion was unanimously approved.

Mr. Gravel offered the motion that the commissioner of agriculture, commissioner of insurance, and superintendent of education be placed in the executive department of government as statewide offices subject to the right of the legislature to change the method of selection, to consolidate those offices, or to abolish those offices. Chairman Stagg suggested that Mr. Gravel bring his motion in writing to the committee at a later date.

Mr. Dennery offered a substitute motion that the staff be directed to bring a draft of a provision such as Mr. Gravel has suggested and that a vote be taken on Mr. Gravel's motion. The motion carried.

A lengthy discussion ensued on Mr. Abraham's recommendations. Discussion ensued on general concepts of reorganization of state government.

The number of departments in the executive branch was discussed following which Mr. Arnette offered a motion that there be no more than twenty (20) principal departments in the executive branch. Mr. Gravel offered the motion that the committee recess and resume the discussion after lunch. The motion carried and the committee recessed at 12:00 noon. The committee reconvened at 1:30 p.m.

Mr. Arnette amended his previous motion to read that all functions of state government shall be in twenty (20) departments except for the governor's office and the lieutenant governor's office and those functions.

Mr. Anzalone offered a substitute motion that the governor, or the legislature, shall allocate all executive department functions other than those delegated under this constitution to elective offices among and within no more that twenty (20) principal departments. The substitute motion failed with a vote of three (3) for and six (6) against.

Mr. Gravel offered a substitute motion that the executive branch shall consist of a governor, a lieutenant governor, a secretary of state, an attorney general, a treasurer, and such other officials and departments as provided by law. There shall be no more than twenty (20) departments in the executive branch. The substitute motion carried with a vote of seven (7) for and three (3) against. Dr. Asseff stated that had the elective offices been omitted, he would have voted for Mr. Gravel's motion.

Reverend Stovall offered a motion that the power to reorganize the executive department be given to the governor subject to the approval of both houses of the legislature.

A substitute motion was offered by Mr. Tapper that the power to reorganize can originate either with the governor or the legislature. The substitute motion failed with a vote of two (2) for and six (6) against.
A substitute motion was offered by Mr. Dennery that the governor can reassign functions, but if in doing so, it violates the legislature, it be the decision of the legislature. The substitute motion failed with a vote of two (2) for and eight (8) against. Dr. Asseff was opposed to the substitute motion.

Mr. Anzalone offered a substitute motion that authority to reorganize be vested in the legislature, subject to gubernatorial approval. The legislature would have eighteen months to reorganize and, failing to act, the governor could, by executive order, reorganize the executive department by executive order. The substitute motion carried with a vote of six (6) for and five (5) against.

Mr. Arnette offered a motion to discuss duties and responsibilities of elected state officers that were passed on earlier. Mr. Tapper seconded the motion and it carried.

Section 7: Qualifications

After discussion, Mr. Gravel offered the motion that the governor shall be at least twenty-five (25) years of age at the date of election, be a citizen of the United States and this state for at least five (5) years preceding the day of election, and shall hold no other public office. Reverend Stovall seconded the motion and it carried. Dr. Asseff was opposed to the motion.

A motion was offered by Mr. Dennery to delete any mention of the years of practice. Reverend Stovall seconded the motion. Mr. Dennery offered an amendment to the motion to state that all offices require that the office holder be at least twenty-five (25) years of age, a citizen of this state for at least five (5) years, and hold no other public office. The motion was seconded by Reverend Stovall and carried.

Mr. Gravel offered a motion that all statewide elected officers be permitted to serve as many terms as the people will let them, but that the governor be limited to two consecutive elective terms; also, that all public officers will serve four (4) year terms. The motion was unanimously carried.

A motion was offered by Mr. Arnette that the lieutenant governor be allowed to serve only one term if he serves over one-half of a full term. The motion carried with a vote of nine (9) for and two (2) against.

Reverend Stovall offered the motion to recess. The motion was approved and the committee recessed at 5:00 p.m.

The committee reconvened on Thursday, May 10, 1973, at 9:00 a.m. in Room 205 of the State Capitol, Baton Rouge, Louisiana.

After a lengthy discussion, Mr. Duval offered the motion that a first assistant be appointed by the secretary of state, treasurer, and attorney general subject to the approval of the Senate. The first assistant shall succeed to that office until the next state election. The motion was seconded by Mr. Abraham and carried with a vote of seven (7) for and two (2) against. Mr. Dennery abstained.

Mr. Gravel asked that the motion be amended to read "shall serve until the official promulgation of the results of the next statewide election." The amended motion was accepted.

Mr. Arnette offered a substitute motion to appoint a first assistant who will succeed to the office without any confirmation whatsoever. The substitute motion failed with a vote of two (2) for and eight (8) against. Dr. Asseff and Mr. Arnette voted for the substitute motion.

Mr. Gravel offered a motion that in the event of a vacancy in the office of governor or governor elect, the order of succession shall be the following elected officials:

1. Lieutenant Governor
2. Secretary of State
3. Attorney General
4. State Treasurer
5. President Pro-Tempore of the Senate
6. Speaker of the House of Representatives
7. In the absence of those above to succeed, the legislature decides.

The motion carried.

Mr. Anzalone offered a motion that the lieutenant governor, in the event of succession to the chair of governor, be given the right to appoint a successor with the advice of the Senate.

A substitute motion was offered by Mr. Abraham to defer any action until after powers and duties of lieutenant governor are discussed. The motion was approved. Mr. Anzalone voted against the motion.

Compensation

A motion was offered by Dr. Asseff that the governor shall receive an annual salary of not less than $50,000 and his salary shall not be increased or diminished during the term of office in which he is elected.

Chairman Stagg asked that Mr. Dennery act as chairman pro tempore so that he could speak his views concerning salary of the governor. The motion was offered by Mr. Gravel, seconded by Reverend Stovall and carried.

Mr. Stagg stated, "No mention of dollars should appear anywhere in this document. If we give to the legislature the authority to set compensation on the governor, we then are going to be consistent in doing what this convention wants us to do; write a new and modern constitution. Modern constitutions do not provide for dollars and cents for state officials."

A substitute motion was offered by Mr. Arnette that no dollar amounts shall be stated whatsoever in the constitution and that the legislature fix the compensation of
A motion was offered by Mr. Gravel that the staff be directed to draw up tentative language to the effect that compensation for the five (5) statewide elected officials be fixed by the legislature and shall not be increased or diminished for the term of election. Also, include police jury if any compensation is paid by the state. The motion was unanimously carried. A motion was offered by Mr. Dennery that all proposals of compensation be put into one article. The motion was approved.

Section 8.

Mr. Gravel offered a motion to delete everything after the word "governor." The article shall read, "The governor shall be the chief executive officer of the state and shall fully support the constitution and laws of the state." The motion carried with a vote of nine (9) for and two (2) abstentions. Mr. Dennery offered the motion to recess. The motion carried and the committee recessed at 12:00 noon.

Vacancy

A motion was offered by Mr. Dennery that disability or inability to serve shall be determined after notice and hearing by the supreme court. The motion carried by a vote of six (6) for and three (3) against.

Removal and Impeachment

A motion was offered by Mr. Gravel that the chair appoint a subcommittee to prepare and recommend to the full committee, articles that would relate to impeachment of the governor and other state officials; that probation and parole also be included in the subcommittees work. Dr. Asseff seconded the motion and it was approved with a vote of six (6) for and three (3) against.

Executive clemency - to include pardons

A motion was offered by Mr. Anzalone that the basic inherent power be with the governor himself to grant reprieves and pardons after conviction. The motion carried. Dr. Asseff voted against the motion.

Section 13 - Appointive Power

Mrs. Brian offered a motion that the governor may appoint any officers, constitutional or otherwise, if his appointment or election is not otherwise provided for, but where the constitution provides for a particular procedure, senatorial confirmation is not necessary: also the legislature can provide the mode of filling offices which it creates.

Mr. Duval offered a substitute motion that the governor shall have the power to remove at his pleasure those department heads whom he appoints. The substitute motion was unanimously carried.

A motion was offered by Mr. Duval that all legislative or constitutional boards that are appointed by the governor as a result of some form of nominating procedure not be subject to his removal at his pleasure. The motion carried with a vote of nine (9) for and one (1) against. Representative Tapper abstained.

Mr. Arnette offered a motion that if the governor appoints someone for a term, he cannot be removed. The motion passed with a vote of nine (9) for and one (1) against.

A motion was offered by Mr. Gravel that in any instances where the constitution or the laws of this state provide that persons shall be appointed by the governor from lists, or in cases of constitutional offices where appointments are to be made by the governor, whenever it is provided the appointments are subject to confirmation by the Senate, the governor does not have the power to remove appointees so confirmed. The motion carried with a vote of seven (7) for and two (2) against.

Mr. Dennery offered the motion that the governor shall not remove a person so appointed without approval of the Senate. The motion carried with a vote of six (6) for and one (1) against.

A motion was offered by Mr. Anzalone that the creating authority of boards be directed to provide for appointment and removal of said members. The motion failed with a vote of seven (7) for and two (2) against.

Mr. Duval offered a substitute motion that the creating authority shall have the right to set forth the removal procedure if it so desires, otherwise, it should be set forth in the other concepts. The substitute motion failed with a vote of four (4) for and five (5) against.

Filling of Vacancies

Reverend Stovall offered a motion to exclude filling vacancies in any parochial office. The motion was carried.

A motion was offered by Mr. Dennery that if not other-
Dr. Asseff offered the motion to recess. The committee recessed at 5:00 p.m.

The committee reconvened on Friday, May 11, 1973, at 8:00 a.m. at the State Capital in Room 206.

Section 18

Mr. Dennery suggested that the chairman need not give up the chair to express his opinions and to vote. It was the consensus of the committee that Chairman Stagg be able to vote without giving up the chair. Mr. Abraham offered the motion to delete the words "sole authority" from Section 18 and insert that the governor "will prepare the budget of the state." The motion carried with a vote of seven (7) for and one (1) against.

Section 20

Chairman Stagg presented members with a copy of information from PAR on vetoes. Discussion followed. Mr. Duval offered a motion that the governor have the right to veto. The motion was unanimously carried.

A motion was offered by Mr. Duval that all bills passed twelve (12) days prior to the legislature adjourning, that the governor have ten (10) days to veto from the time it is presented to him. The vote was unanimously carried.

Mr. Duval offered a motion that bills passed during the last twelve (12) days of the session, the governor have fifteen (15) days after legislature adjourns to veto these kind of bills.

A substitute motion was offered by Mr. Abraham to change the original motion to read thirty (30) days after submitted to the governor. The substitute motion failed with a vote of two (2) for and five (5) against.

Mr. Dennery offered a substitute motion to change the original motion to read twenty (20) days from the end of the session. The substitute motion carried with a vote of seven (7) for and two (2) against.

A motion was offered by Mr. Duval not to consider the legislature's right to override the veto; leave it up to the Committee on Legislative Powers and Functions. The motion carried. Mr. Anzalone noted that the above motions are subject to change if the legislature goes into continuous session.

Section 21. Appropriation Bill

Mr. Arnette recommended an item type veto and it was unanimously carried. A substitute motion was made by Mr. Dennery that the governor should have the power to disapprove and reduce any item or items. The substitute motion failed by a vote of six (6) for and two (2) against.

Section 22

Mr. Arnette offered the motion that the governor has the power to call a special session of the legislature. The motion was unanimously carried.

A motion was offered by Mr. Anzalone that extraordinary sessions called by the governor shall be limited to the subject matter called therein. The motion carried with a vote of seven (7) for and one (1) against. A substitute motion was offered by Mr. Duval that the time limit of the legislative session be thirty (30) days. The motion carried with a vote of six (6) for and two (2) against.

Section 24. Lieutenant Governor

Mr. Duval offered a motion that the governor and the lieutenant governor run as a team in the general election but not in the primary.

Dr. Asseff offered an amendment to the motion that the governor and lieutenant governor be elected on the same ticket in the first primary or not at all. It was then decided that the duties of the lieutenant governor be discussed.

Section 25. Duties of Lieutenant Governor

Reverend Alexander offered a motion to change the duties of the lieutenant governor from legislative to executive and that the Committee on Legislative Powers and Functions be notified. The motion was withdrawn.

A motion was offered by Mr. Abraham to discuss duties of lieutenant governor other than that of presiding over the senate. The motion carried.

A motion was offered by Mr. Duval to adopt the Abraham language for lieutenant governor. Mr. Dennery offered an amendment to include the language in draft section 25. Both motions were unanimously carried.

Mr. Anzalone offered a motion that the lieutenant governor run as an independent candidate from the governor. The motion carried with a vote of seven (7) for and one (1) against.

A substitute motion was offered by Reverend Alexander that the governor and lieutenant governor run on a dual ticket from the primary level. The substitute motion failed with a vote of one (1) for and seven (7) against.

Secretary of State

A motion was offered by Mr. Duval that the secretary of state be the head of the department of state. The motion carried with a vote of nine (9) to one (1).

Section 26. Duties of Secretary of State

Dr. Asseff offered the motion that portions of the
suggested languaged offered by the secretary of state including him as a department head be adopted. The motion carried with a vote of six (6) for and two (2) against.

The committee recessed at 12:00 noon.

The committee reconvened at 1:30 p.m.

Section 27. Treasurer - Duties & Powers

Mr. Maciasz of the treasurer's office reported that the language submitted by his office submitted for inclusion in the constitution did not embrace retirement funds.

Mr. Duval offered a motion that all state agencies, including nonbudget agencies, will deposit those funds in the treasury. The motion was unanimously carried with one (1) abstention.

A motion was offered by Mr. Stagg that there shall be a treasurer who will be the head of the department of treasury. The motion was unanimously carried. Powers and duties of the treasurer were discussed and Mr. Abraham's written recommendation was accepted.

Attorney General and Department of Justice

A motion was offered by Chairman Stagg that the attorney general shall be the head of the department of justice. The motion carried by a vote of six (6) for and one (1) against.

Reverend Alexander offered a motion that in concept, the attorney general and only the first assistant shall be bound by the five (5) years practice of law and his other assistants not be so encumbered. The motion was approved.

A motion was offered by Mr. Dennerly that the attorney general will be in charge of state legal matters unless otherwise prescribed in the constitution. Mr. Duval asked that the motion be amended to read "as otherwise provided by law." The amended motion carried with a vote of six (6) for and five (5) against. A motion was offered by Mr. Arnett that there should be some grounds for the attorney general to supercede the district attorney. The motion carried with a vote of six (6) for and four (4) against.

Motions were taken on the following constitutional agencies referring to whether they should be retained or deleted in the new constitution:

Adjutant General, Military Department
Reverend Alexander offered the motion to delete. The motion carried with a vote of six (6) for and two (2) against. Mr. Arnette voted against the motion.

Banking, State Commissioner and Department
Dr. Asseff offered the motion to delete. The motion carried with a vote of eight (8) and one (1) abstention.

Commerce & Industry, State Board and Department of Mr. Abraham offered the motion to delete. The motion carried with a vote of eight (8) and one abstention.

Ethics, La. Commission on Governmental Ethics for State Elected Officials, La. Board of Mr. Dennerly offered the motion that it shall remain in effect until amended by the legislature and refer it to the schedule.

The motion carried with a vote of six (6) for and three (3) against. Mr. Arnette and Representative Tapper voted against the motion.

Fire Marshall, State
Mr. Abraham offered the motion to delete. The motion carried with a vote of seven (7) for the motion with Mr. Anzalone and Mr. Dennerly abstaining.

Health, State Board of and State Health Officer Mr. Duval offered the motion to delete. The motion carried with a vote of eight (8) for and two abstentions by Mr. Anzalone and Dr. Asseff.

Highways, Board and Department of
Mr. Duval offered the motion to delete. The motion carried with a vote of six (6) and two abstentions by Mr. Dennerly and Dr. Asseff.

Liquified Petroleum Gas Commission
Mrs. Brie offered the motion to delete. The motion carried with eight (8) votes and one abstention by Mr. Anzalone.

Museum, Board of Managers of the Louisiana State (Consolidated)
Reverend Alexander offered the motion to delete. The motion carried with nine (9) votes and one abstention by Mr. Anzalone.

Pardons, Board of
Dr. Asseff recommended that it be retained in the constitution but with a change in membership. He is also opposed to giving any governor unlimited power to pardon. He recommended that the parole and pardon boards be combined.

Public Service Commission
Refer to a subcommittee.

Public Service Commission
Refer to a subcommittee.

Public Welfare, State Board, Commissioner and Department of (Consolidated)
Mr. Abraham offered the motion to delete. The motion carried with a vote of six (6) and two (2) abstentions by Mr. Anzalone and Dr. Asseff.

Revenue, Collector and Department of
Mr. Abraham offered the motion to delete. The motion carried with nine (9) votes. Mr. Asseff was in favor of the motion but opposed removing limitation on income tax.

Stadium and Exposition District, Louisiana
Mr. Abraham offered the motion to delete. The motion carried with nine (9) votes and one abstention by Mr. Anzalone.

Tax Commission, Louisiana
Mr. Duval offered the motion to defer to Committee on Revenue, Finance and Taxation. The motion carried with eight (8) votes and one abstention by Mr. Dennerly.

Public Service Commission
Reverend Alexander offered the motion that it remain an elective body. The motion carried with a vote of nine (9) for and one (1) against. Dr. Asseff offered the motion to defer to a subcommittee. The motion carried with a vote of eight (8) for and one (1) against.

Forestry, Commissioner of Conservation, Wildlife and Fisheries
Mr. Dennerly offered the motion to assign to a subcommittee. The motion carried. Mr. Arnette was opposed to the motion.

Chairman Stagg assigned members to subcommittees.

A list of members of subcommittees is attached hereto and made a part of these minutes.

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

Tom Stagg, Chairman of Committee on Executive Department

[109]
Article V. The Executive Branch

Section 1. Composition.

A. The executive branch shall consist of a governor, a lieutenant governor, a secretary of state, an attorney general, and such other executive and administrative offices and agencies as provided by law, which shall be allocated among and within not more than sixteen principal departments.

Section 2. Election and Terms

A. The governor, lieutenant governor, secretary of state, and attorney general shall be elected each for a term of four years by the qualified electors of the state, at the time and place of voting for representatives in the legislature.

B. The governor shall appoint, subject to approval of the senate, the heads of the other principal departments, and may remove them at his pleasure.

C. Each official in the executive department, except the governor and lieutenant governor, shall be eligible as his own immediate successor without regard to limitations on the number of terms. The governor and lieutenant governor shall be eligible to serve not more than two (2) consecutive terms.

D. No other offices shall be elected state wide, except as provided by this Constitution.

Section 3. Qualifications

A. No person shall be eligible for election to the office of governor, lieutenant governor, secretary of state, and attorney general who is less than thirty (30) years of age, or who has not been, for at least ten years preceding his election, a citizen of the United States and this state, or who holds office under the United States at the time of election.

B. The qualifications for office of the principal department heads shall be as provided by law.

C. The attorney general shall have practiced law or served as a judge of a court of record in this state for a combined total of at least five (5) years preceding his election.

Section 4. Commencement of Office

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

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

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

Section 5. Compensation

The compensation of elected officials shall be fixed by the legislature, and no other compensation shall be allowed them.
Section 6. Powers and Duties of Governor

A. The supreme executive power of the state shall be vested in the governor, who shall be responsible for the faithful execution of the constitution and the laws.

B. He shall have authority to organize all executive and administrative functions of the principal departments of the executive branch, and to revise such organization as necessary for efficient government, subject to approval of the senate.

C. He may at any time require in writing or otherwise from any officer of any department or agency of the state, and such officer shall be required to furnish information upon any subject relating to such department or agency.

D. He shall be commander in chief of the armed forces of the state, except when they are called into service of the federal government. He may call out the armed forces to execute the laws, to suppress insurrection, or to repel invasion.

E. He shall nominate and, with the advice and consent of the senate, appoint all officers whose nomination, appointment, or election is not otherwise provided for.

F. He shall prepare an executive budget for the state, and shall transmit copies thereof to the legislature as provided by law. Upon adoption by the legislature, he shall execute and administer the budget.

G. He shall prepare an annual financial statement showing the complete financial condition of the state, and shall transmit copies thereof to the legislature as provided by law.

H. He shall at the beginning of each session of the legislature, and may at other times, make reports and recommendations and give information to the legislature concerning the affairs of state.

1. He shall consider all bills presented to him by the legislature, and shall within thirty (30) days approve, veto it, or return it with his objections to the house in which it originated. Any bill approved, or not vetoed within the prescribed period, shall be law.

J. He shall have the power to veto any item or items of any appropriation bill embracing distinct items; the items approved shall be law, and the items vetoed shall be void unless repassed as prescribed for the passage of other bills over a veto.

K. He shall have the power to convene the legislature in extraordinary session, and it shall be his duty to convene the legislature into extraordinary session upon petition of two-thirds (2/3) of the members of each house of the legislature, under such terms and conditions as prescribed by law.

Section 6. Continued.

A. The lieutenant governor shall succeed to the office of governor at such times and in such manner as provided for in this constitution or as may be prescribed by law.

B. He shall serve as the chief aide to the governor and shall perform such duties as may be assigned by the governor, or as prescribed by the legislature.

Section 7. Powers and Duties of Secretary of State.

A. The secretary of state shall serve as the state's chief elections officer, and shall administer the
election laws, voting machines, and other voting devices as prescribed by law. He shall be custodian of the official seal, records, documents, and papers of the state, and shall perform such other duties as may be prescribed by law.

B. He shall appoint an assistant secretary of state, subject to approval of the senate, and may remove him at his pleasure.

C. The assistant secretary of state shall succeed to the office of secretary of state at such times and in such manner as provided for in this constitution or as may be prescribed by law.

Section 9. Powers and Duties of Attorney General

A. The attorney general shall be the chief executive officer of the department of justice.

B. He shall attend to and have charge of all legal matters in which the state has an interest or to which the state is a party, with power and authority to institute and prosecute, or to intervene in any suit or other proceeding, civil or criminal, as he may deem necessary for the assertion on protection of the rights and interests of the state.

C. He shall exercise supervision over the district attorneys throughout the state, and perform such other duties as prescribed by law.

D. He shall appoint an assistant attorney general, subject to the approval of the senate, and may remove him at his pleasure.

E. The assistant attorney general shall succeed to the office of attorney general at such times and in such manner as provided for in this constitution, or as may be prescribed by law.

Section 10. Limitations

A. No member of the legislative branch shall serve by appointment or otherwise in an executive or administrative or any other position in any office of the executive branch, or on boards or commissions of the state.

B. Orders, votes, and resolutions of either or both houses of the legislature, affecting the prerogatives and duties thereof, or relating to amendments to the constitution of this state of the United States, to investigation of public officers, and the like, shall not require the signature of the governor.

Section 11. Vacancies and Succession

A. A vacancy shall occur in the office of governor, lieutenant, secretary of state, and attorney general due to death, impeachment, disability or inability to serve, or continuous absence.

B. Disability or inability to serve shall be determined in a manner prescribed by law.

C. In the event of a vacancy in the office of governor or governor-elect, the order of succession shall be (1) the lieutenant governor or lieutenant governor elect, (2) president of the senate, (3) speaker of the house, (4) as may be determined by the legislature in regular or special session.

D. In the event of a vacancy in the office of secretary of state, the assistant secretary of state shall succeed to the office.

E. In the event of a vacancy in the office of attorney general, the assistant attorney general shall succeed to the office.

Section 12. Powers and Duties of Treasurer

A. The state treasurer shall be custodian of all state funds, and shall be responsible for the receipt, custody, and disbursement of such funds. All funds of the state collected by all state boards, commissions, agencies and departments shall be paid into the state treasury immediately upon receipt.

B. He shall invest all available funds as prescribed by law.
C. He shall report quarterly to the governor and legislature on the treasury's receipts and disbursements and on other fiscal matters pertaining to the office.

D. He shall make no disbursement from the treasury except in pursuance of specific appropriations prescribed by law.

E. He shall appoint an assistant treasurer, subject to approval of the senate, and may remove him at his pleasure.

F. The assistant treasurer shall succeed to the office of treasurer if he shall succeed to the office of treasurer at such times and in such manner as provided for in this constitution or as may be prescribed by law.

Subcommittee No. 1 - Reorganization; Vacancies, Succession, Absence, and Disability; and Impeachment

Asseff
Brien
Denney
Tapper

Subcommittee No. 2 - Powers and Duties of Governor; Qualifications; Term of Office and Election; Time of Taking Office; and Compensation

Abraham
Alexander
Arnette
Gravel

Subcommittee No. 3 - Powers and Duties of Other Elective Officials; and Boards and Commissions

Anzalone
Duval
Stagg
Stovall

The motion carried.

Section 2. Qualifications. Mr. Abraham offered the motion to adopt Section 2. Several motions were offered and withdrawn. Mr. Denney offered the motion to recess. The motion carried and the committee recessed at 10:00 a.m. The committee reconvened at 10:15 a.m. resuming the discussion of Section 2.

Mr. Anzalone offered the substitute motion that the word "also" on line 8 be deleted and "as an additional qualification" be inserted in its stead. The substitute motion failed with a vote of 8 in favor of the motion and 2 against.

Mr. Abraham offered the substitute motion that "in
addition to the above qualifications" be inserted on line 8 before "the attorney general." The substitute motion failed with a vote of 5 in favor and 3 against the motion.

Mr. Dennery offered the motion that the words "shall also" on line 8 be reversed to read "also shall." The motion was adopted with a vote of 7 in favor and 2 against the motion.

A substitute motion was offered by Reverend Stovall that Section 8 read "The attorney general also shall have been admitted to the practice of law in this state for at least five years preceding his election." The substitute motion failed with a vote of 3 in favor and 6 against the motion. Dr. Asseff voted against the substitute motion.

Mr. Anzalone moved to call the question. The substitute motion carried with a vote of 6 in favor and 3 members abstained. The question was called on the above motion.

Mr. Abraham moved that Section 2 (B) be reconsidered to perfect the language. The motion carried unanimously.

Section 3. Elections and Terms. Mr. Abraham offered the motion to adopt Section 3.

Mr. Anzalone offered the substitute motion that on line 34 the word "members" be substituted in lieu of "representatives" and on line 35 of "of" be substituted for "in". The substitute motion carried with a vote of 6 in favor and 3 against the motion.

Mr. Dennery offered the substitute motion that on lines 1 and 2 the words "or acting governor" be deleted. The substitute motion carried.

Reverend Stovall offered a motion that on line 1 of page 3 the words "or but for resignation would have" be deleted. The motion carried with a vote of 8 in favor, with Mr. Arnette opposing the motion.

Mr. Arnette offered a substitute motion that lines 3 and 4 read "consecutive terms shall not serve as governor during the next succeeding term." The substitute motion failed with a vote of 3 in favor and 5 opposing.

Mr. Abraham offered the motion to approve Section 3(A) as amended. The motion carried.

Section 3 (B). Mr. Abraham offered the motion to strike "by the election commissioner" on line 6, page 3. The motion carried.

Reverend Alexander offered the motion that on line 5 the word "offices" be changed to read "officers". The motion carried.

Mr. Dennery offered the motion that on line 8, the word "persons" be changed to read "person". The motion carried.

Dr. Asseff offered the motion that on line 7, before the "secretary of state", the words "and be promulgated by the secretary of state in the manner prescribed by statute." be inserted. The motion carried.

Mr. Anzalone offered the motion that on line 9, page 3, "thereby" be stricken and "declared" be inserted.

Mr. Abraham offered the motion to approve Section 3(B) as amended. The motion carried with a vote of 7 in favor with Mr. Anzalone opposing the motion.

The committee recessed at 12:00 noon and reconvened at 1:30 p.m.

Dr. Asseff offered the motion regarding the drawing of lots whereas two or more persons having an equal or the highest number of votes for an office, should draw lots to determine the results; election contests shall be decided by the courts as provided by statute. The motion carried with a vote of 5 in favor and 4 against the motion.

Section 3 (D). Mr. Abraham offered the motion to adopt. The motion carried unanimously.

Section 3 (E). Mr. Anzalone offered the motion to delete. The motion failed with a vote of 1 in favor and 8 against.

Reverend Stovall offered the motion to adopt. The motion carried with a vote of 8 in favor and 2 against.

Dr. Asseff and Mr. Anzalone opposed the motion.

Section 4. Compensation. Mr. Anzalone offered the motion that "each" be stricken and "these" be substituted on line 17 of page 4.

Mr. Abraham offered the substitute motion that on lines 17 and 18 "each elected official within the executive branch" be substituted in lieu of "each statewide elected official". The votes were tied with 4 in favor and 4 against the motion. Chairman Stagg voted in favor of the motion to break the tie.

Dr. Asseff offered the motion that Section 4 also include that the governor receive a salary greater than anyone else. Dr. Asseff stated "There is no other way to pay the governor adequately other than by placing a provision in the constitution. This is an exception to the rule of not placing salaries in the constitution."

Dr. Asseff withdrew his original motion of placing a fixed salary for the governor in the constitution and offered a substitute motion that "no public official in Louisiana shall receive a salary in excess of that paid the governor." The substitute motion carried with a vote of 5 in favor and 4 against the motion.

Section 5 (A). Powers & Duties. Mr. Abraham offered the motion to approve. The motion carried with a vote of 6 in favor and 2 against.

Section 5 (B). Mr. Abraham offered the motion to adopt. The motion was unanimously carried.
Section 5 (C). Mr. Abraham offered the motion to adopt. Mr. Duval offered the substitute motion that the provision read somewhat as follows: "All department heads shall provide the governor with reports and information in writing or otherwise requested by him on any subject relating to their respective departments, excepting matters relating to investigation of the governor's office."

The substitute motion carried with a vote of 6 in favor and 2 against. Mr. Dennery and Dr. Asseff opposed the substitute motion.

Section 5 (D). Mr. Abraham offered the motion to adopt. Mr. Duval offered the substitute motion that the title be changed to "Operating Budget" and there be a section entitled "Capital Budget". Also, insert "annual operating" on line 8 before "budget"; insert "on or before the first day of each annual session" after "legislature" on line 9; and strike "law" on line 9 and insert "statute".

The substitute motion carried with a vote of 5 in favor and 3 against the motion. Dr. Asseff opposed the substitute motion.

The staff was directed to develop a Capital Budget provision. That provision is attached hereto and made a part of these minutes.

Section 5 (E). Pardons. Mr. Abraham offered the motion to adopt. Mr. Anzalone offered the substitute motion that the governor shall have the power to grant reprieves after conviction and pardons for all offenses; such authority may in addition be otherwise delegated as provided by statute.

The substitute motion carried with a vote of 3 in favor and 1 against the motion.

Mrs. Brien offered the substitute motion that after the word "offenses" on line 23 the words "and may delegate such powers subject to procedures as may be prescribed by statute." be inserted. The substitute motion failed with a vote of 2 in favor and 4 against.

Section 5 (F) and (G). The staff was directed to check the subject matter differences of the Committee on Legislative Powers and Functions against that of the Committee on Executive Department and the section would be discussed at a later time.

Section 5 (H). The Committee agreed that the title should be "Appropriation Bills". It was suggested that the word "distinct" on line 32 be stricken and "line" be inserted. It was then decided that the provision would be discussed at a later time.

Reverend Stovall offered the motion to recess. The motion carried. The committee recessed at 5:15 p.m.

The committee reconvened on June 15, 1973, at 9:00 a.m.

Discussion resumed on Pardons. Reverend Stovall offered the motion to delay discussion until the afternoon session when Mr. Gravel would present a suggested provision. Dr. Asseff seconded and the motion carried.

Section 5 (F). Signature on Bills. Mr. Abraham offered the motion to approve.

Mr. Gravel offered the motion that on line 35 the word "hour" be deleted and "time" be inserted; on line 8 page 7, delete "ten" , insert "30"; on line 2, after the word "it" delete remaining sentence, line 3, 4, and the first word on line 5; after "it" on line 5, insert "; if he disapproves, he shall veto it, giving his reason therefor. If he fails to veto it within the time otherwise provided by this constitution, it shall become law."

The substitute motion carried with a vote of 6 in favor and 4 against.

Section 5 (G). Veto. Mr. Gravel offered the motion that the staff work into Section G the idea that if the governor vetoes a bill while the legislature is in session, it shall be immediately returned, with his objections, within 24 hours after veto to the house in which it originated. The motion carried with a vote of 7 in favor.

Section 5 (H). Appropriation Bills. Mr. Abraham offered the motion that on line 29, the words "the items approved shall be law," be struck, and on line 31, the word "repassed" be struck and "the veto is overridden" be inserted in its stead. Also, add "veto" after the word "a" on line 31. The motion was unanimously carried.

Section (H) 2. Mr. Abraham offered the motion to approve. Mr. Duval offered the substitute motion to delete line 33 and add "or use other means provided in the bill or reduce all appropriations by an equal percentage as may be provided in the bill." The substitute motion carried with a vote of 5 in favor and 4 against.

Section 5 (I). Appointments. Mr. Abraham offered the motion to approve. Dr. Asseff offered the substitute motion that on line 13, immediately after "for" add "by this constitution or by statute." The substitute motion was unanimously carried.

Mr. Dennery offered the motion that on line 11 after "all", the word "constitutional" be inserted, and on line 13 after "for" the words "in this constitution" be inserted. The motion carried.

Mr. Annette offered the motion to recess for lunch. Dr. Asseff seconded the motion and it carried. The committee recessed at 12:00 noon and reconvened at 1:30 p.m.

Section (J) (I). Mr. Dennery offered that motion that the provision read "The governor shall appoint, subject to confirmation by the Senate, 1) the heads of all departments in the executive branch whose election is not provided for by this constitution; and 2) all members of boards and commissions in the executive
branch whose appointment or election is not otherwise provided for by this constitution." The motion carried with a vote of 7 in favor of the motion.

Mr. Abraham offered the motion for the provision to further read:

"(2) Should the legislature be in session, the governor shall submit for confirmation by the Senate the names of those appointed within 48 hours after the appointment is made. Failure of the Senate to confirm an appointment prior to the end of the session shall be equivalent to rejection.

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(3) Should the legislature not be in session the governor may make interim appointments which shall expire at the end of the next session of the legislature.

(4) A person not confirmed by the Senate shall not be appointed to the same office during any recess of the legislature."

The motion carried with a vote of 6 in favor of the motion.

Section J. Removal. Mr. Abraham offered the motion to adopt. Mr. Denneny offered the substitute motion for the provision to read as follows: "The governor may remove from office those whom he appoints, except those appointed for a term fixed by this constitution or by statute." The substitute motion carried with a vote of 5 in favor and 3 against.

Section K. Commander in Chief. Mr. Gravel offered the motion to adopt. The motion carried with a vote of 7 in favor of the motion.

Section L. Extraordinary Session. Mr. Arnette offered the motion that the committee work on the concept that the governor give at least five days notice of all subject matter of special sessions. The motion failed with a vote of 3 in favor and 5 against it.

Mr. Gravel offered the motion that the committee work on the concept that the governor would have the right either to amend the proclamation or provide that the proclamation be read on the day of the session so that the governor can supplement the objects of the call. There was a tied vote of 5 in favor and 5 against the motion.

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Mr. Gravel offered a substitute motion that five days notice be given; the notice can be amended up until two days before the calling of the special session. The motion was unanimously carried. It was requested that the staff of the subcommittee perfect the language.

The committee began discussion of the proposal submitted by the Subcommittee on Powers of Statewide Elective Officials, Boards and Commissions, Dual Office Holding, and Code of Ethics.

Section 1. Lt. Governor; Powers. It was suggested that on line 15 the word "law" be omitted and "statute" be inserted.

Mr. Duval, chairman of the subcommittee, offered the motion to adopt Section 1.

Mr. Anzalone offered the substitute motion that on line 12, the word "statutory" be deleted. The motion carried.

Mr. Denneny offered the motion that on line 11 the word "as" be stricken and the words "as a" be inserted after "ex officio". The motion carried.

Mr. Gravel offered the motion that on line 15 the words "in the executive branch" be inserted after "functions" and "executive" be deleted after the word "other". The motion carried. Mr. Denneny offered the motion that "as may be provided by statute" be inserted in all sections in lieu of "as provided by law." Representative Tapper suggested that the term "as may be provided by statute" be defined in the new constitution.

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Mr. Duval offered the motion to adopt as amended. The motion was unanimously carried.

Section 2. Secretary of State; Powers. Mr. Duval offered the motion to adopt. Chairman Stagg suggested that in line 27 and 28 the words "primary and general" be stricken.

Mr. Abraham offered the motion that the word "laws" be deleted in line 31 and "statute" be inserted. The motion carried.

Mr. Anzalone offered the motion to delete in line 28 the words "administer the", all of line 29 and 30 and "statute" of line 31. The motion failed with a vote of 2 in favor and 6 against the motion. Dr. Asseff and Mr. Anzalone were in favor of the motion.

Mr. Duval offered the motion to adopt as amended.

The motion carried with a vote of 6 in favor and Dr. Asseff and Mr. Anzalone opposing the motion.

Section 3. Attorney General; Powers. Mr. Duval offered the motion to adopt. Chairman Stagg offered the substitute motion that the words "may be" be inserted on line 18 after "otherwise" and the word "law" be stricken and "statute" be inserted.

Mr. Gravel offered the motion that the following language be adopted:

"There shall be a department of justice headed by the attorney general who shall be the state's chief legal officer. As may be necessary for the assertion or protection of the rights and interests of the state, the attorney general shall have the authority to:

1. institute, and prosecute or intervene in any legal action or other proceedings, civil or criminal;
2. exercise supervision over the several district attorneys throughout the state, and

3. for cause, supersede any attorney representing the state in any civil or criminal proceeding.

He shall have such other powers and perform such other functions as may be provided by statute."

The motion carried with a vote of 10 in favor, 1 against, and Dr. Asseff abstaining.

Section 4. Treasurer. Mr. Duval offered the motion that the following provision be adopted:

"There shall be a department of treasury which shall be headed by the state treasurer who shall be responsible for the custody, investment, and disbursement of the public funds of the state. He shall report annually to the governor and the legislature one month in advance of the regular session on the financial condition of the state and shall have such other powers and perform such other duties as may be provided by this constitution or by statute." It was requested that the staff add in the Comment that retirement funds are exempt from this provision. The motion was adopted unanimously.

Dr. Asseff offered the motion to recess. The motion carried. The committee recessed at 5:30 p.m.

The committee reconvened on Saturday, June 16, 1973, at 9:00 a.m.

Mr. Duval offered the motion that the above provision be adopted in regard to the secretary of state. The motion was unanimously carried.

Section 5. Public Service Commission. Mr. Duval offered the motion to adopt. After thorough discussion, Mr. Gravel offered the motion that on line 18 after "elected" the words "at the time fixed for congressional elections" be inserted, and on line 19 the words "as may be" be inserted before "established". The motion carried unanimously. Lines 20, 21, and 22 were also deleted.

Section 5 (B). Chairman; Employees. The following technical amendments were made: on line 9, delete "who" insert "which". on line 11, insert "as may be provided by statute" after "employees".

Mr. Gravel offered the motion that Section 5 (B) be combined with Section 5 (A) to read "The commission shall annually elect a chairman from one of its members."

The motion was unanimously carried.

Section 5 (C) Authority. It was suggested that the title be changed to "Powers and Duties". The following technical amendment was made: on line 23, after "functions" insert "as may be provided by statute". A motion was offered that the provision read as follows: Except as otherwise provided by this constitution, the commission shall regulate all common carriers and other public utilities. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and have such other powers and perform such other duties as may be provided by statute." The motion carried.

Section 5 (D). Limitation. Mr. Duval offered the motion to adopt the following language:

"The commission shall have no power to regulate any class of common carrier or public utility owned, operated, or presently regulated by the governing authority of any one or more political subdivisions, except by the consent of a majority of the electors voting in an election held for that purpose." He further suggested that the staff include somewhere in the provision that the process can be reversed. The motion carried with a vote of 8 in favor of it.

Section 5 (E) Decision on Rate Proposal. Mr. Gravel offered the motion to adopt the following language:

"The commission shall render its decision on a proposed rate schedule within six months from the date of filing, otherwise, the proposed schedule shall be deemed to be tentatively approved and, pending final determination, may be put into effect subject to such protective bond or security requirements as may be provided by statute. If no final decision is rendered by the commission within twelve months of filing, the schedule shall be considered to be finally approved. If the commission disapproves the proposed schedule, in whole or in part, the carrier or utility may place or continue the schedule in effect under bond or security, subject to any appeal and final action by a court of last resort to recover any refund that may be finally directed. Refund suits may be filed only within one (1) year after such final action."

Section 5 (F). Appeals. Mr. Duval offered the motion to adopt. Dr. Asseff moved that lines 26 through 28 be deleted and that a new concept be taken in which appeals from the orders of the Public Service Commission must be filed with the district court, at the domicile of the Public Service Commission, with a direct appeal to the supreme court, as a matter of right. The substitute motion carried with a vote of 8 in favor and 3 against the substitute motion.

Section 6. Dual Office Holding. Mr. Duval offered a motion that the following provision be adopted:

"No person holding any office, except in an ex officio capacity, provided for in this constitution or by statute of either emolument or honor under the government of the United States or of this state, shall at any time hold any other such office.

No individual shall hold office either elective or
appointive in more than one of the branches of state government or in any of its political subdivision, except the office of notary public or services of the armed forces, except as is otherwise provided by this constitution.

The legislature may waive the foregoing as to membership on boards or commissions created for special purposes for limited periods of time and which exercise advisory functions." It was requested that the staff research the provision further.

Section 7. Code of Ethics: Board of Ethics. Mr. Duval offered the motion to adopt.

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Mr. Dennery offered the substitute motion that on line 5 the word "functions" be omitted and "powers and duties" be inserted. The substitute motion carried with a vote of 5 in favor of the motion. It was asked that the record show that Mr. Anzalone and Mr. Gravel voted for the same issue.

Mr. Gravel offered the motion that the following be included in the dual office-holding provision:

"No person holding office or employed by the United States or any other state, territory, or foreign power shall hold any office created by this constitution or by statute." The above motion was not voted on. After thorough discussion, the committee requested that the staff rewrite the above provision and draft in a separate bill. A copy of that provision is attached hereto and made a part of these minutes.

The committee began discussion on the proposal of the Subcommittee on Reorganization; Vacancies, Succession, Absence and Disability; and Impeachment to the Committee on Executive Department.

Vacancies

Section 1. Governor. Mr. Dennery offered the motion to adopt. Dr. Asseff offered the substitute motion that on line 14 the word "elected" be deleted before "lieutenant governor". The substitute motion failed with a vote of 2 in favor and 5 against.

The following technical amendments were offered: on line 18 insert "as may be provided by statute"; on line 19 insert "remaining" before "term."

Section 2. Governor-elect. Mr. Dennery offered the motion to adopt. Mr. Abraham offered the substitute motion to delete Section 2. The substitute motion carried with a vote of 6 in favor and 2 against, with Dr. Asseff opposing the motion.

Section 3. Lieutenant Governor. Mr. Dennery offered the motion to adopt. The motion was unanimously carried.

Section 4. Other Statewide Elective Offices. Mr. Dennery offered the motion to adopt. The following technical amendments were offered: on line 19 and 20, strike remaining sentence; line 19 after "serve" insert "for the remainder of the term." The motion with amendments was unanimously carried.

Section 5 (A) Other Vacancies. Mr. Dennery offered the motion to adopt Section 5 (A). Mr. Gravel offered the substitute motion for the provision to read as follows:

"Where no other provision therefor is made in this constitution, by statute, by local government charter, or by ordinance, the governor shall have the power to fill any vacancy occurring in any elective office. If, at the time a vacancy occurs in such office, and the unexpired portion of the term of office is more than one year, the vacancy shall be filled at an election within six months, as may be provided by statute. The appointment provided for herein shall be effective only until a successor is duly elected and qualified." The substitute motion carried with a vote of 7 in favor and Dr. Asseff opposing the motion.

Mr. Dennery offered the motion to adopt Section 5 (D) which shall be changed to 5 (B). The motion carried with a vote of 6 in favor and 3 against the motion.

Section 6. Determination of Vacancy. Mr. Dennery offered the motion to adopt new language as follows:

"A vacancy, as used in this constitution, shall occur in the event of death, resignation, removal by any means, or failure to take office for any reason." The motion was unanimously carried.

Section 7. Declaration of Disability. Mr. Dennery offered the motion to adopt. The motion was unanimously carried.

Section 8. Determination of Disability. Mr. Dennery offered the motion to adopt. After discussion, a substitute motion was offered by Dr. Asseff to table. The substitute motion carried with a vote of 6 in favor and 2 against.

Section 9. Absences; Compensation. Dr. Asseff offered the motion to adopt. Mr. Abraham offered the substitute motion for a division of the question and that Section (B) be changed to Section 10. The substitute motion carried unanimously.

Section 10. Mr. Abraham offered the motion to strike. The motion failed with a vote of 5 in favor and 2 against.

The committee began discussion on Proposal 1-1 concerning Impeachment.
Section 1 (A). Dr. Asseff offered the motion to adopt. Mr. Gravel offered a substitute motion that on line 13 the word "misdemeanors" be deleted and "malfeasance" be inserted; on line 14 that after the word "corruption", everything be deleted and "or for gross misconduct" be inserted. The substitute motion carried with a vote of 5 in favor with Dr. Asseff and Mrs. Brien opposing the motion.

Section 1 (B). Dr. Asseff offered the motion to adopt. Mr. Gravel offered the substitute motion that the last sentence of Section (B) be deleted. The motion carried unanimously. Other amendments made were as follows: on line 22 insert "in his absence" after "or"; and on line 22 after "justice" strike "of" and insert "designated by".

Decision on Rate Proposal. Mr. Gravel offered the motion to reconsider. The motion carried with a vote of 5 in favor and 2 against. Discussion ensued and the language earlier noted in these minutes was adopted.

Pardons. Mr. Gravel offered the motion to adopt the following language:

"Except in cases of conviction upon impeachment, the governor may reprieve, may grant commutation of sentence, and may pardon those convicted of offenses against the state and may remit fines and forfeitures imposed for such offenses. Other remedies for those convicted of offenses may be provided by statute". The motion carried with a vote of 6 in favor of the motion and Dr. Asseff abstaining.

A copy of the final proposal submitted by the committee is attached hereto and made a part of these minutes. All other references are also attached and made a part of these minutes.

Mr. Gravel offered the motion to adjourn. There being no further business, the committee adjourned at 8:15 p.m.

[Signature]
Tom Stagg, Chairman of the Committee on Executive Department

CC-
1 Constitutional Convention of Louisiana of 1973
2 DELEGATE PROPOSAL NUMBER
3 Introduced by
4
5
6 A PROPOSAL
7 For prohibition against dual officeholding.
8 Do it adopted by the Constitutional Convention of Louisiana of 1973:
9
10 ARTICLE_____.
11 Section_____. Language Suggested for a Dual Office-
12 holding Law
13 Section_____. (A) Any person holding an office, position,
14 or employment under the United States or any other state,
15 territory, or foreign power shall be ineligible to hold any
16 office, position, or employment under this state.
17 (B) Any person who is elected, appointed, employed, or
18 otherwise engaged to serve in a civil office or position of
19 this state or one of its political subdivisions, who holds
20 a public contract for services rendered, shall be ineligible
21 to hold by election, appointment, employment, public contract
22 or otherwise, a second civil office or position in the state
23 or one of its political subdivisions. Acceptance of a
24 second office or position in violation of this provision
25 shall immediately vacate the first office or position, and
26 no public funds shall then be disbursed for services render-
27 ed in the first office or position.
28 (C) Provisions of this section do not apply to positions
29 held in an ex officio capacity, to services rendered in
30 temporary, nonpreliminary advisory positions, or to notaries
31 public.

CC-
1 Constitutional Convention of Louisiana of 1973
2 DELEGATE PROPOSAL NUMBER
3 Introduced by
4
5
6 A PROPOSAL
7 For prohibition against dual officeholding.
8 Do it adopted by the Constitutional Convention of Louisiana of 1973:
9
10 ARTICLE_____.
11 Section_____. Dual Officeholding, Prohibition
12 Section_____. No person holding any office or employment
13 of emolument, honor, profit, or trust under the government of
14 this state shall at the same time hold any other such office or
15 employment whether under government of the United States or
16 any other state, nor shall a person hold one such office or
17 employment under the government of this state or its politi-
18 cal subdivisions and hold such other office or employment of
19 trust, honor, profit, or emolument under the government of
20 this state or its political subdivision, except that of notary
21 public or officer of the armed forces. For purposes of this
22 section, membership on a board or commission having only ad-
23 visory functions shall not be deemed an office.
24
25 Comment: That a position is a public office when it is created
26 by law, with duties cast on the officeholder, which involve an
27 exercise of some portion of the sovereign power and in the
28 performance of which the public is concerned, and which also

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are continuous in their nature and not occasional or inter-
mitent; while a public employment, on the other hand is a
position which lacks one or more of the foregoing elements.

CC-
Constitutional Convention of Louisiana of 1973
DELEGATE PROPOSAL NUMBER
introduced by
A PROPOSAL
For prohibition against dual office holding.
PROPOSED SECTION:
Article ____, Section _____. Dual Office Holding:
Prohibition
Section ____. No person holding any office or
employment of either emolument or honor under the
government of this state shall at the same time
hold any other such office or employment whether
under government of the United States or any other
state, nor shall he hold more than one such office
or employment under the government of this state or
its political subdivisions except that of notary
public or officer of the armed forces. For purposes
of this section, membership on a board or commission
having only advisory functions shall not be deemed
an office.

CC-
Constitutional Convention of Louisiana of 1973
DELEGATE PROPOSAL NUMBER
introduced by Delegate
A PROPOSAL
Making provision for a capital budget.
Be it adopted by the Constitutional Convention of Louisiana of 1973:

Article _____. Section _____. Capital Budget
Section ____. The governor shall prepare annually a five-
year capital program and shall submit to each regular session
of the legislature a proposed capital budget act implementing
the first year of the five-year program. All capital projects
approved by the legislature shall be made a part of the capital
budget, and the operating budget for each year shall provide
for amortization of the cost of each such capital project.

CC/PS
Constitutional Convention of Louisiana of 1973
DELEGATE PROPOSAL NUMBER
introduced by
A PROPOSAL
To provide for capital expenditures.
PROPOSED SECTION:
Article _____. Section _____. Capital Expenditures

Section ____. Appropriations for capital projects
to be financed by the creation of indebtedness of the
state shall be embodied in a capital outlay budget
which shall contain a pledge of the full faith and
credit and unlimited taxing power of the state. Any
such appropriation that is in addition to or exceeds
the capital appropriations submitted to the legislature
by the governor shall provide for a tax, direct or
indirect, sufficient to pay the debt service required
thereby, to be levied and collected as prescribed in
the supplementary appropriation bill.

Source: New

6/29/73

PROPOSAL BY MACK ABRAMAH

(E) Capital Outlay Budget. The governor shall
prepare the annual capital outlay budget of the state
for the ensuing fiscal year and the succeeding four
fiscal years, and shall transmit copies thereof to
the legislature on or before the first day of each
annual session as may be provided by statute.
Proposed expenditures shall not exceed anticipated
revenues, as determined by the governor. Upon
adoption by the legislature, this budget shall be
executed and administered by the governor.

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

Held pursuant to notice mailed by the Secretary
of the Convention on June 18, 1973
LSU Law School, Baton Rouge, Louisiana
Friday, June 29, 1973, 12:00 Noon
Saturday, June 30, 1973, 9:00 a.m.
Sunday, July 1, 1973, 1:00 a.m.

Presiding: Tom Stagg, Chairman of the Committee on
Executive Department

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

Mr. Denney offered the motion that the approval of
the minutes be deferred until the meeting on the following
day. The motion carried.

Discussion ensued on the following provisions:
Extraordinary Session. Mr. Dennery offered the motion to adopt the provision in the second draft. The motion carried unanimously.

Section 6. First Assistants. Mr. Gravel offered the motion to adopt the provision as it is written in the second draft.

Mr. Anzalone offered a substitute motion that the provision include any statewide elected officials. After discussion, Mr. Anzalone withdrew his substitute motion.

The original motion offered by Mr. Gravel was approved with Mr. Anzalone and Dr. Asseff abstaining.

Section 20. Determination of Disability. Mr. Dennery offered the motion to adopt the provision in the second draft.

Mr. Gravel offered the substitute motion that on line 12 the words "for just cause" be inserted after "whenever", and on line 32 the words "two-thirds" be omitted and the word "majority" be inserted.

Chairman Stagg recommended that all words in brackets be included in Section 20.

Mr. Gravel withdrew the first part of his substitute motion and added to his previous substitute motion that on line 13, page 14, the word "such" be included after "other".

Mr. Dennery offered an amendment to the substitute motion to add "such" in lieu of "the" when referring to elected officials, and to also include this amendment for lines 13, 17, 22, 23, 30, and 34. Mr. Gravel accepted the amendment.

Dr. Asseff offered the motion to adopt his proposal on Determination of Disability. After discussion, the staff was directed to prepare a new concept. Dr. Asseff withdrew his motion.

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The committee decided to take up other business until the new draft was completed for discussion.

Section 23. Reorganization. Representative Tapper offered the motion that Mr. Arnette's proposal on Mandatory Reorganization be adopted. Dr. Asseff offered an amendment that lines 14, and 15, the words "departments, offices, and other" be included in lieu of "executive and administrative offices, agencies, and", and on line 22 the word "promptly" be deleted. The amendment was accepted by Mr. Arnette.

Mr. Duval offered an amendment that the provision specify that the governor has six months in which to act. The amendment was approved and the motion as amended carried with a vote of eight (8) in favor and three (3) against.

Section 23 A. Reorganization. Mr. Dennery offered the motion to adopt the provision adding the word "substantively" before "amend" line 15, page 16, and on line 7, delete "while in session, and on the first day of such session" and insert "on or before the first day of any session".

Dr. Asseff offered an amendment that on line 14, the word "its" be deleted and "the" be inserted, and after the word "members", the words "of each house" be inserted. The amendment was accepted by Mr. Dennery.

Reverend Stovall moved to call for the question. The motion carried with a vote of six (6) in favor and four (4) against.

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The motion, as amended, carried with a vote of ten (10) in favor of it.

Capital Outlay Budget. Mr. Dennery offered the motion to adopt the provision amending the title to read "Capital Budget".

Mr. Tapper offered the substitute motion that the provision not be included in the constitution. Dr. Asseff seconded the substitute motion. The substitute motion failed with a vote of four (4) in favor of it and six (6) against it.

Mr. Gravel offered several amendments to the Dennery motion, all of which were accepted by Mr. Dennery. The motion carried, as amended, with a vote of eight (8) in favor and one (1) against. Dr. Asseff opposed the motion.

Section 1 (B). Composition. Mr. Abraham offered the motion to adopt the present provision in the second draft, deleting "by law" on line 18. The motion carried unanimously.

Mr. Gravel offered the motion that on line 14, the word "other" be inserted before "instrumentalities". The motion carried with a vote of six (6) in favor and Dr. Asseff and Mr. Anzalone opposing the motion.

Section 2. Qualifications. Mr. Anzalone offered the motion to omit the words "during the term for which he is elected" and insert "during his tenure in office".

The motion carried unanimously.

Section 5 (F). Signature on Bills. Mr. Dennery offered the motion to strike the first sentence; on line 22 strike the word "him", insert "the governor"; on line 22, after "bill", insert "passed by the legislature"; and incorporate

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Section(G). Veto-into Section (F) Signature on Bills. Also, insert after last word on last sentence "and if the legislature is in session, he shall return it to the house in which it originated within twenty-four hours. If he fails to veto within the time otherwise provided by this constitution, it shall become law." The motion carried unanimously.

Section 5 (L). Extraordinary Session. Reverend Stovall offered the motion to change the title to Special Session. After discussion, the motion was withdrawn.

Mr. Dennery offered the motion to adopt the provision with the amendment that on line 27 the words "for a
Section 13. Code of Ethics; Board of Ethics. Mr. Anzalone offered the motion to delete paragraph B. The motion failed with seven against it and Mr. Anzalone and Dr. Asseff opposing the motion.

Section 13 (8). Mr. Dreneny offered the motion that on line 3 the word “perform” be deleted and the word “have” be inserted and “powers and duties” be inserted after “other”. Also, on line 4, the word “functions” be deleted. The motion carried with a vote of nine (9) in favor and one (1) against the motion.

The committee recessed at 5:30 p.m.

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The committee reconvened on Saturday, June 30, 1973, at 9:00 a.m.

Mr. Gravel offered the motion to approve the minutes. Mr. Stagg offered an amendment to the motion to strike the fifth paragraph on the second page. The amendment was accepted and the minutes were approved. Mrs. Brien abstained from voting on the motion.

Mr. Gravel offered the motion to defer working on the provision on Disability. The motion carried.

Dual Officeholding. Mr. Gravel offered the motion for a dual officeholding provision with amendments offered by Representative Tapper which Mr. Gravel accepted. A roll call vote was taken. The motion carried with nine (9) in favor and three (3) against the motion. Those opposing the motion were Mr. Abraham, Mr. Anzalone, and Mr. Duval. The provision adopted is included in the final Article which is attached hereto and made a part of these minutes.

The committee recessed at 12:15 p.m. and reconvened at 1:30 p.m.

Reverend Alexander offered the motion to reconsider the provision on Disability. The motion carried with a vote of six (6) in favor and four (4) against it.

Dr. Asseff submitted a proposal on disability to the committee and offered the motion for its adoption.

Mr. Dreneny submitted a proposal for disability and offered a substitute motion for its adoption. The substitute motion failed with a vote of one (1) in favor and nine (9)

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against the motion.

Reverend Stovall offered a substitute motion, that a subcommittee be assigned to draft the proposed language. The substitute motion carried with a vote of nine (9) in favor of it and Mr. Arnette opposing the motion.

A subcommittee was appointed consisting of Mr. Abraham, Mr. Anzalone, Mr. Dreneny, and Mr. Gravel.

Reverend Stovall offered the motion to proceed with other matters of business. Mr. Tapper seconded the motion. The chair overruled the motion. The committee was in recess for one hour.

The committee reconvened and began discussion on the proposal submitted by the subcommittee. Mr. Abraham offered the motion to adopt the language.

Mr. Tapper offered the substitute motion that the entire subject matter be tabled. The substitute motion failed with Mr. Tapper, Dr. Asseff, and Mr. Duval in favor of the substitute motion, and seven (7) against it.

The substitute motion offered by Mr. Abraham was voted on and failed with a vote of five (5) in favor and six (6) against it.

Mr. Tapper offered the substitute motion that his proposal be adopted in which a medical board is required to determine disability. The substitute motion failed with a vote of three (3) in favor and six (6) against it.

Mr. Arnette submitted a proposal to the committee and offered the motion for its adoption. The substitute motion failed with a vote of two (2) in favor and seven (7) against Mr. Anzalone abstained.

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Mr. Gravel offered the substitute motion to defer the matter until the next day. The substitute motion carried with a vote of eight (8) in favor of it.

Mr. Abraham offered the motion to reconsider Section 11(b), Decision on Rate Proposal. The motion carried with a vote of seven (7) in favor.

After thorough discussion, the committee agreed that members having any objections to the present Article as amended may offer amendments at the next meeting.

Mr. Tapper offered the motion to recess. The committee recessed at 6:00 p.m.

The committee reconvened on Sunday, July 1, 1973, at 1:00 p.m.

Mr. Gravel submitted a proposal on Disability and offered the motion to adopt. Amendments were offered by Reverend Alexander, Mr. Arnette, and Mr. Dreneny. All amendments were accepted by Mr. Gravel and the motion was voted on. The motion carried with a vote of eight (8) in favor of it. Reverend Alexander voted in favor of the motion but with reservations because of the absence of a medical board. Mr. Abraham was opposed to the motion. Representative Tapper asked to go on the record as being vehemently opposed because of the absence of medical advisors.

Section 4. Compensation. Mr. Anzalone offered the motion to delete the last sentence on lines 5 and 6. Dr. Asseff spoke against the motion. The motion failed with a vote of four (4) in favor and five (5) against.

Section 11. Public Service Commission. Mrs. Brien
submitted a proposal and moved for its adoption.

Mr. Abraham offered a substitute motion that the committee shall render its decision on a proposed rate schedule within six months from the date of filing.

Mr. Duval offered an amendment that in the event the commission does not render a decision within six months, their salaries will be terminated. Mr. Abraham accepted the amendment. The substitute motion failed with a vote of eight (8) in favor and two (2) against it.

Mr. Dennery, Mr. Tapper, and Mr. Abraham offered amendments to Mrs. Brien's motion, all of which she accepted. The motion carried unanimously.

Dr. Assiff was excused from the remainder of the meeting and did not vote on the following matters.

Mr. Gravel offered the motion to proceed with the agenda. The motion was approved by the chair.

Mr. Abraham offered the motion that the following changes be made in Section 5 (2):

1. on line 21, insert "or by statute" after "constitution"
2. on line 16, omit "1)"
3. on line 17, after "election", insert "or appointments"
4. on line 18, omit "2)"
5. on line 20, change "appointment or election" to "election or appointment"

Without objection, the chair so ordered the above changes.

Mr. Abraham offered the motion that in Section 5 (3), lines 30 through 32 be deleted. Mr. Gravel objected.

Mr. Dennery offered the substitute motion that on line 32, after "legislature", the words "unless submitted to and confirmed by the Senate" be inserted. The substitute motion carried with a vote of five (5) in favor and two (2) against it.

Mr. Dennery offered the motion that in Section 6, line 8 page 7, the words "The secretary of state, attorney general, and treasurer" be deleted and the words "Each statewide elected official except the governor and lieutenant governor" be inserted. Mr. Gravel offered the amendment that the words "procedures and" be inserted before "limitations". Mr. Dennery accepted the amendment.

Mr. Abraham offered the substitute motion to leave the provision as is. The substitute motion failed with a vote of two (2) in favor and four (4) against it.

The motion offered by Mr. Dennery carried with a vote of six (6) in favor of it and one (1) against.

Mr. Dennery offered the motion that in Section 8, line 8, a period be inserted after the word "oath". Also, on line 10, after the word "statute" insert "or by reorganization under executive order". Mr. Gravel offered the amendment that on line 9 after "be", insert "authorized by this constitution or". Mr. Dennery accepted the amendment and included the Gravel amendment in Sections 7, 8, 9, and 10. The motion carried unanimously.

Mr. Dennery offered the motion that in Section 24(A), on line 21, page 17, after the word "corruption" the words "in office" be inserted.

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Mr. Arnette offered the substitute motion that on line 21 after the word "for" the words "the following actions during his term of office" be inserted. Mr. Gravel offered the amendment to omit "incompetence and corruption". The amendment was accepted. The substitute motion failed with a vote of three (3) in favor and five (5) against.

Mr. Gravel offered a substitute motion that the following language be adopted:

"Any state and district official, whether elected or appointed, shall be liable to impeachment for commission or conviction of felonies or malfeasance during his term of office, or for gross misconduct." The motion carried.

Mr. Dennery offered the motion that in Section 24(b), delete everything after the period on lines 27 and 28 and all before the period on line 29. Also, on line 31, the word "judgment" be deleted and on line 26, after the word "and" the words "a vote of" be inserted. There being no objection, the chair so ordered the above amendments.

Mrs. Brien submitted a proposal and moved for its adoption. Mr. Anzalone and Mr. Arnette offered amendments to the motion and Mrs. Brien accepted the amendments. The motion carried unanimously.

Section 5(E). Mr. Duval offered the motion that lines 15 and 16 be deleted and the following words be inserted: "The legislature may provide additional methods whereby persons convicted of offenses may be pardoned or granted commutation of sentence. Other postconviction sentences also may be provided by statute."

Mrs. Brien submitted copies of language to the committee on pardons and moved for its adoption. The substitute motion failed with a vote of one (1) in favor and seven (7) against it.

Mr. Arnette offered a substitute motion that lines 15 and 16 be deleted. The substitute motion failed with a vote of two (2) in favor and five (5) against.

Mr. Abraham offered a substitute motion that on lines 15 and 16, language be adopted to provide for the legislature providing additional methods for the foregoing and other postconviction remedies. The substitute motion carried unanimously.

Mr. Tapper offered the motion that in Section 3, on line 7, after the word "elected", the word "statewide" be inserted. Also, on line 8, strike the word "each" and on line 7, after the word "shall", the word "each" be inserted. The motion carried unanimously.
Mr. Tapper offered the motion to adopt the Article as amended. Mr. Gravel seconded the motion.

Mr. Duval offered the substitute motion that Section 5(H), on page 5, be reconsidered. The substitute motion carried with a vote of nine (9) in favor and one (1) against.

Mr. Duval offered the motion to delete everything in the above Section except line item vetoes.

Mr. Abraham offered the substitute motion to delete line 8 and insert "use other means as may be" in its stead.

The substitute motion carried with a vote of eight (8) in favor and one (1) against it.

Representative Tapper offered the motion to adopt the Article as amended. Chairman Stagg noted that all members reserve the right to file minority reports.

The Article was adopted. Mr. Anzalone opposed the adoption of the Article.

A copy of the final Article is attached hereto and made a part of these minutes.

Mr. Denney offered the motion to adjourn. The motion carried unanimously.

There being no further business, the committee adjourned at 5:00 p.m.

* In an informal session Sunday morning, July 1, 1973, a quorum of the committee met and adopted changes in style which are not reflected in these minutes.

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AMENDMENTS TO MINUTES OF MEETINGS OF June 29, 1973, June 30, 1973, and July 1, 1973:

On page 5, line 6, close quotes

On page 2, note that Mr. Arnette did not accept the amendment by Mr. Duval but the amendment was approved.

PROPOSED SECTIONS:

Article ______, Section 1. Composition

(A) The executive branch shall consist of a governor, lieutenant governor, secretary of state, attorney general, treasurer, and all other executive offices, agencies, and instrumentalities.

(B) All offices, agencies, and instrumentalities of the executive branch of state government and their respective functions, powers, and duties, except for the offices of governor and lieutenant governor, shall be (statute) allocated by law according to function, among and within not more than twenty departments.


Section 2. Qualifications

(A) To be eligible for the office of governor, lieutenant governor, secretary of state, attorney general, or treasurer a person must have attained the age of twenty-five years by the date of his election and be a citizen of the United States and of this state for at least the five years immediately preceding the date of his election. [He shall hold no other public office, except by virtue of his office, during the term for which he is elected.]

(B) The attorney general also shall be an attorney and shall have practiced law or served as a judge of a court of record in this state for a combined total of at least five years preceding his election.


Section 3. Elections and Terms

(A) The governor, lieutenant governor, secretary of state, attorney general, and treasurer shall be elected for a term of four years by the electors of the state, at the time and place of voting for members of the legislature. A person who has served as governor for more than one and one-half terms in two consecutive terms shall not be elected governor for the next succeeding term.

(B) The returns of the election of these officers shall be transmitted to and be promulgated by the secretary of state in (a) manner as may be (provided) by statute.

The person having the greatest number of votes for each office shall be declared elected.

(C) If two or more persons have an equal, and the highest number of votes for an office, they shall draw lots to determine the result. The secretary of state shall arrange for the drawing of lots within ten days after the election results are promulgated, and his decision as to the winner shall be final and conclusive.

Electoral contests shall be decided by the courts as may be provided by statute.

(D) The term of office of each elected official shall begin on the second Monday in March next following the election.
(E) No other officer shall be elected statewide, except as provided by this constitution.


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Section 4. Compensation

The compensation of each elected official within the executive branch shall be fixed by the legislature and shall not be increased or decreased for the term for which the official is elected. No public official shall receive a salary in excess of that paid to the governor.


Section 5. Powers and Duties of Governor

(A) Executive authority. The governor shall be the chief executive officer of the state and shall faithfully support the constitution and laws of the state.


(B) Legislative reports and recommendations. The governor shall at the beginning of each regular session of the legislature, and at any other time, make reports and recommendations and give information to the legislature concerning the affairs of state, including its complete financial condition.


(C) Reports and information. All department heads shall provide the governor with reports and information in writing or otherwise requested by him on any subject relating to their respective departments excepting matters relating to investigations of the governor's office.


(D) Operating budget. The governor shall prepare the annual operating budget of the state, and shall transmit copies thereof to the legislature on or before the first day of each annual session as may be provided by statute.

Proposed expenditures shall not exceed anticipated revenues as determined by the governor. Upon adoption by the legislature, this budget shall be executed and administered by the governor.

Source: New.

Add: Capital Outlay Budget.

(E) Pardon, commutation, reprieve, remission. Except in cases of conviction upon impeachment, the governor may reprieve, may grant commutation of sentence, and may pardon those convicted of offenses against the state and may remit fines and forfeitures imposed for such offenses. Other remedies for those convicted of offenses may be provided by statute.


(F) Signature on bills. Every bill passed by the legislature shall be presented to the governor. The date and time when the bill is delivered to him shall be entered thereon. He shall then have thirty calendar days within which to act on it. If he approves it he shall sign it; if he disapproves it, he shall veto it giving his reason therefor. If he fails to veto it within the time otherwise provided by this constitution, it shall become law.


(G) Veto. If the governor disapproves a bill, he shall veto it and if the legislature in session, he shall return it within twenty-four hours with his objections to the house in which it originated.


(1) Appointments. (1) The governor shall appoint, subject to confirmation by the Senate, 1) the heads of all departments in the executive branch whose election is not provided for by this constitution; and 2) all members of boards and commissions in the executive branch whose appointment or election is not otherwise provided for by this constitution.

(2) Should the legislature be in session, the governor shall submit for confirmation by the Senate the names of those appointed within forty-eight hours after the appointment is made. Failure of the Senate to confirm an appointment prior to the end of the session shall be equivalent to rejection.

(3) Should the legislature not be in session, the governor may make interim appointments which shall expire at the end of the next session of the legislature.

(4) A person not confirmed by the Senate shall not be appointed to the same office during any reears of the legislature.
mission on which the governor serves, exercise the powers delegated to him by the governor, and have such other powers and perform such other functions in the executive branch as may be provided by statute.

Source: New

Section 8. Powers and Duties of the Secretary of State

Section 8. There shall be a department of state which shall be headed by the secretary of state, who shall serve as the chief elections officer and administer the election laws; administer the laws relative to voting machines or other voting devices as now or may be hereafter provided by this constitution or by statute; administer the state corporation and trade mark laws;

serve as keeper of the Great Seal of the State of Louisianas and attest therewith all official laws, documents, proclamations, and commissions; administer and preserve the official archives and records of the state; promulgate, publish, and retain the originals of all laws enacted by the legislature; countersign all commissions and keep an official registry of same; administer oaths; and he shall have such other powers and perform such other functions as may be provided by statute.

Source: New

Section 9. Powers and Duties of the Attorney General

Section 9. There shall be a department of justice headed by the attorney general who shall be the state’s chief legal officer. As may be necessary for the assertion or protection of the rights and interests of the state, the attorney general shall have authority to:

1. institute, and prosecute or intervene in any legal actions or other proceedings, civil or criminal;
2. exercise supervision over the several district attorneys throughout the state; and
3. for cause, supersede any attorney representing the state in any civil or criminal proceeding.

He shall have such other powers and perform such other functions as may be provided by statute.


Section 10. Powers and Duties of the Treasurer

Section 10. There shall be a department of treasury which shall be headed by the state treasurer who shall be responsible for the custody, investment, and

disbursement of the public funds of the state. He shall report annually to the governor and the legislature one month in advance of the regular session on
the financial condition of the state, and shall have 
such other powers and perform such other functions as 
may be provided by statute.

Note: Committee intent: retirement funds to be exempt from 
investment authority of treasurer.

Section 11. Public Service Commission

Section 11. (A) Composition: term. There shall be 
a public service commission which shall consist of five 
members elected at the time fixed for congressional 
elections from separate districts as may be established 
by statute for overlapping terms of six years. The 
commission annually shall elect a chairman from one of 
its members.

Source: La. Const. Art. VI, §§1, 8 (1921).

Note: The Schedule will provide for dates of staggered terms.

(B) Powers and Duties.

1. The commission shall have no power 
2. to regulate any class of common carrier or public utility 
3. owned, operated, or presently regulated by the governing 
4. authority of any one or more political subdivisions, except 
5. by the consent of a majority of the electors voting 
6. in an election held for that purpose; provided, however, 
7. that such political subdivision may reinvest itself with 
8. such regulatory power in the same manner as it was surren- 
9. dered.


(C) Limitation.
The commission shall have no power 
to regulate any class of common carrier or public utility 
owned, operated, or presently regulated by the governing 
authority of any one or more political subdivisions, except 
by the consent of a majority of the electors voting 
in an election held for that purpose; provided, however, 
that such political subdivision may reinvest itself with 
such regulatory power in the same manner as it was surren- 
dered.


(D) Decision on Rate Proposal. The commission shall 
render its decision on a proposed rate schedule within six 
months from the date of filing; otherwise, the proposed 
schedule shall be deemed to be tentatively approved and, 
pending final determination, may be put into effect subject 
to such protective bond or security requirements as 
may be provided by statute. If no final decision is rendered 
by the commission within twelve months of filing, 
the schedule shall be considered to be finally approved.

If the commission disapproves the proposed schedule, in 
whole or in part, the carrier or utility may place or continue 
the schedule in effect under bond or security, subject to any appeal and final action by a court of last
Whenever act of Vacancy written
$2; (1921).
Source: Section resolution temporary
to a temporary lieutenant governor
shall be the appointed first assistant in such
office. Successors to such offices shall serve the re-
mainder of the term for which the official was elected.

(3) the elected attorney general, (4) the elected treasur-
er, (5) the president pro tempore of the Senate, (6) the
speaker of the House of Representatives, and then as may
be provided by statute. Successors shall serve the re-
mainder of the term for which the governor was elected.


Section 15. Vacancy in Office of Lieutenant Governor

Section 15. Whenever there is a vacancy in the office
of the lieutenant governor, the governor shall nominate a
lieutenant governor who shall take office upon confirma-
tion by a majority vote of the elected members of each
house of the legislature.


Section 16. Vacancies in Other Statewide Elective Offices

Section 16. The order of succession in any other state-
wide elective office, in the event of a vacancy in such
office, shall be the appointed first assistant in such
office. Successors to such offices shall serve the re-
mainder of the term for which the official was elected.

Note: "Successors" means only first assistants.


Section 17. Other Vacancies

Section 17. (A) Where no other provision therefor is
made by this constitution, by statute, by local govern-
ment charter, or by ordinance, the governor shall fill
any vacancy occurring in any elective office. If, at
the time a vacancy occurs in such office, and the unex-
pired portion of the term of office is more than one year,
the vacancy shall be filled at an election within six
months, as may be provided by statute. The appoint-
ment provided for herein shall be effective only until a
successor is duly elected and qualified.

(B) Nothing in this Section shall be construed as
changing the qualifications for the various offices in-
volved, and all appointments must be of persons who other-
wise would be eligible to hold offices to which appointed.

Source: La. Const. Art. II, §8; Art. V, §§5, 18; Art. VI,
§§19.2, 26; Art. VII, §§5; Art. X, §2; Art. XII, §§4, 7
(1921).

Section 18. Definition of Vacancy

Section 18. A vacancy as used in this constitution
shall occur in the event of death, resignation, removal
by any means, or the failure to take office for any
reason.

Source: New

Section 19. Declaration of Disability

Section 19. Whenever a statewide elective official
transmits to the president pro tempore of the Senate and
CC-
the speaker of the House of Representatives a written
declaration that he is unable to discharge the powers
and duties of the office, and until he transmits to them
a written declaration to the contrary, the person suc-
ceeding to the office in the event of a vacancy shall
assume the powers and duties of the office as acting
official.


Section 20. Determination of Disability

Section 20. (A) Whenever a just cause majority of
the statewide elected officials determine that any other
official is unable to discharge the duties of his office,
they may transmit to the president pro tempore of
the Senate and the speaker of the House of Representa-
tives a written declaration that the said statewide elected
official is unable to discharge the powers and duties of
his office, the constitutional successors to the office
shall immediately assume the powers and duties of the
office as acting officials.

(B) Thereafter, when the elected officials transmit to
the president pro tempore of the Senate and the speaker
of the House of Representatives his written declaration
that no disability exists, he shall resume the powers and
duties of his office; provided that should a majority of
the statewide elected officials transmit within four days
to the president pro tempore of the Senate and the speaker
of the House of Representatives a second written declara-
tion that the elected official is unable to discharge the
powers and duties of the office, the issue shall be deter-
mined finally by a two-thirds vote of members elected to
the state supreme court under such rules as it may adopt,
and after due notice and hearing. The elected official
may not for a period of six months thereafter file another

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declaration stating that his disability has ended.

Note: The subcommittee considered the following language as
an alternate:
"....the issue shall be determined finally by a resolution
of the legislature passed by a two-thirds vote of the
elected members of each house meeting in regular or
special session."

Source: New

Section 21. Absences

Section 21. In the event of a temporary absence of
the governor from the state, the lieutenant governor shall
act as governor. In the event of a temporary absence of
16 a statewide elected official from the state, the appointed
17 first assistant shall act in his absence.
18
19 Section 22. Compensation
20 
21 Section 22. The lieutenant governor when acting as
22 governor shall receive the same salary as the governor,
23 and an appointed assistant when acting as an elected
24 official shall receive the same salary as the elected
25 official.
26
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29 Section 23. Reorganization
30 
31 Section 23. The legislature, by a proposal originating
32 in the House of Representatives, may reallocate by law the
functions, powers, duties, and responsibilities of all
executive and administrative offices, agencies, and in-
strumentalities of the executive branch, except those
functions, powers, duties, and responsibilities allocated
by this constitution, among and within not more than

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[Alternate Schedule Hold]

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[Alternate Schedule Hold]

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Schedule. Reorganization

Schedule. The legislature, by a proposal originating
in the House of Representatives, on or before eighteen
months after the effective date of this constitution,
shall allocate by law the functions, powers, duties, and
responsibilities of all executive and administrative
offices, agencies, and instrumentalities of the executive
branch, except those functions, powers, duties, and re-
responsibilities allocated by this constitution, among and
within not more than twenty departments. Should the
legislature fail to make such allocations within such
eighteen-month period, the governor promptly shall effect
such allocations by executive order.


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NOTES

CC-1055 is omitted. See above, Vol. IV, where CC-1055 is reproduced as C.P. No. 5, printed.

CC-1055 is omitted. See above, Vol. IV, where CC-1054 is reproduced as C.P. No. 4, printed.

MINUTES

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

Held pursuant to notice given by the Secretary
in accordance with the rules of the Convention
State Capitol Building, Room 205
Baton Rouge, Louisiana
Wednesday, July 11, 1973, 9:30 a.m.
Thursday, July 12, 1973, 9:00 a.m.

Presiding: Tom Stagg, chairman of the Executive Department Committee

Present: Absent: Joseph E. Anzalone - July 11, 1973
Tom Stagg
Camille Gravel
Emmett Asseff
Mack Abraham
Moise W. Denney
Hilda Brien

Joseph Anzalone - July 11, 12, 1973
Elmer Tapper - July 11, 12, 1973

The minutes of the previous meeting were approved as amended.

Reverend Stovall offered a motion that Committee Proposal No. 4 be reported favorably and open the floor for delegate amendments. The motion carried without objection.

Discussion ensued on the printed copy of Committee Proposal No. 4 in which technical amendments were offered. Amendments No. 1 through 25 were approved and the proposal was reported to the convention as amended. A printed copy of Proposal No. 4 with the Committee Report of July 11, is attached hereto and made a part of these minutes.

Dr. Asseff asked that the record show that he dissents from voting on Section 1, Section 3, and Paragraph (F) of Section 5.

Mr. Denney stated that he may introduce a delegate proposal relative to the number of years the attorney general is required to practice law before taking office.

Reverend Alexander stated that he may file a minority report relative to lines 3 and 19 on page 5.

Mr. Duval stated that he may offer a floor amendment deleting the last sentence of Section 4 in its entirety.

Mr. Stagg expressed his intent to submit a delegate proposal relative to Paragraph (L) of Section 5.

Dr. Asseff, speaking for himself and on behalf of Mr. Anzalone, stated their dissension to lines 12 through 15 on page 7.

Delegate Horace Robinson addressed the committee stating his objection to the dual officeholding provision as it relates to teachers. Delegate Gordon Flory shared Delegate Robinson's views on this matter.

The committee recessed until 9:30 the following morning.

Thursday, July 12, 1973

Discussion continued on the printed copy of Proposal No. 4 which had been recommitted to the committee from the convention floor. Discussion ensued on Section 19.

Dual Officeholding, Prohibition. Mr. Denney submitted three amendments to Section 19 to the committee, and offered the motion for its adoption. Copies of Mr. Denney's amendments are attached and made a part of these minutes.

Mr. Abraham suggested that the words "or employment" be deleted on lines 10, 13, 15, and 18 of the printed copy. Delegate Gordon Flory spoke from the audience in favor of Mr. Abraham's recommendation.

Mr. Gravel suggested that after the word "ethics," the words "after public hearing" be inserted in Amendment No. 3 of Mr. Denney's amendments. Mr. Denney accepted the suggestion by Mr. Gravel.

Delegate Aliphone Jackson submitted proposed amendments from the audience to the committee stating that teachers be allowed to hold elective offices. Mr. Gravel suggested amendments which Mr. Jackson found acceptable. A copy of Mr. Jackson's amendments is attached hereto and made a part of these minutes.

The committee recessed at 10:15 a.m. and reconvened at 10:30 a.m.

Mr. Gravel offered a substitute motion to defer further consideration of Section 19 and any amendments thereto until after Section 20 was adopted or rejected. The substitute motion carried with a vote of 6 in favor and 3 against the motion.

Mr. Flory, speaking from the audience, asked that the committee delay discussion on the code of ethics.

Mr. Gravel offered the motion to consider Section 19, as amended, Section 20, and Section 23 as separate proposals.

Mr. Gravel asked for unanimous consent of the committee. The motion was approved without objection.

Mr. Gravel offered the motion that on page 12, lines 18 and 19, the numerals "22" be changed to "19" and on page 17, lines 2 and 3 the numeral "21" be changed to "20". Without objection, it was so ordered.

Mr. Denney offered the motion to strike "be" on page 11, and insert "prevent any other action, prosecution, or" between lines 16 and 17. Without objection the chair so ordered the motion approved. The renumbered Section 20 was adopted as amended without objection.

Mr. Gravel offered the motion to adopt the renumbered Section 19. The motion carried with a vote of 9 in favor and 1 against.

Mr. Gravel offered the motion to recess until 3:00 p.m. The motion carried.

The committee reconvened and the committee members checked the amendments as corrected and prepared by the research staff.

Mr. Gravel moved that the committee adopt amendments 1 through 47 as rewritten to the printed copy of Proposal No. 4.

Reverend Alexander stated he wished to introduce some additional amendments to Section 5 of Proposal No. 4. After discussion, Reverend Alexander withdrew his amendments.
with the word "Such", the remainder of the sentence be
deleted and the following be inserted in lieu thereof:

"Such allocation, which shall not be subject to veto
by the governor, shall become operative not later than
18 months after the effective date of this constitution."

The motion carried unanimously.

Dr. Asseff offered the motion that the last sentence on
the printed copy be retained. The motion unanimously carried.

Dr. Asseff offered the motion to adopt the article as amended. The motion carried unanimously.

Reverend Stovall offered the motion to hear from the
speakers. Mr. Abraham seconded the motion. There being no objection, it was so ordered.

Chairman Stagg introduced Mr. Dan Hurley of Texaco, Inc.
A copy of Mr. Hurley's presentation is attached hereto and made a part of these minutes. Dr. Gravel suggested that
limiting the Public Service Commission in regulating sales of
natural gas did not prohibit other agency from doing so. Mr. Gravel requested that Mr. Hurley submit the exact
proposed language he feels should be inserted in the new
constitution. Mr. Hurley agreed to do so.

Chairman Stagg introduced Mr. Bob Brooksher, executive vice president of Louisiana-Arkansas Division of Mid-Continental
Oil and Gas. A copy of Mr. Brooksher's statement is attached
hereto and made a part of these minutes.

The chairman introduced Mr. Henri Wolbrette, executive
director of the Louisiana Chemical Association. A copy of
Mr. Wolbrette's presentation is attached hereto and made a part of these minutes.

The final speaker, Mr. Gene Cretini, director of
Advertising and Promoting for the Department of Commerce
and Industry, was introduced by Chairman Stagg. A copy of
Mr. Cretini's statement is attached hereto and made a part of these minutes.

There being no further business, the meeting adjourned
at 12:00 noon.

Statement to the Committee on Natural Resources & Environment
by Charles M. Smith, Jr.
July 19, 1973

The deletion in the draft under consideration today of most of the language of the
1964 amendment to Section 4 of Article VI of the Constitution, which expressly denies the

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NOTES

Committee Amendments are omitted. They are reproduced above at I Journal
150-152.
Public Service Commission the "authority to supervise, govern, regulate or control any aspect of sales of natural gas direct to industrial users", will have a braking effect on industrial growth in the state because it could create still further uncertainty and delay in the crucial area of contracting for energy supplies.

Without the protection of the existing language, a company will have no assurance that having found and successfully negotiated for gas supplies its efforts won't be washed out. Further, government has no justifiable role to play in private contract negotiations.

The language I quoted from the existing Constitution is from what has come to be called the Louisiana Right-To-Profit Laws which were meant to be our pledge to industry that the State of Louisiana did not intend to insert itself into matters which were not its concern. Dropping that language now will, in all probability, be interpreted as a repudiation of that enlightened attitude.

It is my understanding that the reason for the deletion of the Right-To-Profit provisions in the proposed draft is to ensure that no natural contracts will be signed which will jeopardize natural gas supplies to residential consumers. Obviously, these supplies have to be protected, but it seems that other less intrusive methods can be found. Making the Public Service Commission a third party at private contract negotiations is simply not the answer.

On the other hand, if the real purpose of the change is to give the Public Service Commission the authority to determine who will and who will not get natural gas — not just between industrial and residential consumers, but between competing industry as well — then we are starting down the road to a central and controlled economy, and it was in great part the attempt to artificially control natural gas supplies in the first place that created the present natural gas crisis.

The Department of Commerce and Industry, therefore, strongly urges that the existing language of Section 4 of Article VI be incorporated into the new Constitution, and that whatever standing authority is needed to assure adequate residential supplies in an emergency be vested elsewhere.

### STATEMENT OF MID-CENTRAL OIL AND GAS ASSOCIATION, LOUISIANA-LAURINAS DIVISION, IN SUPPORT OF REJECTION OF EXCLUSION OF INDUSTRIAL GAS SALES FROM JURISDICTION OF LOUISIANA PUBLIC SERVICE COMMISSION

On January 22, 1973, a representative of an Interstate pipeline company appeared before the Committee on Natural Resources and Environment and stated, among other things, that the provision of Article VI, Section 4 of the Louisiana Constitution, exempting industrial gas sales from the jurisdiction of the Louisiana Public Service Commission, has created a regulatory gap. As further stated the where such a gap exists, the Federal Power Commission may acquire jurisdiction over both Interstate and Intrastate pipelines. The authority cited for this proposition was the Hinshaw Amendment to the Natural Gas Act. Under the Hinshaw Amendment, which was added to the Natural Gas Act in 1954 and is referred to as Section 1(c) of the Act, it is provided that:

"The provisions of this Act shall not apply to any person engaged in or legally authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale, of natural gas received by such person from another person within or at the boundary of a State if all the natural gas so received is ultimately consumed within such State, or to any facilities used by such person for such transportation or sale, provided that the rates and service of such person and facilities be subject to regulation by a State commission. The matters exempted from the provisions of this Act by this subsection are hereby declared to be matters primarily of local concern and subject to regulation by the several States. A certification from such State commission to the Federal Power Commission that such State commission has regulatory jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction."

In the context of the statutory grant of power, it can be seen that Section 1(c) adds to the exclusions from the statutory grant stated in Section 1(b) of the Act, which provides:

"Provisions of this Act shall apply to the transportation of natural gas in interstate commerce to the sale in interstate commerce of natural gas for resale for ultimate consumption for domestic, commercial, industrial or any other use, and to natural gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas." (Emphasis supplied.)

As noted in Panhandle Eastern Pipe Line Company vs. Public Service Commission of Indiana, 332 U.S. 507, 516 (1947), the Act, as originally enacted, drew a sharp and distinct line between jurisdictional and non-jurisdictional activities. It drew only three things within Commission jurisdiction, namely:

1) Sales in interstate commerce of natural gas for resale;

2) Transportation of natural gas in interstate commerce; and

3) Persons engaged in such sales or transportation.

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It expressly exempted direct sales, such as industrial gas sales, and local distribution. When Section 1(c) was added in 1954 it broadened the express exclusions from the grant of power to include persons otherwise "engaged in or legally authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale of natural gas:"

1) When the natural gas received by such person is received from "another person";
2) When the gas so received is received within or at the boundary of a state; 
3) When all of the gas so received is consumed within such state; and 
4) When the rates, services, and facilities of such person are subject to the regulation of a State Commission.

The purpose of the Hinshaw Amendment was to "overcome the Supreme Court decision in Federal Power Commission v. East Ohio Gas Co., 1950, 338 U.S. 464, ..." Virginia Petroleum Jobbers Ass'n v. FPC, 265 F.2d 364, 368 n. 2 (D.C. Cir. 1959).

In that case, the Commission asserted jurisdiction over East Ohio Gas Co., under Section 1(b) of the Act, on the ground that it was transporting natural gas in interstate commerce. East Ohio owned and operated a natural gas system located solely in Ohio. Most of the gas received by East Ohio was supplied from out-of-state sources by Panhandle Eastern Pipe Line Co. and Hope Natural Gas Co., an affiliate of East Ohio. East Ohio's lines were connected with the interstate pipelines in Ohio. East Ohio transported all the gas so received to local distribution systems in Ohio. The Supreme Court sustained the Commission's assertion of jurisdiction over East Ohio holding that East Ohio's transportation of gas entirely within the State of ultimate destination was transportation in interstate commerce subject to the Commission's jurisdiction.

In this context, the Hinshaw Amendment was designed to give back to the States the regulation of natural gas transactions primarily of local concern which had been taken away from them by East Ohio. Indeed, the Commission itself favored the Bill since it stated that no "good purpose is seen for the imposition of Federal regulation in addition to that provided under State laws where only one State is affected."

Through Section 1(c) Congress returned to the States the regulation of systems which received, transported and consumed gas wholly within one state because it believed that when only one state was affected, it was a matter "primarily of local concern" which the State Commission would be in the best position to regulate. This Congressional policy was consistent with the Congressional policy underlying the Act itself that Commission regulations should complement and not supplant State regulation of the natural gas industry within the states themselves: Panhandle Eastern Pipe Line Company vs. Public Service Commission of Indiana, supra at 520.

The fact that the Louisiana Public Service Commission does not regulate direct sales of natural gas to industry by virtue of Article VI, Section 4 of the Louisiana Constitution does not create a "regulatory gap." The intention of the statutory language and the legislative history of the Hinshaw Amendment indicates that the Congress was concerned only that the State Commissions exercise jurisdiction over the rates and charges which would otherwise have been regulated by the Federal Power Commission. It did not require that the State Commissions also regulate those rates and charges which are not subject to FPC regulation in any event. In enacting Section 1(c), Congress was concerned that resale rates and services be regulated by the State Commissions since direct sales, such as industrial gas sales, and the local distribution were already exempt under Section 1(b) of the Act.

The Louisiana Public Service Commission regulates resale rates under Article VI, Section 4 of the Louisiana Constitution and under Sections 301 and 302 of the Louisiana Revised Statutes, which provide that the:

"transportation or sale of natural gas by pipe lines to local distributing systems for resale is affected with a public interest and such pipe lines, appurtenances and facilities to the extent of such transportation or sales are public utilities subject to the jurisdiction of the Louisiana Public Service Commission" (Section 301); and the,

"Commission shall supervise, govern, regulate, and control the transportation or sale of natural gas moving by pipe line to local distributing systems for resale for the purpose of fixing and regulating the rates charged and the service furnished by such public utilities in connection with such transportation or sale" (Section 302).

Hinshaw Amendment are inapplicable to industrial gas sales, which are exempt from regulation by the Federal Power Commission by virtue of Section 1(b) of the Act. There is simply nothing in the amendment, or its legislative history, which imposes a requirement that a state must regulate activities which are exempt from Commission jurisdiction under Section 1(b) of the Act. Thus, in order for Section 1(c), the Hinshaw Amendment, to be applicable. Likewise, there is no legal basis whatever for the assertion of FPC jurisdiction over a purely interstate system. Such a system is clearly exempt from regulation by the FPC and, accordingly, is in no need of a "Hinshaw exemption." Hence the fact that an industrial gas sale from an intrastate pipeline is not regulated by the Louisiana Public Service Commission cannot be construed as a "regulatory gap" to which the FPC would assert jurisdiction.

With regard to those interstate systems that are regulated by the FPC and desire to take advantage of the Hinshaw Amendment, it should be noted that Section 1(c) does not require that a State regulate all rates and services before a system may qualify for a "Hinshaw exemption."

Under the primary rule of statutory construction - reference to the express language of Section 1(c) - there is no requirement that the State Commission must regulate all rates of the exempt company. Section 1(c) provides that the Act shall not apply to any person engaged in either of two expressly stated activities; namely "the transportation in interstate commerce or the sale in interstate commerce for resale of natural gas." These are the two activities which otherwise would be subject to the Federal Power Commission’s jurisdiction under Section 1(b). No mention is made of other activities, such as direct sales which are exempt under Section 1(b). Notably, the limiting provision of Section 1(c) immediately following the description of the acts which shall be exempt requires only "...that the rates and service of such person and facilities be subject to regulation by a State commission." There is no requirement that "all" of the rates and services of the exempted company be subject to state regulation. Yet, the Commission’s strained interpretation would read that word into the Act. Since the plain language of Section 1(c) does not include the provision which the Commission would now supply, normal statutory construction rejects the Commission’s argument.

Further, aside from the language of the Act, it is clear that Congress was only concerned that the State Commissions regulate resale rates and services, which would otherwise have been subject to the Commission’s jurisdiction, not direct sale rates which are beyond the Commission’s jurisdiction in any event. When Congress enacted the Act in 1935, it created a Federal Commission empowered to regulate those matters in interstate commerce in natural gas which were beyond the reach of the states, i.e., sales in interstate commerce of natural gas for resale. The regulation of direct industrial rates was considered by Congress to be a matter primarily of local concern. Penndale Eastern Pipe Line Company vs. Public Service Commission of Indiana, supra.

Thus, in Section 1(b), Congress expressly exempted direct sale rates from the Commission’s jurisdiction and recognized that direct sale rates were subject to regulation by the states, not the federal government. Being subject to state regulation, the states were free to regulate, or not to regulate, the rates for such sales as they saw fit because they were matters primarily of local concern to the states. That was the basis upon which the Natural Gas Act was enacted.

In 1954, by virtue of Section 1(c), Congress exempted from Commission jurisdiction certain transportation of natural gas in interstate commerce and certain sales in interstate commerce of natural gas for resale, because Congress believed that, under the conditions outlined in the Amendment, such transportation and sales for resale were, like direct industrial sales, matters primarily of local concern. The 1954 Amendment did not give to the Commission authority to regulate the rates for direct industrial sales, nor did it require that the states regulate direct sale rates before the exemption would apply. Stated differently, under the Hinshaw Amendment, Congress did not change its earlier stated policy that the regulation of direct sale rates is a matter primarily of local concern which the states may regulate as they determine to be in their best interest.

In closing it is respectfully submitted that Article VI, Section 4 of the Louisiana Constitution, exempting industrial sales of natural gas from the jurisdiction of the Louisiana Public Service Commission, is compatible with the provisions of the Hinshaw Amendment to the Natural Gas Act and does not "invite" FPC regulation of such sales, since industrial gas sales, in the first place, are not under the jurisdiction of the Federal Power Commission by virtue of the provisions of Section 1(b) of the Act. Accordingly, the assertion that the Federal Power Commis-
SION may acquire control or jurisdiction over interstate or intrastate pipelines because of a “regulatory gap” is without legal merit and has no bearing on the question of whether the constitutional exemption should be retained.

STATEMENT BY TEXACO INC. BEFORE THE EXECUTIVE DEPARTMENT COMMITTEE OF THE LOUISIANA CONSTITUTIONAL CONVENTION IN SUPPORT OF THE RETENTION OF THE PROVISIONS OF ARTICLE VI, SECTION 4, OF THE LOUISIANA CONSTITUTION OF 1921, AS AMENDED BY ACT 531 OF 1964

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.

SALES OF NATURAL GAS TO INDUSTRIAL USERS HAVE HISTORICALLY BEEN MADE NOT ONLY BY LOCAL DISTRIBUTING SYSTEMS BUT ALSO BY OTHER SUPPLIERS, SUCH AS PIPELINE COMPANIES AND PRODUCERS OF NATURAL GAS, WHO SELL UNDER INDIVIDUALLY NEGOTIATED CONTRACTS. All suppliers have an opportunity to compete for this business in an unregulated marketplace. The Louisiana Public Service Commission under Article VI, Section 4, of the Louisiana Constitution has been and is currently restricted to the regulation of public utilities; and, as part of that authority, it regulates such areas as the sale or transportation of natural gas “by pipe line to local 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 predominant 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 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 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.

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. 45:1161.

The proposed Constitutional Amendment was submitted to the electorate on November 3, 1964, and it was adopted by over 48,000 votes. Thereafter, it materially assisted Louisiana in her efforts to attract new industries. I am attaching to the written copy of this statement, which I shall file, a copy of an advertisement published by Governor McKeithen in the September 21, 1964, issue of U. S. News and World Report. Among the four items listed by the Governor as having already attracted $333,000,000 of new investment was this amendment, "[p]rohibiting intervention or control of industrial gas negotiations and sales by state government . . .," in the words of the advertisement.

If Louisiana is to keep the industries that it attracted in the past, the jobs and payrolls that have resulted therefrom and attract new industry with comparable benefits to the State and its economy, appropriate incentives must be afforded. In the past, the adoption of such measures as tax credit for natural gas consumed by industry, equalization of industrial assessments, tax exemptions for new plants and equipment, and the creation of a climate which 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 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, Texas, which produces 20% of the gas in Louisiana, has installed an extensive intrastate 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 that encourage the exploration for and development of the State's petroleum resources, natural gas must be permitted to compete freely in the intrastate industrial marketplace on the basis of its usable energy content, cleanliness, and other values. The regulation of the sale of natural gas to industrial users would not be consonant with these objectives. Rather, it would be counterproductive.

CONCLUSION:

We respectfully recommend, therefore, that the provisions of article VI, section 4, exempting industrial gas sales from regulation by the Public Service Commission be retained in any new Constitution.

STATEMENT FOR RELATION 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 only by local distributing systems but also by other suppliers such as pipeline companies and producers of natural gas who sell under long-term negotiated contracts. All suppliers have an option by the expressed intent of this business.

The Louisiana Legislature, as early as 1944, in naming the Commission's jurisdiction to include sales by pipeline companies and intrastate distributing systems for resale, "specifically delineating Commission's jurisdiction over direct industrial sales by pipeline companies for the purpose of gas furnished to users for fuel or manufacture, etc.," does not 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 rational justification for 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 improve the ability of the people of Louisiana State to maintain a diversified and stable economy.

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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 1, exempting industrial gas sales from regulation by the Public Service Commission be retained in any new Constitution.

NOTES
Executive Committee Minutes of July 26, 27, 1973 are omitted. On these days the committee met jointly with the Committee on Natural Resources. Minutes for those dates are reproduced below with the Minutes of the Committee on Natural Resources.

MINUTES
Minutes of the meeting of the Executive Department Committee of the Constitutional Convention of 1973
 Held pursuant to notice given by the Secretary in Accordance with the Rules of the Convention

State Capitol, Baton Rouge, Louisiana
Tuesday, July 31, 1973, 5:00 p.m.

Presiding: Tom Stagg, Chairman of the Executive Department Committee

Absent: Avery C. Alexander, Elmer R. Tapper

The committee began discussion on Committee Proposal No. 4, in order to obtain suggestions from committee members on the presentation of the proposal on the convention floor.

It was decided that dual officeholding, code of ethics, and impeachment would be deleted from the title.

The staff distributed a digest of Committee Proposal No. 4 to the committee.

Discussion ensued on each Section of Committee Proposal No. 4. The following is a list of sections and committee members who will offer amendments on the floor of the convention:

Section 2 - Mr. Duval will offer an amendment for page 1, lines 29 and 31

Section 4(B) - Mr. Abraham will offer an amendment to delete the section; Mr. Arnette stated that the punctuation is poor

Section 5(A) - Reverend Stovall stated that he has some objection to the section and may write an amendment to change the language

Section 5(D) - Mr. Duval will amend to delete part of line 28 and all of line 29 on page 3

Section 5(F) - Dr. Asseff will offer an amendment; Mr. Arnette will amend to delete the last sentence on page 4

Section 5(G) - Mr. Abraham is assigned to write an amendment so that the language will conform to that already adopted by the convention

Section 5(H) - Mr. Duval will amend to change the title to Item Veto; Dr. Asseff will amend to strike Section 5(H)

Section 5(I) - Mr. Abraham will amend lines 4 and 8 on page 5; Mr. Arnette will prepare an amendment

Section 5(L) - Reverend Stovall offered a motion to delete. It was the consensus of the committee that this section be deleted; Mr. Abraham will prepare the amendment

Section 6 - Mr. Anzalone will offer an amendment to delete the entire section

Section 7 - Mr. Anzalone will offer an amendment

Section 10 - Dr. Asseff will offer an amendment; Mr. Dennery will offer an amendment on the number of years the attorney general must have practiced law

Section 11 - Mr. Anzalone and Dr. Asseff will offer amendments to add other statewide elected officials; Mr. Duval will offer an amendment to omit "remaining" on page 8, line 9, and insert "remainder of the"

Section 17 - Mr. Abraham will offer an amendment so that the presiding officer of each house shall convene the legislature

Section 19 - Mr. Duval will offer an amendment; Mr. Dennery will offer a floor amendment to delete

Mr. Anzalone offered the motion to adjourn. Mr. Duval offered the substitute motion to recess until 9:00 a.m., Thursday, August 2, 1973. The substitute motion carried.

There being no further business, the committee recessed.

Presiding: Tom Stagg, Chairman of the Committee on Executive Department

MINUTES

Minutes of the meeting of the Executive Department Committee of the Constitutional Convention of 1973
 Held pursuant to notice given by the Secretary of the Convention in Accordance with the Rules of the Convention

State Capitol, Baton Rouge, Louisiana
Thursday, August 2, 1973, 9:30 A.M.


Absent: Avery C. Alexander, Elmer R. Tapper
The roll was called and a quorum was present.

Mr. Anzalone offered the motion to approve the minutes. There being no amendments to the minutes, the motion carried.

The staff distributed copies of Committee Proposal No. CC-1161. After brief discussion, the committee decided that the title be changed to Code of Ethics: Board of Ethics.

Mr. Gravel offered the motion that "the legislature shall enact a code of ethics prohibiting conflict between public duty and private interests of all employees and officials of the state and its political subdivisions." The motion carried with a vote of eight (8) in favor and one (1) against. Dr. Asseff opposed the motion.

Mr. Gravel offered the motion that page 1, line 19, strike "No more than" and insert in lieu thereof "At least." After discussion Mr. Gravel withdrew the motion.

Dr. Asseff suggested that each member state his position on the subject and it then be voted on.

Mr. Duval stated that he is firmly against structuring this board in the constitution, and further stated that he would prefer to see the board placed in the statutes.

Mr. Gravel stated that he believes the board of ethics should be in the constitution.

Mr. Gravel offered the motion that in Section 1 (b), on line 19, the words "No more than" be deleted and the words "At least" be inserted; on line 23 after the word "and" the word "elected" be deleted; on line 23, after "officials" insert "of the state and its political subdivision"; line 22, after "ethics" delete the remainder of the sentence and also delete lines 23, 24, and the first word in line 25. After discussion, the motion by Mr. Gravel failed with a vote of four (4) in favor and five (5) against.

Mr. Gravel offered the motion to reconsider the vote on his motion at a later date. The motion carried with a vote of six (6) in favor and two (2) against.

Dr. Asseff offered the motion to adjourn. The motion carried. There being no further business, the committee adjourned at 11:50 a.m.

NOTES

CC-1161 is omitted. See above, Vol. IV, where CC-1161 is reproduced as C.P. No. 22, printed.

MINUTES

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

Held pursuant to notice given by the secretary in accordance with the rules of the Convention State Capitol, Baton Rouge, Louisiana Wednesday, August 8, 1973, 9:00 p.m.

Presiding: Tom Stagg, Chairman of the Committee on Executive Department

Present

Mack Abraham
Tom Stagg
Joseph E. Anzalone
Greg Arnette, Jr.
Emmett Asseff
Hilda Brien
Nolaise M. Dennery
Stanwood R. Duval, Jr.
Camille F. Gravel, Jr.
James L. Stovall
Elmer R. Tapper

Absent

Avery C. Alexander

The meeting was called to order and the roll was called.

Chairman Stagg suggested that the committee take up the various offices beginning with the superintendent of education. The staff distributed amendments to be discussed by the committee. The first proposed amendment was that concerning the superintendent of education. Mr. Gravel offered the motion that the amendment be inserted in Section 10. Several members recommended that this section be deferred until a later date.

Mr. Gravel suggested that the section read as follows:

"There shall be a department of education headed by the superintendent of education. The superintendent of education shall exercise such powers and perform such duties as may be provided by this constitution or by statute."

Chairman Stagg then introduced Mr. Gordon Flory, a member of the Committee on Education and Welfare. Mr. Flory stated that the duties of the superintendent of education should be described in the article on executive department. He further stated that the section is broad enough to allow the Committee on Education and Welfare to work within its framework.

After discussion, Mr. Arnette offered the substitute motion to pass over the section until the committee presents its proposal to the convention. The roll was called and the substitute motion failed with a vote of six (6) nays and four years. The following is a list of the roll call vote:

Yeas

Arnette
Asseff
Duval
Stovall

Nays

Abraham
Anzalone
Brien
Dennery
Gravel
Tapper

Mr. Anzalone offered the substitute motion to leave the section as it is originally in the proposal. The substitute motion failed with a vote of seven (7) nays and three (3) yeas. The following is a list of the roll call vote:

Yeas

Arnette
Asseff
Duval
Stovall

Nays

Abraham
Anzalone
Brien
Dennery
Gravel
Tapper
Mr. Dennery offered an amendment to Mr. Gravel's motion which reads as follows:

"The department shall exercise such functions and the superintendent shall exercise such powers and perform such duties as may be provided by this constitution or by statute."

Mr. Gravel accepted the amendment. The vote was called on Mr. Gravel's motion. The motion was adopted with a vote of five (5) yeas and five (5) nays. Chairman Stagg broke the tie vote by voting in favor of the motion. The following is a list of the roll call vote:

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Mr. Gravel offered the motion to proceed with the secretary of state, which is pending before the convention. Reverend Stovall seconded the motion. The motion carried.

The staff distributed a proposed amendment on the secretary of state. Dr. Asseff explained the amendment and moved for its adoption.

Mr. Arnette moved that the committee hear from anyone who wished to speak on the matter. The motion carried.

Chairman Stagg introduced the Honorable Wade O. Martin, Jr., Secretary of State. Mr. Martin explained to the committee how his office operates and stated that by taking the duties of elections out of the hands of the secretary of state, there would be a great loss of efficiency, integrity of the ballot, and a small loss of employment but would require the hiring of technicians - the expenditure of a tremendous sum of money. A copy of Mr. Martin's presentation is attached hereto and made a part of these minutes.

Following Mr. Martin's presentation, Chairman Stagg read from a letter addressed to the committee from Mr. Douglas Fowler, Custodian of Voting Machines. A copy of that letter is attached hereto and made a part of these minutes.

Chairman Stagg introduced Mr. Russell Gaspard of the Board of Registration. Mr. Gaspard stated that he thought one agency should be responsible for all election procedures. Mr. Gaspard further stated that he does not object to the amendment pending before the committee.

Reverend Stovall offered the substitute motion to refer the matter to the convention sitting as a committee of the whole.

Mr. Gravel moved the previous question on the entire subject matter. The motion failed with a vote of five (5) nays, four (4) yeas, and one (1) abstention. The following is a list of the roll call vote:

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Mr. Arnette offered a substitute motion to omit the following from the proposed amendment:

"except for those relating to voter registration and voting machines;"

The substitute motion failed with a vote of seven (7) nays and two (2) yeas. The following is a list of the roll call vote:

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The committee then voted on the original motion by Dr. Asseff to adopt the following amendment:

"the secretary of state, who shall promulgate all election returns; administer the election laws except for those relating to voter registration and voting machines; administer"

The motion carried with a vote of seven (7) yeas and two (2) nays. The following is a list of the roll call vote:

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The staff distributed a proposed amendment to the committee concerning the commissioner of elections. Dr. Asseff explained the amendment and moved for its adoption. Mr. Gravel offered an amendment that after the word "duties" the words "in relation thereto" be inserted. Dr. Asseff accepted the amendment.

Mr. Duval offered the substitute motion that the following be adopted:

"There shall be a state commissioner of elections who shall administer the laws relative to voting machines and voter registration. He shall have other powers and perform other duties as provided by statute." Mr. Abraham asked that Mr. Duval amend the motion to insert "in relation thereto". Mr. Duval accepted the amendment.

The substitute motion failed with a vote of six (6) nays and four (4) yeas. The following is a list of the roll call vote:

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Dr. Asseff stated that he did not wish to add the
Gravel amendment to his amendment.

Mr. Gravel offered the substitute motion that the
words "relative thereto" be inserted in the Asseff amendment.
The substitute motion failed with a vote of six (6) nays, three (3) yeas, and one (1) abstention.

The following is a list of the roll call vote:

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Representative Tapper offered the substitute motion that the following be adopted:

"There shall be a custodian of voting machines
appointed by the governor, whose office shall be in the
secretary of state's office."

Mr. Anzalone moved the previous question. There
being no objection, the previous question was ordered.
The substitute motion failed with a vote of six (6) nays, two (2) yeas, and two (2) abstentions.
The following is a list of the roll call votes:

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The committee then voted on the amendment offered
by Dr. Asseff. The amendment reads as follows:

"There shall be a department of elections headed by
the state commissioner of elections who shall
administer the laws relative to voting machines,
and voter registration. He shall have such other powers and perform such other duties as may be
provided by statute."

The motion carried with a vote of five (5) yeas and
three (3) nays. The following is a list of the roll call
vote:

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A proposed amendment by Dr. Asseff relative to
the powers and duties of the commissioner of agriculture
was distributed among the committee members. Dr. Asseff
explained the amendment and then moved for its adoption.
Mr. Robert Munson was introduced and spoke on behalf of
the amendment.

Mr. Gravel and Mr. Dennery offered the following
amendment, and moved for its adoption:

"There shall be a department of agriculture headed
by the commissioner of agriculture who shall exercise
all functions of the state in relation to the promotion,
protection, and advancement of agriculture, except such
functions expressly allocated by this constitution or by
statute to other state agencies. The department shall
exercise such functions and the commissioner shall have such
other powers and perform such other duties as may be
authorized by this constitution or by statute."

The substitute motion carried with a vote of five (5)
yeas and four (4) nays. The following is a list of the
roll call votes:

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Dr. Asseff offered the motion to adjourn. The motion
failed with a vote of six (6) against and two (2) in favor
of the motion.

The committee began discussion on the commissioner of
insurance.

Reverend Stovall offered the motion that the following
language be adopted:

"There shall be a department of insurance headed
by the commissioner of insurance. The commissioner of
insurance shall have such powers and perform such duties
as may be provided by statute."

Mr. Arnette offered a substitute motion that the
following amendment be adopted without changes:

"There shall be a department of insurance headed
by the commissioner of insurance, who shall administer the
insurance code, the rate-making, and regulatory functions
related to insurance in all of its phases, and shall have such
other powers and perform such other duties as may be
authorized by this constitution or by statute."

The following roll call vote was taken:

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Mr. Dennery and Mr. Gravel offered the following
amendment and moved for its adoption:

"There shall be a department of insurance headed
by the commissioner of insurance, who shall administer the
insurance code. The department shall exercise such functions
and the commissioner shall have such other powers and perform such other duties as may be authorized by this constitution or by statute." The motion carried with a vote of four (4) yeas and three (3) nays. The following is a list of the roll call vote:

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Mr. Arnette offered the motion for adjournment and the motion carried.

There being no further business, the committee adjourned.

TOU Douglas, Chairman of the Committee
on Executive Department

Douglas Fowler
State Custodian of Voting Machines

June 4, 1973

Honorable Tom Stagg
Chairman, Executive Committee

Dear Mr. Stagg:

I deeply regret that I am unable to present you and your Committee today due to circumstances beyond my control.

I ask that you please read the enclosed statement to the Committee.

Thank you and with most kind personal regards, I am

Sincerely,

Douglas Fowler

Mr. Chairman and Members of the Committee:

This Convention was not called by Governor Edwards and the Legislature of the State of Louisiana to write a Constitution for one individual or for one organization. It was called to write a Constitution for all the people of the State of Louisiana.

You have worked long and hard for many months with little or no praise. You have been criticized and chastized for your actions by some groups, and I don't come here today to propose to insult your intelligence by trying to tell you how to do your job of writing a new Constitution.

I give thanks to every member of this Committee and to all the delegates, for your untiring efforts and sacrifice that you have made in writing a new Constitution for this great State of ours.

This is your office... we are here to serve you...

SUMMARY OF STATEMENT OF WADE O. MARTIN, JR., SECRETARY OF STATE REGARDING THE PROPOSAL OF CAMILLE GRAVEL ET AL. RELATIVE TO THE OFFICE OF SECRETARY OF STATE

The Issue

The proposal under consideration is the removal of all elections functions from the Secretary of State's office.

A true understanding of this issue must produce the conclusion that elections is one of the most important matters under consideration by the Constitutional Convention.

I have confidence in the integrity and fair-mindedness of the great majority of the delegates to this Convention, and yet I am fully aware that many delegates may not be in possession of the facts necessary to arrive at conclusions in the best interest of all the people.

In yesterday's State Times a quote from a great American historian, Will Durant, was apropos here. He said, "Great men speak to us only as far... as we have in us the roots at least of that which flowers out in them." I am not a great man, but I will say that I have studied as a citizen, as a taxpayer, as a lawyer and as an elected official, the election machinery of this state and nation to where I am in possession of facts which I hope to bring out to all delegates who conscientiously want to accomplish the objectives of this Convention.

Convention Procedure

It is in a sense regrettable that efforts were made within a 24-hour period to push through this Convention with absolutely no committee hearing, and with no discussion before any committee, a matter as vital to all the people as the administration of election functions by the Secretary of State's office. I am grateful to the majority of the delegates for affording this opportunity to be heard, if not before the entire Convention, at least before a committee which has already emphatically expressed itself as being in favor of keeping those functions in the

Secretary of State's office.

Are We Seeking to Reflect the Desires of the People in This Convention?

The official and only completely reliable "poll" to me on the subject of what they approve or disapprove in elective offices is their rejection and their ballots at election time.

In the past eight elections, covering a span of 10 years, what greater approval of the functioning of an office could be given than to elect the chief administrator of that office by a majority of 572, 868 votes in one election, and re-electing him without opposition in four others.

More than 50 per cent of the man hours of work in the Secretary of State's office, and at least three-fourths of the payroll, is devoted to payment of employees working full time or part-time every day during an election. The removal of these functions from that office would be nothing short of a criminal waste of efficiency and economy which has taken years to develop for the people of Louisiana. This would do complete violence to the wishes of the people as reflected in their vote in these elections.

In the Nation

The Secretary of State's office of Louisiana has served as a spokesman in the nation before Congressional committees and throughout the nation in matters involving the integrity of the ballot and maintaining the workability of the election procedures. While there is always room for improvement, Louisiana's procedures are being recognized as among the best in the nation through its office of Secretary of State.

Why Is the Present Functioning of Elections Administration in the Secretary of State's Office So Efficient?

As reported previously, the Convention delegates, the Secretary of State's office with some 70 employees in the Secretary of State's office proper, some 17 different functions all having peak loads of various times are operated efficiently, including elections and related matters, with an interchange of employees under close supervision so that there is an efficient and economical flow of work.
In addition to those occupied full time in election matters the same
lawyers, accountants, supervisors, ballot experts, proof readers, and so forth,
are all utilized to the fullest advantage. To create a separate department solely
to handle election matters would reduce the required personnel in the Secretary
of State's office by very little, but would require the employment of technicians -
the expenditure of a tremendous sum of money. This would be a fantastic waste
of taxpayers' money and a reduction in efficiency because it would be creating a
new organization with new administrators and personnel at the most critical time
in the election history of this state, nation and the free world.

Why Is This Such a Critical Time?

Granted that no one is indispensable, yet it is quite obvious the changing
a crew on a 747 loaded with passengers while in mid-air from a proven experienced,
qualified crew to a new one recruited from untrained and unproven passengers would
be unthinkable.

Today both the practical workings and the integrity of the election process
are in serious jeopardy. If the field of elections, which formerly depended
on state regulation only, many adjustments are necessarily being made at the present
time as a result of the entry into the field of acts of Congress, the Federal court
decisions, the United States Attorney General, who required to participate in the
approval of disapproval of all Louisiana rules and regulations with regard to
election and registration and interpretation by Federal agencies, all which have the
effect of law.

The adjustment, to all these changing conditions, including reapportionment,
which justifies the utilization at this particular time of the expertise and
knowledge available in a proven office of elections.

Do the Objectives of this Convention Truly Include "Consolidating"? State
Government and Producing Economy and Efficiency?

At least in the beginning, it was my understanding that two of the objectives
of this Convention were to consolidate agencies and produce efficiency for the
taxpayers.

If this does indeed remain an objective, this Gravel-Kelly proposal does
complete violence to both the concepts of consolidation and economy. There is
no doubt in my mind that the people of Louisiana, whatever may be their feelings
about existing statewide elected officials, would not expect and, thus far at least,
do not desire the creation of additional statewide elected officials. As depicted
herein, such a procedure, would be both inefficient and uneconomical.

In conclusion the real issues here are plain.

1. The preservation of the integrity and workability of the elections process
in this state and nation.

On the integrity and workability of the elections process, this ballot is the
pillar upon which the nation must stand or fall.

In Louisiana alone, there are 2587 precincts and in the last election, there
were five (5) different sets of laws, rules and regulations to be observed and
approximately 600 ballot changes in these 2587 precincts. A ballot change means
that ballots must be prepared to conform so as to properly meet all the recent
reapportioned districts as well as the proper arrangement of all statewide
candidates and proposals.

A failure here could easily cause chaos and the failure of elections.

2. Taxpayers interest

Without reservation or restriction, my experience prompts me to say that
the removal of the elections functions from the Secretary of State's office at this
time would be a criminal waste of efficiency and would be a fantastic waste of
taxpayers money.

3. What the issue is not

In conclusion, the issue is not and cannot be personalities. The Constitution
is being written for all the people of Louisiana. The people include our present
generation and the children of today, for whom we hope to leave something a
little better than when we came.

MINUTES

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

Held pursuant to notice given by the secretary
in accordance with the rules of the Convention
State Capitol, Baton Rouge, Louisiana
Saturday, August 11, 1973, 9:00 a.m.

Present: Tom Stagg, Chairman of the Committee on
Executive Department


The roll was called and a quorum was present.

Discussion was held on the action the committee should take
since the executive proposal had failed to pass, and a motion to
reconsider was pending.

The chairman introduced E.L. 'Bubba' Henry, Chairman of the
Constitutional Convention, and asked Chairman Henry to share his
views on where the committee stands parliamnately. Chairman
Henry stated that the subject of elected versus appointed offici-
als was more controversial than he thought it would be. Chair-
man Henry suggested that, unless the committee could arrive at a
unanimous decision, the executive proposal should be left on the
calendar and the convention proceed to consider the proposal on
the Judiciary. He further stated perhaps the delegates could
reach a compromise if they were given a little time. Chairman
Stagg asked about the parliamentary procedure for leaving the
proposal on the calendar. Chairman Henry stated the proposal
is automatically referred back to the calendar.

Dr. Gerald H. Weiss, delegate on the Committee on Bill of
Rights and Elections, spoke before the committee and offered a
possible solution. Dr. Weiss suggested that the committee invite
Governor Edwards to appear before the convention and state his
opinions on the executive article.

After considerable debate, Mr. Arnette offered the motion to
adjourn until Tuesday, August 14, at 5:00 p.m. the motion
failed 7-2.
convention to vote on the issue of asking Governor Edwards to appear. Chairman Stagg asked Rep. Tapper to assume the chair. Mr. Stagg stated he was opposed to the motion. He pointed out that the committee has proven itself to be an independent group of individuals, each of whom has an opinion, or is capable of quickly forming one. Chairman Stagg further stated that he did not feel the governor would want to appear before the convention because the people would think that the convention was "Edwards oriented".

Senator De Blieux asked to speak before the committee. Senator De Blieux complimented the committee on a well-written article. He suggested that the proposal remain on the calendar. He further stated that he felt the governor should remain at arms length from the convention.

The vote was then called on the Tapper motion. The motion failed with a vote of 7 nays and 3 yeas.

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Delegate Asseff offered the motion to adjourn. The motion carried. There being no further business, the committee adjourned at 11:30 a.m.

Tom Stagg, Chairman of Committee on Executive Branch

**MINUTES**

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

Held pursuant to notice given by the Secretary of the Convention in Accordance with the Rules of the Convention

State Capitol, Baton Rouge, Louisiana

Tuesday, August 14, 1973, 5:00 a.m.

Presiding: Tom Stagg, Chairman of the Executive Department Committee

Present:

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

The roll was called and a quorum was present. Reverend Stovall offered the motion to adopt the minutes of August 2, 1973. The motion carried.

Dr. Asseff spoke on a point of personal privilege and requested that his name be removed from any proposal submitted by the Committee on Executive Department.

The proposal providing for a code of ethics was discussed. Mr. Gravel offered the motion to adopt Section 1(B) with the amendment to make it applicable to state and local employees and officials.

Mr. Abraham offered the substitute motion that "The legislature shall create a board of ethics composed of seven members appointed by the governor under such nominating procedures as shall be provided by statute. Members shall serve for six year terms, and at least one member shall be appointed from each state supreme court district."

Also, on line 22 after "ethics" delete the remainder of the sentence, on line 23, delete all of the sentence except "and", on line 24 after "duties" delete the remainder of the sentence, and on line 25, delete the sentence and insert in lieu thereof the words "as provided by statute."

Mr. Gravel moved the previous question on the Abraham substitute. There being no objection, the previous question was ordered.

The substitute motion failed.

Mr. Arnette offered the substitute motion that the section apply to all employees. After discussion, Mr. Arnette withdrew his substitute motion.

Mr. Duval offered the substitute motion to adopt Section 1(B) as previously amended, and delete sections (C) and (D). A roll call vote was taken and the substitute motion carried with a vote of 10 yeas and 1 abstention. The following is a list of the roll call vote:

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<th>Yeas</th>
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The committee began discussion on the proposal relative to dual employment and dual officeholding. Copies of Delegate Proposal No. 11 by Mr. Duval were distributed.

Reverend Stovall offered the motion to adopt the committee proposal on dual employment and dual officeholding.

Mr. Duval offered the substitute motion to adopt Delegate Proposal No. 11.

After discussion, the vote was called on the Duval substitute motion. The substitute motion failed with a vote of 8 nays, 3 yeas, and 1 abstention. The following is a list of the roll call vote:

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Mr. Abraham offered the substitute motion to delete Paragraph (C) of the committee proposal, and adopt the remainder of the provision changing (D) to (C). The substitute motion failed with a vote of 6 nays, 5 yees, and 1 abstention. The following is a list of the roll call vote:

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Mr. Arnette offered the substitute motion that on line 30 the words "policy making or" be deleted. The substitute motion failed with a vote of 5 nays, 4 yees, and 1 abstention. The following is a list of the roll call vote:

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Mr. Anzalone offered the substitute motion to delete the word "such" in all instances in Section 1(A). The substitute motion failed with a vote of 6 nays, 5 yees, and 1 abstention. The following is a list of the roll call vote:

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Mr. Dennery moved the previous question. There being no objection, the previous question was ordered. The motion by Reverend Stovall carried with a vote of 9 yees and 2 nays. The following is a list of the roll call vote:

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The vote was carried and a quorum was present. The minutes of August 8, 1973, were distributed and Reverend Stovall offered the motion to approve the minutes. The motion carried. Mr. Arnette offered the motion that the minutes of August 11, 1973, be approved. The motion carried. Mrs. Brien offered the motion that the minutes of July 31, 1973, be approved. The motion carried.

Discussion ensued on future meeting dates of the committee. It was decided that meetings would no longer be held after adjournment of the full convention.

Committee Proposal No. 19, providing for mandatory reorganization of state government was distributed. Mr. Arnette offered the motion to report the proposal favorably. After thorough discussion, Chairman Stagg recommended that the committee defer action until a later date. It was the consensus of the committee to dispense with action on Committee Proposal No. 19 until a later date. Mr. Arnette withdrew his motion.

Committee Proposal No. 22, relative to a code of ethics and a board of ethics was distributed. Mr. Dennery offered the motion to adopt the proposal. The committee unanimously voted to report the proposal favorably.

Committee Proposal No. 23 prohibiting dual employment and dual officeholding was distributed. Mr. Arnette offered the motion that the proposal be reported favorably. The motion carried with a vote of five (5) yees and three (3) nays.

The committee adjourned at 6:45 p.m.
The roll was called and a quorum was present. Mr. Denney offered the motion that the minutes of August 14, and August 22, 1973, be adopted. There being no objection, the motion was approved.

Discussion ensued on proposals relative to the Public Service Commission. Committee Proposal No. 5 was distributed and discussed. Mr. Duval offered the motion to adopt Section 1(A) as written. Mr. Abraham offered the substitute motion that the commission consist of eight members. Reverend Stovall moved the previous question. The previous question was ordered.

The substitute motion failed with a vote of 8 nays and 2 yeas. The following is a list of the roll call vote:

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The committee decided to discuss delegate proposals relative to the Public Service Commission, as well as the committee proposal. Reverend Alexander explained Delegate Proposal No. 19, by Delegate Velazquez and moved that it be reported favorably in lieu of Section 1(A) of Committee Proposal No. 5. Mr. Duval moved the previous question. The previous question was ordered.

The substitute motion failed with a vote of 9 nays and 1 yea. The following is a list of the roll call vote:

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Mr. Arnette offered a substitute motion to amend Committee Proposal No. 5 to provide for a three-member board. Mr. Denney moved the previous question. The previous question was ordered.

The substitute motion failed with a vote of 7 nays and 3 yeas. The following is a list of the roll call vote:

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Mr. Duval withdrew the second part of his motion.

Mr. Gravel offered the motion to adopt Section 1(D) (1). It was decided that the section be deferred until after the discussion of subsections 2 and 3.

Reverend Alexander offered the motion to approve subsection 2. Mr. Gravel offered the substitute motion to amend subsection 2 on line 7 after the word "approved" insert a period
...and delete the remainder of the line and delete lines 8, 9, and part of 10, beginning with "May" and ending with "statute". The remainder of subsection 2 would become subsection 3, as follows: "If such proposed schedule results in a rate increase, it may be put into effect, subject to such protective bond or security requirements as may be provided by law pending final approval, modification, or rejection." It was decided that Mr. Gravel's amendment should be typed and brought to the next meeting for further discussion.

The committee recessed at 12:00 p.m.

The committee reconvened on Friday, September 14, 1973, at 9:00 a.m. Present were Mr. Abraham, Rev. Alexander, Mr. Arnette, Dr. Asseff, Mrs. Brien, Mr. Dennery, Mr. Gravel, Mr. Stagg, Rev. Stovall. Absent were Mr. Anzalone, Mr. Duval, and Mr. Tapper.
The order of business was the Gravel substitute motion. Mr. Gravel was unable to attend the first part of the meeting. Reverend Stovall offered the motion that the Public Service Commission be deferred until Mr. Gravel's arrival. The motion failed with a vote of 2 in favor of the motion, 4 opposing, and Mr. Dennery abstaining.

Mrs. Brien offered the motion that on line 14, after the word "resort" the following be deleted: "to cover refund that may be finally directed." The motion carried with a vote of 4 in favor of the motion and 2 opposing.

Mr. Dennery offered the motion that on line 15, the word "therefore" be deleted. There being no objection, the motion carried.

The vote was taken on the Gravel amendment. A copy is attached hereto and made a part of these minutes. The amendment was adopted with a vote of 9 yeas, 2 nays, and 1 abstention. The following is a list of the roll call vote:

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Mr. Dennery offered the motion that the following be inserted at the end of Mr. Gravel's amendment: "Refund claims shall be filed within the time and in the manner as provided by law." Reverend Stovall called the previous question. There being no objection, the previous question was ordered. The motion carried unanimously. Mr. Gravel offered the motion that the words "and disposed of" be inserted after "filed" and delete the remainder of the sentence and insert "as provided by law." in the Dennery amendment. The motion carried unanimously. A copy of Mr. Dennery's amendment is attached hereto and made a part of these minutes. Mr. Dennery moved that on page 2, line 5, after the word "If" the word "its" be deleted and "a" be inserted in lieu thereof. There being no objection, the motion carried.

Reverend Stovall moved that Committee Proposal No. 5 be reported with amendments. Reverend Alexander moved the previous question. The previous question was ordered. The motion carried with a vote of 6 in favor of the motion and 1 opposing. Mr. Abraham opposed the motion.

Mr. Gravel offered the motion that Delegate Proposal No. 25 be reported unfavorably. The motion carried with a vote of 7 yeas and 1 nay. The following is a list of the roll call vote:

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Mr. Gravel offered the motion that Delegate Proposal No. 68 be reported unfavorably. The motion carried with a vote of 7 yeas and 1 nay. The following is a list of the roll call vote:

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<td>Alexander</td>
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Delegate Proposal No. 29, by Dr. Asseff, CC-1212 by Mr. Dennery and Dr. Asseff, and CC-1212 by Delegate Abraham on reorganization were discussed. Dr. Asseff offered the motion that Delegate Proposal No. 29 be adopted with amendments. On line 33, after "the" and before "day" insert "ninetieth". Mr. Abraham offered the substitute motion that CC-1212 by Abraham be adopted. Mr. Gravel moved the previous question. The substitute motion failed with a vote of 2 yeas, 6 nays, and 1 abstention. The following is a list of the roll call vote:

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Mr. Gravel offered the amendment to Delegate Proposal No. 29 that after the word "twenty" the word "five" be deleted. Dr. Asseff accepted the amendment.

Dr. Asseff offered the motion to report Delegate Proposal No. 29 by substitute. The motion carried with a vote of 8 yeas, and 1 nay. The following is a list of the roll call vote:

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[147]
Dr. Asseff offered the motion that on line 14, "(A)" be deleted and "(B)" be inserted, and on line 28, "(B)" be deleted and "(A)" be inserted in lieu thereof. The motion carried with a vote of 6 yeas and 1 nay. The following is a list of the roll call vote:

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<td>Abraham</td>
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Dr. Asseff offered the motion to adjourn. There being no further business, the committee adjourned at 11:30 a.m.

(A) Proposals. Should the commission not render its decision within twelve months, an appeal may be taken, as if a decision had been rendered. Appeals may be taken by any party or intervenor and must be filed with the district court, within the time provided by law, at the domicile of the Public Service Commission, with a direct appeal to the Supreme Court, as a matter of right.

(2) If its decision is not rendered within six months from the filing date of any proposed rate schedule, it shall be deemed to be tentatively approved.

(3) If such proposed schedule results in a rate increase, it may be put into effect, subject to such protective bond or security requirements as may be provided by law pending final approval, modification or rejection. If the commission disapproves the proposed increase, in whole or in part, the carrier of utility may place or continue the schedule in effect under the bond or security, subject to any appeal and final action by a court of last resort, to cover any refund that may be finally directed. Refund claims shall be filed and disposed of as provided by law.

NOTES
The following Proposals are reproduced in Vol. IV, above:
C.P.No.5
D.P.Nos.19,29,68.
CC-1212 which follows is reproduced as found in the committee files.

CC-1212
1 Constitutional Convention of Louisiana of 1973
2 COMMITTEE PROPOSAL NO.
3 Introduced by Delegate Stagg, Chairman, on behalf of the
  Committee on Executive Department, and Delegates
  Abraham, Alexander, Anzalone, Arnette, Asseff, Brien,
  Dennery, Duval, Gravel, Stovall, and Tapper

A PROPOSAL

Making provisions in the Schedule provisions of the constitution for mandatory reorganization of the executive branch of state government.
Be it adopted by the Constitutional Convention of Louisiana of 1973:

ARTICLE XIV. SCHEDULE

Section 1. Mandatory Reorganization of State Government

Section 1. (A) The legislature shall allocate, within not more than twenty-five departments, the functions, powers, duties, and responsibilities of all departments, offices, agencies, and other instrumentalities within the executive branch, except those allocated by this constitution. Such allocation, which shall not be subject to veto by the governor, shall become operative not later than December 31, 1976.

(B) Should the legislature fail to make such allocation, the governor shall prepare and submit to the legislature at its next session, regular or extraordinary, an allocation in compliance with this section. The legislature, by a majority vote of the elected members of each house, may disapprove such plan but may not substantively amend it. In the event the legislature does not disapprove the plan prior to the sine die adjournment of the session of the legislature at which submitted, the plan shall become effective at twelve o'clock noon on the day following sine die adjournment.

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

Held pursuant to notice given by the Secretary in accordance with the rules of the Convention
State Capitol, Baton Rouge, Louisiana
Thursday, October 4, 1973, 9:00 a.m.

Presiding: Tom Stagg, Chairman of the Executive Department Committee

Present: Absent:
Abraham
Alexander
Anzalone
Arnette
Asseff
Brien
Dennery
Duval
Gravel
Stagg
Stovall
Tapper

The roll was called and a quorum was present. The minutes for the meeting of September 13 and 14, 1973, were distributed and the following corrections were made:

1) on the last attachment, delete the last sentence, and insert in lieu thereof the words "Refund claims shall be filed and disposed of as provided by law."

2) on page 8, after the words "Dr. Asseff" delete the following: "offered a few technical amendments and also"
The minutes were approved with amendments.

Mr. Dennery offered the motion that Delegate Proposal No. 11 by Delegate Duval be reported unfavorably. The motion carried unanimously.

Mr. Dennery offered the motion that Chairman Stagg discuss with the Clerk of the Convention that corrections are needed on Committee Proposal No. 5 (reprinted as engrossed). The motion carried unanimously.

Mr. Kendall Vick spoke to the committee and urged that Delegate Proposal No. 96 be reported favorably. It was the consensus of the committee that those proposals dealing with the attorney general be discussed at this time. After discussion, Mr. Dennery offered the motion that Delegate Proposal No. 67 be reported favorably. The motion carried unanimously. The following is a list of the roll call vote:

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<td>Duval</td>
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Dr. Asseff was not in the room during the roll call vote.

Mr. Abraham offered the motion that Delegate Proposal No. 71 be reported favorably. Mr. Dennery asked to hear from Mr. Vick on his suggestions concerning the attorney general. Mr. Vick stated that he would prefer to see the powers and duties of the attorney general in the executive article.

Reverend Alexander moved the previous question on the Abraham motion. The motion carried with a vote of 8 yeas, 1 nay, and 2 abstentions. The following is a list of the roll call vote:

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<tr>
<td>Asseff</td>
<td>Arnette</td>
<td>Dennery</td>
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Mr. Arnette offered the motion that Delegate Proposal No. 72 by Delegate Abraham be reported favorably. The motion carried with a vote of 9 yeas, 1 nay, and 1 abstention. The following is a list of the roll call vote:

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<tr>
<td>Asseff</td>
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Mr. Arnette offered the motion that Delegate Proposal No. 96 by Delegates Vick, Abraham, et al., be reported without action.

Mr. Gravel offered the substitute motion that Delegate Proposal No. 96 be reported with amendments. The substitute motion failed with a vote of 4 yeas, 5 nays, and 1 abstention. The following is a list of the roll call vote:

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<td>Stovall</td>
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The vote was called on the Arnette motion. The following is a list of the roll call vote. The motion carried with a vote of 6 yeas, 3 nays, and 1 abstention.

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Dr. Asseff offered the motion that Delegate Proposal No. 23, by Delegate Abraham, be reported favorably. The motion carried with a vote of 8 yeas and 1 nay. The following is a list of the roll call vote:

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<td>Stagg</td>
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Reverend Stovall offered the motion that Delegate Proposal No. 64, by Delegate Toca, be reported without action. Mr. Duval offered the substitute motion that the proposal be reported unfavorably. The substitute motion carried with a vote of 5 yeas, 3 nays, and 1 abstention. The following is a list of the roll call vote:

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<td>Dennery</td>
<td>Duval</td>
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Mr. Duval offered the motion that Delegate Proposal No. 26, by Delegate Newton, be reported unfavorably. The motion carried with a unanimous vote.

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<td>Duval</td>
<td>Stagg</td>
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<td>Stovall</td>
<td>Tapper</td>
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</table>

Mr. Duval offered the motion that Delegate Proposal No. 4, by Delegates Womack, Asseff, and Lennox be reported unfavorably. The motion carried with a vote of 8 yeas and 1 nay. The following is a list of the roll call vote:
Mr. Arnette offered the motion to adjourn. There being no further business, the committee adjourned at 11:30 a.m.

NOTES
D.P. Nos. 4, 11, 23, 26, 64, 67, 71, 72, 96 are omitted. See above Vol. IV, where they are reproduced.

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

Held pursuant to notice given by the Secretary in accordance with the rules of the Convention
State Capitol, Baton Rouge, Louisiana
Friday, October 5, 1973, 10:15 a.m.

Presiding: Tom Stagg, Chairman of the Executive Department Committee

Present: Abraham, Alexander, Anzalone, Arnette, Asseff, Brien, Dennery, Stagg, Stovall, Tapper

Absent: Abraham, Alexander, Asseff, Duval, Gravel

The roll was called and a quorum was present. Dr. Asseff requested that the committee delay consideration of Delegate Proposals No. 51 and No. 52. There being no objection, it was so ordered.

Delegate Proposal No. 24 was distributed and discussed. Representative Tapper offered the motion to report Delegate Proposal No. 24 without action. By a show of hands, the motion carried unanimously.

Delegate Proposal No. 12 was distributed. Mr. Dennery offered the motion that Delegate Proposal No. 12 be reported with amendments. The motion carried with a vote of 6 yeas and 3 nays. The following is a list of the roll call vote:

Yeas: Anzalone, Arnette, Brien, Dennery, Stagg, Tapper

Nays: Abraham, Asseff, Stovall

Delegate Proposal No. 42 was distributed. Mr. Dennery offered the motion to report the proposal favorably. The motion failed with a vote of 4 yeas and 4 nays. The following is a list of the roll call vote:

Yeas: Abraham, Arnette, Asseff, Stovall

Nays: Anzalone, Brien, Dennery, Stagg

Dr. Asseff offered the motion that action be deferred on Delegate Proposal No. 42, by Delegates Dennery and Stovall. The motion carried with a vote of 6 yeas and 2 nays. The following is a list of the roll call vote:

Yeas: Anzalone, Arnette, Asseff, Brien, Dennery, Stagg, Tapper

Nays: Abraham, Asseff

Mr. Dennery offered the motion to adjourn. There being no further business, the committee adjourned at 11:45 a.m.

NOTES
D.P. Nos. 12, 24, 42, 51, 52 are omitted. See above Vol. IV, where they are reproduced.

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

Held pursuant to notice given by the Secretary in accordance with the rules of the Convention
Independence Hall, Baton Rouge, Louisiana
Wednesday, November 14, 1973, 5:15 p.m.

Presiding: Tom Stagg, Chairman of the Executive Department Committee

Present: Abraham, Avery C. Alexander, Greg Arnette, Emmett Asseff, Mildred Brien, Mollie Dennery, Stanwood Duval, Tom Stagg, Elmer Tapper

Absent: Joseph Arnette, Jr., Camille Gravel, Jr., James L. Stovall

The roll was called and a quorum was present. Chairman Stagg asked that Delegate Abraham give a brief explanation of the report submitted by the Subcommittee on Transitional Measures. Mr. Abraham explained the report, a copy of which is attached hereto and made a part hereof.

Mr. Abraham offered the motion that the report be approved by the committee. The motion carried unanimously.

Mr. Tapper offered the motion that a subcommittee on style and drafting be appointed. The motion carried unanimously.
Chairman Stagg appointed Dr. Asseff as Chairman of the subcommittee and Mr. Dennery and Mr. Stagg to serve on the subcommittee.

Mr. Arnette offered the motion to adjourn. There being no further business, the Committee on Executive Department adjourned at 5:30 p.m.

_Chairman, Chairman of the Committee on Executive Department_

**NOTES**
Disposition Table is omitted. See below Vol. XIV, Tables.

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

Held pursuant to notice given by the Secretary in accordance with the rules of the Convention

Independence Hall, Baton Rouge, Louisiana

Tuesday, November 20, 1973, 10:00 a.m.

_Presiding: Tom Stagg, Chairman of the Executive Department Committee_  
_Present:_  
Mack Abraham  
Avery C. Alexander  
Greg Arnette, Jr.  
Emmett Asseff  
Hilda Brien  
Moise W. Dennery  
Stanwood R. Duval, Jr.  
Tom Stagg  
James L. Stovall

The roll was called and a quorum was present. The minutes of October 4, 1973, were amended on page 3, "10 years" was changed to read "9 years". Mr. Duval offered the motion to adopt the minutes as amended. There being no objection, it was so ordered.

Delegate Proposals Numbers 51 and 52 were distributed. Delegate Asseff suggested that action be deferred on DP 51 and DP 52 by Delegate Asseff. Mr. Arnette offered the motion that action be deferred. The motion carried unanimously.

Copies of Delegate Proposal No. 42 were distributed. Mr. Duval offered the motion to report DP 42 favorably. The motion carried with a vote of 6 yeas and 3 nays. The following is a list of the roll call vote:

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Copies of Delegate Proposal No. 49 were distributed. Reverend Stovall offered the motion to delete the word "shall" and insert the word "may". The motion carried unanimously.

Mrs. Brien offered the motion to adopt with amendments. The motion carried with a vote of 5 yeas and 4 nays. The following is a list of the roll call vote:

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Copies of Delegate Proposal No. 63 by Delegate Burson were distributed. Reverend Stovall offered the motion to defer action. The motion carried with 5 in favor of the motion and 1 against it.

Mr. Dennery offered the motion to adjourn. There being no further business, the committee adjourned at 10:50 a.m.

_Chairman, Chairman of the Committee on Executive Department_

**NOTES**
D.P. Nos. 42, 49, 51, 52, 63 are omitted. See above Vol. IV where they are reproduced.

**MINUTES**
Minutes of the Committee on Executive Department of the Constitutional Convention of 1973

Held pursuant to notice by the Secretary in accordance with the Rules of the Convention.

Treaty Room, White House Inn  
Baton Rouge, Louisiana  

Wednesday, December 12, 1973, 3:30 p.m.

_Presiding: Tom Stagg, Chairman of the Committee on Executive Department_  
_Present:_  
Mack Abraham  
Avery C. Alexander  
Greg Arnette, Jr.  
Emmett Asseff  
Hilda Brien  
Moise W. Dennery  
Stanwood R. Duval, Jr.  
Tom Stagg  
James L. Stovall

The roll was called and a quorum was present. The staff distributed copies of Document VI, Committee Proposal No. 4: First Enrollment, with styling suggestions and suggestions by the Subcommittee on Style and Drafting of the Committee on Executive Department.

The following is the action that was taken by the Committee on Style and Drafting, on each Section of Document VI, as revised by the subcommittee:

**Section 1(A)**

Mr. Dennery offered the motion to include the attorney general in the executive article. There being no objection, it was so ordered.

**Section 1(B)**

The subsection was adopted without change.
Section 1(C)

Dr. Asseff offered the motion that on line 8, page 3, after the word "and" and before the word "allocated" delete the word "deparments" and insert in lieu thereof the word "responsibilities". There being no objection, it was so ordered.

Section 2(A) & (B)

Reverend Stovall offered the motion to adopt the alternative provision proposed by the subcommittee. Dr. Asseff seconded the motion.

Mr. Abraham offered the substitute motion to accept the language suggested by the Committee on Style and Drafting. The substitute motion failed with a vote of 1 in favor of the substitute motion and 3 against it.

The vote was called on the motion by Reverend Stovall. There being no objection, the motion carried.

Section 3(A) (B) (C)

Mr. Abraham offered the motion to adopt the alternative provision proposed by the subcommittee. There being no objection, it was so ordered.

Section 4

Mr. Dennery offered the motion to adopt Section 4 with the changes suggested by the Subcommittee on Style and Drafting. There being no objection, it was so ordered.

Section 5(A)

The subsection was adopted with the changes suggested by the Subcommittee on Style and Drafting.

Section 5(B)

Dr. Asseff offered the motion to accept the changes submitted by the subcommittee. There being no objection, it was so ordered.

Section 5(C)

Mr. Abraham and Reverend Stovall offered the motion that on line 2, after the word "request" the word "of" be deleted and the word "by" be inserted. Mr. Dennery offered the motion that the original language, as suggested by the Committee on Style and Drafting, be retained. The substitute motion carried with a vote of 4 in favor of the substitute motion, and 2 against it.

Section 5(D)

The subsection was adopted with the changes suggested by the subcommittee.

Section 5(E)

Dr. Asseff offered the motion to adopt the subsection with the changes suggested by the subcommittee. There being no objection, it was so ordered.

Section 5(F)

Mr. Dennery offered the motion that on line 22, after the word "pardon" the word "automatically" be deleted and that the other changes be accepted. There being no objection, it was so ordered.

Dr. Asseff offered the motion that Section 5(F) (1) and (2) be adopted. There being no objection, it was so ordered.

Section 5(G)

Reverend Stovall offered the motion to adopt the language adopted by the convention. Mr. Arnette offered the substitute motion to accept the language suggested by the Committee on Style and Drafting. The substitute motion carried with a vote of 3 in favor and 2 against.

Mr. Dennery offered the motion to reconsider the vote. There being no objection, it was so ordered.

Dr. Asseff offered the motion that on line 3, after the word "bill" the word "finally" be inserted. The motion carried with a vote of 5 in favor and 3 abstaining.

Section 5(H)

Dr. Asseff offered the motion to adopt the language of 5(H) (1) adopted by the convention and 5(H) (2) as recommended by the Committee on Style and Drafting. After discussion, Dr. Asseff withdrew the motion.

Mr. Dennery offered the motion to adopt Section 5(H) (1) as proposed by the Committee on Style and Drafting with the following changes: on line 10, before the word "The" insert the following: "Except as otherwise provided in this constitution" and on line 12, after the word "bill." change the word "An" to "Any". There being no objection, it was so ordered.

Section 5(I)

Mr. Abraham offered the motion that on line 21 in the language adopted by the convention, after the word "confirm," add the words "the appointment" and on line 22, after the word "rejection" insert a period "." and delete the remainder of the line. There being no objection, it was so ordered.

Mr. Dennery offered the motion that on lines 15 and 23, in language adopted by the convention and line 26 in the language suggested by the Committee on Style and Drafting, after the word "in" and before the word "session" the word "regular" be inserted. It was so ordered.

Mr. Stagg offered the motion to delete the word "for" in lines 7 and 11. There being no objection, it was so ordered.

Section 5(J)

The subsection was adopted without change.

Section 5(K)

The subsection was adopted without change.

Section 5(L)

The subsection was adopted without change.

Section 6

The section was adopted without change.

[152]
Section 7

Dr. Asseff offered the motion that on line 2 after the word "returns" insert the word "and" and on line 15 change the semicolon ";" to a period "." and on line 16 before the word "administer" insert the following: "In addition, he shall". It was so ordered. Mr. Stagg moved to remove the words "of Louisiana" from line 19. There being no objection, it was so ordered.

Section 8

The alternate provision, as suggested by the subcommittee, was adopted.

Section 9

The section was adopted without change.

Section 10

Dr. Asseff offered the motion to make the following changes in the language: on line 13, delete the words "he shall" and at the beginning of line 14 insert the following: "The department shall exercise such functions and the commission shall". There being no objection, it was so ordered.

Section 11

Reverend Stovall offered the motion to adopt the language adopted by the convention with the following changes: On line 1 after Section 11 insert "Commissioner of Insurance:" and on lines 2 and 3 delete the words "of the Commissioner of Insurance" and on line 5, capitalize the words "Department of Insurance" and on lines 3 and 4 delete the words "as may be" and on line 12 change "statute" to "law". There being no objection, it was so ordered.

Section 12

Dr. Asseff offered the motion to adopt the language suggested by the Committee on Style and Drafting. There being no objection, it was so ordered.

Section 13

The section was adopted without change.

Section 14

The section was adopted without change.

Section 15

Dr. Asseff offered the motion to change the word "when" to "should" and on line 5 delete the "s" from the word "occurs". There being no objection, it was so ordered.

Section 16

The section was adopted without change.

Section 17

Mr. Dennery offered the motion that Section 17(1) and (2) as suggested by the Committee on Style and Drafting be adopted with the deletion of the language in the title ": Gubernatorial Appointments: Elections: and Qualifications. The motion carried with a vote of 6 in favor of the motion, and 2 abstaining.

Section 18

Mr. Abraham offered the motion that on line 4, after the word "this" the word "constitution" be deleted and the word "article" be inserted. There being no objection, it was so ordered.

Section 19

Mr. Stagg moved to change the word "the" at the end of line 9 to "his" in the language suggested by the Committee on Style and Drafting. It was so ordered.

Section 20(A)

The subsection was adopted with the changes suggested by the subcommittee.

Section 20(B)

The subsection was adopted with the changes suggested by the subcommittee.

Section 20(C)

The subsection was adopted with the changes suggested by the subcommittee.

Section 20(D)

The subsection was adopted without change.

Section 20(E)

The subsection was adopted with the changes suggested by the subcommittee.

Section 21

The section was adopted without change.

Section 22

Mr. Dennery offered the following amendments to the section: on lines 11 and 21 after the word "provide" insert "by law" and on line 33 after the word "reestablish" insert the words "by law" and on line 26 after the word "branch" insert "notwithstanding the provisions of Section 7 of this Article." On line 9 and 30 change the word "consent" to the words "a favorable vote". There being no objection, it was so ordered.

A copy of the document is attached hereto and made a part of these minutes.

Mr. Abraham offered the motion that CP 23 be adopted. There being no objection, it was so ordered.

There being no further business, the committee adjourned.

Stagg, Chairman of the Committee on Executive Department

NOTES

Style and Drafting Comparative Presentation of C.P. No. 4, omitted here, is reproduced below in Vol. XIV.

[153]
MINUTES

Minutes of the meeting of the Subcommittee on Powers and Duties of Other Elective Officials; and Boards and Commissions

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

LSU Law School, Baton Rouge, Louisiana

Thursday, June 7, 1973, 9:00 a.m.
Friday, June 8, 1973, 9:00 a.m.

Presiding: Stanwood R. Duval, Jr., Chairman of the Subcommittee on Powers and Duties of Other Elective Officials; and Boards and Commissions

Present: Joseph E. Anzalone, Jr.
Stanwood R. Duval, Jr.
Tom Stagg
James L. Stovall

The chairman called the meeting to order and stated that the agenda included the consideration of the powers and duties of the lieutenant governor, attorney general, secretary of state, and treasurer; dual office-holding provisions; the Conservation, Forestry, and Wildlife Boards; and the Board of Ethics, and the Public Service Commission.

In considering the powers and duties of the lieutenant governor, Mr. Stagg offered a motion to adopt the proposal CC/203 prepared by the staff with an amendment in the comment. After considerable discussion, the motion carried without objection. This provision is titled Section 1, of the attached CC-2.

The subcommittee then discussed CC/204 pertaining to the attorney general. After discussion, Mr. Stagg offered a motion that language shown in Section 3 of CC-2 be adopted. The motion carried without objection.

In discussion of the powers and duties of the secretary of state, Reverend Stovall moved that the subcommittee adopt the language submitted by the secretary of state. However, Mr. Anzalone stated his objection to the phrase "administer the laws relative to voting machines or other voting devices as now or hereafter provided by this constitution or by law." The motion by Reverend Stovall carried with three yeas and one abstention by Mr. Anzalone to adopt the language as shown in Section 2, of CC-2.

In considering the proposal concerning the office of state treasurer, there was considerable discussion concerning the effect of the existing retirement systems. Mr. Stagg stated that the subcommittee should not make specific references to the retirement funds in the constitutional provision. Mr. Stagg offered a motion to adopt the language as shown in Section 4 of CC-2. With no objections, the motion carried.

Discussion then turned to a provision concerning dual office-holding. The chairman stated that it was the consensus of the full committee that the subcommittee would draft an article prohibiting the possibility of dual office-holding. Mr. Stagg offered a motion that the staff prepare a draft using the language Mr. Frank Simoneaux submitted with the comments offered by the subcommittee, to be submitted to the subcommittee for consideration in the morning. The motion carried without objection.

The chairman opened discussion on the Conservation, Forestry, and Wildlife Boards. Mr. Anzalone offered a motion that the subcommittee defer action on these boards until the Committee on Natural Resources and Environment drafted a provision on these boards reserving the right to issue a proposal in the event the subcommittee did not agree with the proposal submitted by the Natural Resources Committee. After discussion, the motion carried without objection.

A proposal relative to the Code of Ethics was discussed. Reverend Stovall moved that the concept of constitutional mention of ethics be adopted. The motion carried without objection.

Reverend Stovall expressed his opinion that there should be one board of ethics for elected officials and employees. After discussion, the staff was asked to prepare a proposal providing for one board for all state elected officials and employees, and alternate delegate proposals for Mr. Anzalone with two and three boards.

The subcommittee recessed at 4:30 p.m.

Friday, June 5, 1973, 9:00 a.m.

The chairman called the meeting to order and stated that the subcommittee would consider dual office-holding. Board of Ethics, and the public service commission.

Mr. Stagg read correspondence containing the attorney general's opinion on dual office holding. It was agreed that the provision would prohibit dual elective positions, dual appointive positions, and no dual combination of the two.

Mr. Stagg moved adoption of the following language:

"No person holding office, elective or appointive, of either emolument or honor under the government of the state or its political subdivisions shall at the same time hold any other such office. No individual shall serve in any capacity, elective or appointive, in more than one of the branches of state government or its political subdivisions except as otherwise provided in this constitution. For purposes of this section, the office of notary public or officer of the armed forces, or membership on a board or commission having only advisory functions shall not be deemed an office."
Mr. Anzalone offered a substitute motion to issue and mandate to the legislature to consider each possibility listed in the PAR analysis. The substitute motion failed with a vote of two against, one in favor, and one abstention by Mr. Duval. The question was called on Mr. Stagg's original motion. The motion carried with a vote of two in favor, one against, and one abstention by Mr. Duval. (This provision is entitled Section 6 of the attached CC-2.)

Mr. Stagg offered a motion to accept the language shown in Section 7 of the attached CC-2 for the provision on ethics. The motion carried unanimously.

Discussion then turned to the Public Service Commission. The subcommittee voted unanimously to increase the present membership from three members to five. Mr. Anzalone offered a motion that the members be elected and serve for six years with their terms staggered as fairly as possible.

The staff was directed to place in the schedule that one member elected in 1974 would serve for six years; in 1976 three members would be elected, two for six years and one for four years; and in 1978 one for six and in 1980, two members for six years.

Reverend Stovall offered a motion to adopt the following language:

"The commission shall regulate all common carriers and other public utilities, adopt and enforce reasonable rules, regulations, and procedures for the discharge of its duties, and perform such other functions as provided by law."

The motion carried without objection.

A motion was then offered by Reverend Stovall to adopt the following language:

"The commission shall have no authority to regulate any public utility operated by a municipal or parish governing authority."

Mr. Anzalone offered an amendment to add the phrase, "except by consent of a majority of the electors voting in an election called by the governing authority for said purpose."

The amended motion carried without objection.

Mr. Stagg offered a motion that the language be prepared by the staff to the effect that appeals from rulings of the Public Service Commission shall be to the first circuit court of appeals. The motion carried unanimously.

Honorable Luther F. Cole, Judge, Division C, was introduced and discussed the appellate procedure from the Public Service Commission to the circuit court of appeals. He suggested that the appeals be to the appropriate circuit court of appeals of venue.

Mr. Stagg also stated that the language shall state that the chairman of the commission shall be elected annually by a vote of the members thereof.

The committee adopted language in subsection (E) on page five of the attached CC-2.

The committee adjourned at 4:15 p.m.

[Signature]
Stanford R. Duval, Jr., Chairman
of the Subcommittee on Powers and Duties of Other Elective Officials and Boards and Commissions

(For consideration on June 24, 15, 16, 1973)

CC-2

Constitutional Convention of Louisiana of 1973

Subcommittee Proposal Number

1 SUBCOMMITTEE PROPOSAL NUMBER

1

3 Introduced by Stan Duval on behalf of the Subcommittee on
Powers of Other Elective Officials, Boards and
Commissions, and Code of Ethics

6 A PROPOSAL

Making provisions for the executive branch of government and
necessary provisions with respect thereto.

PROPOSED SECTIONS:

1 Article 5, Section 1. Lieutenant Governor; Powers

11 The lieutenant governor shall serve as ex officio
member on every statutory committee, board, and
commission on which the governor serves, exercise the
powers delegated to him by the governor, and perform
such other executive function as provided by law.

Source: New

Comment: Removes lieutenant governor as presiding officer
of the Senate and vests him with that executive
authority delegated by the governor, or provided by
law.

Section 2. Secretary of State, Power

1 The department of state shall be headed by the
secretary of state, who shall serve as the chief
election officer and shall administer the primary and
general election law and other laws relating to the
passage of state laws, and shall perform such other duties as
may be prescribed by law. The secretary of state shall
appoint and remove the members of the board of

2 keep of the state records, secretary of state's office, and

3 Other proposals or bills may be found in the final draft of all

[155]
Duties of the secretary of state are set forth in various provisions of the present constitution. This provision sets forth his duties and creates a department of state, headed by the secretary of state. Section 3. Attorney General; Powers
The department of justice shall be headed by the attorney general. All state attorneys are to be a part of the office of the attorney general, except as otherwise provided by law. The attorney general shall have the power and authority to institute and prosecute or to intervene in any and all suits or other proceedings, civil or criminal, as is necessary for the assertion or protection of the rights and interests of the state. The attorney general shall exercise supervision over the several district attorneys throughout the state, and shall perform such other functions as provided by law.

Comment: Duties of the attorney general unchanged from source provision. Creates the department of justice headed by the attorney general. Adds provision that all state attorneys are part of the office of attorney general, unless otherwise provided by law.

Section 4. Treasurer; Powers
The department of treasury shall be headed by the treasurer who shall be responsible for the custody, investment, and disbursement of public funds. He shall report quarterly to the governor and the legislature on all fiscal matters and perform such other functions as provided by law.

Comment: Duties of the treasurer are set forth in various provisions of the present constitution. This provision sets forth his duties and creates a department of treasury, headed by the treasurer.

Section 5. Public Service Commission
(A) Composition; term. 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.

Comment: Changes composition of commission from three to five members and retains the six-year term of office and time of election. Deletes those provisions relating to conflict of interest, transition from Railroad Commission of Louisiana to Louisiana Public Service Commission, salary, expenses, and domicile. Deletes that provision establishing three specific geographic districts and provides five new districts established by law. Provides staggered terms to be implemented by the legislature.

Note: The staggered six-year term as provided in this provision can be implemented by the legislature to require that the two additional members be elected for terms of two and four years at the 1974 congressional election. Such would effect a five-member commission with staggered six-year terms. Two members would be elected in 1976, two in 1978, one in 1980, etc.

(B) Chairman; employees. The chairman shall be elected annually by the commission, who shall also appoint a secretary, fix his salary, and appoint such other employees as provided by law.

Comment: Requires the commission to elect a chairman annually. The remainder provides no substantive change from the source provision.

(C) Authority. 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.

Comment: Provides no substantive change from the present constitution except deletion of the prohibition against the commission’s jurisdiction over direct sales of natural gas to industry. That prohibition presently provided in R.S. 45:103.

Note: The phrase “common carriers and other public utilities” includes all those means specifically enumerated in the present constitution.
(D) Limitation. The commission shall have no authority
to regulate any public utility operated by the governing
authority of a political subdivision except by the consent
of a majority of the electors voting in an election held
for that purpose.


Comment: Provides no substantive change from the present
constitution.

(E) Decision on rate proposal. The commission
shall render a decision on a rate proposal within
twelve months from the date of filing of such proposal;
otherwise, the proposed schedule shall be deemed
approved.

Source: New

Comment: Requires the commission to take action on a
rate proposal within 12 months from filing for
and provides for implementation of such new schedule
upon the commission's failure to render a timely
decision.

(F) Appeals. Appeal from any decision of the
commission shall be directed to a court of appeal
as provided by law.


Comment: Changes procedure for appeal from 19th Judicial
District Court to the appellate court of competent
jurisdiction. Deletes appeal by right to the
Louisiana Supreme Court thereby requiring procedure
by writ. Deletes provision relating to transfer, delay, and good reason required in such matters
in the legislature.

Section 6. Dual office holding.

No person holding an office elected or
appointive, of either state or local, or under the
government of the United States, nor of any of its political subdivisions shall at the same
time hold any other such office. No individual shall
serve in any capacity, elective or appointive, in
more than one of the branches of state government or
its political subdivisions except as otherwise
provided in this constitution. For purposes of
this section, the office of state, public, or officer of
the armed forces or membership in a board or
commission having an advisory function shall not
be deemed an office.


Comment: Prohibits dual office holding only if both offices
so held are either elective or appointive. Does not
apply to employment by the state or its political
subdivisions. Does not apply to foreign offices or
offices in other states, but does apply to office of
justice of the peace. More restrictive than present
constitution since it applies to officers of local trust
and profit (emolument) and honor. Prohibits a person
from serving in more than one branch of government, either
on state or local level.

Section 7. Code of Ethics: Board of Ethics

(A) The legislature shall enact a code that
prohibits conflict between public duties and private
interests.

(B) The legislature shall create a board of
ethics which shall investigate all violations
of the code of ethics. A board of
ethics shall have authority to
function as provided by law.
member on every _committee_, board, and commission on which the governor serves, exercise the powers delegated to him by the governor, and perform such other functions assigned by law.

Comment: Removes lieutenant governor as providing officer of the Senate and vesting him with that executive authority delegated by the governor, or provided by statute.

Source: New

Section 2. Secretary of State; Powers

The department of state shall be headed by the secretary of state, who shall serve as the chief elections officer and administer the _primary and general election laws_ at the state level; administer the laws relative to voting machines or other voting devices as now or hereafter provided by this constitution or by law; administer the state corporation and trade mark laws; serve as keeper of the Great Seal of the State of Louisiana and attest therewith all official acts, documents, proclamations, and commissions; administer and preserve the official archives and records of the State; promulgate, publish, and retain the originals of all laws enacted by the legislature; countersign all commissions and keep an official registry of every administrator oath; and perform such other functions as provided by law.

Comment: Duties of the secretary of state are set forth in various provisions of the present constitution. This provision sets forth his duties, and creates a department of state, headed by the secretary of state.

Source: New

Section 3. Attorney General; Powers

There shall be a department of justice headed by the attorney general, who shall be the state's attorney general. The attorney general shall hold office for a term of six years, renewable once. The attorney general shall have authority to:

1. Serve as the state's attorney general.
2. Serve as the state's attorney general.
3. Serve as the state's attorney general.
4. Serve as the state's attorney general.
5. Serve as the state's attorney general.

Comment: Duties of the attorney general as provided by this constitution.


Section 4. Treasurer; Powers

There shall be a Department of Treasury which shall have the following powers and duties:

1. The treasurer who shall be responsible for the custody, investment, and disbursement of public funds. He shall report quarterly to the governor and the legislature on the financial condition of the state and shall have such other powers and duties as may be provided by this constitution or by statute.

Comment: Duties of the treasurer are set forth in various provisions of the present constitution. This provision sets forth his duties, and creates a department of treasury, headed by the treasurer.

Source: New

Section 5. Public Service Commission

(A) Composition: The Public Service Commission shall consist of five members elected from districts as may be provided by law, for overlapping terms of six years.

(B) Powers: The commission shall have such power and authority as may be provided by law, including the power to promulgate rules and regulations necessary for the efficient administration of its duties.

Comment: Changes commission composition from three to five members and retains the six-year term of office and time of election. Deletes those provisions relating to conflict of interest, transition from Railroad Commission of Louisiana to Louisiana Public Service Commission, salary, expenses, and domicile. Deletes that provision establishing three specific geographic districts and provides for new districts established by law.

Source: former, Review, Art. VI, §§ 57, 8 (1921).

Note: The stepped six-year term as provided in this provision can be implemented by the legislature in order to require that the two additional members be elected for terms of two and four years at the 1974 congressional election. Such would affect a five-member commission with stepped six-year terms. Two members would be elected in 1974, two in 1978, one in 1980, etc.

Comment: Requires the commission to elect a chairman annually. The remainder provides no substantive change from the source provision.

Powers and Duties: Except as otherwise provided by this constitution (C) The commission shall regulate

20. Common carriers and other public utilities, adopt and enforce reasonable rules, regulations, and procedures necessary to have such other powers and duties. For the discharge of its duties, and perform such other duties. May be performed as provided by law.

Comment: Provides no substantive change from the present constitution except deletion of the prohibition
against the commission’s jurisdiction over direct
sales of natural gas to industry. That prohibition
presently provided in R.S. 4:5:303.

Note: The phrase "common carriers and public
utilities" includes all those means specifically
enumerated in the present constitution.

The commission shall have no power to
regulate any class of common carrier or public utility
or any part of any political subdivision owned, operated, or presently regulated by the governing
authority of any one or more political subdivisions, except by or under authority of a majority of the
collective votes of the members voting in an election
for that purpose; provided, however, that such political
division may reinvest itself with such regulatory power in
the same manner as it was surrendered.

The commission shall render
its decision on a proposed rate schedule within six months from
the date of filing; otherwise, the proposed schedule shall be
reconsidered, and, if deemed to be tentatively approved and, pending final deter-
cination, the present schedule shall be subject to no
further action until the final decision is rendered by the commission within
one year after the decision was rendered. No
reconsideration of a proposed schedule shall be
subject to any appeal and final action by a court of last resort to
the supreme court, as a matter of right.


Comment: Changes procedure for appeals as indicated.

Source: Committee report to the 1973 Constitutional Convention.

*Refund suit may be filed only within one year after such
final action.

Sections 6, 7. Dual Office Holding
No person holding any office, except in an
executive capacity, provided for in this constitution, or as may be
appointed by either the state of Louisiana or the board
of governors of the University of Louisiana, or either office in honor under the governor of the United
States or of any state, or is held by any other such
office, may hold any other office or offices. No individual shall hold an office or
appointment or be employed in more than one of the branches of
the political subdivisions subject to such restriction,

State government or in any of its political subdivisions, pursuant to its constitution or laws, or
its employees, accept the office of notary public or office of the grand
jury of the United States, or of any state, or of any political subdivision,
except as otherwise provided in this constitution.

For the purposes of this section the legislature may waive
the office of notary public or office of the grand jury of the United States or
any political subdivision.


Comment: Prohibits dual office holding in officers
so held and is applicable to former officers
so held.

Paragraph (A) of Section 7 vests authority to
create a board or boards to investigate violations of
the code of ethics. Minutes

Minutes of the meeting of the Subcommittee on
Power of Governor, Qualifications, Term of
Office, Salaries of the Committee on Executive
Department

Held pursuant to notice mailed by the
Secretary of the Convention on June 4, 1973
LSU Law School, Baton Rouge, Louisiana
Friday, June 8, 1973, 9:00 a.m.
Saturday, June 9, 1973, 9:00 a.m.

Presiding: Mack Abraham, Chairman of the Subcommittee
on Powers of Governor, Qualifications, Term of Office,
Salaries of the Committee on Executive Department
Present: Mack Abraham
Avery C. Alexander
Greg Arnette, Jr.

Absent: Camille F. Gravel, Jr.

The chairman noted that a quorum was present and the sub-
A draft proposal was submitted to the members of the subcommittee and each section was thoroughly discussed. A copy of the final draft of that proposal as amended is attached hereto and made a part of these minutes. There being no further business, the subcommittee adjourned at 4:15 p.m.

Mack Abraham, Chairman of the Subcommittee on Powers of the Governor, etc.

NOTES

Working Draft of CC-1 reflecting subcommittee amendments is reproduced here.

Section 3. Elections and Terms

(A) The governor, lieutenant governor, secretary of state, attorney general, and treasurer shall be elected each for a term of four years by the electors of the members state, at the time and place of voting for representatives of the legislature. A person who has served

[160]
Section 4. Compensation

The compensation of each elected official shall be fixed by the legislature and shall not be increased or decreased for the term for which the official is elected. (No public official in Louisiana shall receive a salary in excess of that paid the governor.)

Source: Art. IV, §33; Art. VI, §39 (1921).

Comment: In Paragraph (A), the elective offices of Comptroller, Register of the Land Office, Commissioner of Agriculture, Commissioner of Insurance, and Custodian of Voting Machines are deleted from source provision in conformity with Section 1. Adds the provision that a person succeeding to the governorship, with more than one-half a term remaining, can serve only one consecutive term.

In Paragraph (B) the time of taking office for an executive officer is changed from the first day following an announcement of their election by the legislature to the second Monday in March following their election.

Note: The Schedule must provide that incumbent terms are not affected by this change.

Paragraph (C) is new.

Section 5. Power and Duties of Governor

A. Executive Authority: The governor shall be the chief executive officer of the state and shall faithfully execute the constitution and laws of the state.

Source: Art. IV, §22, 14 (1921).

Comment: Changes source provision that the supreme executive power is vested in the governor and designates him as chief executive officer. Source provision requiring governor to take care that the laws be faithfully executed changed to require him to (faithfully) support the constitution and laws.

(B) Legislative Reports and Recommendations. The governor shall at the beginning of each regular session of the legislature, and may at other times, make reports and recommendations and give information to the legislature concerning the affairs of state, including its complete financial condition.

Source: Art. IV, §13 (1921).

Comment: Source provision changed to require governor to report to the legislature at the beginning of each regular session, and adds requirement that he give financial condition of the state.

All department heads shall provide the governor with reports and information concerning the executive branch of state government, their respective offices, the departments, and their sub-departments."

Source: Art. IV, §13; Art. VI, §39 (1921).

Comment: Source provision changed to require governor to adopt the legislature's need to be used during the session.

Operating

The governor shall prepare annual budget for the state, and shall transmit copies thereon or before the first day of each annual session of the legislature as provided by law (Proposed as changed to statute). Proposed expenses shall not exceed anticipated revenues. On adoption by the legislature, this budget shall be executed and administered by the governor.

Add: Capital budget.

Source: New.

Comment: Provision seeks to prevent legislative participation in preparation of the budget and preserve this function for the governor. The governor shall present a balanced budget under this provision.

Parole, commutation, reprieve, pardon. Except in cases of treason, the governor may commute, grant reprieves to all persons committed to the custody of the state and may commute, grant reprieves, or suspend sentence, and may pardon those convicted of offenses excepted as provided by law (as changed to statute). Proposals for these convicts of offenses may be provided by statute.

Source: Art. IV, §18 (1921).
(F) Signature on Bills. Every bill passed by the legislature shall be presented to the governor. The date and hour when the bill is delivered to him shall be entered thereon. He shall then have thirty calendar days within which to act. If he signs it within ten days, he may veto it within twenty-four hours after it is received. If he fails to act thereon within the prescribed period, he shall consider it as having been vetoed within the same period, provided the governor has approved it. If he disapproves it, he shall sign it with his reasons therefor. If he fails to act thereon within the prescribed period, it shall become a law.


Comment: Under source provision governor's disapprovals extend to all constitutional officers, unless otherwise provided for, in which case governor may veto appropriation bills by law.

(P) Appropiation Bills. In the event the governor should approve any item in an appropriation bill, and at the same time disapprove a portion thereof, if the vetoed portion is less than the amount prescribed for the passage of any bill over a veto, the vetoed portion shall not exceed the amount provided in the bill for one year's appropriation for the functions of government for which the bill was enacted, provided the governor, when signing the bill, shall indicate the portion of the appropriation to which he is withholding his approval.


Comment: Restates source provision without substantive change.

Seventh Amendment. A balance budget, subject to referendum, is required.

Paragraph (g) restates source provision without substantive change.

Substantive Change

1. Paragraph (f) restates source provision without substantive change.

2. Paragraph (g) restates source provision without substantive change.

3. Paragraph (h) restates source provision without substantive change.

4. Paragraph (i) restates source provision without substantive change.

5. Paragraph (j) restates source provision without substantive change.

6. Paragraph (k) restates source provision without substantive change.

7. Paragraph (l) restates source provision without substantive change.

8. Paragraph (m) restates source provision without substantive change.

9. Paragraph (n) restates source provision without substantive change.

10. Paragraph (o) restates source provision without substantive change.

11. Paragraph (p) restates source provision without substantive change.

12. Paragraph (q) restates source provision without substantive change.

13. Paragraph (r) restates source provision without substantive change.

14. Paragraph (s) restates source provision without substantive change.

15. Paragraph (t) restates source provision without substantive change.

16. Paragraph (u) restates source provision without substantive change.

17. Paragraph (v) restates source provision without substantive change.

18. Paragraph (w) restates source provision without substantive change.

19. Paragraph (x) restates source provision without substantive change.

20. Paragraph (y) restates source provision without substantive change.

21. Paragraph (z) restates source provision without substantive change.

22. Paragraph (aa) restates source provision without substantive change.

23. Paragraph (bb) restates source provision without substantive change.

24. Paragraph (cc) restates source provision without substantive change.

25. Paragraph (dd) restates source provision without substantive change.

26. Paragraph (ee) restates source provision without substantive change.

27. Paragraph (ff) restates source provision without substantive change.

28. Paragraph (gg) restates source provision without substantive change.

29. Paragraph (hh) restates source provision without substantive change.

30. Paragraph (ii) restates source provision without substantive change.

31. Paragraph (jj) restates source provision without substantive change.

32. Paragraph (kk) restates source provision without substantive change.

33. Paragraph (ll) restates source provision without substantive change.

34. Paragraph (mm) restates source provision without substantive change.

35. Paragraph (nn) restates source provision without substantive change.

36. Paragraph (oo) restates source provision without substantive change.

37. Paragraph (pp) restates source provision without substantive change.

38. Paragraph (qq) restates source provision without substantive change.

39. Paragraph (rr) restates source provision without substantive change.

40. Paragraph (ss) restates source provision without substantive change.

41. Paragraph (tt) restates source provision without substantive change.

42. Paragraph (uu) restates source provision without substantive change.

43. Paragraph (vv) restates source provision without substantive change.

44. Paragraph (ww) restates source provision without substantive change.

45. Paragraph (xx) restates source provision without substantive change.

46. Paragraph (yy) restates source provision without substantive change.

47. Paragraph (zz) restates source provision without substantive change.

48. Paragraph (aaa) restates source provision without substantive change.

49. Paragraph (bbb) restates source provision without substantive change.

50. Paragraph (ccc) restates source provision without substantive change.

51. Paragraph (dd) restates source provision without substantive change.

52. Paragraph (ee) restates source provision without substantive change.

53. Paragraph (ff) restates source provision without substantive change.

54. Paragraph (gg) restates source provision without substantive change.
proposition to the legislature, for a period of forty-eight hours prior to the
vacancy, and shall be submitted to the legislature at the next regular session
thereafter at which the legislature convenes. The power to legislate, under the
proposed reorganization, and the exercise of such power shall be limited to
the subjects specified in the constitution, and the exercise of such power
shall not exceed thirty days.

(2) The governor may convene the legislature in extraordinary session
without prior notice or proclamation on occasions of public
emergency caused by epidemic, attack by the enemy, or public calamity,
VACANCIES

The order of succession in the office of governor in the event of vacancy shall be (1) the elected lieutenant governor, (2) the elected secretary of state, (3) the elected attorney general, (4) the elected treasurer, (5) the president pro tempore of the Senate, (6) the speaker of the House of Representatives, and then as provided by law. Successors shall serve the term for which the governor was elected.

Section ___. Governor-elect

Should the governor-elect be disqualified, resign, or die following his election, but prior to taking office, or for any reason fail to take office, the lieutenant governor-elect shall take office as governor and shall serve the term for which the governor-elect was elected.

Section ___. Lieutenant Governor

Whenever there is a vacancy in the office of the lieutenant governor, the governor shall nominate a lieutenant governor who shall take office upon confirmation by a majority vote of both houses of the legislature.

Section ___. Other Statewide Elective Offices

The order of succession in any other statewide elective office, in the event of a vacancy in such office, shall be the appointed official last appointed in such office. No person is such office shall serve the term for which the original official.

CC-

Note: "The committee recommended that successors would serve until official promulgation of results of the next statewide general election."

Section ___. Other Vacancies

Section ___. A. The governor shall have the power to fill any vacancy in any elective office unless otherwise provided for by this constitution.

B. If, at the time a vacancy occurs in an elective office for which appointment is provided in Paragraph A of this Section, the unexpired portion of the term of office is more than one year, a special election to fill the vacancy shall be called within thirty days by the governor as a ministerial duty, which election shall be held not more than six months or less than three months calculated from the date on which the vacancy occurred, unless a general election is to be held during such period within the political subdivision from which the vacancy is to be filled, in which case the vacancy shall be filled at such general election, and in either of such cases the appointment provided for in Paragraph A of this Section shall be effective only until a successor is duly elected and qualified.

C. The secretary of state shall, within twenty-four hours after such election is called, notify in writing by registered or certified mail all election officials, including party committees and boards of supervisors of elections, having any duty to perform in connection with a special election to fill such vacancy of the occurrence of the vacancy.

D. Nothing in this Section shall be construed as changing the qualifications for the various offices involved and all appointments must be of persons who otherwise would be eligible to hold offices to which appointed.

CC-

Section ___. Definition of Vacancy

Section ___. The term "vacancy" as used in this constitution shall mean a vacancy by death, resignation, or removal by any means.

DISABILITY

Section ___. Declaration of Disability

Whenever a statewide elective official except the lieutenant governor transmits to the president pro tempore of the Senate and the speaker of the House of Representatives a written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, the person succeeding to the office in the event of a vacancy shall assume the powers and duties of the office as acting official.

Section ___. Determination of Disability

(A) Whenever a majority of the statewide elected officials transmit to the president pro tempore of the Senate and the speaker of the House of Representatives a written declaration that a statewide elected official is unable to discharge the powers and duties of his office, the constitutional alternate to the office shall immediately assume the powers and duties of the office as acting official.

(B) Thereafter, when the elected official transmits to the president pro tempore of the Senate and the speaker of the House of Representatives his written declaration that no disability exists, he shall resume the powers and duties of his office; provided that should a majority of the statewide elected officials transmit within four days to the president pro tempore of the Senate and the speaker of the House of Representatives a second written declaration that the elected official is unable to discharge the powers and duties of the office, the process in the office.
Note: As an alternate, the subcommittee suggested the following language:

"... the issue shall be determined finally by a resolution of the legislature passed by a two-thirds vote of the elected members of each house meeting in regular or special session."

**ADSENCES**

Section ___. Absences: Compensation

Section ___. A. In the event of a temporary absence of the governor from the state, the lieutenant governor shall act as governor. In the event of a temporary absence of any other statewide elected official from the state, the appointed first assistant shall act in his absence.

B. The lieutenant governor when acting as governor shall receive the same salary as the governor, and any appointed assistant when acting as an elected official shall receive the same salary as the elected official.
of this constitution, shall propose to the legislature, while in session, a plan of allocation of the functions, powers, duties, and responsibilities of all executive and administrative offices, agencies, and instrumentalities of the executive branch, except those functions, powers, duties, and responsibilities allocated by this constitution, among and within not more than twenty departments. The legislature, by a majority vote of its elective members, may disapprove such plan, but may not amend it. Should the legislature disapprove such plan, the governor promptly shall effect such allocations by executive order.

SCHEDULE

Alternate

CC-

Constitutional Convention of Louisiana of 1973

DELEGATE PROPOSAL NUMBER

1 Introduce by

A PROPOSAL

5 For reorganization of the executive branch.

PROPOSED SECTION:

Article ___, Section ___. Reorganization Section ___. The governor may propose to the legislature, while in session, and on the first day of such session, a plan of reallocation of the functions, powers, duties, and responsibilities of all executive and administrative offices, agencies, and instrumentalities of the executive branch, except those functions, powers, duties, and responsibilities allocated by this constitution, among and within not more than twenty departments. The legislature, by a majority vote of its elected members, may disapprove such plan, but may not amend it.

Mr. Donnelly is of the opinion that the language requiring the proposal to originate in the House of Representatives properly belongs in the legislative session in the same clause which requires appropriations bills to originate in the House.

CC-1

Constitutional Convention of Louisiana of 1973

SUBCOMMITTEE PROPOSAL NUMBER

3 Introduced by Mr. Tupper on behalf of the Subcommittee on Reorganization; Vacancies, Succession, Absence, and Disability; and Impeachment

6 A PROPOSAL

Making provisions for impeachment of state and district officers.

PROPOSED SECTION:

Article ___, Section 1. Impeachment

Section 1. (A) All state and district officers, whether elected or appointed, shall be liable to impeachment for malfeasance, whether elected or appointed, in office, incompetency, corruption, [necessity, extortion, or oppression on account, or for gross misconduct or dishonesty.]

(B) All impeachments shall be by the House of Representatives, and shall be tried by the Senate, whose members shall be upon oath or affirmation for that purpose, and two-thirds of the senators elected shall be necessary to convict. When the governor is in his absence, or is designated by the Senate, and convenes for the purpose of impeachment, the chief justice of the associate justice of the Supreme Court shall preside.

The Senate shall be the court of impeachment; and the Senate solemnly and formally to proceed shall be by the Senate by a majority vote of its elected members.


Comment: The proposed section makes a number of changes in the impeachment provisions of the 1921 Constitution. [In (A), the word "shall" is used, whereas in the 1921 Constitution, "shall" is used.

In (B) the phrase "and shall disqualify any judge or district attorney, or attorney general from practicing law which appears in the 1921 provision has been deleted from the proposed section since it seemed discriminatory in that other officers removable by impeachment could also be lawyers, but would not be disqualified from law practice because of impeachment.

Under the 1921 constitutional provision, officers are suspended when impeachment proceedings are begun. In (B) of the proposed section it is provided that officers are notified of the impeachment proceedings, and the incumbent serves until convicted by the Senate.

Alternative: Require sixty percent vote of senators for conviction.

Note: If lieutenant governor is no longer presiding officer of the Senate, the provision relative to the chief or associate justice in lines 18 and 19 can be deleted.

CC-4

Constitutional Convention of Louisiana of 1973

SUBCOMMITTEE PROPOSAL NUMBER
PROPOSAL

MAKING PROVISIONS FOR VACANCIES, DISABILITY, AND ABSENCE IN STATE OFFICERS.

PROPOSED SECTIONS:

VACANCIES

Article V, Section 1. Governor

Section 1. The order of succession in the office of governor in the event of vacancy shall be (1) the elected lieutenant governor, (2) the elected secretary of state, (3) the elected attorney general, (4) the elected treasurer, (5) the president pro tempore of the Senate, (6) the speaker of the House of Representatives, and then as provided by law, successors shall serve the term for which the governor was elected.


Comment: The section establishes the order of succession in the event of a vacancy in the office of governor. First priority is given to statewide-elected officials, followed by legislators elected by their respective houses to leadership positions and thereafter, as the legislature may provide by law. Successors are to serve the unexpired term for which the governor was elected.

The 1921 Constitution establishes the following order of succession in case of vacancy in the office of governor: lieutenant governor, president pro tempore of the Senate, secretary of state acting until a president pro tempore is elected.

If the lieutenant governor is to have no legislative functions under the new constitution, the term "president of the Senate" should perhaps replace the above reference in the proposed section to the "president pro tempore of the Senate".

Section 4. Other Statewide-Elected Offices

Section 4. The order of succession in any other statewide elective office, in the event of a vacancy in such office, shall be the appointed first assistant in such office. Successors to such offices shall serve for the remainder of the term.

Note: The subcommittee recommends that successors serve "the term for which the official was elected".


Comment: The proposed section provides that appointed first assistants of elected officials, exclusive of the governor and lieutenant governor, shall succeed to the elective offices in the event of vacancies in these offices. As successor, the assistant will serve the unexpired term for which the official was elected.

The 1921 Constitution provided that the attorney general shall appoint a first assistant "in case of a vacancy in the office of attorney general".

eventually, the lieutenant governor elect shall become the governor and shall serve the full term for which the governor was elected.

A number of recent state constitutions have provisions similar to the above proposal. (Connecticut, Michigan, Montana, North Carolina, Virginia)

Section 3. Lieutenant Governor

Section 3. Whenever there is a vacancy in the office of the lieutenant governor, the governor shall nominate a lieutenant governor who shall take office upon confirmation by a majority vote of the elected members of both houses of the legislature.
remove an assistant who may perform duties of the
office when the elected official is absent or unable to
act.

Section 5. Other Vacancies

Section 5. Other Vacancies

Paragraph 1. The Secretary of State shall, within twenty-four
hours after such election is called to order, notify the
registered or certificated mail-in election officials,
including party committees and boards of supervisors of
elections, having any duty to perform in connection
with a special election to fill such vacancy, of the
peculiar status of the vacancy.

Paragraph 2. Nothing in this Section shall be construed as
changing the qualifications for the various offices
involved, and all appointees must be of persons who
otherwise would be eligible to hold offices to which
appointed.

Section VI. Declaration of Disability

Paragraph 1. The Secretary of State shall, within twenty-four
hours after such election is called to order, notify the
registered or certificated mail-in election officials,
including party committees and boards of supervisors of
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changing the qualifications for the various offices
involved, and all appointees must be of persons who
otherwise would be eligible to hold offices to which
appointed.
Section 8: Determination of Disability

Section 8. (A) Whenever a vacancy in the legislature is caused by the retirement, resignation, or death of any other official in the office, representatives shall then determine, if the house shall so provide in the rules of that house, at the next meeting of the house, the successor to such elected official in the office, the powers and duties of the office, the constitutional interest thereof, and the rules of the house shall provide for the time of discharge or of the said elected official is unable to discharge the powers and duties of the office.

(B) Thereafter, when the elected official transmits his resignation, the powers and duties of the office, provided that should a majority of the state-wide elected officials transmit within four days to the president pro tempore of the Senate and the speaker of the House of Representatives his written declaration that no disability exists, he shall resume the powers and duties of his office, provided that a two-thirds vote of the state-wide elected officials would be determined finally by a resolution of the legislature passed by a two-thirds vote of the elected members of each house meeting in regular or special session.

Section 9: Disqualification

Section 9. (A) In the event of a temporary absence of the governor from the state, the lieutenant governor shall act as governor. In the event of a temporary absence of a state-wide elected official from the state, the appointed acting assistant shall act in his absence.

(B) The lieutenant governor when acting as governor shall receive the same salary as the governor, and an appointed acting assistant when acting as an elected official shall receive the same salary as the elected official.


Note: The subcommittee considered the following language as an alternate:

"...the issue shall be determined finally by a resolution of the legislature passed by a two-thirds vote of the elected members of each house meeting in regular or special session."

Comment: The 1921 Constitution provides that during absence of the governor, the powers and duties of the office shall devolve upon persons named as successors to the office in case of a vacancy. An 1874 case has held that temporary absences do not create vacancies, and "the absence must be such as would affect injuriously the public interest" before powers and duties would devolve on the lieutenant governor. The 1921 Constitution also provides that other named state-wide elected officials may appoint assistants who then "shall" act for them during their absences.

The proposed section by making reference to "temporary absences" indicates that no vacancy in the elected office exists during such periods. The constitutionally-named successors are required to act on behalf of the elected officials, whether or not so requested, when the elected officers are temporarily absent. Compensation of the successors is the same as that of the elected official when they are serving during temporary absences.

CC-4

Constitutional Convention of Louisiana of 1973

SUBCOMMITTEE PROPOSAL NUMBER

Introduced by Mr. Tapp on behalf of the Subcommittee on Reorganization; Vacancies, Succession, Absence, and Disability; and Impeachment.

AN ALTERNATE PROPOSAL

For reorganization of the executive branch.

PROPOSED SECTION:

Article ______, Section 1A. Reorganization

Section 1A. The governor may propose to the legislature, while in session, and on the first day of such session, a plan for reallocation of the functions, powers, duties, and responsibilities among and within not more than twenty departments. The legislature, by a majority vote of its elected members, may disapprove such plan, but may not amend it.


Comment: The 1921 Constitution vests the power of reorganization in the legislature. The proposed section would give the governor constitutional authority to reallocate functions, powers, duties, and responsibilities into not
more than 20 departments. The legislature could dis-
approve the governor's plan, by a majority vote of its
elected members, but could not amend it. The governor's
plan would have to be submitted on the first day of a
legislative session.

PROPOSAL
1 Constitutional Convention of Louisiana of 1973
2 Subcommitte Proposal Number
3 Introduced by Mr. Tapper on behalf of the Subcommittee on
4 Reorganization; Vacancies, Succession, Absence, and
5 Disability; and Impeachment
6 A PROPOSAL
7 For reorganization of the executive branch.
8 PROPOSED SECTION:
9 Article ___, Section 2. Reorganization
10 Section 2. The legislature, by a proposal originating
11 in the House of Representatives, on or before eighteen
12 months after the effective date of this constitution,
13 shall allocate by law the functions, powers, duties, and
14 responsibilities of all executive and administrative
15 offices, agencies, and instrumentalities of the executive
16 branch, except those functions, powers, duties, and
17 responsibilities allocated by this constitution, among
18 and within not more than twenty departments. The legis-
19 lature, by a majority vote of its elected members, may
20 disapprove such plan, but may not amend it. Should the
21 legislature disapprove such plan, the governor promptly
22 shall effect such allocations by executive order.

Source: New

Comment: The proposal for scheduling reorganization would
require the governor to initiate a reorganization of the
executive branch into not more than 20 departments by
submitting a plan to the legislature within a specified
time limit. The legislature could disapprove but not
amend the plan. If the legislature should disapprove the
plan, then the governor could reorganize by executive
order. Constitutional offices and functions would be
excluded from the reorganization.


Comment: The 1921 Constitution vests the general power
of administrative reorganization in the legislative
branch. The proposed section continues to vest the legislature
with reorganizational authority, but the power is limited
by the provision that proposals must arise in the House
of Representatives and by the statement that legislative
authority to reorganize does not extend to the 20 major
administrative departments.

Note: Mr. Dunnery is of the opinion that the language
requiring the proposal to originate in the House of
Representatives improperly belong in the legislative
section in the same clause which requires constitution.

[170]
II. Staff Memoranda

RE: Material Preparatory to Next Scheduled Meeting

Mr. Tom Stagg, Chairman of the Committee on Executive Department, requested the enclosed material be sent to members of the Committee prior to the next scheduled meeting on Monday, March 26, 1973. Included you will find:

1. A copy of the minutes of the last meeting with attachments showing the constitutional agencies the Committee agreed fell within its purview, and the approved list of constitutional provisions relating to the Executive Department;

2. The adopted plan of Committee meetings;

3. Schedule of witnesses who will testify before the Committee on Monday, March 26 and Tuesday, March 27, 1973; and


If the members of the Committee would bring to the meeting the compilation of constitutional provisions on Executive Department the Research Staff will make the appropriate changes.

NOTES

Materials indicated as enclosed with Staff Memo No. 1 are omitted in that they are elsewhere reproduced in this work or have been published elsewhere. [The Council of State Governments, Cabinets in State Govt. (1969).]

March 21, 1973

Staff Memo No. 1

RE: STATE ELECTIVE OFFICERS: THEIR DUTIES, RESPONSIBILITIES AND SUGGESTED ISSUES

Attached is the material prepared by the Research Staff for the Committee hearings on the following offices:

1) Governor - Exhibit A
2) Secretary of State - Exhibit B
3) Comptroller - Exhibit C
4) Attorney General - Exhibit D
5) Public Service Commission - Exhibit E

NOTES

Staff Memo No. 2 contains the following materials which are published elsewhere and are omitted here:


Project of a Constitution for the State of Louisiana. Materials are excerpted for the enumerated offices.

State Accounting, 1960, Public Affairs Research Council. [Deletions are indicated by ***]
EX-OF-FICIO POSITIONS OF GOVERNOR

<table>
<thead>
<tr>
<th>Advisory Board, State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achaflaya Basin Commission</td>
</tr>
<tr>
<td>Bond Commission, State</td>
</tr>
<tr>
<td>Commerce and Industry Board</td>
</tr>
<tr>
<td>Education Council, Louisiana</td>
</tr>
<tr>
<td>Health Education Authority</td>
</tr>
<tr>
<td>Highways, Board of</td>
</tr>
<tr>
<td>Housing Finance, Development Authority</td>
</tr>
<tr>
<td>Liquidation of State Debt, Board of</td>
</tr>
<tr>
<td>Mineral Board, State</td>
</tr>
<tr>
<td>Parks and Recreation Commission</td>
</tr>
<tr>
<td>Public Buildings Board</td>
</tr>
<tr>
<td>Regional Airport Authority</td>
</tr>
</tbody>
</table>

Major Positions

Advise on contracts for roads and bridges paid for out of constitutional funds.

Advise Achaflaya Basin District of Department of Public Works for preservation of basin.

Issues and sells state bonds and issues capital improvement bond fund.

Administers industrial tax exceptions; promotes industrial development.

Represents Louisiana on Educational Commission of the States.

Issues bonds, surplus public funds for health educational institutions; formulates master health plan.

Issues revenue bonds for financing low rent housing.

Makes interim emergency appropriations, not to exceed $1,000,000 ($100,000 per unit). Emergency borrowing not to exceed $2,000,000.

Loans state lands for mineral production; supervises leases.

Manages state parks and recreational centers.

Approves plans for state buildings in Baton Rouge.

Issues revenue bonds, secures public funds, prepares master plan for regional airport authority in southeast Louisiana parishes.

EXHIBIT "C"

PUBLIC SERVICE COMMISSION

Suggested questions to ask on the Public Service Commission:

1. Are there any provisions now in the Constitution affecting the Commission which are obsolete, or which need otherwise be eliminated?
2. Are there any provisions now in the Constitution affecting the Commission which are obsolete, or which need otherwise be eliminated?
3. Would statutory, as opposed to constitutional, status, impact this agency's effectiveness?
4. Should commissioners continue to be publicly elected, or would gubernatorial appointment make for greater efficiency?
5. Does it operate on dedicated revenues? Are these constitutional implications?

EXHIBIT "C"

COMMISSIONERS:}

1. Does his office have an audit department, what agency does performance function in this office?
2. Does he perform functions which no other agency performs?
3. What is the relationship of his office to the fiscal offices of the state (tax controller, the governor's fiscal office, the legislative auditor, the state bond commission)?
4. What effect will abolition of his office have on control of fiscal expenditures and balances at state government?
5. What was the reason for the legislation abolishing his office?
6. How can the revenue be assured of its source, its amount, or public expenditure and accounts in the office, or to perfect any of these functions, either as a part of the executive or on an elected official?

COMMISSIONER
THE COMMISSIONERS

The state’s present Constitution as drafted in 1812 contained a provision for an auditor as one of the elected officials of the executive department of government. Although certain isolated functions of the auditor were retained, the office of the Constitution, so specific responsibilities were eliminated. In 1958 the name of the auditor was changed by constitutional amendment to Comptroller, but no particular function were designated.

The 1941 Constitution also made reference to a supervisor of public works who was appointed by the governor. This position was given the constitutional status as the Legislative Auditor in 1962, but in fact the office continues to have both legislative and executive functions.

It has been consistently maintained by some that the comptroller has no unique functions to perform, and the Legislature in 1972 abolished the office, effective 1976. It is also maintained, however, that effective audits are not performed by the Legislative Auditor. In any event the audit functions of the state appear to need careful review, with consideration being given both pre- and post-audits. The attached papers provide cursory insights to the matter.

The auditor is a traditional constitutional officer in most states. There is no consistency in the nomenclature of the office. The PROJECT provides for an auditor in the executive department to be elected for a six-year term.

\*\*\*

Exhibit D

ATTORNEY GENERAL

Suggest a writing to ask the Attorney General
1. Does he consider himself an executive or judicial officer?
2. What executive function does he perform?
3. What functions does he carry out in conjunction with the governor's office?
4. What would be the effects of including the attorney general in the governor's cabinet as an appointed official?
5. Would it be feasible to place some of his functions, e.g. law enforcement, in the governor's office, and some in the judicial branch?
6. Which of his functions require constitutional safeguards and why?

\*\*\*

THE ATTORNEY GENERAL

The ATTORNEY GENERAL in Louisiana is popularly elected. The position is provided for in the Judiciary Article of the Constitution.

Previous Louisiana constitutions have all provided for the Attorney General as a judicial officer, but from 1812 to 1852 the position was filled by gubernatorial appointment with confirmation by the Senate. With the Constitution of 1857, the position became elective and has since remained so.

In addition to duties directly related to his elected position the Attorney General serves ex officio on six boards (State Advisory Board, State Bond Commission, State Law Institute, Natural Gas Commission, Pardon Board, and the Stream Control Commission).

In fiscal 1972-73, the office of Attorney General was authorized to employ 62 persons; the operating budget is approximately $1.1 million ($267,000 in federal funds for an organized crime prosecuting unit).

The PROJECT retains the Attorney General as an elective judicial officer and recommends the greatest independence possible for the office. The Model Constitution does not include the Attorney General as a part of the Executive Branch.

Among the 50 states, all states have an attorney general in some form and a few of the offices is constitutional. In 42 states the position is elective; in one it is filled by the legislature; in 6 the governor appoints the officer with confirmation, and in one he is appointed by supreme court judges.

\*\*\*

BOARDS ON WHICH THE ATTORNEY GENERAL SERVES: EX OFFICIO

State Advisory Board
Natural Gas Commission
Pardon Board
Stream Control Commission
Law Institute, State

Approves contracts for roads and bridges paid for out of constitutional funds.
Issues and sells state bonds; invests capital improvement bond fund.
Official law revision commission of the state.
Makes studies and plans for private interstate pipeline by or to.
Recommends to the governor the granting of pardons, computation of sentences, remittance of fines and costs.
Establishes standards and controls for water pollution.

\*\*\*

CC/13 Research Staff
Committee on the Executive Department
March 27, 1973
Staff Memo No. 3

RE: THE DUTIES, RESPONSIBILITIES, AND PROJECT PROVISIONS OF CERTAIN STATE ELECTIVE OFFICERS

Attached is the material prepared by the Research Staff for the Committee hearings on the following offices:
(1) Commissioner of Insurance - Exhibit F
(2) Register of State Land Office - Exhibit G
(3) Lieutenant Governor - Exhibit H
(4) Treasurer - Exhibit I
(5) Custodian of Voting Machines - Exhibit J
(6) Commissioner of Agriculture - Exhibit K
The Commissioner of Insurance

The Commissioner of Insurance was created as a constitutionally elective officer in the executive branch in 1960. (Act 609)

The amendment provided that the Commissioner could not be consolidated with any other office by the Legislature. (Others exempted from consolidation are the governor, lieutenant governor, secretary of state, and custodian of voting machines. Art. V, Sec. 1)

The Commissioner is elected for a 4-year term; vacancies in the office are filled by the Governor with Senatorial confirmation. The Commissioner has constitutional authority to appoint an assistant who may act in his absence or in case of his inability. (Art. V, Sec. 18)

The present Constitution does not state duties and functions of the insurance commissioner which are all statutory. Duties and functions relative to insurance matters which were performed prior to 1956 by the secretary of state were transferred in that year to the newly legislatively created office of commissioner of insurance. (Act 200, 1956; R.S.22:2). Voters in 1958 rejected a constitutional amendment which would have placed the office of commissioner in the constitution but adopted such an amendment in 1960.

The Insurance Commissioner is responsible for regulation of the Louisiana insurance industry and administration of the state's insurance code. In fiscal 1972-73 the office received an appropriation of $484,000 of which $264,000 was payable out of licenses and fees, and the remainder from the State General Fund. The department has 34 authorized personnel positions.

In addition to regulation of the insurance industry, the department makes insurance revenue collections which will total approximately $21,000,000 in 1972-73. The department maintains 5 sundry funds to account for the fees and taxes which it collects. Year-end surpluses are sent to the State Treasurer. The Commissioner receives an annual salary of $26,530. (R.S.22:2)

Prior to 1972 the Insurance Commissioner served as an ex-officio voting member of the Insurance Rating Commission which also had seven other members all appointed by the governor. The primary function of the Rating Commission and the three rating divisions composing it was the approval of insurance rates. In 1972 the Legislature reorganized the Insurance Rating Commission by abolishing the three divisions, changing the membership, and making it subject to budgetary control and legislative appropriations. It continues to be a rate-setting body.

The Commissioner of Insurance is now one of seven members of the Insurance Rating Commission, six of whom are appointed by the governor; he is ex-officio chairman but his explicit right to vote has been deleted from the law.

Among the 50 states, the insurance commissioner or his counterpart is an elective office in 8 states (5 constitutional, 3 statutory). The most prevalent method of selection is gubernatorial appointment.

The Project contains no recommendations on the Insurance Commission.

REGISTER OF STATE LAND OFFICE

The office of the register of state lands was created by Act 75 of 1880, which provided for the appointment of a register by the governor with the consent of the senate. Act 193 of 1904 made the office elective rather than appointive, and since 1908 the register has been elected at the general elections of the state. The first mention of the office of the register of state land office in a Louisiana constitution appeared in the Constitution of 1921. However, this accomplished no change in the duties or method of selection, since the office continued to be elective and the legislature set the salary and the duties of the office.

Fewer than 10 per cent of American state constitutions provide for the election of a similar office. The Project recommends the elimination of the register of state land office from the Louisiana Constitution.

BOARD UPON WHICH THE REGISTER OF STATE LANDS SERVES EX OFFICIO

State Parks and Recreation Commission Establishes and manages state parks; acquires new lands for recreational purposes; and constructs and manages adequate facilities.

LIEUTENANT GOVERNOR

The Lieutenant Governor was created as a constitutionally elective office in 1845. The present constitutional duties of that office are as follows:

1. Member, Executive Department (Art V, Sec 1)
2. Member, Advisory Board (Art VI, Sec 22 (e))
3. Member, Board of Liquidation (Art IV, Sec. 1(a))
4. Member, Board of Registration (Art. VIII, Sec. 18)
5. Member, Board of Pardons (Art. V, Sec. 10)
6. President of Senate, ex-officio (Art. V, Sec. 8)
7. Legislative functions (Art. XIII, Secs. 26, 30)
8. Receiving copies of petitions convening legislature in special sessions (Art. V, Sec. 14)

In the event of a vacancy in the office of Lieutenant Governor, the president pro tempore of the Senate discharges his duties and receives emoluments of that office. (Art. V, Sec. 9)

In 1972 the Legislature made the Lieutenant Governor an ex-officio member of the State Board of Commerce and Industry and as a voting member of the Tourist Development Commission (Act 147). He was also made a member of the State Bond Commission (Act 164).

The Lieutenant Governor maintains a full-time office in the State Capitol with an authorization for 7 personnel positions. In fiscal 1972-73, the office received an appropriation of approximately $124,000 payable from the State General Fund. The appropriated salary for the position is $26,530.00.

2

Among the 50 states the Lieutenant Governor is a constitutionally elective official in 41 states; in one state (Tennessee) the Senate elects a presiding officer who serves as Lieutenant Governor; and 8 states do not have lieutenant governors. As of 1972, a total of 15 states provided for joint election of governor and lieutenant governor.

The Projet retains the Lieutenant Governor as an elective official in the Executive Branch of government; he is the first in the order of succession to the office of governor, in the event of vacancy or disability. He is retained as presiding officer of the Senate.

State Advisory Board
State Bond Commission
Louisiana Development Authority for Housing Finance
Board of Liquidation of State Debt
State Police Retirement Board
Stonewall Jackson Memorial Board

These five divisions have the responsibility of performing the following listed duties:
1. Receive and safely keep all monies of the state, not expressely required by law to be received and kept by some other person.
2. Renders her account to the controller quarterly, or more often, if required for settlement.
3. Reports to the governor, ten days prior to commencement of each regular session of the legislature, providing a detailed statement of the condition of the treasury, and its operation during the preceding fiscal year.
4. Provides information in writing to the legislature when required, upon any subject connected with the treasury.
5. Provides services to State Bond and Building Commission and Capitol Construction and Improvement Commission regarding State Bond issues from planning stage through final sale.

The treasurer's office administered the sale of bonds in the amount of $273,580,000 from July 1, 1969 through November 23, 1971.

In most states (46) the treasurer is constitutionally elected by popular vote. The Projet retains the treasurer as an elective official in the executive department.

EX-OFFICIO POSITIONS OF STATE TREASURER

State Advisory Board
Approves contracts for roads and bridges paid for out of constitutional funds.

State Bond Commission
Issues and sells state bonds; invests capital improvement bond fund.

Louisiana Development Authority for Housing Finance
Issues revenue bonds for financing low rent housing.

Board of Liquidation of State Debt
Makes interim emergency appropriations not to exceed $2,000,000 ($100,000 per unit). Emergency borrowing not to exceed $2,000,000

State Police Retirement Board
Administer the retirement fund; determine pensions under the provision of the law; invest funds not currently needed.

Stonewall Jackson Memorial Board
Administer funds to establish scholarships in higher education for Louisiana students.


EXHIBIT I

Office of Treasurer

The office of treasurer was created in the Constitution of 1852. The legislature appointed the treasurer and assigned his duties. The Constitution of 1852 provided for the popular election of the treasurer.

The treasurer's principal responsibility is to receive and safely keep all monies of the state, and disburse the public money upon proper warrant. To achieve these goals the office is divided into five divisions: the Executive; Administrative; Accounting; Security; and State Debt Management.

EXHIBIT J

Custodian of Voting Machine

The office of custodian of voting machines was added to the list of constitutional offices in Louisiana in 1962 (Acts 1962, No. 522, adopted Nov. 6, 1962). The office is not provided for in the constitutions of most other states. The Projet makes no provision for the creation of the office in a new constitution for Louisiana.
COMMISSIONER OF AGRICULTURE

The bureau of agriculture and immigration was created by Act 56 of 1880. Act 41 of 1880 authorized the governor with the consent of the senate to appoint a commissioner of agriculture and immigration and set out the salary and duties of the commissioner. Act 54 of 1884, which amended and re-enacted Act 56 of 1880, authorized the governor to appoint a commissioner of agriculture and set forth the salary and duties of the commissioner. Act 141 of 1894 repealed all previous acts relative to the department of agriculture and immigration and created the bureau of agriculture and immigration. This act delegated the powers and duties of the bureau to one commissioner of agriculture and immigration, provided for his appointment, fixed his salary, and defined his duties and powers. The office of commissioner of agriculture and immigration was made elective rather than appointive by Act 194 of 1904, but the duties and salary of the office continued under the then existing law. The first mention of the office in a Louisiana constitution came in 1921, and there has been no substantial change in the functions of the office, or in the method of selecting the commissioner since that time.

Fewer than 10 per cent of the states provide constitutionally for a popularly elected commissioner or board of agriculture. The Project suggests the elimination of the office from the Louisiana Constitution.

* * *

BOARDS UPON WHICH THE COMMISSIONER SITS EX OFFICIO

(in addition to those listed under "ORGANIZATION" of the Agriculture Department)

Air Control Commission

Louisiana Milk Commission

Public Buildings Board

Public Livestock Market Board

Soil and Water Conservation Committee

Stream Control Commission

Louisiana Rice Promotion Board

Louisiana Rice Research Board

Develop plans for air resources control

Investigate all matters pertaining to processing, transportation, storage, distribution and milk sales.

Rule on plans for proposed state buildings in Baton Rouge.

Administers La. Public Livestock Market Law

Cooperate with soil conservation districts and USDA to conserve soil, coordinate district programs, publicize information.

Control waste disposal and set pollution standards for state waterways.

Both provide for referendum before levying assessments on the sale of rice and collection thereby, if approved by a majority of rice producers.

NOTES

State Agency Handbook is deleted.
EE. The Jurisdiction and Powers of both the Louisiana Commission on Governmental Ethics and the Louisiana Board of Ethics for State Elected Officials

Jurisdiction over ethical violations in state government is divided between the Louisiana Commission on Governmental Ethics and the Louisiana Board of Ethics for State Elected Officials, and each entity is separate and distinct. The former in both membership and powers. Generally, the Louisiana Commission on Governmental Ethics has jurisdiction over the activities of "state employees" while the Louisiana Board of Ethics for State Elected Officials has jurisdiction over the activities of enumerated state elected officials only. The following is a comparison of the jurisdiction and powers of the respective entities:

<table>
<thead>
<tr>
<th>Louisiana Commission on Governmental Ethics</th>
<th>Louisiana Board of Ethics for State Elected Officials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jurisdiction and powers over the following:</td>
<td>Jurisdiction over the following:</td>
</tr>
<tr>
<td>(1) Administrative officers</td>
<td>- Elected officials</td>
</tr>
<tr>
<td>(2) Other employees</td>
<td>- Elected officials</td>
</tr>
<tr>
<td>(3) Persons engaged in performance of functions under state law</td>
<td>- Elected officials</td>
</tr>
<tr>
<td>(4) Spouses of any other state employee</td>
<td>- Elected officials</td>
</tr>
<tr>
<td>(5) Any person under the supervision of a state employee or official</td>
<td>- Elected officials</td>
</tr>
</tbody>
</table>

A. Jurisdiction over engaging activities of "state employees" such as:

1. Employment
2. Class of goods
3. Locally elected officials
4. Employees of locally elected or appointed agencies
5. Teachers, professional and administrative personnel of state schools, colleges and universities [R.S.42:1112(3)(a)]

C. A person is a "state employee" until termination of his services. However, no former state employee may, for two years following his termination, assist any person in any transaction involving the state in which he formerly participated at any time as a state employee. Penalties are provided for against former state employees [R.S.42:1112].

With respect to the specific matters about which you inquired, we find that (1) activities of former elected officials do not fall within the jurisdiction of either entity, and (2) local officials of political subdivisions of the state do not fall within the jurisdiction of either entity. It should be noted that there is a local governmental ethics commission in East Baton Rouge Parish.

The most obvious alternative for alleviating present problems is to eliminate the exceptions to the present jurisdictions. Presently judges, former state elected officials, locally elected officials, local government employees, university and college personnel are not under the jurisdiction of either the Louisiana Commission on Governmental Ethics or the Louisiana Board of Ethics for State Elected Officials.

Now that the board or commission has been established, the problem is for all other types of boards and commissions. Prohibitions are in effect for local officials with the following exceptions:

1. Elected officials
2. School boards
3. Police juries
4. Commissioners of parishes
5. Mayor and City Council for a town as it is in Louisiana

The board or commission may issue a rule to ensure that all boards and commissions are in compliance with the Code of Ethics for State Elected Officials.
The modern trend in other states' legislation is to provide a separate code of ethics for members of the legislature from that of elective officials and state employees. This seems to have a valid basis. Basically, the state legislator represents his constituents on only a part-time basis. Their salaries are usually not adequate to preclude outside financial interests.

In contrast, state officials and employees look to the state for their livelihood and thus more stringent regulation of their activity is in order. Another factor that makes the position of the legislator unique is that he is a policy maker rather than an enforcement officer. Strictly viewed conflict of interest is not as likely to arise.

The trend in other states is to place the legislator in a position of responsibility without enabling him to contract for outside employment. [RS 42:1113(6)]

A "state employee" may not use his position in such a manner as to coerce or induce another state employee to provide business or another with anything of economic value. [RS 42:1111]

A "state employee" may not receive gifts from any person whose interests are interrelated with the functions the employee's agency or whom he is serving business from the agency. [RS 42:1112]

Several states have provided an ethics legislation for a full disclosure by all elected officials of all their financial interests.

The Louisiana Forestry Commission is created in Article VI, Section 1 (B) of the Constitution. The Constitution provides that the commission shall consist of seven members, five of whom are appointed by the Governor, and two of whom, the chairman of the Forestry Department at LSU and the Commissioner of Wild Life and Fisheries, serve ex officio.

The commissioners appointed by the Governor serve five-year terms and are reimbursed for reasonable expenses. They receive no salary or per diem. The State Forester, appointed by the commission, is an experienced forester with a degree in forestry from an accredited school.

Salary of State Forester: $75,000 annually

Constitutional Duties: The commission may exercise all authority granted the Commissioner of Conservation in relation to forestry; the State Forester supervises the work of the commission that appoints him.


1972-73 Appropriation: $5,325,929 ($846,224 in federal funds) (Article X, Section 21, effective since 1956, allocates severance taxes from forest products to the commission's use for research and reforestation.)

Project Recommendation: The Project recommends that the Forestry Commission be deleted from the Constitution and retained in the statutes.

*Act. No. 729 of 1972 adds to the duties of the Forestry Commission the management and maintenance of the Indian Creek Reservoir and Recreation Area in Rapides Parish and creates a revolving fund of $62,000 for capital.

State Agency Handbook is omitted.

LIQUEFIED PETROLEUM GAS COMMISSION

The Liquefied Petroleum Gas Commission is created in Article VI, Section 28 of the constitution. The commission consists of five members, four of whom are appointed by the Governor and confirmed by the Senate. The Secretary of State serves ex-officio. The appointed members serve for five years.

Constitutional Duties: Article VI, Section 28 gives the commission power to adopt and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gas and the installation of systems and of gas appliances. It also provides penalties for offenders.

Director's Salary: $18,000

Commissioners' Compensation: $25 per diem while attending meetings, expense allowance for those days not to exceed $10 a day, and 7 cents for each mile traveled to attend meetings and return. (La. R.S. 40:1843)

1972-73 Appropriation: $109,710

Projet Recommendation: Article VI, Section 28 was adopted in 1950. It was not considered in the Projet.

NOTES
State Agency Handbook is omitted.
NOTES


State Agency Handbook in re State Board of Health and State Welfare Board is omitted.

Exhibit W

Department and Commissioner of Conservation

The Commissioner of Conservation is one of the constitutional officers composing the Executive Department. (Art. V, Sec.1) The Commissioner’s appointment and term of office, and the procedure for filling vacancies are also provided in the constitution. (Art. V, Sec.18). The legislature is permitted to consolidate the Department of Conservation with other offices. (Art. V, Sec.1)

The Constitution states that the Commissioner “shall have and exercise such authority and power as may be prescribed by law in relation to all other natural resources of the State”. (a) Details of his authority are statutory. (La. R.S. 30:1-5; R.S. 30:201-221)

(a) The expression “all other” refers to resources not placed under the Forestry Commission or the Wildlife and Fisheries Commission.

Authorized Personnel Positions: 186
Compensation of Commissioner: $18,000 annually, set by Governor/Senate
1972-73 Appropriation: $2,142,995
Project Recommendation: Deletion with statutory provisions (Vol. II, pp. 520, 521)

NOTES

State Agency Handbook material in re Department of Conservation is omitted. La. Const. of 1921, Art.IV, §§ 1,3,18, 20 (C) & (D) are omitted. Projet of a Constitution for the State of Louisiana, Vol. II, 520-521 is omitted.

Exhibit "X"

ADJUTANT GENERAL AND MILITARY DEPARTMENT

The Adjutant General administers the military department and controls its operations according to the directions of the Governor. His office is created in Article XVII, Section 3. The Adjutant General is appointed by the Governor for a four-year term, subject to the approval of the state senate.

Constitutional Duties: None


Salary of the Adjutant General: $30,436
(pay of Brigadier General)

1972-73 Appropriation: $1,353,145

Project Recommendation: The Report recommends the retention of the Governor as commander-in-chief (Art. XVII, Sec. 2), but deletes the reference to the Adjutant General (Art. XVII, Sec. 3), the provision for the preservation of roles (Art. XVII, Sec. 4), and the order to the legislature to provide for an organized, equipped, and disciplined militia (Art. XVII, Sec. 1).
NOTES
State Agency Handbook in re Military Department is omitted.

Exhibit IA
Commission on Intergovernmental Relations


Composition: 16 members (5 members of Senate Committee on Intergovernmental Relations; 5 members of House Committee on Intergovernmental Relations; 6 members of Governor's Committee on Intergovernmental Relations; 3 ex officio members (governor, president of the Senate, Speaker of the House), Governor appoints Chairman.

Duties: Creation of a better communications and information system between local, state, and federal governments, including serving as a state clearinghouse for federal aid. As of 1972 (Act 74) the agency is also responsible for governmental reorganization.

1972-73 Appropriation: $205,085 (plus $43,784 for the Council on Governmental Reorganization)

Compensation, Executive Director: $14,173 annually, set by Governor

Projet Recommendation: None, since this is a statutory agency created after publication of Projet.

NOTES
State Agency Handbook in re Commission on Intergovernmental Relations is omitted.

Exhibit "AA"

STATE PLANNING OFFICE

The State Planning Office was created in the Office of the Governor by Act. 288 in 1968 to serve as the principal staff agency continuing the Goals for Louisiana Program. It coordinates basic information and supplies policy alternatives. The Executive Director, appointed by the Governor, employs such personnel as he deems necessary. (La. R.S. 49:1051-1054)

Constitutional Duties: None

Statutory Duties: The Office conducts surveys; reviews current programming and future planning of all state departments, agencies, and commissions; publishes a program of expected planning standards; advises citizens groups; and assists State fiscal agencies. (La. R.S. 49:1054)

Executive Director's Salary: $19,500

1972-1973 Appropriation: $241,703

Projet Recommendation: None, since office not created until 1968.

NOTES
State Agency Handbook in re Office of State Planning is omitted.

Exhibit AC
Louisiana Milk Commission

Constitutional Provisions: The legislature is authorized by the Constitution to require bonds or other securities of milk manufacturers, pasteurizers and distributors - (Art. III, Sec. 44)

Creation of Commission: Statutory. (La. R.S. 40: 940.1-940.2)

Duties: Regulates marketing practices of the dairy industry and establishes minimum and maximum wholesale and retail prices on milk and dairy products. The commission has four major functions: pricing, licensing, dissemination of information, and defending the constitutionality of milk regulatory laws.

Authorized personnel positions: 12

1972-73 Appropriation: $241,703 (Funds are from fees and assessments levied on processors, distributors and retailers)

Salary: $21,096, set by commission.

Projet Recommendation: Deletion of Art III, Sec. 44. No recommendation on Milk Commission, a statutory agency.

NOTES
State Agency Handbook in re Milk Commission is omitted.
Projet, II, 191, is omitted.
The above comments represent a position of the Council for a Better Louisiana and the rationale therefor.

The following comments are personal observations based on some years of observation and participation in state government.

At the outset, it should be stressed that many problems people associate with state government, particularly as concerning powers of the governor, are statutory and traditional. Present provisions of the constitution are reasonably sound in establishing the office of the governor and providing for the executive branch. It is in the statutes that most apposite power is given. And it is within tradition that people turn to the governor for leadership and action. A governor's influence with appointed agency heads can be very significant, and it cannot be circumscribed by law.

As for tradition, people expect leadership of a governor. Box scores are kept on his proposals and attainments. Candidates for governor invite people to bring their problems to the governor's office, and people do. Blame is attached to a governor who does not provide leadership. People accept the idea that his proposals to a legislature should get special consideration.

In specific reference to constitutional provisions pertaining to the executive branch, the following observations are made:

1. It would be desirable to have the governor inaugurated a month or two in advance of his first legislative session.

2. The pardon power of the governor should be limited, perhaps to capital cases only or to major crimes. A professional pardon and parole board should administer clemency.

3. The present provisions with respect to appointments subject to senate confirmation have loopholes which should be studied. A person subject to confirmation might resign just before a senate session and receive a recess appointment immediately after adjournment, thus circumventing the requirement for confirmation.

4. The ten-day limit for the governor to approve bills after reaching his desk makes sound study very difficult when a mass of bills reaches his desk as always happens in the closing days of a session. A longer period should be considered.

5. Two major developments of recent years should be maintained in curbing the power of the governor. One is to continue the requirement that capital projects be specified in legislation providing for construction through bond issues. And, second, the five-year highway budget program should be continued. These place great power of the purse in the hands of the legislators.

6. Most boards and commissions should be abolished and the agencies administered by heads appointed by the governor. It is unnecessary to place any specifically in the constitution, though a general authority to create boards and commissions might be given the legislature.

7. Many offices have constitutional status by reference, and it would be good to delete these references.

8. There are obsolete boards which should be omitted, such as the State Printing Board.

It would be a pleasure to discuss these comments in detail if this is desired.

RE: MEMORANDUM TO CHAIRMAN OF THE COORDINATING COMMITTEE

Enclosed is the memorandum to the Chairman of the Coordinating Committee listing the constitutional provisions to be considered by the Committee on Executive Department (Attachment A); those provisions the committee decided they would not consider (Attachment B); and provisions referred to the Coordinating Committee (Attachment C).

EXHIBIT "A"

Constitutional provisions relative to the Executive (Topics I, J, Arranged)

A. Distribution of Powers

Art. II. Distribution of Powers

Sec. 1. Departments of government

Sec. 2. Separation of departmental powers

B. Executive Officer or Officers


Art. II. Distribution of Powers

Sec. 3. Continuity of governmental operations upon vacancy or death

Art. V. Executive Department

Sec. 7. Governor: lieutenant governor: executive power: term: election

Sec. 8. Qualifications of Governor and Lieutenant Governor

Sec. 9. Governor: vacancy: inability to act: succession

Sec. 10. Lieutenant Governor: vacancy in office

Sec. 11. Constitutional officers: election: term: vacancies: assistants

Sec. 12. Treasurer: eligibility to succeed self

Art. VI. Administrative Officers and Boards

Sec. 13. Agriculture: Commissioner to direct department

Art. VII. Suffrage and Elections

Sec. 13. Officeholders: residence requirements

Sec. 14. Impeachment and removal from office

Sec. 15. Remonstrance of suit: officers subject: commencement of suit

Sec. 16. Removal by suit: citation: appeal: effect: costs and attorney’s fees

Sec. 17. Recall

2. Powers and Duties

Art. III. Legislative Department

Sec. 1. Veto sessions

Sec. 2. Signing of bills: delivery to governor

Sec. 3. Effective date of laws: publication

Sec. 4. Sale or trade of votes: purchase of supplies on bids: contracts: personal interest, approval

Sec. 5. Legislative bureau: membership: duties

Sec. 6. Merger or consolidation of similar, executive, and administrative offices

Sec. 7. Obsolete (1936 Oil and Gas Act: Commission)

Sec. 8. Code of Criminal Procedure

Art. IV. Limitations

Sec. 1. Appropriations: quarterly accounting

Sec. 2. Public debt: alienation of public lands: reservation of mineral rights: mineral leases

Sec. 2(b). Mineral revenues: minerals beyond three mile limit

Sec. 2(c). Mineral revenues: payment to general highway fund

Sec. 2(d). Revenue from tidelands mineral leases: use of

Sec. 12-c. Commissioner of Agriculture and Immigration: quarantined loans: farm youth organizations

Sec. 14. State educational or charitable institutions: establishment; vote

Art. V. Executive Department

Sec. 1. Lieutenant Governor: president of the senate; votes: president pro tem

Sec. 10. Pardons: sentences: remission of fines and forfeitures

Sec. 11. Appointment of officers

Sec. 12. Appointment of officers: recess appointments

Sec. 13. Reports to governor: information and recommendations to legislature

Sec. 14. Governor: execution of laws: extraordinary sessions of legislature: restriction on power to legislate: limitation on time: proclamation and notice

Sec. 15. Appointment of bills: veto: passage over veto: failure to act

Sec. 16. Appropriation bills: veto of items

Sec. 17. Acts not requiring governor's signature: legislative investigations

Sec. 21. Commissions: formalities

Art. VII. Judiciary Department

Sec. 69. Vacancies: appointments: special elections: notices (local officers)

Sec. 72. Vacancy (commissioners)

Sec. 93. Vacancies: temporary filling by district judges (officers)

Sec. 55-57. Attorney General

Art. XII. Suffrage and Elections

Sec. 14. Election returns, officers commissioned by governor

Sec. 15. Ballots: method of voting: secrecy: independent candidates: statements of candidacy

Sec. 18. Registrars of Voters: board of registration

Art. IX. Impeachment and Removal from Office

Sec. 8. Fiscal officers: suspension

Art. XIV. General Provisions

Sec. 18. Police power


Art. XIII. Legislative Department

Sec. 34. Salaries of public officers: change

Art. V. Executive Department

Sec. 5. Salary of Governor and Lieutenant Governor

Sec. 7. Salary of Acting Governor

Sec. 20. Salaries of constitutional officers: fees: expenses

Art. XIII. Militia

Sec. 1. Organization, equipment and discipline

Sec. 2. Governor: Command-in-Chief: powers

Sec. 3. Adjutant General

Sec. 4. Proclamation of records, banners and relics

Art. XIV. General Provisions

Sec. 10. Salaries of officers: fees or prerequisites

C. Administrative Officers and Boards

Art. IV. Limitations

Sec. 1. Board of Liquidation of State Debt

Sec. 2(l). Board of Liquidation of State Debt: banks: public works
EXHIBIT "B"

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

Article I. Section 14. Military Power is subordinate to Civil power.

Article III. Section 6. Governor to call special elections to fill legislative vacancies.

Article III. Section 25.1. 2/3 vote of the Legislature necessary to increase taxes.

Article IV. Section 9. General Appropriation Bill. (Governor's office deviates from bill which is tied to the executive budget and is an administration policy instrument).

Article IV. Section 10. Contingency Appropriations prohibited. (Applies to executive branch as well as legislative).

Article VI. Section 16. Governor to fill vacancies on Orleans Port Commission from list of nominees.

Article VI. Section 19.1. Governor is ex-officio number of highway board to fill vacancies: certain administrative functions.

Article VI. Sections 29, 29.1. Governor to appoint members to Baton Rouge Port Commission.

Art. VI. Sections 31. Governor to appoint members to Orleans Port Commission.

Art. VI. Section 32. Governor to appoint members to Land-Bocage Port Commission.

Art. VI. Section 39. Governor has authority to obtain reports and information from all executive and administrative departments. (Applies to non-budget units).

Article VI. Section 5. 1. relates to disposition of collection for "spoilage for feet", to be expended by part of the Board of Highways, an executive agency.

Article VI. Sections 7, 9, 10, 11, 12. Governs "tax collection" ("gasoline tax on "cords") by the Division of Public Accounting, later referred to as "Superintendent of Public Funds." (Tax collection is an executive function, and there is no official with either of those "titles").

Article VII. Section 7. Governor to call special election to fill vacancies on Orleans Port Commission.

Article VII. Section 8. Amending judges to notify governor of retirements.

Article VII. Section 21. Governor to call special election to fill vacancies in appellate judgships.

Article VII. Section 33. Governor to call special election to fill vacancies in district judgships. (See also Art. VII, Sec. 69).

Art. VII. Section 60. Assistant District Attorneys to be commissioned by governor.

Art. VII. Section 65. Tax collection functions of sheriffs.

Art. VIII. Section 6. Voting by felons unapportioned by governor, prohibited.
CONSTITUTIONAL PROVISIONS REQUIRING CONSULTATION WITH OTHER COMMITTEES

A. Articles and sections to be sent to the Coordinating Committee

Article IV. Limitations

Section 9: Appropriation Bills; form and contents (General Appropriation Bill as related to Executive Budget)

Article VII. Judiciary Department

Section 7: (Supreme Court) Initial Terms; Election; Expiration of Terms; Vacancies; Presiding Justice

Section 21: (Courts of Appeal) Confirmation of Courts: Elections; Vacancies

Section 33: (District Courts) District Judges; Election; Residence, Training, and Experience Qualifications; Bar Association Membership

Section 55: (Department of Justice) Establishment; Composition: Attorney General, Election and Assistants

Section 56: (Department of Justice) Attorney General; Qualifications; Powers and Duties; Vacancies

Section 57: (Department of Justice) Salaries

Section 60: (District Attorneys) Assistants

Section 69: (Vacancies) Appointments: Special Elections

Section 72: (Coroners) Vacancy

Article XII. Public Education

Section 5: State Superintendent of Education

EC-14

Article XIX. General Provisions

Section 10: Salaried officers; Fees and Perquisites

B. Articles and Sections to be considered in Liaison with Committee on the Legislature

Article XIII. Legislative Department

Section 34: Salaries of Public Officers; change

EC-15

On January 6, 1965, Senator Burch Bay introduced Senate Joint Resolution 1 to provide, through a constitutional amendment, for Presidential disability and succession. President Johnson sent a special message to the Senate in support of the resolution, and his remarks, printed in the Congressional Record on January 28, 1965, are attached to this report.
Mr. Johnson issued two other statements on presidential disability. The first, issued on October 5, 1965, as he prepared for surgery, described the procedure to be followed in the event of his inability. Secondly, the President spoke at the February 23, 1967, White House ceremony marking the ratification of the Presidential Inability (25th) Amendment to the Constitution of the United States. Both statements are reproduced below in full.

### NOTES
Materials omitted here are taken from:
111 Congressional Record 1547-1548 and

CC/73 Research Staff
Committee on Executive Department
May 15, 1973
Staff Memorandum No. 10

Enclosed you will find information received from Mr. David V. Kneras, Director of the Legislative Library Services regarding Florida's cabinet system.

Also enclosed is a presentation from Mr. James A. Gayle, President of the Louisiana Forestry Association.

### The Louisiana Forestry Association

The membership of this organization numbering more than 2100 is comprised by 500 of the Louisiana Forestry Commission may be served with other state agencies we are separated from the Department of Conservation in the interest of a more complete and efficient organized association. To develop several areas to the citizens. The Louisiana Forestry Commission has contributed significantly to the state small growth interest has enjoyed in this State.

This Agency - states two purposes, making over forty million dollars annually available to landowners in a reasonable price each year, It provides fire protection to assure it is twelve million acres of the State's forests by aerial detection and more than one hundred fire towers. Airliners are protected in the small landowners, small reforestation for disease control, commercial activities, and other interests which are now longer by an act, not to be used for political influence.

Responsibility for the operations of the Commission is vested with a seven member board of commissioners, two of whom are required to be the heads of the Louisiana State University School of Forests and the Louisiana Forest, and the wildlife and Fisheries.

The first term is of some period of five years, and is extended to serve one year. The term of the President and one of the other members of the Commission is fixed for the State and a director of the Forest Service is appointed as director of activities of this state and is buried.

May 10, 1973

Because the program of the Forestry Commission is developed by professionals and the day to day activities are directed by professionals, this Agency is more responsive to the needs of forestry than to petty office. We are extremely interested in keeping the responsiveness intact.

We are unable to appreciate any long term activity to a precarious program that would minimize the value of forestry or the Forestry Commission. Recent statistics reveal that the economical contributions of forestry to Louisiana are equal to those of all other agricultural crops. It is incompatible with a leader of this magnitude who are on the "outs" are grateful for its existence. Another way of summarizing is that those who are in the Governor's impatience with the restraints of the Cabinet, while those who are on the "outs" wish to abolish the Cabinet, while those with a long experience tend to favor it.

We trust these materials will be of assistance.

With kindest regards, I am

Sincerely,

David V. Kneras, Director of Legislative Library

[Received] 5/1/73

CC/73 RESEARCH STAFF

[186]
Memorandum

Re: Reorganization of Cabinet Structure

On April 10, 1967, The Honorable Tom Adams, Secretary of State, made a presentation to the State Governmental Organization and Efficiency Committee. Mr. Adams suggested substantial reorganization of those portions of the Executive Branch, which are presently placed under the Cabinet. His presentation was one of high quality and reflects sincere appreciation for and true understanding of the nature of Florida government.

Although I feel that this presentation has much merit, I suggest that it is a step away from freely accepting responsibility in government and a step towards enhancement of our present divided pluralistic form of Executive Branch.

None of you need to be reminded that the governmental structure in this country was built on a clear separation of the powers of the Executive, Legislative, and Judicial Branches. It is also common knowledge that the Constitution of 1868 was a reconstruction constitution. Primarily, it was geared towards a weak Legislative Branch. Under the Constitution, the Cabinet system, as such, was not envisioned to be a strong governing authority. Article IV, Section 90, provides: The governor shall be assisted by administrative officers as follows: A secretary of state, attorney general, comptroller, treasurer, superintendent of public instruction, and commissioner of agriculture, who shall be elected at the same time as the governor, and shall hold their offices for the same term provided, that the first election of such officers under this section shall be had at the time of voting for governor in 1964 for a term of two years and thereafter commencing with the time of voting for governor in 1966, said officers shall be elected for a term of four years.

Since World War II, there has been an increasing transfer of executive power from the Governor's office to a wide variety of boards and commissions, which are supervised by the Cabinet. When viewed in historical perspective, the sum total of this shifting of executive duties has substantially weakened the office of the Governor and has created a division of executive responsibilities.

From Biblical times, it has been said that no man can serve two masters. However, in Florida, directors of administrative boards and commissions under the Cabinet serve from five to seven masters. The Cabinet system fails to clearly fix responsibility in any single person, thus, depriving the voters of their rights to hold a desirable state official, or officials, responsible for the progress of state government.

As a practical matter, each Tuesday the Cabinet sits as an unrelated series of boards and commissions passing upon a multitude of major and minor problems, mixed together without continuity, order, or reason. When you attend a Cabinet meeting, you will find that each Cabinet member has an agenda for each of the various commissions (see Exhibit A). Upon the conclusion of each agenda, he merely turns to the next commission's agenda. Thus, in a series of half-chance, various commissions, boards, and Cabinet functions are discharged in a rather perfunctory and unsatisfactory fashion.

The creation of Cabinet agencies occupies at least two days a week for each commission director. Review of these agencies by the Cabinet membership often requires that they each maintain one or more experts in a wide variety of fields, and at the taxpayers' expense. Cabinet meetings run from a minimum of two hours to as long as a half day.

A wide variety of methods of procedure are employed by the various Cabinet boards and commissions. In most cases, the full-time director of a particular agency appears to secure authority to perform a specific act or a ratification of a policy recommendation. In two cases, those appearing are full-time employees of a member of the Cabinet, who sits in judgment. When the Board of Education is involved, the Superintendent of Public Instruction normally presents its agenda himself, even though he is also a voting member of the very board which is passing upon his recommendations.

With the above background in mind, I would like to make the following observations about Secretary Adams' recommendations:

1. With regard to his point that all Cabinet officers should sit on each of eleven boards, it is my opinion that this would merely increase the diffusion of authority and the lack of certain responsibilities.

2. I concur with his feeling that the Cabinet officers and the Governor should be encouraged to relinquish responsibilities assigned to them, which could be accomplished by a strong governing board and responsible board and commission structure.

3. I concur in his conclusion that the reorganization should be accomplished before the next regular session of the Legislature within the guidelines laid down by the 1966 Legislature. I feel my opinion that the Attorney General should be charged with the responsibility of developing the legislation necessary to permanently write the changes into the statutes at the end of the trial period.

In my own independent evaluation of the present boards and commissions, I have reached conclusions somewhat different than those reached by Secretary Adams. Rather than placing all seven of the Governor's elected "administrative officers" on a "super" Cabinet, it is my feeling that it would be better to consolidate the various Cabinet commissions along the lines generally recommended by Secretary Adams, but, at the same time, to remove the Governor as a member of any commission to a maximum of three. Those placed on a commission should be selected because of their expertise or responsibility for the particular area of state government involved. Such a system would enable the Cabinet members to substantially reduce their professional staffs and also to clearly fix the responsibility for the various areas of state government in particular elected officials.

Attached is a proposed commission reorganization which is, in my opinion, more in keeping with good government, in that it clearly fixes responsibility, eliminates inefficiency, and maximizes division of authority.

Although I believe it is a legislative decision as to whether governmental reorganization should be undertaken now or whether it would be best delayed until after Constitutional Revision, nevertheless, I thought you would appreciate receiving the benefit of my current thinking. For purposes of this presentation and to avoid confusion, I have adopted the same format used by the Secretary of State in his memorandum.

The only recommended substantial modification in the present Cabinet system is the one which places the Planning and Budget Commission under the direction of the Governor only. The people hold the Governor directly accountable for the progress of State government during his term of office. He should have at his command the tools by which he can plan and execute successful administrative policies in arranging with the budget guidelines and limitations placed upon his authority by the Legislature. If any sessions of the Legislature become a reality, a strengthened Executive Branch will be able to serve as the finest possible check upon the Governor's office. If this system is suggested to the people, it would be materially strengthened and his responsibility firmly fixed.

The attached reorganization plan envisages a maximum of ten commissions in lieu of the over thirty boards and commissions presently served by the Governor. With these exceptions, I recommend that all commissions be responsible to a three-man board. In reelecting the three administrative officers recommended as board members for a particular commission.
sign, preference was given to those members of the Cabinet whose responsibility most nearly coincides with the commission's area of interest. Thus, when fiscal matters are involved, I have recommended the Controller and Treasurer; when educational matters are involved, the Superintendent of Public Instruction. The chairman for each commission has been designated.

Sincerely,

Governor

CRK:he

CC/73 Research Staff
Committee on Executive Department
May 22, 1973
Staff Memorandum No. 11

Enclosed is Exhibit 18 entitled Officers and Members of Louisiana Departments, Agencies, Councils, Boards and Commissions Appointed by the Governor prepared by the Louisiana Legislative Council, January 10, 1972.

NOTES
Exhibit 18 on following pages.
LOUISIANA LEGISLATIVE COUNCIL

January 10, 1972

Officers and Members of Louisiana Departments,

Agencies, Councils, Boards and Commissions

Appointed by the Governor.

PREFACE

This publication lists Louisiana officers and members of councils, boards and commissions who are appointed by the governor in accordance with requirements of the Louisiana Constitution or laws or as provided by resolutions of the Louisiana Legislature and certain executive orders of the governor. Appointments made by other officials and by boards and commissions are not included in this compilation. It is noted that the governor, under authority of Article VII, Section 69 of the Constitution, R.S. 42:371 and other laws, is required to fill vacancies occurring in many offices; vacancy appointments are not covered by this report.

The names of the various boards, commissions, councils and individual positions included herein are listed in alphabetical order, by subject. The chart lists the total membership of the councils, boards and commissions, the terms of office of the listed groups and individuals, the compensation or per diem and expenses paid the members or individual officers, the number of members appointed by the governor and the pertinent legal citations. If the governor's appointments are made on recommendation of certain groups or individuals or if they require Senate confirmation, a notation to that effect appears in the column showing the number of the appointments of the governor. Where no data is included in any column, the law which created the position makes no provision or, in some instances, the information was not available to this office at the time of compilation.

It is hoped that the information herein contained will be of value to those who have occasion to make use of it.
<table>
<thead>
<tr>
<th>Name</th>
<th>Total Membership</th>
<th>Terms</th>
<th>Compensation</th>
<th>Members Appointed by Governor</th>
<th>Citation</th>
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</thead>
<tbody>
<tr>
<td>ACCOUNTANTS, CERTIFIED PUBLIC, State Board of</td>
<td>5</td>
<td>5 years</td>
<td>Up to $15 per diem and expenses</td>
<td>5</td>
<td>R.S. 37:72, 37:74</td>
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<td>ADJUTANT GENERAL</td>
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<td>4 years</td>
<td>Base pay and allowances for Brig. Gen., U.S. Army</td>
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<td>Const. Art. XVII, Sec. 3; R.S. 29:8</td>
</tr>
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<td>ADMINISTRATION, Commissioner of</td>
<td>Pleasure of</td>
<td>Good behavior</td>
<td>$28,000 per year* (fixed by governor)</td>
<td>1</td>
<td>R.S. 39:5</td>
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<tr>
<td>ADMINISTRATIVE SERVICES, Division of, Manager of</td>
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<td>R.S. 49:205</td>
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<td>ADVISORY Board, State</td>
<td>19</td>
<td>Good behavior</td>
<td></td>
<td>11</td>
<td>Const. Art. VI, Sec. 22 (e)</td>
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<tr>
<td>AIR CONTROL Commission</td>
<td>7</td>
<td>4 years (overlapping)</td>
<td>Travel allowance (on recommendation)</td>
<td>4</td>
<td>R.S. 40:2203</td>
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<tr>
<td>ALCOHOLIC BEVERAGE CONTROL Board</td>
<td>5</td>
<td>Pleasure of governor</td>
<td>Chairman, $10,000 per year; others, $7,000 per year</td>
<td>5</td>
<td>R.S. 26:21, 26:22, 26:26</td>
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<tr>
<td>ALCOHOLISM, Commission on</td>
<td>9</td>
<td>4 years (at pleasure of governor)</td>
<td>$20 per diem, plus expenses</td>
<td>9</td>
<td>R.S. 40:2008.1, 40:2008.2</td>
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<tr>
<td>ANHYDROUS AMMONIA Commission</td>
<td>5</td>
<td>6 years (overlapping)</td>
<td>$20 per diem, $10 expenses per day, 7¢ per mile</td>
<td>3</td>
<td>R.S. 3:1352</td>
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* Salary as of June 14, 1971 as furnished by the Division of Administration.
<table>
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<tr>
<th>NAME</th>
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<th>MEMBERS APPOINTED BY GOVERNOR</th>
<th>CITATION</th>
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<tr>
<td>ARCHITECTURAL EXAMINERS, Board of</td>
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<td>Pleasure of governor</td>
<td>$20 per diem, plus expenses</td>
<td>5</td>
<td>R.S. 37:142-143, 37:143, 37:6</td>
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<td>ARTIST LAUREATE</td>
<td></td>
<td>Concurrent with governor</td>
<td>None</td>
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<td>R.S. 49:157</td>
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<td>ARTS AND SCIENCE CENTER, Board of Commissioners of</td>
<td>5</td>
<td>Concurrent with governor</td>
<td>None</td>
<td>5</td>
<td>R.S. 25:572</td>
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<td>ATCHAFALAYA BASIN CAUSEWAY Commission</td>
<td>11</td>
<td>4 years</td>
<td>None</td>
<td>10</td>
<td>Act 255, 1966</td>
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<td>ATHLETIC Commission, State</td>
<td>5</td>
<td>Pleasure of governor</td>
<td>Fixed by commission for chairman, vice-chairman; secretary not to exceed $6000, $3000, and $3,500, respectively; others, expenses.</td>
<td>4</td>
<td>R.S. 4:61, 4:67</td>
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<td>ATOMIC ENERGY DEVELOPMENT Agency, Coordinator of</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>R.S. 51:1054</td>
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<tr>
<td>BANKING Department, State Commissioner of</td>
<td>4</td>
<td>4 years</td>
<td>$15,120 per year</td>
<td>1</td>
<td>R.S. 6:151, 6:155, Const. Art. VI, Sec. 18</td>
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<tr>
<td>BARBER EXAMINERS, Board of</td>
<td>5</td>
<td>4 years</td>
<td>Not more than $35 per diem, expenses, 9¢ per mile; secretary, $7,000 per year &amp; expenses.</td>
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<td>R.S. 37:341, 37:345</td>
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<td>BEDDING ADVISORY Board</td>
<td>7</td>
<td>5 years</td>
<td>Expenses</td>
<td>6</td>
<td>R.S. 40:1194</td>
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<td>BOND AND TAX Board, State</td>
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<td>Secretary receives not more than $7,500 per year, other expenses fixed by board.</td>
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<td>R.S. 47:1801</td>
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<td>BRIDGE AND FERRY Authorities</td>
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<td>Ascension-St. James Bridge and Ferry Authority</td>
<td>4</td>
<td>6 years</td>
<td>$25 per diem</td>
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<td>R.S. 48:1092 (on recommendation)</td>
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<tr>
<td>Iberville Parish Bridge and Ferry Authority</td>
<td>9</td>
<td>6 years</td>
<td>$25 per diem</td>
<td>9</td>
<td>R.S. 48:1092 (on recommendation)</td>
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<tr>
<td>Mississippi River Bridge Authority</td>
<td>9</td>
<td>6 years</td>
<td>$25 per diem</td>
<td>9</td>
<td>R.S. 48:1092 (on recommendation)</td>
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<tr>
<td>Pointe Coupee-West Feliciana Bridge and Ferry Authority</td>
<td>7</td>
<td>6 years</td>
<td>$25 per diem</td>
<td>7</td>
<td>R.S. 48:1092 (on recommendation) Act 164, 1968</td>
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<tr>
<td>St. Charles-St. John the Baptist Bridge and Ferry Authority</td>
<td>9</td>
<td>6 years</td>
<td>$25 per diem</td>
<td>9</td>
<td>R.S. 48:1092 (on recommendation) Act 109, 1968</td>
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<tr>
<td>BUILDINGS, Division of State, Superintendent of</td>
<td></td>
<td></td>
<td>$15,000* (fixed by governor)</td>
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<td>R.S. 49:141</td>
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<tr>
<td>CEMETERY, CAMP MOORE CONFEDERATE, Board of Commissioners</td>
<td>5</td>
<td>4 years</td>
<td>None</td>
<td>5</td>
<td>R.S. 29:433</td>
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<td>CIVIL DEFENSE, Director of</td>
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<td></td>
<td>Pleasure of governor</td>
<td>1</td>
<td>R.S. 29:602 (on recommendation)</td>
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<tr>
<td>CIVIL SERVICE Commission, State</td>
<td>5</td>
<td>6 years</td>
<td>$25 per diem, plus expenses (overlapping)</td>
<td>5</td>
<td>Const. Art. XIV, Sec. 15(C), (K)</td>
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<th>NAME</th>
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<th>MEMBERS APPOINTED BY GOVERNOR</th>
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<tr>
<td>COASTAL ADVISORY Committee, La.</td>
<td>9</td>
<td>4 years</td>
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<td>9 (on recommendation)</td>
<td>R.S. 34:2252.1</td>
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<tr>
<td>COASTAL COMMISSION, La.</td>
<td>18</td>
<td>6 years (staggered)</td>
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<td>16 (on recommendation)</td>
<td>R.S. 34:2252-34:2253.1</td>
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<td>COASTAL AND MARINE RESOURCES, Advisory Commission on</td>
<td>9</td>
<td>Pleasure of governor</td>
<td>Reasonable and necessary expenses</td>
<td>9</td>
<td>R.S. 51:1361-51:1365</td>
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<tr>
<td>CONCERCE AND INDUSTRY, State Board of</td>
<td>16</td>
<td>6 years (overlapping)</td>
<td>None</td>
<td>15 (Senatorial confirmation)</td>
<td>R.S. 51:923, 51:924, 51:928</td>
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<td>CONSERVATION, Department of, Commissioner</td>
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<td>4 years</td>
<td>$18,000 per year</td>
<td>1 (Senatorial confirmation)</td>
<td>Const. Art. V, Sec. 18; Art. VI, Sec. 1(c); R.S. 30:1</td>
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<tr>
<td>CONTRACTORS, State Licensing Board for</td>
<td>9</td>
<td>Concurrent with governor</td>
<td>Not more than $50 per diem, 10¢ per mile</td>
<td>9 (on recommendation)</td>
<td>R.S. 37:2151-37:2152, 37:2154</td>
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<tr>
<td>CORRECTIONS, Board of</td>
<td>7</td>
<td>6 years</td>
<td>$30 per diem on official business; expenses</td>
<td>7 (Senatorial confirmation)</td>
<td>R.S. 15:822</td>
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<td>CORRECTIONS, Director of</td>
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<td>Fixed by board of corrections</td>
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<td>R.S. 15:823</td>
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<td>COSMETOLOGY, State Board of</td>
<td>7</td>
<td>Concurrent with governor (pleasure of governor)</td>
<td>Expenses up to $300 per month.</td>
<td>6</td>
<td>R.S. 37:493, 37:496</td>
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<td>DENTISTRY, State Board of</td>
<td>8</td>
<td>5 years</td>
<td>$50 per diem, plus expenses; secretary: $400 per month.</td>
<td>8 (on recommendation)</td>
<td>R.S. 37:753, 37:755</td>
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<tr>
<td>NAME</td>
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<tr>
<td>ECONOMIC OPPORTUNITY, Office of, Director of</td>
<td></td>
<td></td>
<td>$17,500 per year*</td>
<td>1</td>
<td>R.S. 17:3022</td>
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<tr>
<td>EDUCATION ASSISTANCE Commission, La. Higher</td>
<td>10</td>
<td>3 years (overlapping)</td>
<td>$25 per diem plus expenses</td>
<td>10 (Senatorial confirmation)</td>
<td>R.S. 17:1912</td>
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<tr>
<td>EDUCATION Council, La.</td>
<td>13</td>
<td>3 years (4 E.C.S. representatives at pleasure of governor)</td>
<td>Per diem plus travel expenses (to be fixed by commission)</td>
<td>10 (includes 4 E.C.S. representatives)</td>
<td>R.S. 17:1793.1</td>
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<tr>
<td>EDUCATION FACILITIES Commission, Higher</td>
<td>13</td>
<td>4 years (concurrent with governor)</td>
<td>$35 per diem, plus expenses</td>
<td>12 (8 on recommendation)</td>
<td>R.S. 17:1793.1</td>
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<tr>
<td>EDUCATION, EXTENSION AND CONTINUING, La. Commission on</td>
<td>13</td>
<td>Concurrent with governor (pleasure of governor)</td>
<td>$35 per diem, plus expenses</td>
<td>13 (on recommendation)</td>
<td>Executive Order 48 of 1966</td>
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<tr>
<td>EDUCATION, HIGHER, La. Coordinating Council For</td>
<td>15</td>
<td>6 years (overlapping)</td>
<td>$50 per diem plus expenses</td>
<td>13 (Senatorial confirmation)</td>
<td>Const. Art. XII, Sec. 7; R.S. 17:3082</td>
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<tr>
<td>EDUCATION, SOUTHERN REGIONAL, Compact</td>
<td>5</td>
<td>4 years (overlapping)</td>
<td></td>
<td>4</td>
<td>R.S. 17:1901</td>
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<tr>
<td>EDUCATIONAL Commission of the States</td>
<td>7</td>
<td>4 years (at pleasure of governor)</td>
<td></td>
<td>4</td>
<td>R.S. 17:1911</td>
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* Salary as of June 14, 1971 as furnished by the Division of Administration.
<table>
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<tr>
<th>NAME</th>
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<th>COMPENSATION</th>
<th>MEMBERS APPOINTED BY GOVERNOR</th>
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<tbody>
<tr>
<td>EDUCATIONAL TELEVISION, Authority, La.</td>
<td>21</td>
<td>6 years (overlapping)</td>
<td>$25 per diem plus expenses</td>
<td>18</td>
<td>R.S. 17:2501-17:2506</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>(8 Senatorial confirmation, 10 on recommendation)</td>
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<tr>
<td>EDUCATIONAL TELEVISION, La. Commission on</td>
<td>14</td>
<td>1 year</td>
<td></td>
<td>13</td>
<td>Act 616, 1970</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>(on recommendation)</td>
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<td>EGG Commission, La.</td>
<td>13</td>
<td>6 years (legislative members, 4 years)</td>
<td>$15 per diem, 10¢ per mile</td>
<td>10</td>
<td>R.S. 3:551.2</td>
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<td>(on recommendation)</td>
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<td>EMBALMERS AND FUNERAL DIRECTORS, State Board of</td>
<td>7</td>
<td>5 years (overlapping)</td>
<td>Not more than $25 per diem, plus expenses</td>
<td>7</td>
<td>R.S. 37:832, 37:834, 37:836</td>
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<td>EMPLOYMENT SECURITY</td>
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<td>Administrator, Department of Employment Security</td>
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<td>1</td>
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<td>Board of Review of Employment Security</td>
<td>3</td>
<td>4 years, concurrent with governor</td>
<td>$40 per diem, plus traveling expenses</td>
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<td>R.S. 23:1652</td>
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<td>State Advisory Council for Employment Security</td>
<td>No specific number</td>
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<td>$25 per diem; $500 annual limit</td>
<td>No specific number</td>
<td>R.S. 23:1658</td>
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<td>ENGINEERS, PROFESSIONAL, AND LAND SURVEYORS, State Board of Registration for</td>
<td>9</td>
<td>9 years (overlapping)</td>
<td>$25 per diem, plus expenses</td>
<td>9</td>
<td>R.S. 37:683-37:685</td>
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<td></td>
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<thead>
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<td>ETHICS</td>
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<td>Board of Ethics for State Elected Officials, La.</td>
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<td>Concurrent with governor</td>
<td>$25 per diem, plus traveling, other expenses; $2000 annual limit</td>
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<td>Const. Art. XIX, Sec. 27; R.S. 42:1144</td>
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<td>Commission on Governmental Ethics</td>
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<td>$30 per diem, plus expenses</td>
<td>6</td>
<td>R.S. 48:1254</td>
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<td></td>
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<td>FEDERAL GRANTS, Commission on</td>
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<td>4 years at pleasure of governor</td>
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<td>R.S. 49:653</td>
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<td></td>
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<td>(governor's appointee only)</td>
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<td>FIRE MARSHAL, State</td>
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<td>Concurrent with governor</td>
<td>$17,500 per year</td>
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<td>Const. Art. VI, Sec. 15; R.S. 40:1561</td>
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<td>FORESTRY Commission</td>
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<td>5 years (overlapping)</td>
<td>Expenses</td>
<td>5</td>
<td>Const. Art. VI, Sec. 1 (B); R.S. 56:1472-56:1473</td>
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<td>FRENCH IN LOUISIANA, Council for the Development of</td>
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<td>(maximum)</td>
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<td>Act 409, 1968</td>
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<td>R.S. 25:651</td>
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<td>GAME AND FISH Commissions</td>
<td></td>
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<tr>
<td>Anacoco-Prairie Game and Fish Commission</td>
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<td>7 years (overlapping)</td>
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<td>7</td>
<td>Act 562, 1968</td>
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<tr>
<td>NAME</td>
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<td>GAME AND FISH Commissions (Cont'd)</td>
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<tr>
<td>Black Lake Game and Fish Commission</td>
<td>5</td>
<td>4 years</td>
<td>None</td>
<td>5 (on recommendation)</td>
<td>House Concurrent Res. 30, 1956</td>
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<td>Six Mile Game and Fish Commission</td>
<td>9</td>
<td>7 years (overlapping)</td>
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<td>Act 658, 1970</td>
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<td>GOVERNMENTAL REORGANIZATION, La. Council on</td>
<td>13</td>
<td></td>
<td>10¢ per mile, plus expenses; Legislative members receive same per diem as members of Legislative Budget Committee</td>
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<td>Act 456, 1966 Act 222, 1968</td>
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<td>GOVERNOR, Office of</td>
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<td>Executive Counsel to the Governor</td>
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<td>Secretary to the Governor</td>
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<td>Pleasure of governor</td>
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<td>GULF STATES MARINE FISHERIES Commission</td>
<td>3</td>
<td>4 years</td>
<td>Expenses</td>
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<td>R.S. 56:55, 56:57</td>
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<td>(La. representatives)</td>
<td>(La. representatives)</td>
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<td>HANDICAPPED, PHYSICALLY, Governor's Committee on the Employment of the</td>
<td>24</td>
<td>3 years (overlapping)</td>
<td>Expenses</td>
<td>24</td>
<td>R.S. 23:2002-23:2005</td>
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<td>HEALTH EDUCATION Authority of La.</td>
<td>12</td>
<td>6 years (overlapping)</td>
<td>Expenses</td>
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<td>R.S. 17:3053-17:3054</td>
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<td>COMPENSATION</td>
<td>MEMBERS APPOINTED BY GOVERNOR</td>
<td>CITATION</td>
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<tr>
<td>HEALTH SERVICES DISTRICT, SOUTH LA., Board of Commissioners of the</td>
<td>5</td>
<td>4 years (overlapping)</td>
<td>President (State Health Officer): $20,000 per year; Others: $25 per diem, plus $25 per diem for 2-day travel expense and 8¢ per mile</td>
<td>4 (one per parish in district)</td>
<td>R.S. 28:243-28:244</td>
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<tr>
<td>HEALTH, State Board of</td>
<td>9</td>
<td>8 years (overlapping)</td>
<td></td>
<td>9 (Senatorial confirmation)</td>
<td>Const. Art. VI, Sec. 11; R.S. 40:3, 40:5</td>
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<tr>
<td>HEARING AID DEALERS</td>
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<td>La. Board for Hearing Aid Dealers</td>
<td>8</td>
<td>4 years (overlapping)</td>
<td>Expenses</td>
<td>7 (on recommendation)</td>
<td>R.S. 37:2455, 37:2459</td>
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<td>La. Council of Advisors to Hearing Aid Dealers</td>
<td>3</td>
<td>3 years</td>
<td>Expenses</td>
<td>3 (on recommendation)</td>
<td>R.S. 37:2456, 37:2459</td>
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<td>HIGHWAY SAFETY Commission, La. (maximum)</td>
<td>21</td>
<td>4 years (at pleasure of governor)</td>
<td>Expenses</td>
<td>21 (maximum)</td>
<td>R.S. 48:1352, 48:1354</td>
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<td>HIGHWAY SAFETY Commission, Executive Director of</td>
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<td>$15,000 per year* (fixed by governor)</td>
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<td>R.S. 48:1355</td>
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<td>HIGHWAYS, State Board of</td>
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<td>6 years (overlapping)(two members: 4 years concurrent with governor)</td>
<td>$25 per diem, plus expenses</td>
<td>8 (on recommendation)</td>
<td>Const. Art. VI, Sec. 19.2; R.S. 48:71-48:72</td>
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<tr>
<td>Edward Douglass White Memorial Commission</td>
<td>13</td>
<td>6 years</td>
<td>None</td>
<td>7</td>
<td>Act 16, 1960</td>
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<td>Orleans Parish Landmarks Commission</td>
<td>7</td>
<td>4 years</td>
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<td>R.S. 25:381</td>
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<th>NAME</th>
<th>TOTAL MEMBERSHIP</th>
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<th>MEMBERS APPOINTED BY GOVERNOR</th>
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<tr>
<td>HOSPICE SERVICE Council</td>
<td>9</td>
<td>4 years (overlapping)</td>
<td>Expenses</td>
<td>4 (on recommendation)</td>
<td>R.S. 40:2005-33</td>
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<td>HORTICULTURAL Commission</td>
<td>11</td>
<td>4 years (overlapping)</td>
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<td>8 (on recommendation)</td>
<td>R.S. 37:1961</td>
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<tr>
<td>Advisory Board, Central</td>
<td>7</td>
<td>Pleasure of governor</td>
<td>$10 per diem, plus expenses</td>
<td>7</td>
<td>R.S. 40:2006</td>
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<tr>
<td>La. State Hospital</td>
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<td>Advisory Board, E. A.</td>
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<td>Pleasure of governor</td>
<td>$10 per diem, plus expenses</td>
<td>7</td>
<td>R.S. 40:2006</td>
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<tr>
<td>Conway Charity Hospital</td>
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<tr>
<td>Advisory Board, East La.</td>
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<td>Pleasure of governor</td>
<td>$10 per diem, plus expenses</td>
<td>7</td>
<td>R.S. 40:2006</td>
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<td>State Hospital</td>
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<td>Advisory Council, State Hospital</td>
<td>12</td>
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<td>R.S. 40:207.2</td>
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<td>Charity Hospital of New Orleans,</td>
<td>17</td>
<td>Concurrent with</td>
<td>Director's salary: fixed by board</td>
<td>15</td>
<td>R.S. 46:753</td>
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<td>Board of Administrators of</td>
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<tr>
<td>Confederate Memorial Medical Center</td>
<td>13</td>
<td>Concurrent with</td>
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<td>13</td>
<td>R.S. 46:892</td>
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<td>(one on recommendation; all with Sena-</td>
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<tr>
<td>Department of Hospitals, State</td>
<td></td>
<td></td>
<td>torial confirmation)</td>
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<tr>
<td>Director</td>
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<td>Licensing Council, Hospital</td>
<td>12</td>
<td>Pleasure of governor</td>
<td>$12,000* (fixed by governor)</td>
<td>1</td>
<td>R.S. 40:2005</td>
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<tr>
<td>Planning Advisory Council, Hospital</td>
<td>12</td>
<td>4 years (overlapping)</td>
<td>$20 per diem, plus expenses</td>
<td>8</td>
<td>R.S. 40:2168</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>(on recommendation)</td>
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<th>NAME</th>
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<tr>
<td>HOSPITALS (Cont'd)</td>
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<tr>
<td>State Board of Hospitals</td>
<td>15</td>
<td>Pleasure of governor</td>
<td>$25 per diem, plus expenses</td>
<td>15</td>
<td>R.S. 40:2003</td>
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<tr>
<td>HUMAN RELATIONS, RIGHTS AND RESPONSIBILITIES, Louisiana Commission on</td>
<td>42</td>
<td>3 years (overlapping)</td>
<td>Expenses</td>
<td>42</td>
<td>Executive Order, October 11, 1965</td>
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<tr>
<td>HUMAN RELATIONS, RIGHTS AND RESPONSIBILITIES, La. Commission on, Special Counsel(s) to</td>
<td></td>
<td></td>
<td>Fixed by governor</td>
<td></td>
<td>Executive Order, October 11, 1965</td>
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<td>INDUSTRIAL DEVELOPMENT Commission, North Central La.</td>
<td>5</td>
<td>Concurrent with governor</td>
<td>Reasonable travel allowance</td>
<td>5</td>
<td>Act No. 436, 1960</td>
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<tr>
<td>INSURANCE RATING Commission</td>
<td>8</td>
<td>4 years at pleasure of governor</td>
<td>Casualty and Surety Division: Chairman, $18,000 per year; Secretary, $12,000 per year; Fire Division: Chairman, $16,000 per year; others, $10,000 per year; Marine and Inland Marine Division: Chairman, $10,000 per year; Secretary, $8,500 per year</td>
<td>7</td>
<td>R.S. 22:1401</td>
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<td>INTERGOVERNMENTAL RELATIONS</td>
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<td>Commission on Intergovernmental Relations, La.</td>
<td>19</td>
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<td>$50 per diem</td>
<td>6</td>
<td>R.S. 49:42, 49:45</td>
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<td>Governor's Committee on Intergovernmental Relations</td>
<td>7</td>
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<td>$50 per diem</td>
<td>6</td>
<td>R.S. 49:41, 49:45</td>
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<td>JUVENILE PROBATION ADVISORY Council</td>
<td>15</td>
<td>5 years (overlapping)</td>
<td>Travel expenses</td>
<td>15</td>
<td>R.S. 46:1252</td>
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<td>NAME</td>
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<td>LABOR</td>
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<td>Department of Labor, Commissioner of</td>
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<tr>
<td>Labor-Management Commission of Inquiry</td>
<td>9</td>
<td>Pleasure of governor</td>
<td>$18,000 per year* (fixed by governor)</td>
<td>1</td>
<td>R.S. 23:2</td>
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<td>Labor Mediation Board</td>
<td>18</td>
<td>4 years (overlapping)</td>
<td>$25 per diem, plus expenses</td>
<td>18</td>
<td>R.S. 23:880.1, 23:880.3</td>
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<tr>
<td>LAKE Commission, Fort Buelhar</td>
<td>3</td>
<td>2 years</td>
<td>None</td>
<td>1</td>
<td>Act 468, 1954</td>
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<tr>
<td>LAW ENFORCEMENT AND ADMINISTRATION OF CRIMINAL JUSTICE, La. Commission on</td>
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<td>LAW ENFORCEMENT AND ADMINISTRATION OF CRIMINAL JUSTICE, La. Commission on, Executive Director of</td>
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<tr>
<td>LEGISLATION IN THE U. S., PROMOTION OF, Board of Commissioners for</td>
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<td>R.S. 24:81</td>
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<td>LEGISLATIVE REAPPORTIONMENT STUDY Commission</td>
<td>13</td>
<td>6 years</td>
<td>Expenses</td>
<td>2</td>
<td>R.S. 24:131-24:133</td>
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<tr>
<td>LEGISLATIVE BUDGET Committee</td>
<td>23</td>
<td>4 years</td>
<td>Same per diem and expenses as legislators</td>
<td>19</td>
<td>R.S. 39:311</td>
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<td>LEVEE Districts</td>
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<tr>
<td>Atchafalaya Basin Levee District, Board of Commissioners of</td>
<td>12</td>
<td>Concurrent with governor</td>
<td>$25 per diem, plus expenses and 8¢ per mile</td>
<td>12 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:693-38:694</td>
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<tr>
<td>Bossier Levee District, Board of Commissioners of</td>
<td>7</td>
<td>Concurrent with governor</td>
<td>$30 per diem plus expenses</td>
<td>7 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:732-38:734</td>
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<tr>
<td>Caddo Levee District, Board of Commissioners of</td>
<td>7</td>
<td>Concurrent with governor</td>
<td>$30 per diem</td>
<td>7 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:862-38:864</td>
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<tr>
<td>Campti-Clarence Levee District, Board of Commissioners of</td>
<td>3</td>
<td>Concurrent with governor</td>
<td>$10 per diem, plus expenses</td>
<td>3 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1462-38:1463</td>
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<tr>
<td>Cane River Levee and Drainage District, Board of Commissioners of</td>
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<td>Concurrent with governor</td>
<td>$10 per diem, plus expenses</td>
<td>3 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1952-38:1953</td>
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<tr>
<td>Coushatta-Red River Levee District, Board of Commissioners of</td>
<td>3</td>
<td>Concurrent with governor</td>
<td>$10 per diem, plus expenses</td>
<td>3 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1471-38:1473</td>
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<tr>
<td>Fifth Louisiana Levee District, Board of Commissioners of</td>
<td>8</td>
<td>Concurrent with governor</td>
<td>$25 per diem plus 10¢ per mile</td>
<td>8 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:953-38:954.1</td>
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<tr>
<td>Lafourche Basin Levee District, Board of Commissioners of</td>
<td>9</td>
<td>4 years</td>
<td>$25 per diem, plus expenses</td>
<td>9 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1033-38:1034</td>
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<td>NAME</td>
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<td>LEVEE Districts (Cont'd)</td>
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<td>Lake Borgne Levee District, Board of Commissioners of</td>
<td>3</td>
<td>Pleasure of</td>
<td>$20 per diem, plus traveling expenses for meetings; $10 per diem, plus 7¢ per mile for supervising the construction, location and repairs of levees</td>
<td>3 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1071, 39:1074</td>
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<td>Natchitoches Levee and Drainage District, Board of Commissioners of</td>
<td>5</td>
<td>Concurrent with governor</td>
<td>$10 per diem, plus expenses</td>
<td>5 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1112-33:1123</td>
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<td>Nineteenth Louisiana Levee District, Board of Commissioners of</td>
<td>3</td>
<td>Concurrent with governor</td>
<td>$25 per diem, plus 10¢ per mile</td>
<td>3 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1153-39:1154</td>
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<td>North Bossier Levee District, Board of Commissioners of</td>
<td>5</td>
<td>Concurrent with governor</td>
<td>Expenses</td>
<td>5 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1192-38:1194</td>
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<td>Orleans Levee District, Board of Commissioners of</td>
<td>7</td>
<td>4 years</td>
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<td>5 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1233-38:1234</td>
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<td>Pontchartrain Levee District, Board of Commissioners of</td>
<td>10</td>
<td>Concurrent with governor</td>
<td>$25 per diem, plus 10¢ per mile</td>
<td>10 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1311-38:1314</td>
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<td>Red River, Atchafalaya and Bayou Boeuf Levee District, Board of</td>
<td>3</td>
<td>Concurrent with governor</td>
<td>$20 per diem, plus 7¢ per mile</td>
<td>3 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1, R.S. 38:1351-38:1353</td>
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<td>LEVEE Districts (Cont’d)</td>
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<td>Red River-Bayou Pierre Levee and Drainage District, Board of Commissioners of</td>
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<td>Concurrent with governor</td>
<td>$25 per diem, plus expenses</td>
<td>3 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1; R.S. 38:2023</td>
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<td>South Louisiana Tidal Water Control Levee District, Board of Commissioners of</td>
<td>9</td>
<td>Concurrent with governor</td>
<td></td>
<td>9 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1; R.S. 38:1052-38:1053</td>
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<td>Tensas Basin Levee District, Board of Commissioners of</td>
<td>8</td>
<td>Concurrent with governor</td>
<td>$25 per diem, plus 10¢ per mile</td>
<td>8 (on recommendation)</td>
<td>Const. Art. XVI, Sec. 1; R.S. 38:1441-38:1443.1</td>
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<tr>
<td>LIBRARY, LOUISIANA STATE,</td>
<td>5</td>
<td>5 years (overlapping)</td>
<td>Expenses</td>
<td>5 (Senatorial confirmation)</td>
<td>R.S. 25:2-25:3, 25:12</td>
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<td>Board of Commissioners of</td>
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<tr>
<td>LIQUIDIFIED PETROLEUM GAS Commission</td>
<td>5</td>
<td>5 years</td>
<td>$25 per diem, $10 per diem expense allowance, 7¢ per mile</td>
<td>4 (2 on recommendation; all on Senatorial confirmation)</td>
<td>Const. Art. VI, Sec. 28; R.S. 40:1843</td>
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<tr>
<td>LIVESTOCK BRAND Commission</td>
<td>5</td>
<td>4 years (overlapping)</td>
<td>$25 per diem, plus expenses</td>
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<td>R.S. 3:732-3:734</td>
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<td>LIVESTOCK INSPECTOR, State</td>
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<td>Pleasure of governor</td>
<td>One-third of all fees collected</td>
<td>1</td>
<td>Act 118, 1869 (amended by Act 87, 1888)</td>
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<td>LIVESTOCK SANITARY Board</td>
<td>10</td>
<td>4 years</td>
<td>$20 per diem, plus expenses</td>
<td>9 (on recommendation)</td>
<td>R.S. 3:2091-3:2092</td>
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<td>LOUISIANA STATE UNIVERSITY,</td>
<td>15</td>
<td>14 years (overlapping)</td>
<td>Expenses (board fixes per diem and mileage)</td>
<td>14 (Senatorial confirmation)</td>
<td>Const. Art. XII, Sec. 7; R.S. 17:1453-17:1458</td>
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<td>Board of Supervisors of</td>
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<td>NAME</td>
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<tr>
<td>MARKET Commission, State</td>
<td>9</td>
<td>4 years at pleasure of governor</td>
<td>$15 per diem, plus expenses</td>
<td>8</td>
<td>R.S. 3:401-3:402</td>
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<td>MARKET FACILITY, ASSEMBLY, Board of Directors of (one or more boards may be established)</td>
<td>7</td>
<td>3 years (overlapping)</td>
<td></td>
<td>4</td>
<td>R.S. 3:529, 3:531</td>
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<td>MARKET FACILITY, TERMINAL, Board of Directors of (one or more boards may be established)</td>
<td>9</td>
<td>3 years (overlapping)</td>
<td></td>
<td>6</td>
<td>R.S. 3:526-3:527</td>
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<tr>
<td>MEDICAL ADVISORY Board, La.</td>
<td>9</td>
<td>4 years</td>
<td>Expenses</td>
<td>9</td>
<td>R.S. 40:1351-40:1355</td>
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<tr>
<td>MEDICAL EXAMINERS, State Board of</td>
<td>5</td>
<td>6 years</td>
<td>$10 per diem, plus expenses</td>
<td>5</td>
<td>R.S. 37:1262, 37:1264, 37:1267</td>
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<td>MENTAL HEALTH, Advisory Council on</td>
<td>10</td>
<td>3 years (overlapping)</td>
<td>None</td>
<td>10</td>
<td>House Concurrent Res. 126, 1966</td>
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<td>MENTAL RETARDATION PLANNING, Council on</td>
<td>13</td>
<td>Pleasure of governor (governor's appointees only)</td>
<td>Travel expenses</td>
<td>8</td>
<td>R.S. 40:2013.55, 40:2013.58</td>
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<thead>
<tr>
<th>NAME</th>
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<th>TERMS</th>
<th>COMPENSATION</th>
<th>MEMBERS APPOINTED BY GOVERNOR</th>
<th>CITATION</th>
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<tr>
<td>MILK Commission, La.</td>
<td>7</td>
<td>5 years (overlapping)</td>
<td>$30 per diem, plus expenses</td>
<td>6 (on recommendation)</td>
<td>R.S. 40:940.16-40:940.17</td>
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<td>MINERAL Board, State</td>
<td>18</td>
<td>Pleasure of governor</td>
<td>$25 per diem, plus expenses</td>
<td>17</td>
<td>R.S. 30:121-30:122</td>
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<td>MOTOR VEHICLE Commission</td>
<td>9</td>
<td>Chairman, concurrent with governor; others</td>
<td>$40 per diem, plus expenses</td>
<td>9 (Senatorial confirmation)</td>
<td>R.S. 32:1253</td>
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<tr>
<td></td>
<td></td>
<td>6 years (overlapping)</td>
<td></td>
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<td>MUSEUMS</td>
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<td>Old Arsenal Museum Commission</td>
<td>5</td>
<td>Concurrent with governor</td>
<td>None</td>
<td>5</td>
<td>R.S. 25:551</td>
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<td>Old State Capitol Memorial</td>
<td>7</td>
<td>4 years</td>
<td>None</td>
<td>7 (on recommendation)</td>
<td>Act 250, 1943; Act 154, 1965</td>
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<td>State Museum, Board of Managers</td>
<td>15</td>
<td>4 years at pleasure of governor</td>
<td>Expenses</td>
<td>11</td>
<td>R.S. 25:341</td>
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<tr>
<td>Weapons Museum, State, Board of</td>
<td>14</td>
<td>4 years at pleasure of governor</td>
<td>None</td>
<td>11</td>
<td>R.S. 25:671</td>
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<tr>
<td>Managers of</td>
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<td>NARCOTICS REHABILITATION</td>
<td>5</td>
<td>5 years (overlapping)</td>
<td>Commission may provide for own compensation, ex-</td>
<td>5 (on recommendation, Sensorial confirmation)</td>
<td>R.S. 40:1051-40:1056</td>
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<tr>
<td>Commission, La.</td>
<td></td>
<td></td>
<td>penses</td>
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<td>NOTARIAL RECORDS, Orleans</td>
<td></td>
<td></td>
<td>$1,800 salary per year; $7,200 office expenses</td>
<td>1</td>
<td>R.S. 35:321-35:322, 35:327, 35:337</td>
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<tr>
<td>Parish Custodian of</td>
<td></td>
<td></td>
<td>per year; $5 per year fee from each notary; stan-</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>dard notarial office fees may be charged (New</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>Orleans commission</td>
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<td>MEMBERS APPOINTED BY GOVERNOR</td>
<td>CITATION</td>
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<tr>
<td>NOTARIAL RECORDS, Orleans Parish Custodian of (Cont'd)</td>
<td>7</td>
<td>Governor's appointees: concurrent with governor; others: pleasure of respective boards</td>
<td>council may increase salary to $4000</td>
<td>1 (Senatorial confirmation)</td>
<td>R.S. 51:1351</td>
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<td>NUCLEAR AND SPACE Authority, La.</td>
<td>14</td>
<td>3 years (overlapping)</td>
<td>Expenses</td>
<td>12 (on recommendation)</td>
<td>R.S. 51:1066</td>
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<tr>
<td>NUCLEAR ENERGY, Board of</td>
<td>7</td>
<td>4 years (overlapping)</td>
<td>Members within 50 miles of domicile: $50 per diem; others: $50 per diem, plus travel expenses</td>
<td>7 (on recommendation)</td>
<td>R.S. 37:914, 37:915</td>
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<td>NURSE EXAMINERS, State Board of</td>
<td>9</td>
<td>Concurrent with governor</td>
<td>Fixed by governor</td>
<td>9 (on recommendation)</td>
<td>R.S. 37:962, 37:964, 37:968</td>
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<td>NURSE EXAMINERS, PRACTICAL, State Board of</td>
<td>10</td>
<td>3 years (overlapping)</td>
<td>$25 per diem, plus expenses</td>
<td>3 (on recommendation)</td>
<td>Act 131, 1959</td>
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<td>NURSING HOME ADMINISTRATORS, Board of Examiners of</td>
<td>11</td>
<td>4 years</td>
<td>Actual travel expenses</td>
<td>5</td>
<td>R.S. 40:2009.1</td>
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<td>NURSING HOME LICENSING Council</td>
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<td>OCCUPATIONAL STANDARDS, Department of, Director of</td>
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<td>OPTOMETRY EXAMINERS, State Board of</td>
<td>5</td>
<td>5 years</td>
<td>$35 per diem maximum, $2 per mile</td>
<td>5 (on recommendation)</td>
<td>R.S. 37:1042-37:1046</td>
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<td>OSTEOPATHY, State Board of</td>
<td>5</td>
<td>5 years</td>
<td>$20 per diem, plus expenses</td>
<td>5</td>
<td>R.S. 37:6, 37:1112 37:1113</td>
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<thead>
<tr>
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<th>MEMBERS APPOINTED BY GOVERNOR</th>
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<tr>
<td>PARKS AND RECREATION Commission, State</td>
<td>11</td>
<td>Concurrent with governor</td>
<td>$25 per diem, plus expenses</td>
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<td>R.S. 56:1681</td>
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<td>(2 on recommendation)</td>
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<td>PAROLE, Board of</td>
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<td>6 years</td>
<td>Set by legislature</td>
<td>5</td>
<td>R.S. 15:574.2</td>
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<td>(Senatorial confirmation)</td>
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<tr>
<td>PEACE OFFICERS' AWARDS Commission</td>
<td>8</td>
<td>4 years</td>
<td>None</td>
<td>8</td>
<td>R.S. 40:2251</td>
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<td>PEST CONTROL Commission, Structural</td>
<td>5</td>
<td>2 years</td>
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<td>19</td>
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<td>$35 per diem, plus expenses</td>
<td>19</td>
<td>R.S. 37:1172-37:1173,</td>
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<td>PILOTAGE FEE Commission</td>
<td>32</td>
<td>Concurrent with governor, at</td>
<td></td>
<td>32</td>
<td>R.S. 34:1121</td>
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<td></td>
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<td>governor, at his pleasure</td>
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<td>PILOTS' Boards</td>
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<td>Bar Pilots for the Port of New Orleans, Board of Examiners of</td>
<td>3</td>
<td>4 years at pleasure of</td>
<td>None</td>
<td>3</td>
<td>R.S. 34:942</td>
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<td></td>
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<tr>
<td>New Orleans and Baton Rouge Steamship Pilot Commissioners</td>
<td>3</td>
<td>2 years at pleasure of</td>
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<td>3</td>
<td>R.S. 34:1042</td>
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<tr>
<td>for the Mississippi River, Board of</td>
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<td>governor</td>
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<td>(Senatorial confirmation)</td>
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<tr>
<td>River Port Pilot Commissioners and Examiners, Boards</td>
<td>3 per board</td>
<td>4 years</td>
<td>None</td>
<td>2</td>
<td>R.S. 34:1072</td>
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<tr>
<td></td>
<td>(one board for</td>
<td></td>
<td></td>
<td>(1 on recommendation)</td>
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<tr>
<td></td>
<td>each port, except New Orleans)</td>
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<tr>
<td>River Port Pilot Commissioners for Port of New Orleans</td>
<td>3</td>
<td>Pleasure of governor</td>
<td></td>
<td>3</td>
<td>R.S. 34:991</td>
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<td></td>
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<td>(Senatorial confirmation)</td>
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<tr>
<td>NAME</td>
<td>TOTAL MEMBERSHIP</td>
<td>TERMS</td>
<td>COMPENSATION</td>
<td>MEMBERS APPOINTED BY GOVERNOR</td>
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<tr>
<td>PORT OF NEW ORLEANS ASSOCIATED BRANCH PILOTS</td>
<td>Not less than 25</td>
<td>Pilotage fees</td>
<td>25</td>
<td>R.S. 34:943, 34:954</td>
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<td>PILOTS, RIVER PORT</td>
<td>Not less than 20</td>
<td>Pilotage fees</td>
<td>20</td>
<td>R.S. 34:992, 34:997</td>
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<td>PLANNING ADVISORY, Commission, State</td>
<td>5</td>
<td>4 years at pleasure of governor</td>
<td>Two legislative members: per diem, travel expenses same as Legislative Budget Committee; others: 10¢ per mile; all actual, necessary expenses</td>
<td>5</td>
<td>R.S. 49:1056</td>
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<tr>
<td>PLANNING OFFICE, State, Executive Director of</td>
<td>Pleasure of governor</td>
<td>$16,500 per year* (fixed by governor)</td>
<td>1</td>
<td>R.S. 49:1053</td>
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<tr>
<td>PLUMBING Board, State</td>
<td>8</td>
<td>4 years (at pleasure of governor)</td>
<td>$25 per diem, plus expenses (no more than $100 per month, plus actual expenses)</td>
<td>8</td>
<td>R.S. 37:1361, 37:1362, 37:1364</td>
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<td>POET LAUREATE</td>
<td>Concurrent with governor</td>
<td>None</td>
<td>1</td>
<td>R.S. 49:156</td>
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<tr>
<td>PORT AND HARBOR COMMISSIONS</td>
<td></td>
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<tr>
<td>Baton Rouge Port Commission, Greater</td>
<td>10</td>
<td>6 years (overlapping)</td>
<td>Reasonable travel allowance</td>
<td>10</td>
<td>Const. Art. VI, Sec. 29, Sec. 29.3; R.S. 34:1221</td>
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<tr>
<td>Grant Parish Port Commission</td>
<td>5</td>
<td>5 years (overlapping)</td>
<td>Reasonable travel allowance</td>
<td>1</td>
<td>R.S. 34:2351, 34:2353</td>
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<tr>
<td>Lafourche Port Commission, Greater</td>
<td>9</td>
<td>6 years (overlapping)</td>
<td>$10 per diem</td>
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<td>R.S. 34:1651</td>
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<td>Lake Charles Harbor and Terminal District, Board of Comm'rs of the</td>
<td>5</td>
<td>6 years (overlapping)</td>
<td>None</td>
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<td>R.S. 34:202</td>
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<tr>
<td>PORT AND HARBOR COMMISSIONS (Cont'd)</td>
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<tr>
<td>Livingston-Tangipahoa Parishes Port Commission</td>
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<td>Reasonable travel allowance</td>
<td>6</td>
<td>R.S. 34:1951, 34:1953</td>
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<td>Morgan City Harbor and Terminal District, Board of Commissioners of the</td>
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<td>9 years (overlapping)</td>
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<td>R.S. 34:322</td>
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<td>New Orleans, Port of, Board of Commissioners of the</td>
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<td>5 years (overlapping)</td>
<td>None</td>
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<td>Const. Art. VI, Sec. 17; R.S. 34:1</td>
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<td>St. Bernard Port, Harbor and Terminal District, Board of Commissioners of the</td>
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<td>5 years (overlapping)</td>
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<td>R.S. 34:1702</td>
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<td>South Louisiana Port Commission</td>
<td>9</td>
<td>5 years (overlapping)</td>
<td>Reasonable travel allowance</td>
<td>1</td>
<td>Const. Art. VI, Sec. 33.1</td>
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<td>PSYCHOLOGISTS, State Board of Examiners of</td>
<td>5</td>
<td>3 years (overlapping)</td>
<td>Actual traveling, incidental expenses</td>
<td>5</td>
<td>R.S. 37:2353</td>
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<tr>
<td>PUBLIC EMPLOYEES Board</td>
<td>6</td>
<td>4 years (overlapping)</td>
<td>$25 per diem, plus expenses</td>
<td>6</td>
<td>R.S. 42:1002, 42:1007</td>
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<td>PUBLIC SAFETY, Department of, Director of</td>
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<td>$20,000 per year* (fixed by governor)</td>
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<td>R.S. 40:1302</td>
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<td>PUBLIC WELFARE, State Board of</td>
<td>9</td>
<td>6 years (overlapping)</td>
<td>Expenses</td>
<td>8</td>
<td>Const. Art. XVIII, Sec. 7 (4)</td>
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<td>PUBLIC WORKS, Board of</td>
<td>5</td>
<td>4 years (overlapping)</td>
<td>$25 per diem limit, plus expenses</td>
<td>5</td>
<td>R.S. 38:16</td>
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<td>PUBLIC WORKS, Department of, Director of</td>
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<td>4 years (overlapping)</td>
<td>$17,500 per year* (fixed by governor)</td>
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<td>R.S. 38:9</td>
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<tr>
<td>RACING Commission, La. State</td>
<td>9</td>
<td>Concurrent with governor</td>
<td>$50 per diem, not to exceed $2,000 per annum, plus expenses</td>
<td>9</td>
<td>R.S. 4:144</td>
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<td>RADIATION CONTROL, La. Division of, Director of</td>
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<td>R.S. 51:1055</td>
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<td>RADIO AND TELEVISION TECHNICIANS Board, State</td>
<td>11</td>
<td>2 years</td>
<td>$25 per diem, travel expenses, plus $15 per diem limit on subsistence expenses</td>
<td>11 (on recommendation)</td>
<td>R.S. 37:2303</td>
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<td>REAL ESTATE Commission, La.</td>
<td>5</td>
<td>5 years</td>
<td>$20 per diem limit, plus expenses</td>
<td>5</td>
<td>R.S. 37:1432-37:1433, 37:6</td>
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<td>RECREATIONAL ADVISORY Council, La.</td>
<td>12</td>
<td>Pleasure of governor</td>
<td></td>
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<td>R.S. 56:1801</td>
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<td>RED RIVER WATERWAY Commission</td>
<td>11</td>
<td>Parish members:</td>
<td>Expenses, per diem fixed by commission</td>
<td>10 (7 on recommendation)</td>
<td>R.S. 34:2303-34:2305</td>
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<td></td>
<td></td>
<td>6 years (overlapping); at- large members: concurrent with governor</td>
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<td>REVENUE, COLLECTOR of</td>
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<td></td>
<td>$22,500 per year* (fixed by governor)</td>
<td>1</td>
<td>Const. Art. VI, Sec. 26</td>
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<td>SABINE RIVER Authority, Board of Commissioners of</td>
<td>12</td>
<td>4 years at pleasure of governor</td>
<td>$25 per diem, plus expenses</td>
<td>11</td>
<td>Const. Art. XIV, Sec. 45; R.S. 38:2322</td>
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<td>SABINE RIVER Commission</td>
<td>7</td>
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<td>4</td>
<td>Act 375, 1966</td>
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<td>4 years (overlapping)</td>
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<td>Board of Examiners for</td>
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<td>37:2104</td>
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<tr>
<td>SCHOLARSHIP FOUNDATION, THOMAS</td>
<td>5</td>
<td>6 years (overlapping)</td>
<td></td>
<td>5</td>
<td>R.S. 17:1781</td>
</tr>
<tr>
<td>M. HARRIS, Board of Trustees of the</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SCIENCE FOUNDATION, La. State</td>
<td>11</td>
<td>6 years (overlapping)</td>
<td>Expenses</td>
<td>11</td>
<td>R.S. 51:1301-</td>
</tr>
<tr>
<td>SECURITIES Commissioner</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>51:1303</td>
</tr>
<tr>
<td>(See BANKING Department, State</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commissioner)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SHERIFFS' PENSION AND RELIEF Fund,</td>
<td>9</td>
<td>4 years (overlapping)</td>
<td></td>
<td>1</td>
<td>R.S. 33:1451-</td>
</tr>
<tr>
<td>Board of Trustees of the</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>33:1452</td>
</tr>
<tr>
<td>SHORTHAND REPORTERS, CERTIFIED</td>
<td>5</td>
<td>3 years</td>
<td>Expenses</td>
<td>5</td>
<td>R.S. 37:2551-</td>
</tr>
<tr>
<td>Board of Examiners of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>37:2552</td>
</tr>
<tr>
<td>SOVEREIGNTY Commission, State</td>
<td>13</td>
<td>Concurrent with</td>
<td>$25 per diem, plus expenses; chairman, $50 per diem</td>
<td>8</td>
<td>R.S. 49:701,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>governor</td>
<td></td>
<td></td>
<td>49:703</td>
</tr>
<tr>
<td>SOYBEAN PROMOTION Board, La.</td>
<td>10</td>
<td>1 year</td>
<td></td>
<td>9</td>
<td>R.S. 3:551.32</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(on recommendation)</td>
</tr>
<tr>
<td>STRAWBERRY ADVERTISING AND</td>
<td>10</td>
<td>6 years (overlapping)</td>
<td>$15 per diem, plus expenses</td>
<td>9</td>
<td>R.S. 3:473</td>
</tr>
<tr>
<td>DEVELOPMENT Commission, La.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SWEET POTATO ADVERTISING AND</td>
<td>11</td>
<td>6 years (overlapping)</td>
<td>$15 per diem, plus traveling expenses</td>
<td>10</td>
<td>R.S. 3:453</td>
</tr>
<tr>
<td>DEVELOPMENT Commission, La.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TAX APPEALS, Board of</td>
<td>3</td>
<td>Pleasure of</td>
<td>Fixed by governor; chairman, $14,500 per year* (fixed by</td>
<td>3</td>
<td>R.S. 47:1402</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>governor)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Salary as of June 14, 1971 as furnished by Division of Administration.
<table>
<thead>
<tr>
<th>NAME</th>
<th>TOTAL MEMBERSHIP</th>
<th>TERMS</th>
<th>COMPENSATION</th>
<th>MEMBERS APPOINTED BY GOVERNOR</th>
<th>CITATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>TAX Commission, La.</td>
<td>3</td>
<td>6 years</td>
<td>Chairman, $20,000 per year; others, $16,000 per year</td>
<td>3 (Senatorial confirmation)</td>
<td>Const. Art. X, Sec. 2; R.S. 47:1832</td>
</tr>
<tr>
<td>TELEVISION-LOUISIANE Board</td>
<td>10</td>
<td></td>
<td>None</td>
<td>10</td>
<td>Act 458, 1968</td>
</tr>
<tr>
<td>TOURIST DEVELOPMENT Commission, La.</td>
<td>16</td>
<td>Concurrent with governor</td>
<td>Travel, other expenses</td>
<td>8</td>
<td>R.S. 51:1251</td>
</tr>
<tr>
<td>TOLL ROAD Authority, Larose-Lafitte</td>
<td>9</td>
<td>4 years at pleasure of governor</td>
<td>None</td>
<td>9</td>
<td>Act 335, 1964</td>
</tr>
<tr>
<td>TOLL ROAD Authority, South Central Louisiana</td>
<td>5</td>
<td>6 years (overlapping)</td>
<td></td>
<td>5</td>
<td>Act 35, 1969</td>
</tr>
<tr>
<td>VETERANS' AFFAIRS Commission</td>
<td>Proportional to number of nationally chartered veterans organizations participating in the state veterans' affairs department</td>
<td>4 years</td>
<td>$25 per diem, plus expenses</td>
<td>All members (on recommendation)</td>
<td>R.S. 29:253</td>
</tr>
<tr>
<td>VETERINARY MEDICINE, State Board of</td>
<td>5</td>
<td>5 years (overlapping)</td>
<td>$25 per diem, plus travel, other expenses</td>
<td>5</td>
<td>R.S. 37:1515</td>
</tr>
<tr>
<td>WAREHOUSE Commission, State</td>
<td>5</td>
<td>Concurrent with governor</td>
<td></td>
<td>3</td>
<td>R.S. 54:241</td>
</tr>
<tr>
<td>WATCHMAKING, Board of Examiners in</td>
<td>5</td>
<td>5 years (overlapping)</td>
<td>$40 per diem, plus 10¢ per mile, subsistence allowance</td>
<td>5</td>
<td>R.S. 37:1582-37:1583, 37:1586</td>
</tr>
<tr>
<td>NAME</td>
<td>TOTAL MEMBERSHIP</td>
<td>TERMS</td>
<td>COMPENSATION</td>
<td>MEMBERS APPOINTED BY GOVERNOR</td>
<td>CITATION</td>
</tr>
<tr>
<td>-------------------------------------------</td>
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<td>-----------------------------------</td>
</tr>
<tr>
<td>WILD LIFE AND FISHERIES</td>
<td>7</td>
<td>One member, concurrent with governor; six members, 6 years (overlapping)</td>
<td>$25 per diem, plus expenses</td>
<td>7</td>
<td>Const. Art. VI, Sec. 1 (A)</td>
</tr>
<tr>
<td>Commission, La.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>WOMEN, STATUS OF,</td>
<td>20</td>
<td></td>
<td>$25 per diem, 10¢ per mile</td>
<td>20</td>
<td>R.S. 23:372</td>
</tr>
<tr>
<td>La. Commission on the</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>YOUTH Commission, La.</td>
<td>9</td>
<td>6 years (overlapping)</td>
<td>Expenses</td>
<td>9</td>
<td>R.S. 46:272, 46:275</td>
</tr>
<tr>
<td></td>
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<td></td>
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<td></td>
</tr>
</tbody>
</table>

Page 25
<table>
<thead>
<tr>
<th>NAME</th>
<th>TOTAL MEMBERSHIP</th>
<th>TERMS</th>
<th>COMPENSATION</th>
<th>MEMBERS APPOINTED BY GOVERNOR</th>
<th>CITATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION, Commission on (added 3/22/72)</td>
<td>12</td>
<td>6 years</td>
<td>$25 per diem, 9c per mile travel expenses</td>
<td>9</td>
<td>R.S.40:1541 (Act 481, 1970)</td>
</tr>
<tr>
<td>CAPITAL OUTLAY BUDGET Board (added 4/25/72)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Act 15, 1969R.</td>
</tr>
</tbody>
</table>
As regards filling of vacancies, the listing to which reference is made above does not include references to the governor's powers with respect to the filling of vacancies. In this regard we call your attention to the constitutional provisions of Article VII, Section 69. Article V, Sections 11 and 12 and to the statutory provisions contained in R.S. 43:270-274. Copies are enclosed.

In addition to the authority for appointment by and for the filling of vacancies by the governor mentioned above and in the enclosed listing you may also wish to consider the following provisions (in each case the governor is authorized to make at least one appointment or to fill at least one vacancy):

1. Lafayette Basin Levee and Drainage District, R.S. 30:1993
   Notaries Public, various sections of R.S. Title 35
2. City Civil Service Commissions in cities of over 250,000 population, R.S. 31:2396
   First judges and marshals upon creation of a city court such as the authorization to the governor in the case of the Marigny City Court, R.S. 13:4498.51
4. Parish Boards of Supervisors of Elections, R.S. 18:554
5. Tott Lake Water Conservation District, Const. Art. XV, Sec. 4
6. Louisiana Stadium and Exposition District, Const. Art. XIV, Sec. 47
7. Vacancy in office of Coroner, Const. Art. VII, Sec. 72
8. Vacancies on levee boards, Const. Art. XI, Sec. 1
9. Officers of new municipalities, R.S. 31:04
10. Officers of new parishes, R.S. 33:1
11. Approval by the governor of the first appointments to parish housing authorities, R.S. 40:401

by historians, lawyers, and congressional committees. Congressional debate and inquiry into principles of law, intent and use of language are recorded in congressional records for interpretive purposes.

3. The Twenty-fifth Amendment in its final form represented a compromise of two different views, one of which supported statutory enactment and one of which supported the constitutional amendment.

4. The Twenty-fifth Amendment clarified two age-old controversies: (a) the definition of "vacancy" does not extend to "absence" due to disability, and (b) an alternate assumes a higher office only in cases of vacancy; otherwise, he retains his own office but "acts for" his superior.

5. The Twenty-fifth Amendment is based on historical precedents including: (a) practices under colonial charters whereby a governor "deputized" his lieutenant governor to act in his stead, and (b) the use of "disability pact" voluntarily entered into by recent presidents and their vice presidents.

6. The Twenty-fifth Amendment honors the concept of separation of powers, but it provides a legislative (congressional) check on arbitrary abuse of executive authority.

7. Prior to the introduction of the Twenty-fifth Amendment, a poll of the states was made seeking comments from legislative leaders on principles to be incorporated into the amendment; later, the amendment was ratified by 47 states.

8. Although recognized by its sponsors as being less than "perfect" in that all possible abuses were not "buttoned down", the amendment was thought to be the best instrument possible, and was overwhelmingly approved by both houses of Congress.

The Twenty-fifth Amendment does not deal with the problem of temporary absences since a well-established rule at the national level is that such absences on the part of the president do not create "vacancies" in the office. The states have taken divided positions on temporary absences, with some holding that no absence exists unless it "injuriously affects the public interest", and others taking the position that a temporary absence creates a "vacancy" in the office of governor to be "filled" by the lieutenant governor.

The Twenty-fifth Amendment does not provide a definition of "disability", but the question of definition was debated in Congress. Senator Robert F. Kennedy offered the following definition to be inserted into the congressional record: "The word 'inability' and the word 'unable'...which refer to an impairment of the President's faculties, mean that he is unable either to
mote or communicate his decisions as to his own competency to execute the powers and duties of his office."

The Twentieth Amendment to the U.S. Constitution provides a procedure for the president-elect being succeeded by a vice president-elect. The Twenty-second Amendment refers to an "acting" president as well as the president who "holds office."

Generally among the states, impeachment does not create a vacancy in the office of governor; it does create a period of suspension which is alleviated either by acquittal or removal. Congress and some states use the term "removal" in their succession laws to indicate one of the conditions constituting a vacancy in office.

Attachments:
I. Selected bibliography.
II. U.S. Constitution, Article II, Section 1, Cl 5; Amendment XXI

SELECTED BIBLIOGRAPHY

Congressional Record. 89th Congress.
Corpus Juris Secundum. "States," Vol. 81, Secs. 60, 61, 74, 75.

NOTES
Attachment II, U.S. Const. Art. II, Sec. 5. Amendments XX, XXII, XXV are omitted.

Public utilities are regulated by commissions in all fifty states. The regulatory commissions are constitutionally created in over thirty states and are called corporation commissions, railroad commissions, or public service commissions. The composition of these 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 9). Corporation commissions in New Mexico and Oklahoma have a similar duty. New Mexico, however, has a statutory public utility commission which assumes some of the regulatory functions performed by the corporation commissions in Arizona, Oklahoma, and Virginia. Virginia's corporation commission has an additional function, that of protecting the consumers of the state and administering "the law 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, telephone, and telegraph 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. Commissions 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.

-2-

In a majority of the fifty states, commissioners are appointed by the governor with senate approval and serve six-year terms. In a majority of states, there are three commissioners. Among the states with constitutional commissions, however, the commissioners are more often elected than appointed.

The utility-regulating body is included within the executive department article in Nebraska and North Dakota Constitutions. Colorado and Georgia Constitutions devote an article to public utilities. The railroad commission of Texas is relegated to the constitution's general provisions. In Louisiana, the public service commission is placed under "Officers and Boards." Six state constitutions discuss utility-regulation in an article on corporations: California, Kentucky, New Mexico, Oklahoma, South Carolina, and Virginia. Only the constitutions of Arizona, Colorado, and New Mexico provide for the regulatory bodies in separate articles.

Attachment I, from the Book of the States, details the manners of commissioner selection, the lengths of terms they serve, and the names of the regulatory bodies in all fifty states.

Attachment II, from the same source, lists the regulatory functions of utility commissions in each of the states.

Attachment III, includes the constitutional provisions in each of the states herein discussed.

Note: The constitutional/statutory distinctions made in this study are taken from information in the Book of the States and in the Columbia Index Digest to State Constitutions.

NOTES
Attachments I and II are omitted. They are reproduced in Book of the States 1972-1973, 557-558.

Attachment III is omitted. It reproduces Public Service Commission provisions of the following state constitutions: Arizona, California, Colorado, Georgia, Kentucky, Louisiana, Nebraska, New Mexico, North Dakota, Oklahoma, South Carolina and Virginia.

RE: REORGANIZATION PROCEDURE
Based on a study of the sources listed on Attachment 1, it is recommended that:

1. Granting constitutional status to a procedure for executive reorganization be approached with caution.

2. If the committee desires to give constitutional status to the procedure, or provide a procedure in the schedule, the constitutional reorganization act and constitutions of Alaska, Illinois, and Michigan be used as guides to ensure that the initiative for reorganization lies with the legislature, as the Committee on the Executive Department voted to do.

Reasons for the recommendations are as follows:

1. The need to proceed with caution:
   (a) Governmental reorganization at the state level has been patterned after the concept of reorganization at the national level, and the federal statutory procedure for reorganization has been given constitutional status by a number of states recently adopting new constitutions. (See constitutions of Alaska, Illinois, Michigan.) The federal procedure of using a statutory act to grant executive authority to enact reorganizational plans is in keeping with present American constitutional law, which holds that Congress cannot divest itself of its constitutional law-making functions except by a specific delegation protected by sufficient standards and guidelines to assure ultimate legislative control. When a state writes the federal statutory procedure into its constitution, it is in effect writing into the constitution the right of the executive to make law, subject to legislative veto, rather than permitting the legislative branch to grant this delegation of its own volition. While some authorities hold that the executive has an inherent right to reorganize and control the administrative branch, this is not the current thinking at the national level, nor does it seem to be generally supported by present constitutional law.
   (b) The present federal procedure may be undergoing changes in the wake of the Watergate scandal which had its origin to some extent in President Nixon's Reorganization Plan No. 2 of 1970. The plan created a presidential White House staff removed from congressional control, and while it was not vetoed by Congress, it was disapproved by the House Subcommittee on Governmental Operations on the grounds that it granted the president power to make appointments without senatorial confirmation and without the protection of civil service, and that presidential policies would be removed from the review and oversight of Congress. It may be reasonable to assume that the Reorganization Act under which this plan was implemented will be changed to permit more congressional control, either by more stringent guidelines or more legislative control of the reorganization procedure itself.
   (c) Even though reorganization of governments is highly praised as being a panacea for all their ills, and a variety of plans have been tried at both the national and the state levels, most authorities seem to look upon the efforts as unsuccessful. At the national level neither Congress nor the president have been able to control the bureaucracy, and at the state level reorganization has been largely a matter of moving boxes on an organizational chart. Even in the six states where constitutional grants of authority have been given to the governors, it is
doubtful that real organization has taken place. It might be said that state reorganization by constitutional initiative is still in its infancy, and there is insufficient tradition to "institutionalize" it as a standard governmental procedure.

(d) The real purpose of governmental reorganization is to secure accountability to the public. The traditional theory is that accountability is best secured by politically responsible elected officials. However, some sources are of the opinion that accountability through elected officials most often is accountability to vested interests rather than to the public at large and that greater accountability can be made by a direct interaction between administrative agencies and the public. While this concept is not contrary to the idea of governmental accountability through elected officials, it does temper the need for reorganization as the major tool for securing bureaucratic responsiveness to the public will.

(e) A good deal of executive control over administrative agencies can be secured by giving the governor strong appointive powers and by the abolition and prohibition of boards and commissions which function beyond his control.

2. Use of the congressional method (legislative delegation to the executive).

(a) That states in general, and Louisiana in particular, are in need of governmental reorganization is unquestionable. Recent surveys have shown that inability of the governor to control administrative agencies is a major obstacle to effective governing. State experiences with reorganization have been largely the result of the legislative attempts to reorganize, which generally has proven to be an exercise in futility. This is true partly because legislative bodies are by their nature of diverse political loyalties and are not constituted to study the mechanics of reorganization. If reorganization on a comprehensive scale is to be a reality, it would seem that needed force for action on the part of the chief executive, who would be able to promote unified and comprehensive organizational plans, must be expressed in the point of his campaign promises, program goals, and use of management tools under his control.

(b) The 1921 Louisiana Constitution places the authority to reorganize in the legislative branch. In fact, however, reorganizational attempts in this state have been made on the initiative of both the governor and the legislature. Moreover, there has been a piecemeal attempt except on a piecemeal basis. The comprehensive 1940 reorganization of state government was initiated by the governor, performed by an outside agency, approved by the legislature, and declared unconstitutional by the courts. Subsequently, in the 1950 and 1960 task forces and study groups were set up or continued year after year, sometimes by the governor and sometimes by the legislature, but in no instance was there a comprehensive reorganization plan submitted to the legislature.

All of Louisiana's reorganization efforts have been made through regular legislative procedures, with the executive introducing "administrative bills" where his interests were concerned. A grant of constitutional authority to the governor would make explicit that the governor has reorganizational powers, and could codify the utilization of different procedures which could aid in achieving reorganization.

(c) Use of the federal procedure assures experience and tradition even though the procedure may be subject to future changes by Congress. It has been used by presidents with varying degrees of success since 1939, and cannot be said to be a total "unknown".

(d) Some sources see in reorganization a power battle between the legislative and executive branches. The federal practice ensures activity of both. Louisiana governors have on occasion created new agencies and positions by executive order without prior legislative approval or veto. This questionable practice could be controlled by a reorganizational procedure. The legislature, on the other hand, could be forced by a constitutional provision to share its authority to reorganize with the executive.

Reorganization, in the broad sense, is one of the instruments for managing social change. Managing change in the structure of government is a political operation.
"Impeachment refers to: a removal of a public officer from office, or to a procedure whereby removal may be effected by a proceeding of a judicial character before the legislature, which is to be provided for by the constitution and concurrently with, statutory proceedings for removal of the officer before some court. The legislature in impeachment proceedings exercises judicial, not the legislative, powers conferred on it by the constitution."\

The purpose of the prosecution of impeachment both in England and the United States was said by Joseph Story to be: "The object of prosecutions of this sort in both countries is to reach high and potent offenders—such as might be presumed to escape punishment in subject to impeachment—never from their own extraordinary influence, or from the imperfect organization and power of those tribunals in which impeachment proceedings are therefore conducted by the representatives of the nation, and on a responsibility which is at once felt and reverence by the whole community.

The idea of impeachment is traced back to England. It dates back to the period of struggle between Parliament and the king over ultimate control of the government. "Because of the doctrine that the king can do no wrong, the actual battles were fought between Parliament and the king’s ministers. The king ruled the courts and judges did bidding, impeachment, after Parliament gained sufficient strength to employ it independently—was an instrument by which the legislative branch could rule the government of Lawmaking ministers or of judges who slandered them at the king’s behest. The system paralleled the common law, and carried the death penalty whenever abuse of power was involved.

According to Story, impeachments which are accusations of wrongdoing were presented by the House of Commons and trial of the accused was by the House of Lords. The House of Commons had the power, with the concurrence of two-thirds of the members present, to impeach and try it. The House of Lords had the power, with the concurrence of two-thirds of the members present, to impeach and remove.

The consequences which flow from impeachment and conviction are limited to the United States Constitution to: "removal from office, and disqualification to hold any office of honor, trust, or profit under the United States, but the party convicted shall nevertheless be liable and subject to the legal judgments and punishments according to law." Further, the president is prohibited from granting a reprieve or pardon in case of impeachment.

The nature of impeachment is that of a criminal, not civil trial. As Brant states: "All impeachments are criminal actions. In another subject gaining importance because even more emphatically than others, impeachment is almost an inseparable from its ordinary of due process of law and reduction to the frequent claim that impeachment is simply a civil action into general writ of habeas corpus. Article II, section 2, 'The trial of all crimes, except in cases of impeachment, shall be by jury.'

This, under the United States Constitution, impeachment is seen as an adversarial proceeding, involving another party, and a process of inquiry. The House of Representatives, which is charged with the task of impeaching federal officials, is not bound by the "sovereignty" of due process of law and reduction to the frequent claim that impeachment is simply a civil action into general writ of habeas corpus. Article II, section 2, 'The trial of all crimes, except in cases of impeachment, shall be by jury.'

United States today have provisions on impeachment that are in substantial accord with those of the United States Constitution. The purpose of the impeachment of public officials, providing instead that: "Public officials shall not be impeached; but incompetency, corruption, malfeasance, or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of disqualification for office. The House may also impeach any person who, having been impeached, may be tried by the Senate. The Senate may try the impeachment, and the Vice President presides as presiding officer of the Senate. The President of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." (Article II, section 3)

Of the four most significant state constitutions, all follow the general plan of the United States Constitution in that all four provide for the lower house to proceed to try the impeachment charges against the governor. The legislature in impeachment proceedings exercises judicial, not the legislative, powers conferred on it by the constitution.

This move away from enumerating causes for impeachment is probably an outgrowth of the traditional difficulty of defining exactly what is meant by such enumerated causes for impeachment in the United States Constitution and state constitutions. For example, what is meant by the term "high crimes and misdemeanors?" As Joseph Kallenbach asks: "Does it include executive short-comings outside the range of indictable offenses, such as mere incompetence, ineptitude, attack on the object of duly-qualified functions, or physical or mental incapacity? May an officer be impeached for doing nothing, or for not doing something? Such questions might mitigate against an enumeration of causes for impeachment in a constitution.

The present Louisiana constitutional provision on impeachment is found in Article IV, Section 1 and Section 2. Section 1 says: "All state and district officers, whether elected or appointed, shall be liable for impeachment for high crimes and misdemeanors in office, incompetency, corruption, favoritism, extortion, or oppression in office, or for gross misconduct, or habitual drunkenness."

Section 2 parallels the United States constitutional provisions as to impeachment by the House, trial by the Senate, and provision for the change of trial if the officer is a member of the Senate or is impeached while he is in that body. The governor is not a member of the Senate. The Senate does not remove the constitutional officers, but follows the procedure of impeachment of any officer of the state. The Senate医用 impeachment proceedings against the governor is itself the body that appoints and removes the governor, and it is the one that must remove him from office if it tries him.

The subject of impeachment in the United States Constitution and state constitutions is probably an outgrowth of the traditional difficulty of defining exactly what is meant by such enumerated causes for impeachment. Historically, the purpose of impeachment in England and the United States has been to reach 'high and potent offenders such as might be presumed to escape punishment in subject to impeachment—never from their own extraordinary influence, or from the imperfect organization and power of those tribunals in which impeachment proceedings are therefore conducted by the representatives of the nation, and on a responsibility which is at once felt and reverence by the whole community.

The present Louisiana constitutional provision on impeachment is found in Article IV, Section 1 and Section 2. Section 1 says: "All state and district officers, whether elected or appointed, shall be liable for impeachment for high crimes and misdemeanors in office, incompetency, corruption, favoritism, extortion, or oppression in office, or for gross misconduct, or habitual drunkenness."

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The first alternative is based on the history of impeachment and the traditional difficulty of defining what is meant by the clauses which are enumerated for impeachment. Historically, the purpose of impeachment in England and the United States has been to reach 'high and potent offenders such as might be presumed to escape punishment in subject to impeachment—never from their own extraordinary influence, or from the imperfect organization and power of those tribunals. Indeed, today it is well settled that the common law constituted the remembrance of impeachment, especially those elected by the people at large. Indeed it has been said that a legislative or executive officer impeached by the House of Representatives and impeached by the Senate, subject to the governor, who, if convicted, is removed from office.

The second is to change the procedure of impeachment and to eliminate the first charge. The third alternative is to delete impeachment from a new constitution.

The traditional difficulty of defining what is meant by enumerated causes for impeachment supported the discussion of the constitutional issues of North Carolina, Illinois, and Montana which have followed the more reasonable course of realizing that impeachment is an instrument for removing from office and holding accountable one of the three branches of government. The Constitution of the United States determined it to be. The enumeration of nine causes for impeachment—abuse of power, corruption, favoritism, extortion, or oppression in office, or for gross misconduct, or habitual drunkenness—was too broad, as it covers too many officials that are not 'high constitutional officers.' The suggested change by the 1945 Project which provides for impeachment of 'Any officer, whether elected or appointed . . . ' is also too broad.

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As an alternative to these possibilities a provision which limits the enumeration of causes for impeachment would be reasonable: "such as use of cross misconduct which has been allowed to be inclusive of all other offenses presently listed in the constitution." 4

A second suggestion is to change the procedure of impeachment. This was suggested by the 1954 Projet for the impeachment of the governor which provided for an impeachment that allowed any three or more members of the house or Senate to introduce written impeachment charges and upon a majority vote of the members of each house in favor of presenting such impeachment charges. Such charges were to be presented to an impeachment court composed essentially of the chief justice or the presiding justice of the supreme court and the presiding judge of each of the circuit courts of appeal, and conviction required a majority vote of this court.

The Projet requires this procedure for the governor only, and the comment to the relevant article, Article V, Section 2 of the Projet states: "It is felt that the plan incorporated in Article V, Section 2 of the Projet states that it would be more reasonable to apply it to all officials subject to impeachment or to retain the present procedure of the 1921 Constitution which accords with that of forty-four other states and that of the United States Constitution.

The third alternative in dealing with the inclusion of impeachment in a new constitution, and it is submitted the most sensible, is to delete any provision for impeachment from the new constitution. When it was first used in England, the probability of its being used was a powerful deterrent to misconduct in office. In years past in the United States it also served this function, but its deterrent effect, indeed, its practicality today is doubtful, as evidenced by the reluctance to consider the question of impeachment in the current charges of misconduct in national office, and the confusion of commentators as to when it is proper to instigate impeachment proceedings.

The abuse to which impeachment is subject is suggested by comments of W. Brook Graves. "Impeachment proceedings have been instituted, not as a means of protecting the public but as a phase of the political warfare of factions or parties. The results have been determined, not by the merits of the case but by the ability of the accused to muster sufficient voting strength in the senate to retain his position. If he has been able to do this, he has remained in office; otherwise he has been removed." 11

And in the most famous case of impeachment in Louisiana, that of Huey Long in 1929, Prof. Williams quotes these views of the powers of impeachment in his book Huey Long: "You can impeach for whatever you want to impeach for." Cecil Morgan explained, 'for any act not consistent with the duty of the office. It is not like a criminal or civil court.' More blunt was Mason Spencer. 'You can impeach for anything,' he stated. 'A misdemeanor can be anything. Impeachment is a political move.' 12

It is suggested that in place of an impeachment article, a provision similar to that of the Oregon constitution mentioned supra, could be included in the new constitution. The Oregon constitution provides: "Public officer shall not be impeached: but incompetency, corruption, malfeasance or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from office, and such further punishment as may be prescribed by law." Such a provision would accomplish the same thing as impeachment as far as a deterrent effect on misconduct is concerned, and would avoid the possibility of using it as merely a political reprisal action. It would return the substance of the impeachment action, which is in effect a quasi-judicial function, to the courts and make procedure for removal of an officer to the people.

It is further submitted that a procedure for removal of elected state officers by the vote of the people, recall, could be included in the absence of or in addition to such a provision as that of Oregon and thus also prevent the abuses of the impeachment procedure.

168 CJS Officers §67 (1950)
2Joseph Story, Commentaries on the Constitution of the United States, p. 497 (1873)
3Irving Brant, Commentaries on the Constitution of the United States, p. 10-11 (1972)
4ibid., p.
5ibid., p. 8
6Joseph Kallenbach, The American Chief Executive, p. 208 (1966)
7Joseph Story, Commentaries on the Constitution of the United States, p. 497 (1873)
863 Am. Jur. 2d Public Officers and Employees §173 (1968)
11W. Brooke Graves, American State Government, p. 127

NOTES
Addenda omitted reproduce the following materials: 46 Tul.L Rev. 790-797 [1972].
Kallenbach, The American Chief Executive, 203-231 [1966].

[221]
III. Miscellaneous Committee Documents

COMMITTEE ON THE EXECUTIVE DEPARTMENT
May 15, 1973

Guidelines and Notes Developed in Meetings Held on May 8, 9, 10

THE EXECUTIVE DEPARTMENT

Section 1. Composition; cabinet

Section 16. Administrative departments, reorganization, meetings

Concepts:

1. Define composition of the executive branch rather than the executive department.

2. Five statewide elective officials:
   (a) Governor
   (b) Lieutenant governor
   (c) Secretary of state
   (d) Treasurer
   (e) Attorney general

3. 20 principal executive, administrative departments inclusive of departments administered by secretary of state, treasurer, and attorney general. Lieutenant governor is not to be a department head.

4. Department names, other than departments of elective officers, not to be named in the constitution.

5. Initial reorganization:
   (a) Legislature to reorganize within 18 months, with the proposal originating in House of Representatives
   (b) Proposal subject to governor's approval
   (c) If legislature fails to act, governor can reorganize by executive order
   (d) Reorganization, merger, consolidation not to extend to departments of elective officers

6. Subsequent reorganizations to originate with the legislature.

Notes:

The committee took no action on the "Cabinet" concept. There was general discussion on definitions of "department" and other terminology, on the need to distinguish between "structural" reorganization and personnel allocation, and on language which would prevent the legislature from abusing the concept of a limited number of major departments.

The committee on a 7-3 vote favored the following language submitted by Delegate Gravel:

"The executive branch shall consist of a governor, a lieutenant governor, a secretary of state, an attorney general and a treasurer and such other officials and departments as provided by law. There shall be no more than twenty departments in the executive branch."

The committee chairman asked Delegate Gravel to prepare language on his substitute motion to retain commissioners of agriculture and insurance and the state superintendent of education as statewide elective officials, subject to consolidation and merger by the legislature, or subject to a change in the method of appointment.

Section 2. General qualifications for all elected officials

Concepts:

1. Age: all statewide elective officials to be 25 years of age at time of election.

2. Citizenship: state and U.S. citizenship required for at least 5 years preceding the date of election.

3. Dual office holding: prohibition against holding other "public offices" at the time of election.

Notes:

Other qualifications would derive from qualifications for voter registration as required by law, such as residency requirements.

Section 3. Election, terms

Concepts:

1. Length of term for all elective officials: four years.

2. Succession: all elective officials except the governor permitted unlimited succession in office.

3. Lieutenant governor allowed to serve only one full term if he has served more than one-half a term as governor.


Section 4. Time of taking office; election returns

Concepts:

1. Time of taking office:
   (a) one month to six weeks after election, and
   (b) prior to convening of legislature session.

Notes:

The committee discussed procedures whereby the governor could take office under the new constitution at an earlier date than is presently prescribed:
   (a) by providing a procedure in the Schedule;
   (b) by setting an effective date in the new constitution;
   (c) by securing a legislative amendment to Act 2, 1972; or
   (d) by changing the convening date of legislative sessions.

Delegate Arnette presented language for consideration of the committee.

It was decided that this section should be reviewed depending upon action by the Committee on Legislative Powers and Functions regarding legislative sessions.

Section 5. Assistants of elected officials

Section 6. Vacancies in elective offices other than the governorship

Concepts:

1. Each elected official except governor and lieutenant governor to appoint an assistant subject to confirmation by the Senate.

2. Assistants to have same qualifications as the elected officials.

3. Appointed assistants to be subject to removal at pleasure of the appointing officer.

4. Appointed assistants to succeed to elected official's position in event of a vacancy in the office.

5. Assistants succeeding to elective office to serve until official proclamation of results of next general statewide election.

Notes:

The committee discussed the need for a general section defining "vacancy" in public office, including definitions of terms and procedures.

For "vacancy" in the office of governor see Section 10.

Section 7. Compensation of elected officials

Concepts:

1. Salaries to be set by legislature.

2. Salaries not subject to increase or decrease during an elected term office.

Notes:

The following language was discussed by the committee:

"The compensation of each statewide elected official shall be fixed by the legislature and shall not be increased or diminished during the term for which the official was elected."
It was suggested that the new constitution have a
single article or section devoted to the subject of
all salaries.

Note:
Delegate Stovall requested written language providing
that governor would be highest paid state official.

Section 8. Supreme executive power
Concepts:
1. Supreme executive power would be vested in the
governor.
2. Governor should not be mandated to execute laws
of the state.

Note:
The committee discussed the following language:
"The governor shall be the chief executive officer
of the state and shall faithfully support and execute
the constitution and laws of the state."

Note:
The committee discussed the following language:
"The governor shall have power to grant reprieves
and pardons, after conviction, for all offenses."

Section 9. Governor's term
Concepts:
1. Length: 4 years (See Section 3.)
2. Succession: No governor may serve more than two
successive terms; he may serve more than two terms
intermittently.

Section 10. Vacancy in office of governor
Concepts:
1. Vacancies to be filled first by lieutenant governor,
and subsequently by persons elected to statewide
public office; in the following order: secretary
of state, attorney general, treasurer, then, presi-
dent pro tem of the Senate, speaker of the House of
Representatives; and then, "as determined by the
legislature."
2. Assistants succeeding to elective positions cannot
fill vacancies in the office of governor.
3. Method of determining disability or inability should
be given, with final determination made by the
judiciary.

Notes:
The committee discussed the following language:
"In the event of a vacancy in the office of governor
or governor-elect, the order of succession shall be
(1) the lieutenant governor or lieutenant governor-
elect, (2) secretary of state, (3) attorney general,
(4) treasurer, (5) president pro tem of the Senate,
(6) speaker of the House of Representatives. In the
absence or inability of any of these, the succession
shall then be as determined by the legislature."

Note:
The staff was asked to make some clarification on
the various types of terms. Appointments may be
made:
(a) at the pleasure of the appointing author-
ity; or
(b) concurrent with the governor (four years
or less); or
(c) overlapping for a given term; or
(d) non-overlapping for a given term; or
(e) temporary or recess appointments made until
the next regular or special election.

Concepts 2 and 3 are to be reconsidered if the legis-
lature decides to meet in continuous session.

Section 11. Removal and impeachment
Concepts:
1. Apply only to executive officers.
2. Sent to subcommittee.

Section 12. Executive clemency
Concepts:
1. The governor should retain the power to grant
reprieves and pardons.
2. The governor should not retain the power to
grant commutations.
3. Sent to subcommittee.

Note:
The committee considered the following language:
"The governor shall have power to grant reprieves
and pardons, after conviction, for all offenses."

Section 13. Appointive power of the governor
Concepts:
1. In the executive branch, the nonelective admin-
istrative department heads are to be appointed
by the governor with the advice and consent of
the Senate, to serve at the pleasure of the gov-
ernor.
2. Members of nonelective boards and commissions in
the executive branch are to be nominated by gov-
ernor subject to confirmation by the Senate.
3. Gubernatorial appointments to be sent to the
Senate for confirmation within a stated time.
4. Failure of the Senate to confirm to be tant-a-
mount to rejection of the nomination.
5. Gubernatorial appointees to legislative or
judicial positions and to positions in local
government are to be determined by constitu-
tional committees studying those areas; other-
wise, appointments to these positions shall be
as provided by law.
6. There should be a "catch all" phrase or provi-
sion to cover appointments of officials not
otherwise provided for.

Notes:
The staff was asked to make some clarification on
the various types of terms. Appointments may be
made:
(a) at the pleasure of the appointing author-
ity; or
(b) concurrent with the governor (four years
or less); or
(c) overlapping for a given term; or
(d) non-overlapping for a given term; or
(e) temporary or recess appointments made until
the next regular or special election.

Concepts 2 and 3 are to be reconsidered if the legis-
lature decides to meet in continuous session.

Section 14. Removal of executive officers
Concepts:
1. Elected officials, including governor: removal
by impeachment or other designated means.
(Refer to subcommittee. See Section 11 on
removal and impeachment.)
2. Appointed officials:
(a) Governor may remove at pleasure nonelective
department heads whom he appoints with advice
and consent of Senate for indefinite terms.
(b) Constitutional and statutory appointees sub-
ject to Senate confirmation for fixed terms
are not subject to removal by the governor.
(c) Constitutional and statutory appointees nomi-
nated from special lists or other means
specifically given in the law and serving
fixed terms are not subject to removal by the
governor.

Notes:
Attention was directed to La. R.S. 42:4 relative to
removal of public officers appointed by the governor.
(attached hereto.)
The committee discussed placing a limit on the author-
ity of the governor to remove members of civil service
commission, boards of ethics, and similar agencies.
Section 15. Filling of vacancies by the governor; recess appointments

Concepts:

1. Governor to fill vacancies in public offices if not otherwise provided for by constitution or statutes.
2. Commissions requiring senatorial confirmation to expire at the end of the next session of the Senate.
3. Failure of governor to send names to Senate, if so required by law, or failure of the Senate to confirm is equivalent to rejection of the nominee.

Notes:
The committee considered the following language:

"If not otherwise provided for in this constitution or by statute, the governor shall have the power to fill by appointment any vacancy in public office."

Concepts 2 and 3 are subject to reconsideration if the legislature should meet in continuous session.

Section 16. Administrative departments, reorganization, meetings

(See Section 1)

Section 17. Reports and information

Concepts:

1. Provide that departments and agencies shall supply reports on request of the governor.
2. Consider exemptions similar to the exceptions in the Public Records Act.

Notes:

See La. R.S. 44:13 for exemptions from Public Records Act (attached).

Section 18. Executive budgets, financial reports

Concepts:

1. The governor shall prepare the state budget.
2. The governor shall prepare an annual financial report.
3. Consider placing Section 18(8) in Section 19.

Notes:
The committee considered the following language:

"The governor shall prepare the budget of the state, and shall transmit copies thereof to the legislature as provided by law. Upon adoption by the legislature, he shall execute and administer the budget."

The committee requested the staff to research other state constitutions on the concept of "balanced budgets.

It was mentioned that the title of the section should be changed to "state budget."

Section 19. Proposals, reports to the legislature

Concepts:

1. The governor shall make reports and recommendations to the legislature, including a statement of its financial condition.

Notes:
The committee discussed the following language:

"The governor shall make reports and recommendations and give information to the legislature concerning the affairs of state, including its complete financial condition."

Section 20. Signature of bills; veto

Concepts:

1. The governor has the right and power to veto legislation.
2. The bills sent to governor should be so dated and stamped that constitutional time limits on vetoes cannot be violated.
3. During a session, the governor has ten days from the time received within which he must veto legislation, except that for bills passed within the last 12 legislative days, the governor has 29 days in which to veto. (The legislature is to have two final days of a session within which it can consider vetoes)

Notes:
The committee questioned procedures to be followed in event of successive vetoes.

The above concepts would be reconsidered in the event the legislature meets in continuous session.

The committee deferred the power of the legislature to override the governor's veto to the Committee on Legislative Powers and Functions. (See also Article III, Sec. 8.2).

Section 21. Appropriation bills; item veto

Concepts:

1. The governor shall have power to veto line items in appropriation bills.

Notes:
The committee decided to remove from the working papers the phrase "or reduce any item."

Section 22. Extraordinary session of legislature

Concepts:

1. The governor can call special sessions of the legislature.
2. The session is to be limited to the items in the call.
3. The session is to last for no more than 30 days.
4. Procedures are to be statutory. (See Section 22(C) eliminated and made statutory by a vote of 6-2).

Notes:
The right of the legislature to convene itself into special session and the procedures therefor were deferred to the Committee on Legislative Powers and Functions of the legislature.

Section 23. Acts not requiring the governor's signature.

Notes:
The committee deferred this topic to the Committee on Legislative Powers and Functions.

Section 24. Nomination and election of the lieutenant governor

Concepts:

1. The governor and the lieutenant governor shall be independently elected.
2. Delete the provision.

Section 25. Duties of the Lieutenant Governor

Concepts:

1. The lieutenant governor is to succeed to office of governor in event of a vacancy.
2. He is to be a full time executive official.
3. He is to hold ex officio memberships on the same boards and commissions as the governor.
4. He is to have other executive functions assigned by the governor or by law.
5. He is to have no legislative functions.

Note:
The committee considered the following language:
A. "The lieutenant governor shall succeed to the office of governor at such times and in such manner as provided for in this constitution or as may be prescribed by law.
B. He shall serve as chief aide to the governor and shall hold membership on every statutory, intra-state committee, board, and commission on which the governor serves, and shall perform such other duties as the governor and the legislature may assign."

Section 26. Duties of the Secretary of State
Concepts:
1. The secretary of state shall be administrative head of the Department of State, one of the 20 principal departments.
2. He shall be custodian of records, papers, documents.
3. He shall have various other functions as provided by the present Secretary of State in a letter to the committee.

Notes:
See the attached sheet from the incumbent secretary for language considered by the committee.
Several delegates were concerned about giving constitutional status to administration of corporation and trade mark laws.

PROPOSED PROVISION FOR THE NEW CONSTITUTION:
PERTAINING TO THE OFFICE OF SECRETARY OF STATE

There shall be a Secretary of State who shall be elected by the qualified electors for a term of four years at the time and place for voting for representatives. Neither the office of Secretary of State nor any of the duties enumerated herein shall be abolished, transferred, merged or consolidated into any other office or department. The legislature may, however, assign such additional duties as it deems necessary.

The Secretary of State shall serve as the state's chief elections officer and administer the primary and general election laws at the state level; administer the laws relative to voting machines or other voting devices as now or hereafter provided by this constitution or by law; administer the state corporation and trade mark laws; serve as keeper of the Great Seal of the State of Louisiana and attest therewith official laws, documents, proclamations and commissions; administer and preserve the official archives and records of the state; promulgate, publish and retain the originals of all laws enacted by the Legislature; countersign all commissions and keep an official registry of same; administer oaths, and such other duties as may be prescribed by law.

The Secretary of State shall appoint an assistant Secretary of State, and one principal deputy, and an attorney and one confidential secretary, none of whom shall be in the classified service under any civil service law. The assistant, in the absence of the Secretary of State, or in case of his disability to act, or under his direction, shall have authority to perform all acts and duties of the office; and in case of vacancy for any cause, the assistant shall act as Secretary of State for the remainder of the unexpired term.

Section 27. Duties of the Treasurer
Concepts:
1. The treasurer is to be a department head, and is to be one of the 20 constitutional departments.
2. Among his duties shall be serving as custodian of all state funds, making investments, preparing quarterly reports, and employing personnel as prescribed by law.

Note:
The committee considered language similar to that submitted by the incumbent treasurer and that in the Abraham draft.

Section 28. Auditor General

Note:
No action on this section. (See Section 1.)

Section 29. Creation of Department of Justice
Concepts:
1. The attorney general is to administer a Department of Justice, one of the 20 principal departments in the executive branch.
2. There is to be only one assistant who is to have same qualifications as attorney general.

Section 30. Duties of Attorney General
Concepts:
1. The attorney general is to have charge of all legal matters to which the state is a party.
2. All State Attorneys are to be part of the office of the attorney general, except as otherwise provided for law.
3. The attorney general is to supervise district attorneys in certain instances.

Section 31. Qualifications of the attorney general and his assistant
Concepts:
1. Qualifications are to be the same.
2. Qualifications are to five years practice of law.

Boards and Commissions
Concepts:
1. The constitution shall provide for:
   (a) A Public Service Commission as an elected body.
   (b) A reference to a board or commission on ethics for public officials and public employees.
2. Consideration shall be given to a single commission to administer forestry, wildlife and fisheries, and conservation. (Referred to a subcommittee.)

REMARKS OF SAM N. JONES
TO EXECUTIVE BRANCH COMMITTEE
OF THE CONSTITUTIONAL CONVENTION 1973

I am asked to talk to you on the subject of

The Needs and Operation of the Executive Branch of the State Government.

This is a subject which has plagued the best minds of Louisiana for more than a century. So, it is not likely that I shall be able to give you the answer to this vexing problem in the few minutes allotted me.

But, as the Englishman might say: "We can give it a try." I have, at least, had some experience in the field.

Back in 1921 I served in the Constitutional Convention contrived by Governor John N. Parker. It was his dream that we could abolish unnecessary agencies; do away with overlapping boards and commissions; merge and consolidate agencies and...
instrumentalities of similar purpose; and give to the state "a short, concise constitution."

I need not tell you that, despite heroic efforts, this brave undertaking died aborning. We brought forth a document which, unlike that immortal instrument confected by the founding fathers at Philadelphia in 1787, was not "the greatest document ever struck off at a given time by the brain and

purpose of man." On the contrary, it was to become known, with its subsequent multitude of amendments, as the worst constitution ever devised among the numerous products of the 50 states of the Union.

There was a long wait between Governor Parker's efforts and those which my administration undertook in 1940. We then took a total of some 174 administrative agencies and, by one constitutional amendment, converted the entire executive branch of the Louisiana state government into a compact government of 20 departments and five independent agencies.

The people, by popular vote, approved our handiwork, but five judges of the State Supreme Court, by some legal legerdemain, held that the constitutional amendment by which we brought about the most thorough-going reorganization ever attempted in Louisiana was, itself, unconstitutional. I must admit that this unexpected act of the judiciary strained my credibility in the efficacy of the American tri-partite system of government.

But I was not alone in my amazement; for Chief Justice O'Neill, one of the most brilliant judges ever to sit on our Supreme Court, dissented in these words:

"We are reminded in the prevailing opinion rendered in this case that the Constitution of the United States guarantees to every state in the Union a republican form of government. I respectfully submit that when a comparatively small group of men who are the members, or a majority of the members, of a court of last resort annul an amendment of the Constitution of their state merely because of an error or omission in the proceedings which led up to the submission of the amendment to the people and its adoption by the people, or because the members of the Court are of the opinion that the amendment should have been adopted by the people as two or more amendments instead of being adopted as one amendment, the proceeding seems not consistent with the theory of a republican form of government. In fact it is apt to tax the people's understanding of President Lincoln's high resolve that government of the people, by the people, for the people, shall not perish from the earth."

Justice Odom also dissented.

So ended the second great effort to bring order out of chaos, and to give to our state a government that would be stable, sensible, efficient and economical. And one which would give to the Chief Executive of this state modern tools and modern facilities with which to operate a modern state government.

So we waited another 24 years before there commenced the third great effort in the 20th Century to put our government house in order. This began with Senate Concurrent Resolution No. 10 of 1964. And a year later it was supple-

mented by Governor McKeithen's appointment of The Committee to Consider Changes in the Powers, Duties and Responsibilities of the Office of Governor.

As was logical, the Governor assigned to this new committee, of which I was chairman, the duties of making the study and recommendations envisioned by the Senate Concurrent Resolution.

In all frankness, our committee did a commendable job in reducing the governor's powers on the local level. We reduced his unconditional powers of appointment in the field of local government from a total of 1721 down to a total of 375. This means that we reduced these powers by 78%. We went on to make a total of 17 recommendations in the area of the legislative branch. And we were successful in seeing 12 of these 17 recommendations either adopted by the Legislature or implemented by the governor's office.

Included in the work of the committee were a total of nine constitutional amendments. And all of these amendments were ratified by the people by votes ranging from 66.82% to 73.67%, for a general average of 70.56%.

Now the proof that the people are strong in the backing of these changes and reforms is that, except for the expenses incurred by me personally, not a single dollar was spent to bring about their adoption. In response to many inquiries I prepared, at my own expense, a small pamphlet explaining the nine amendments.

Not a single billboard was used. Except for a small newspaper advertisement in my hometown newspaper -- which I paid for -- no newspaper advertising was bought; and no television or radio time was purchased. And yet almost every one of the nine amendments carried in every parish in the state.

There was help from the Louisiana Municipal Association and the Police Jury and School Board associations. The Council for A Better Louisiana gave a general endorsement to our overall
report; and PAR explained the pros and cons of the amendments to the people, in their analyses.

But the big point is that no campaign was conducted; and the single biggest assist that the amendments had was the open endorsement of nearly every daily newspaper in the state. This, plus about a dozen explanatory speeches which I made in strategic points before civic clubs throughout the state, constituted such "campaign," if you may call it that, as was conducted.

And yet the proposals went through to success with flying colors. I mention this to convince you that the people wanted these improvements. The people of this state are ready, not for less, but for more reforms in the political and governmental structure. And, as one very prominent citizen of this state is reported to have said to the Governor:

"Your political success has come about not in spite of your endorsement of political reforms, but because you have had the courage

-6-
to endorse these reforms. The people have demonstrated their support of these reforms in the early 1920's, in the early 1940's, and in the middle 1960's. And I, personally, think they mean to have these reforms."

The bright spot in this whole picture is that this determination of the people seems, at long last, to be coming home to the politician. There are three outstanding evidences of this.

The first of these is the mandate, which the legislature gave the Louisiana Law Institute, to prepare and submit a revision of the entire constitution. This has been dropped in view of this convention. But, in all frankness, the tempo and momentum had been entirely too slow.

The second was the mandate which the legislature, of its own motion, gave to its Legislative Council. I refer to the mandate to make a study of the legislature's own deficiencies and its own needs. This report was due prior to the fiscal session of 1967.

The third piece of evidence was the reorganization study made by the Louisiana Council on Governmental Reorganization. This was, in fact, a continuation of one phase of the work assigned to the Committee on the Governor's Powers.

When it became apparent that our committee could not complete all its work within the time allotted, we did the next best thing: We asked the legislature to adopt, and the governor to approve, an act setting up a reorganization council to finish the work we started.

We asked that this Council be given adequate funds and staff to do a thorough-going job of submitting a plan for the reconstructing of the entire executive branch of the state government.

This recommendation was accepted and carried out under the provisions of Act No. 456 of 1966. This work has now been taken over by this convention. And it has until January 1, 1974 in which to submit its final report.

We, therefore, had a very rare and unusual situation, not often seen in work of this nature. All too often good reports of faithful souls on governmental surveys are filed to gather dust, and are soon forgotten. Here that situation did not obtain. This is evidenced by the following:

(a) Nine constitutional amendments have already been written into the basic law.
(b) Thirteen important acts of the legislature were passed.
(c) Some 12 to 15 important administrative recommendations have been carried out.
(d) And three agencies were created to carry out those portions of the unfinished task which could not be carried out by the original committee.

And, whilst the original committee had not a single dollar of appropriation, and no staff except two part-time volunteer

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staff workers, your group has money, staffs and facilities with which to carry on, although perhaps not enough.

* * *

We start with the knowledge that we have one of the biggest state governments in the entire Union. It has been ranked, in recent years, as second or third in total state spending. From 1944 to the present time our state budget has grown from $100 million dollars per annum to approximately $1 billion $500 million annually.

We have a total of approximately 265 state agencies, boards, officials and instrumentalities.

To give you an idea of how utterly ridiculous and uncoordinated our executive branch really is: We had during our studies 15 separate and distinct agricultural agencies. We had 15 separate conservation agencies of a state-wide nature. We had 10 agencies dealing with penal and correctional matters in addition to five wardens and superintendents of institutions. We had 10 agencies dealing with education, in addition to more than 40 heads of universities, colleges and special schools operated by the state.

Incredibly, we had 13 agencies dealing with fiscal matters. And seven or more agencies that have authority with respect to the building and maintenance of state highways, bridges and ferries.
The positions appointed by the governor within the executive branch, together with those held by himself ex-officio and by his appointees ex-officio, make a grand total of nearly 1,200. There are 230 ex-officio positions, of which the governor himself holds 27 and his appointees hold 38.

All told there are a total of 1,448 top-level positions in the executive branch of the state government. According to my best information the number of appointive officials and classified and unclassified employees on the state level is decidedly in excess of 45,000 all told.

There are 10 elected state officials in addition. This is the greatest of any state in the Union. The complexity of the executive branch, at times, defies the imagination.

Our budget has increased by 150% since 1944, while our population has increased by less than 40%. And while our population was increasing less than 40%, the number of our state employees and state officials had increased by approximately 24%, or nearly six times as fast.

When it is considered that our state government consists of more than 260 separate and distinct offices, departments and agencies, most of them responsible directly to the governor, this poses a problem of vast proportions.

This means that when you deduct 52 Saturdays and 52 Sundays and 11 holidays, for a total of 115 non-working days, you have left a total of 250 days out of a year.

So with better than 250 agencies and 250 days, the governor could devote one day to each agency each year if he had nothing else to do except devote his entire time to executive and administrative agencies.

But all of us know that he has many more functions to perform. Certainly he spends a minimum average of 45 days a year with the Legislature and on legislative duties. His work in industrial and other economic development consumes at least 30 days a year.

His attendance on public boards, public relations and public appearance take up still another 30 days a year. In addition he is his party leader, and a modest estimate of the time consumed in this activity is ten days; and with another ten days allotted to national and international contacts, this adds up to a total of another 125 days.

And when you deduct this from the 250 days you started with, you have only 125 days left for the basic job of supervising the executive branch of the state government. This means the governor might get around to each agency one time every two years, or twice during his term of office.

Now, what I have given you is not an exaggeration. In fact, it's an underestimate, because the bigger departments, like highways, conservation, institutions, health and hospitals, higher education and public safety, often take several weeks of attention each year. So the plain matter of fact is that many a governor goes out of office, after a four-year term, without ever having had any contact whatever with numerous administrative agencies.

This complexity, confusion and lack of order and coordination cries out for correction. There is no semblance of coherence, and, most of the time, an utter lack of delegation of authority to relieve the governor of his unreasonable burdens.

Nobody but a young man is physically capable of taking on the work load required of the Governor of Louisiana; and even then it takes a man of great physical stamina, courage and aggressive approach.

Now, if this sort of thing should happen in private business, the man responsible for it would get fired, and quick. But you must remember that in the case of the state government, the governor is not, primarily, responsible for this situation. He inherits the system. And it's the system -- and not the governor -- which is primarily responsible.

Now, the governor may add to the confusion of the system, and most of them do to some extent. But the system has been in the building for approximately 75 years. And you cannot blame it on any one governor. You must blame it on many governors and many legislatures. And the time has come now for action.

As we shall see a little later, the political scientists and constitution writers have concluded that extensive delegation is absolutely necessary. And, in the Louisiana system, this is almost completely lacking. I think what is indicated in Louisiana is not so much the abolition and merging of agencies, as the grouping of agencies of kindred types and purposes. This grouping should be for administrative purposes, such as the handling of budgeting, personnel and housing and, in some instances, enforcement activities can be better handled by the larger department, as has been demonstrated in our present Department of Agriculture. This "grouping plan" would not only bring order out of chaos; it would also bring intelligent delegation, enabling the governor to keep up with 25 or 30 department heads, which is possible and practicable, instead of 265 agencies, which is both impossible and impracticable.

Bear in mind, also, that what we are experiencing here in Louisiana is not peculiar to our state. It's happening in all other states of the Union. And there is a growing awareness that something must be done about a situation that is becoming intolerable. So things are beginning to be done here and throughout the land.

In the first place, there is an awareness among the people of this land that we face a critical situation, and that something must be done to correct it. In the second place, this
sentiment is evidencing itself in the form of governmental research groups all over the country. I would say that there are today at least a dozen top-flight, first-rate, non-profit governmental research units studying governmental problems on a national scale.

In the third place, not all, but a substantial number of our states, also, have governmental research organizations working on the state level. Here in Louisiana we have the Bureau of Governmental Research in New Orleans, the Public Affairs Research Council and the Council for A Better Louisiana. And in addition there is the Gulf South Research Institute, which is a private group, that is available for governmental research through the medium of a public agency.

In the fourth place, I would not attempt to estimate the number of strictly business consulting firms which are available for this sort of research, for hire, in this rapidly multiplying field.

And all this is beginning to show results, and have its effect. Alaska and Hawaii both organized the executive branches of their state governments into 20 compact departments, according to their major purposes. Both Michigan and New Jersey reorganized their executive branches by constitutional revision; and these, too, used the format of 20 principal departments.

The State of Missouri, by constitutional revision, reorganized its executive branch into 16 major departments "until others are established by law."

You might be interested, also, in the recommendation of the National Municipal League that the executive branch of a state government should be limited to not more than 20 principal departments.

All the foregoing, ostensibly, were effected either by new constitutions, constitutional conventions to replace old constitutions, or by revisions amending the articles on the executive branches.

The states of Utah, Washington and Ohio, very significantly, have used the same medium which we here in Louisiana adopted. In the case of Utah the legislature appropriated $150,000 for the work of reorganization; which sum is substantially in excess of what Louisiana once proposed to spend. And bear in mind that Louisiana is three times the size of Utah in both population and budget.

The most inspiring developments of all were the Washington and Ohio reorganization councils. I say this because these were financed by private contributions. In Washington, which is approximately the same as Louisiana in both population and budget, some 287 business and industry organizations contributed sums estimated at $400,000. While in Ohio 150 business and industry leaders contributed some $650,000 to finance their study.

I say that the cases of Ohio and Washington are inspiring examples because they evidence a determination on the part of businessmen that something must be done to strengthen the states, as counterbalancing influences against the strong, all-powerful central government. And when the businessmen of these two states are willing to dig down in their pockets to a combined total of more than a million dollars, this thing begins to look good.

But it should be emphasized that, while the costs of the Washington and Ohio studies were privately financed, the councils themselves were officially appointed by the governors of these states.

I, personally, do not advocate private contributions here in Louisiana for these reorganization studies. And my reasons are three-fold. In the first place, I do not think the state, or its reorganization convention, should be beholden unto private sources for the financing of such studies which affect all people, not just a few hundred. In the second place, I think a state with a revenue enabling an annual budget of $1,500,000,000 is able to and should pay its own way. And in the third place, the business elements of Louisiana are already contributing heavily to such research groups as the Bureau of Governmental Research, PAR, CABL and GSRI. And they are therefore doing their share.

I understand that the sum presently available to your convention is not adequate but will be supplemented if required.

But when you compare this with little Utah, which is one-third as large as Louisiana, and had a budget of only $300,000,000 -- and consider that it appropriated $150,000 for the work of reorganization -- it would seem to me that we are not yet as convinced as we should be of the importance of the job of reorganization.

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I started out by reciting some of the accomplishments of the Committee on the Governor’s Powers. I would like to give you one more example of the good which comes from governmental reform. Before I do so, I would like to quote the old adage which says: "A stitch in time saves nine."

When my administration went into office in 1940 there rested on the statute books a law which gave a state commission, completely dominated by the governor, the final authority to approve 18,500 local employees from street sweepers up. We repealed that statute. Had we not done so, the governor would control today, because of that dictatorial statute, not 18,500 but some 100,000 local employees.
Then we also found in 1940 that there were a total of 25,000 state employees. We fired 7,500 and put the other 17,500 under Civil Service—beyond the reach of the governor.

The number of Civil Service workers has now grown from the 17,500 in my day to approximately 45,000 at the present time.

When you add the 100,000 to the 45,000 you have a total of 145,000. The old-time political ward leader used to tell me that one jobholder, properly selected, was worth four votes. If that formula be correct, then what we did back in the early forties has resulted in taking from the state politicians the control of 500,000 votes. And that would be effective control of almost any statewide election in Louisiana.

What was done in the early forties, and what is being done in the early seventies, is tremendously encouraging. But it does not mean we have done the whole job. We are far from that goal.

I am constantly reminded of a criticism of the work of the Committee on the Governor’s Powers. It was made by one of Louisiana’s finest citizens, at a meeting of CABL, and it was made a part of a motion of endorsement for the work which our committee had done. This gentleman said: I vote for the approval of what has been done; but I think it should be distinctly understood that:

“What has been done is not the completion of the task; it is merely the beginning.”

I was present at the meeting. And, although I was chairman of the Committee on the Governor’s Powers, I seconded the motion. And I did it wholeheartedly. For until we complete the balancing of the powers as between the executive and the legislative, and until we complete the job of reorganization of the executive branch of the state government, we are nowhere near the completion of our job.

Finally, I think movements have been set in force that no power on earth can stop. I think the ideas have been born. And as Victor Hugo once said: There is no power on earth as strong, not all the armies of the world, as an idea whose time has come.

This nation, and this state, are going to correct the imbalances that have threatened the existence of the traditional American system of checks and balances. It may take a year, or five or ten, or even more; but we shall not be diverted from our course.

As a parting remark let me warn you against cluttering up the proposed constitution with purely legislative matters. I say this because that was the big mistake of the 1921 constitution, which has brought on a deluge of amendments and probably the biggest state constitution in the entire Union. Let us not make the same mistake again.

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Honorables Thomas Stagg, Chairman Committee on the Executive Department Constitutional Convention State Capitol Building Baton Rouge, Louisiana 70804

Dear Sir:

Enclosed herewith are several copies of a suggested revision of the Constitutional provisions relative to the Department of Highways, the Board of Highways, and the financing of the work of the Department of Highways.

These revisions would replace the present Section 19, 19.1, 19.2, 19.3, 19.4, 20, 21, 22, 23, 23.1, 24, 24.1, 25, and 25.1. all in Article VI.

Much of the material being replaced is obsolete, and the enclosure is a somewhat simplified version of the material which should be retained.

You will note that this material has not been numbered as to sections and paragraphs. Should you desire any further discussion of this material, I will be happy to try to respond to any questions that the Committee might have.

The material enclosed here does not attempt to deal with the provisions contained in Section 22(g), and I call that to your attention because repeal of Section 22(g) might have an adverse effect on other agencies of the State.

Yours very truly,

PHILIP K. JONES
General Counsel

PROPOSED BY LOUISIANA DEPARTMENT OF HIGHWAYS

CONSTITUTIONAL PROVISIONS

The Legislature shall provide for the establishment and maintenance of a system of state highways and bridges, shall provide for a general highway fund for the construction and maintenance thereof; shall authorize the acquisition, by expropriation or otherwise, of rights of way for highways and drainage therefor; may provide for the acquisition by expropriation or otherwise of property necessary or useful for the purpose of building, operating and maintaining highways and buildings and desirable appurtenances thereto, and shall provide for a Department of Highways, under the supervision of a Board of Highways.

The Board of Highways shall consist of nine members, one of whom shall be ex-officio, the Governor, and one shall be appointed by the Governor from each congressional district; the members of the Board presently in office shall complete their present terms and may be re-appointed; two shall have terms of four years coinciding with that of the Governor and the others shall serve terms of six years, staggered so that one member is appointed each year. New appointees shall fill the unexpired term of the retiring or deceased member. It shall be the duty of the Secretary of State to compile a panel of names submitted by the governing authorities of the several
parishes and the City of New Orleans, each submitting a list of ten names annually, from which the remaining members of the Board, shall select seven from which the Governor must make an appointment within thirty days after the vacancy occurs. No member of the Board shall be a member of the Legislature nor hold any salaried public office or employment for compensation (other than per diem) existing under the laws of the United States, the State of Louisiana, or any municipality or subdivision thereof, and may be removed only by the Legislature and for cause only.

The Board shall hold an open meeting at least once per month, and other meetings at its discretion or at the call of the chairman. A majority of the members of the Board constitutes a quorum; the Governor may vote only in the case of a tie vote.

The Board of Highways shall have general control, supervision of the management and direction of the Department of Highways. It shall have authority to establish, construct, and extend, improve, maintain and regulate the use of the State highways and bridges. It may make such studies and investigations as it thinks necessary. It shall formulate the policies, plans and procedures of the Department, execution of which may be delegated by it to the Director and other employees within the scope of its functions. The Board shall appoint the Director. The Chief Engineer and the General Counsel and their assistants shall be in the classified service of the State. No member of the Board may prescribe or direct the conduct of the Department nor the action of any employee thereof in any matter or case unless first authorized by the Board. The Board shall take no action except in public meeting, which action shall be recorded in the minutes. The Board and the Department shall be represented in all legal matters by the General Counsel or his designated assistant.

The Director of Highways is the executive officer of the Department, appointed by and serving at the pleasure of the Board; his compensation shall be fixed by the Board. He shall serve on a full time basis. Under the direction, supervision and control of the Board of Highways, the Director has the management of the Department and shall exercise all of the functions of the Department through the Department organizations provided for by law, except those functions which are specially assigned to the Board of Highways under the provisions of this section. The Department cannot act otherwise than through the Board of Highways or the Director or through someone acting under authority of the Board or Director. Every lawful act of the Director performed in his official capacity is the act of the Department. The Department of Highways shall be in the Executive Department of the State.

The bonds heretofore sold by the Department of Highways shall continue to be lawful obligations of the Department, and, until said bonds are paid in full, the taxes heretofore levied on motor fuels, motor vehicle licenses, the use fuel tax, the taxes upon lubricating oils, and the dedication of all royalties and bonuses including annual delay rentals, heretofore provided by Article IV, Section 2 (c), shall continue to be collected, any excess over the amount required to pay the principal and interest on said bonds being paid into the General Highway Fund.

All Constitutional provisions, or laws, now in force relative to the construction and maintenance of highways, shall remain in force until the Legislature shall enact legislation to carry into effect the provisions of this Constitution.

The Legislature shall have authority to authorize the taking or property for highway purposes by orders rendered ex parte in expropriation suits prior to judgment therein provided that provision be made for deposit before such taking with a court officer for the amount of appraisals of the property so taken and damages to which the owner thereof may be entitled, if any, which appraisals may be made in such manner as may be provided by law either before or after institution of suit, and need not be by judicially appointed appraisers.

It is a public purpose and in the public interest to expend public funds in connection with the construction, reconstruction or improvement of State highways for the acquisition of the full ownership or any lesser interest in property in order to protect the public investment, promote the safety and recreational value of public travel, and restore, preserve and enhance the scenic beauty of or points of interest in areas traversed by State highways.

To accomplish these purposes and to insure maximum participation of federal-aid highway funds made available in accordance with the provisions of Title 23 of the United States Code, the Legislature is authorized to vest in the Department of Highways the full police power of the State, through zoning authority or otherwise, and such additional powers of expropriation as may be considered necessary.

Specifically, the Legislature shall provide for controlling the erection and maintenance of outdoor advertising signs, displays and devices, and the establishment, use and maintenance of junkyards in areas adjacent to the Interstate and primary systems; the acquisition of such advertising
devices and junkyards when reasonably necessary, the acquisi-
tion and operation of roadside parks, rest and recrea-
tional areas and sanitary and other facilities for the safety and
accommodation of the traveling public; and for the acquisition
of roadside development areas, or scenic strips, reasonably
necessary or useful for the restoration, preservation and en-
hancement of scenic beauty or points of interest.

Such zoning authority as may be authorized hereunder
shall, except to the extent necessary to insure receipt of
maximum federal-aid funds, be consistent with the lawful ex-
ercise of zoning authority vested in the municipalities and
parishes of this State.

Any legislation adopted at the regular session of the
Legislature in 1966 on the subject of this amendment shall
be validated and ratified by the adoption of this amendment.

April 11, 1973

MEmORANDUM:

TO: Norma Duncan, Director of Research

FROM: Gene Tarver, Coordinator of Research

RE: Obsolete aspects of constitutional provisions being
considered by the Committee on the Executive Department

Article IV. Limitations

Section 2(a): Board of Liquidation of State Debt; bonds; public
works

Obsolete, by superseding law.

(Later law changed the composition of the Board; see
Art. IV, Sec. 1(a). The Board of Liquidation is no longer
a bonding agency; the authorized bond issue has been paid.)

Article V. Executive Department

Section 5: Salary of Governor and Lieutenant Governor

Obsolete, by statutory change.

(Constitutional salaries, obsolete. Statutory salaries at
RS. 49:201, 202)

Section 29: Salaries of Constitutional Officers; Foe: Expenses

Obsolete, in part, by statutory change.

(Constitutional salaries, obsolete. Reference to Insurance
Department "attached to the office of Secretary of State", obsolete.)

Article VI. Administrative Offices and Boards

Section 3: Public Service Commission

Obsolete, in part, by superseding laws.

(References to Railroad Commission and constitutional
salary, obsolete. Paragraph 2 is now covered by Code of
Ethics.)

Section 37: Public Service Commission; local regulation of
utilities; retention or surrender

Obsolete, in part, by language.

(Constitutional provision refers to public utilities "now"
vested in local governments. Sections of interpretation
have been concerned with the meaning of "now", 1921,
or presently?)

Section 4: Public Service Commission Districts

Obsolete by later law.

(Public service commission districts were reapportioned
by Act 459 of 1972)

Section 9: Public Service Commission: application of laws
relating to Railroad Commission

Obsolete, in part, by reference.

(References to the Railroad Commission are obsolete. If
the Convention passes a general provision adopting the
Revised Statutes, this section will be unnecessary.)

Section 17: Boards of health; state, parochial and municipal;
state health officer

Obsolete, in part, by statutory change.

(Louisiana State Board of Health and the State Department
of Health merged by legislative act into the Health, and
Social and Rehabilitation Services Administration, Act
253 of 1972.)

Section 29: State highways and bridges; construction and
Maintenance; traffic regulation; rights of parishes, municipalities and political subdivisions

Obsolete, in part, by law and practice

(Reference to Board of State Engineers is obsolete. Provisions relative to local governments are obsolete by practice)

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Article VI (Cont)

Sections 21, 22, 23, 24, 24.1 25.1

(Gasoline Tax for Ports)

Sections 6, 7, 9, 10, 11, 12: (Refers to collection of "gasoline
tax for ports" by "Supervisor of Public Accounts" or "Supervi-
or of Public Funds").

Obsolete, in part, by references.

(All references to Supervisor of Public Accounts (Public
Funds) (Legislative Auditor) should be reviewed for relevancy.
The Legislative Auditor, formerly Supervisor of Public Funds,
has no tax collecting functions.)

Article XII. Public Education

Section 3: State Superintendent of Education

Obsolete, in part, by statutory change.

(Constitutional salary replaced by statutory salary.)

Article XIV. Parochial and Municipal Affairs

Section 31.7: (Constitutional) authority granted to Department
Of Highways to cooperate with and expend funds on New
Orleans Inner-Habor Navigational Canal and Now Orleans Port.

Obsolete, in part, by practice.

(The Department of Highways has never exercised authority
under this provision, which does not add to the department's
authority granted by other Constitutional provisions.)
June 11, 1973

The subcommittee deferred action on the Forestry Commission, Wild Life and Fisheries Commission, and Conservation Commissioner and Department of Conservation.

The subcommittee reserves the right to make recommendations relative to these agencies at a later date, pending the report by the Committee on Natural Resources and Environment to the convention.

LIST OF STAFF MEMOS SENT OUT TO THE COMMITTEE ON EXECUTIVE DEPARTMENT

Staff Memo No. 1
March 31, 1973
A copy of the minutes of the last meeting
The adopted plan of Committee meetings:
Schedule of witnesses who will testify at next meeting
Council of State Governments study.

Staff Memo No. 2
March 26, 1973
Governor - Exhibit A
Secretary of State - Exhibit B
Comptroller - Exhibit C

Staff Memo No. 3
April 2, 1973
Commissioner of Insurance - F
Register of State Land Office - C
Lieutenant Governor - B
Treasurer - L
Commissioner of Agriculture - K

Staff Memo No. 4
April 2, 1973
Public Service Commission - Exhibit E

Staff Memo No. 5
April 2, 1973
Louisiana Commission on Governmental Ethics - Exhibit R
Louisiana Board of Ethics for State Elected Officials - Exhibit B
State Forester and the Forestry Commission - Exhibit A
Joint Legislative Committee on Reorganization of Levee Districts - Exhibit No. 1

List of Staff Memos on Exhibit:

1. P. 569, No. 2
2. Board of Highway - Exhibit A
3. Health, Social and Rehabilitation Exhibit A
4. Commissioner of Conservation - Exhibit E
5. Adjutant General - Exhibit K
6. Louisiana Tax Commission - Exhibit K
7. Louisiana Commission on Intergovernmental Relations - Exhibit E
8. State Planning Office - Exhibit A
9. Collector of Revenue - Exhibit A
10. Louisiana Milk Commission - Exhibit A

Legislative Assistant - Sr. Exhibit L

Staff Memo No. 7
April 4, 1973
Pre-Season Hunters Conference - Exhibit B

Staff Memo No. 8
April 9, 1973
Two Amendments to the agreements were adopted in the Committee of the Whole and a motion was proposed to the Committee of the Whole. (Minutes of 4/3, and provisions of the amendments were presented.)

Attorney General - Exhibit K

Public Service Commission - Exhibit E

Staff Memo No. 9
April 11, 1973

I, Paul B. F. Perdue, Clerk of the House of Representatives, do hereby certify that the minutes were read and issued. (Minutes of 4/11, and provisions the amendments were presented.) (Minutes of 4/3, and provisions of the amendments were presented.)

Sedaria, 1973
includes the office within its article on general provisions; and both the New York and the Wisconsin constitutions consider the attorney general a departmental executive and include his office, and others, within an article on administration. Only the Maryland Constitution places the offices of attorney general and state's attorneys in a separate article. (See Attachment 1).

The procedure by which the attorney general is selected has evoked much discussion among constitution-drafters. Elected in forty-two states, he is "the most prevalent elective" state officer other than the governor. The constitutions of Alaska, Hawaii, and the Model State Constitution, however, follow the tradition of the federal government. Like the federal constitution, they omit all reference to the attorney general. They presume that the attorney general should be appointed by the governor to administer a department of justice and that the administration of all executive departments should be provided for by the legislature. The attorney general is provided for only by statute in five other states: Connecticut, Indiana, Oregon, Vermont, and Wyoming.

Constitutional duties of attorneys general vary from specific, detailed provisions in some older state constitutions to brief statements in the four constitutions most recently adopted. The Illinois (1970) and Montana (1972) constitutions define the attorney general as the "legal officer of the state" and, like the North Carolina (1971) and Virginia (1971) constitutions, assign him duties and powers which may be prescribed by law.

In summary, the attorney general is most often a constitutional, elective officer whose office is described in the article on the executive department. Most of his specific duties and powers are left to legislative determination.


NOTES

Attachment II, omitted, reproduces the following material: R.R. Abernathy, Some Persisting Questions Concerning the Constitutional State Executive, 32-49.
Assistant Attorneys General

Section 2: The attorney general shall appoint a first and a second assistant attorney general and other assistants necessary to perform the work of the department of justice. The first and the second assistant attorney general shall possess the qualifications required by this article for eligibility to the office of attorney general. In the event of a vacancy in the office of attorney general, the first assistant attorney general shall assume the office for the remainder of the term.

Department of Justice

Section 3: The department of justice shall direct all legal matters in which the state has an interest. It may institute and prosecute or intervene in any suit or proceeding it may deem necessary for the protection of the state, its agencies, or its citizens. The department of justice shall supervise the district attorneys and shall perform the other duties imposed by law.

Source: The provisions in this proposal are largely taken

from Project Article VI, Sections 34 - 36.

Comment. Provides for an elected attorney general, two appointed assistant attorneys general, and a department of justice.
I. Minutes

A. Full Committee Minutes

CONSTITUTIONAL CONVENTION 1973
Judiciary Committee Meeting
10:00 AM - February 23, 1973

Chairman James Dennis called the meeting to order at 10:10 AM.

Secretary Bergeron called the roll:
Avant (present)  Bel (present)  Bergeron (present)
Burns (present) Dennis (present) Deshotels (present)
Drew (present)  Gauthier (absent)  Kelly (present)
Kilbourne (present)  Landry (present)  Martin (present)
Ours (present)  Sandoz (absent)  Tate (absent)
Tobias (present)  Vesich (absent)  Willis (present)
(14 members present - representing a quorum)

Also present:
Joseph Keith, Sgt. at Arms
Jack Wardlow - NO States-item
Jerry Doty
Charles Hargrider - Capitol Press

The Chairman welcomed everyone to the first meeting of this committee, advised that coffee was compliments of Mr. Jerry Doty.

DENNIS:  This being our organizational meeting, I would like to tell you some thoughts I have, generally, about matters on which we can proceed. If you agree as to general approach, would like to draft a calendar and method of approach in detail and present hopefully at next meeting about one week, at which time we can make amendments or changes thereon. Would like to have hearings from knowledgeable people as to present judicial system in Louisiana, who can speak and give a comprehensive picture of present judiciary system; then proceed through judiciary area by hearing from people in several different general areas.

1) Systems in Louisiana and outside Louisiana on organization, structure and powers of the courts; (2) personnel; and (3) financing. Following the hearings preliminary votes might be taken and consensus determined. Once the areas of controversy are determined, subcommittees could be established. Then a final draft of a judiciary article could be drafted.

Experts who might be called on to assist the committee were discussed, and a possible schedule to be followed. The Chairman stated he would formalize these matters into a proposal to be presented at the following meeting.

At the invitation of the committee, Mr. Gene Murrett, judicial administrator for Louisiana, spoke to the committee and described the present organization of the courts in Louisiana and discussed some of the current problems facing the court system.
It has been requested that we hold meetings to (8) one-day meetings or (4) two-day, etc., to stay within the budget.

DENNIS: My thought was it was (4) per month. Will check this out.

DENNIS: Could I get an expression of feeling on subject of feeling or opinion as to who is invited and agenda.

TOBIAS: Would like to consider breakdown into sections; for example subcommittees. Subcommittee/City Courts; Subcommittee/District Courts; Subcommittee/Appellate Courts, etc.

DENNIS: Information from Maryland and Illinois Convention proved that a number of meetings were held before they divided into subcommittees. One reason was that in certain areas a consensus was reached very quickly and it was not necessary to establish a subcommittee in that area. That is the reason I want to delay hearings. We will reconsider what to do about subcommittees later on. We will have to consider possibility of subcommittee meeting without per dies.

KELLY: Not at a stage to break down into subcommittees. Would like to hear this general evidence from these meetings to see where we are and where we are going.

DENNIS: Discussed the most convenient day for holding meeting. Agreed on next Friday as next meeting date. After being advised that some members had not received their notice of meeting until the day before the meeting. Chairman Dennis advised he would instruct those in charge of sending out these notices that they be more timely; in some cases he would call them by telephone. As to who we would ask to speak he asked for suggestions.

MARTIN: Suggested Dean Cecil Morgan.

TOBIAS: Recommended Gene Muret. Also suggested at least one Justice of the Supreme Court be asked.

DENNIS: Would like to hear from Chief Justice at some point.

DENNIS: Would like to request that I be informed of any research requests in order to avoid duplication. Judiciary Committee (Illinois) counsel paid for by Convention. Would like for something like this for our committee.

DREW: Each law school will designate one of their professors.

AVANT: What substantive committee are we? The answer was (4).

DESHOTELS: I was hoping to get a law professor to be our counsel. Who will be selecting this particular person.

DENNIS: Would like to identify this particular person; ask committee if they would approve. Now Executive Committee will do it I don't know.

BURNS: Should look over these professors; select on particularly trained in work our committee will be doing.

DENNIS: A speaker will definitely be on next agenda.

TOBIAS: Advised the members that Gene Muret, Judicial Administrator of Louisiana, was in attendance at the meeting and if there were no objections, and he agreed, that he might come forward with a few remarks at this meeting.

MURET: Gave his views as to how court system looks today. Civil Courts; issue peace bonds and hear civil cases up to $100. Municipal Courts: 125 (in La.) jurisdiction over municipal ordinances. City Courts: (4 city courts - 55 city judges) hear civil cases $500 to $1,000. Authorized to sentence for limited time and fines. Called 'courts of limited jurisdiction.' Judges required to be attorneys; no full time judges. Not court of record. District Court: Trial court of general jurisdiction. State Judges: Salaries (now $20,500) paid by state; parishes supplement state judges salaries. Trial Court: Divided in 13 districts. Judges elected from district; serves for that district. Supreme Court: Has (3) additional judges assigned to First Court in RH on full time basis for rest of year. Hears cases against state. No of Judges established in Constitution. Need additional judges. Judges paid by state totally. These judges elected from six supreme court districts around state. They hear criminal appeals; also take writs. District Court: Elected from judicial district. (Sheriff's law enforcement officer).

ADJOURNED AT NOON.

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held, pursuant to notice mailed by the Secretary of the Convention on February 26, 1973.

State Capitol, Baton Rouge, Louisiana
Friday, March 2, 1973, 10:00 a.m.

Presiding: Judge James Dennis, Chairman of the Judiciary Committee
Mr. Philip O. Bergeon, Secretary, called the roll:

PRESENT
Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Gauthier
Kelly
Kilbourne
Martin
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT
Drew
Landry

The Chairman presented a proposed schedule of committee meetings and methods of operation, implementing suggestions made at the prior meeting, pointing out it would serve as a general guideline, subject to change. Mr. Bel moved to approve the plan. Without objection, the motion carried. (The schedule as approved is attached and made a part of these minutes.)

-2-

The Chairman introduced Dean Cecil Morgan to make a presentation to the committee. Mr. Ourso questioned Dean Morgan as to whether he had served on the Labor Management Commission of Inquiry, whether he formerly was associated with Standard Oil and whether he was part of a movement to impeach Governor Huey P. Long. Dean Morgan answered "yes" to the questions. Mr. Ourso requested to be dismissed and left the meeting.

Mr. Willis called attention to Rule 58-C, and moved that it be applied to witnesses or persons appearing before the committee. Mr. Bel objected. After discussion, Mr. Sandoz offered a substitute motion: "All witnesses or experts invited by the Chairman to appear before this committee to express their expertise on various subjects not be sworn in." Substitute motion defeated by 11 to 4 vote.
The original motion by Mr. Willis to adhere to Rule 58-C was restated, without objection, the motion passed. Chairman Dennis invoked Rule 58-C.

Dean Morgan spoke to the committee, recounting the work of the Louisiana Constitutional Revision Commission and its efforts to revise the articles on the judiciary. He outlined the salient issues involved and possible approaches to organization and selection of judges.

Professor George W. Pugh addressed the committee, recommending a basic three-tier structure for the court system, unifying the lower courts and eliminating fragmentation of the system into specialized courts and courts of limited jurisdiction. He also presented other views he held concerning the judiciary. The meeting was recessed at 1:45 p.m. Resumed at 3:10 p.m.

Professor Delmar Karlen, Director of the Institute of Judicial Administration, spoke to the committee, pointing out models that it might use in revising the judiciary, and suggesting improvements that might be made.

Mr. Vesich moved to dispense with the reading of February 23, 1973, minutes and to approve them as written. Without objection, the minutes were approved.

Mr. Bergeron distributed to the members a copy of views of the judges serving in Orleans, a copy of which is attached and made a part of these minutes.

THE MEETING ADJOURNED AT 4:20 P.M.

Meeting held Tuesday, February 27, 1973, in the courtroom of the Supreme Court.

1. Welcome.
2. Jim Dennis regrets being unable to attend.
   Invitation to one of us to testify before the committee on the Friday, attended by Jim Dennis.
3. Whole group discussion of Indian casinos.
4. Judges
   Clerk
   Sheriff
   Constable
   Elect, appointed, or merit system
   (And if elected, should we be non-partisan?)
5. Supreme Court - able making up for all courts division 51
   Exclusively a merit system.
   Civil appeals
   Courts of Appeals - can they review let in and in -
   criminal appeals.
7. Criminal Appeals court of Orleans Parish?
8. CDP/CPD/FDC/FTC - merger-permanent division: Juvenile/Traffic Ct.
   Municipal
9. If no merger, should juvenile be a family court?
   Creation in PDC.
   Increase jurisdiction in PDC
10. Retirement.
11. Judicial Expense - statewide?
12. DBS/DBG - name change to Judge JDC

Responses to question 4, per opinion to Judges.

1. When first seeking the position, you should run for the election of that position. After elected he first time a Judge would run under a retention system.
2. One Judge felt that the PDC system should be considered for Louisiana Judges.
3. One Judge favors some system of appointment of Judges, but the appointments should be made by someone other than the governor.
4. One Judge was strongly against any system resembling the Missouri Plan.

Question 1 was placed mentioning to Clarke.

1. Most present favored that the system presently employed should remain as is.
2. Also, many expressed strong feeling in favor of Clarke's term coinciding with that of the Judges term.
3. No one offered anything in favor of any section of question 4 or question 1.
4. Question 5 was discussed at length, the final outcome being, no one favored the merger of any courts mentioned in it at question.

Question 6 - Retirement.

All felt that retirement for Judges should remain in the Constitution.

There was a sense of agreement that all Judges should be full-time Judges, with the necessary salary compensation. Opposition to the qualifications for Judges were not raised, therefore assuming they should remain as is.

2.

One judge raised a point of interest by stating that no Judge's salary could come from one source.

Louisiana Constitutional Convention
JUDICIARY COMMITTEE RESOLUTION
The Committee adopts the following as a general outline for its proceedings:

I. The Committee shall have the discretion to alter the foregoing schedule as events require, but should make every effort to adhere to this plan.

II. The Chairman shall have the discretion to alter the foregoing schedule as events require, but should make every effort to adhere to this plan.

III. The Chairman shall invite knowledgeable persons and those having an interest in the areas stated above to present testimony to the Committee.

IV. At the end of the Committee hearings, or earlier if the Committee decides, the Committee shall take non-binding, preliminary votes on issues presented, and may instruct the research staff to prepare tentative drafts for consideration at later meetings.

V. If possible, requests by committee members for research concerning matters relating to the Judiciary Committee should be directed to the Chairman, who shall, after consideration with the members, make such requests to the staff in behalf of the Committee.

Louisiana Constitutional Convention

RESOLUTION OF THE COMMITTEE ON THE JUDICIARY

WHEREAS is an expert in the fields of court organization and court administration and well qualified to assist the committee in its revision of the judiciary articles of the Louisiana Constitution of 1921,

WHEREAS the committee is desirous of procuring his assistance and advice in its tasks,

THEREFORE, BE IT RESOLVED that be respectfully invited and requested to appear before the Committee on the Judiciary at hearings to be held in the State Capitol, Baton Rouge, Louisiana, on , 1973.

Adopted unanimously on , 1973, in open committee session

James L. Dennis, Chairman

TENTATIVE SCHEDULE -- DISCUSSION DRAFT

ORGANIZATIONAL MEETINGS AND ORIATION

1. February 23, 1973
2. May 18, 1973

RESOLUTION OF THE COURT

1. March 9, 1973
2. March 16, 1973
3. March 23, 1973
4. March 30, 1973

RESOLUTION OF THE JUDICIARY

1. May 11, 1973

OTHER CONSIDERATION

1. April 6, 1973
2. April 13, 1973
3. April 20, 1973
4. May 4, 1973

III. COURT RELATED OFFICERS

1. May 11, 1973

[242]
Minutes of the Judiciary Committee of the Constitutional Convention of 1973
Held, pursuant to notice mailed by the Secretary of the Convention on March 5, 1973
State Capitol, Baton Rouge, Louisiana
Friday, March 9, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman

Mr. Philip G. Bergeron, Secretary, called the roll:

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Mr. Deshotels moved to dispense with the reading of last meeting's minutes, with approval, after the following correction to roll call: Mr. Landry "absent," instead of "present." There were no objections.

Chairman Dennis introduced the following speakers, who gave their personal opinions and recommendations concerning the powers, structure, and financing of the present constitution's Judicial System:

JUDGE MINOS D. MILLER, JR.
Third Circuit Court of Appeal

FORMER CHIEF JUSTICE JOHN FOURNET
Louisiana Supreme Court

JUDGE LUTHER P. COLE
District 19, Division G

JUSTICE MACK E. BARNAM
Louisiana Supreme Court

JUDGE PAUL B. LANDRY, JR.
First Circuit Court of Appeal

JUDGE J. BURTON FORET
City Judge, City of Ville Platte

Mr. Edgar Colcharp, reporter for The Shreveport Times Newspapers, made brief comments about establishing an advisor or legal counsel to jurors.

Chairman Dennis appointed Delegates Bel, Bergeron, Gauthier, Tate, and Tobias to a subcommittee to consider polling.

Material on the Illinois Court System, a tentative discussion draft on the scope of the committee's charge, and other items were submitted to the committee members by Chairman Dennis for review and discussion at next meeting.

MEETING ADJOURNED AT 5:30 p.m.
Mr. John Simmons, Director of the New Orleans Indigent Defender Program

Rev. James L. Stovall asked and received permission to appear before the committee on behalf of the Committee on the Executive. He asked the committee questions concerning jurisdiction of the committee with respect to certain officials included in Article VII.

Judge Dennis announced that Chief Justice Joe W. Sanders and Judge Bernard J. Bagert were tentatively scheduled for the next meeting, Friday, March 23, 1973, 9:30 a.m.; and that he was late because of attending a Composite Committee meeting which started at 9:30 a.m., therefore could not be at the beginning of Judiciary meeting.

Chairman Dennis placed the problem of meeting schedules before the committee for discussion. Mr. E. L. Henry, Chairman of the Constitutional Convention, asked that all future meetings be cancelled because of conflicting schedules with other committees. After deliberation, the committee asked Chairman Dennis to meet with Mr. Henry and request retention of meeting schedules for Friday because of previous plans and availability of committee members. Chairman Dennis will report results at next meeting.

Mr. Bergeron read resolution presented to the committee by Mr. Drew to amend resolution adopted on March 2, 1973, regarding plan of committee meetings (hereto attached and made part of these minutes). After making noted changes to resolution, it was unanimously adopted.

Mr. Tobias commented on behalf of the subcommittee appointed to investigate polling lawyers. After deliberation, Mr. Kelly moved that the committee not take this poll, unless a true cross-section of people be represented. Mr. Sanders amended this motion, to take no poll of any kind at this time. Motion as amended carried without objection.

Chairman Dennis moved to amend the March 16, 1973, minutes by correcting them to show he was late because of attending a Composite Committee Meeting which started at 9:30 a.m., and could not be at the beginning of Judiciary Meeting; and to correct Reverend Stovall's name to "James" instead of Jasper, on Page 2 of the minutes.

Meeting adjourned at 4:40 p.m.
The Committee heard testimony from the following speakers on the organization, administration and powers of the courts:

- Mr. Harvey Solomon, Director of Studies Institute for Court Management
- Mr. Ben R. Miller, Sr., Attorney at Law
- Mr. Allah Ashman, Director of Research American Judicature Society
- Judge Richard J. Carney
  Civil District Court, Orleans Parish
- Judge S. Sanford Levy
  Civil District Court, Orleans Parish
- Judge Edward G. Gillin
  Juvenile Court, Orleans Parish
- Judge Sol Gottardo
  Juvenile Court, Jefferson Parish
- Judge Louis P. Trent
  Traffic Court, Orleans Parish
- Judge Matthew S. Braff
  Criminal District Court, Section B, Orleans Parish
- Judge Oliver P. Schulingkamp
  Criminal District Court, Section F, Orleans Parish

Judge Dennis announced receipt of a letter from Mr. Vesich stating that he was hospitalized with pneumonia and unable to attend meeting; and that Justice Tate's father died, therefore he was unable to attend meeting.

The Coordinating Committee authorized Mrs. Norma Duncan, Research Director, to make the following request from the Judiciary Committee: Submit a written commitment as to what provisions will definitely be considered and not considered in the present constitution by the Judiciary Committee, and to state in what areas there might be some conflict between the Judiciary Committee and other committees. The research staff needs to know this information by April 6. Judge Dennis read discussion draft, and opened discussion from Committee.

The Judiciary Committee will definitely consider everything in Article VII in present constitution as within Judiciary Jurisdiction, with the exception of that portion of Section 69 dealing with vacancies in offices not found in Article VII: Article IX, Section 4: Judiciary Commission-removal of Judges; Article IX, Sections 1-3, insofar as those sections apply to officials covered by Article IX: Impeachment and Removal of Officials. Judge Dennis questioned whether the Committee would consider removal of all officials or just judges. Mr. Deshotels moved that the Committee should include all officers in Judiciary Article, including sheriffs, as provided by the convention rules of procedure for establishing jurisdiction. Mr. Ourso seconded; motion carried without objection.

Judge Dennis questioned whether the Judiciary Committee should allow retirement of all public officials to be treated by some committee other than Judiciary, or should they be considered as presently provided. Mr. Tobias stated that as a matter of continuity, follow it all the way through; if we take jurisdiction over judges, follow it all the way through as to what pertains to judges, unless really collateral. Judge Dennis agreed. Mr. Bergeron questioned retirement of other officers. The Committee will consider District Attorneys--Judge Dennis will determine if retirement provisions are included in Article VII. After deliberation, the Committee decided definitely not to consider other parts of the discussion draft, and to approve the draft as amended.

Judge Dennis asked the Committee about meeting on Good Friday, April 20, stressing that if the meeting were cancelled it might
not be possible to reschedule. The Committee agreed to meet on Good Friday.

For the next meeting, Judge Dennis requested the research staff to develop as much financial information possible pertaining to what is realistic and not realistic in structure of courts. Judge Reggie will be invited to appear and give the views as to what the city court judges want.

After deliberation on whether to hear additional testimony from judges other than the New Orleans area, Mr. Kelly moved to invite four district judges to appear on the 13th of April: Two from metropolitan areas, outside of Orleans and East Baton Rouge Parishes, and two rural judges from cities in judicial districts of about 35-40,000 people, one each from north and south Louisiana. Motion carried without objection.

On the 14th of April, the Committee will conduct a business meeting and take some preliminary votes on organization, administration and powers of the courts.

MEETING ADJOURNED AT 6:15 P.M.

Chairman

Vice-Chairman

Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on April 4, 1973.

State Capitol, Baton Rouge, Louisiana

Friday, April 13, 1973, 9:30 a.m.

Mr. Philip O. Bergeron, Secretary, called the meeting to order at 9:37 a.m. (Judge James L. Dennis, Chairman, delayed because of plane trouble.)

Mr. Bergeron called the roll:

PRESENT
Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Drew
Gauthier
Kelly
Kilbourne
Martin
Ourso
Sandos
Tate
Tobias
Veaich
Willis

ABSENT

Landry

Mr. Bergeron read two announcements to the committee: (1) letter from Clerks of Court Convention in Lafayette, inviting members to attend; (2) letter from Judge Levy, complimenting the committee on his appearance before them.

Testimony on the organization, structure and powers of the courts was heard from the following speakers:

MR. GLENN R. WINTERS, Executive Director
American Judicature Society

JUDGE PATRICK M. SHOFT
Fourth Circuit Court of Appeal

JUDGE EARL E. VERON
Fourteenth Judicial District Court
Caldasieu and Cameron Parishes

Chairman Dennis recessed the meeting at 12:15 p.m. for lunch; resumed at 2:05 p.m. Testimony continued:

JUDGE EDWARD A. de la MOUSSAYE, III
JUDGE E. "BUBBER" GUIDRY, JR.
JUDGE S. O. LANDRY
Sixteenth Judicial District
Iberia, St. Martin and St. Mary Parishes

JUDGE DAVID T. CALDOWELL
Second Judicial District Court
Bienville, Claiborne and Jackson Parishes

JUDGE C. J. BOLIN, JR.
First Judicial District Court, Caddo Parish

Chairman Dennis recessed the meeting at 3:55 p.m.; resumed at 4:05 p.m. Testimony continued:

JUDGE C. J. BOLIN, JR.
First Judicial District Court, Caddo Parish

Mr. N. W. Dennery, Secretary of the Convention, forwarded a letter to Judge Dennis asking the committee's thoughts on a proposed draft dealing with Department of Civil Service being included in the Judiciary Article. After committee discussion, it was decided by the committee not to include in Judiciary Article, and authorized Chairman Dennis to notify Mr. Dennery of their feelings.

Mr. Edwin G. Ware, District Attorney, wrote Judge Dennis a letter stating that at the annual convention of the Louisiana District Attorney's Association held in New Orleans in March, the district attorneys and assistants voted unanimously in favor of the Judiciary Committee writing the articles dealing with district attorneys.

Mr. Tobias moved to adjourn the meeting until Saturday, April 14, at 9:30 a.m. No objections; meeting adjourned at 4:35 p.m.

Chairman

Vice-Chairman

Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973
Mr. Burns made a substitute motion amending to "majority of legislature." Mr. Vesich objected. Mr. Bergeron called the roll for voting on the proposed amendment: Defeated by twelve to four vote, with one abstention.

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Mr. Deshotels offered substitute motion to include "...and such other courts as this constitution may authorize..." Without objection, amendment was approved.

Amended Motion:

Judicial power shall be vested in the Supreme Court, Courts of Appeal, District Courts, and such other courts as the constitution may authorize. The legislature may by two-thirds vote, with approval of the electors of area affected, establish, abolish or otherwise affect other courts of trial jurisdiction.

Motion as amended adopted without objection.

After discussing continuation of courts and change by the legislature, Mr. Vesich moved that in parish of Orleans

-2-

Mr. C. B. Fototson, Jr., Senior Research Assistant, reported to the committee on facts and figures on the financing of city courts in the State of Louisiana. This information was not fully developed because of incomplete statistics from various courts. Chairman Dennis asked the committee if they wanted Mr. Fototson to continue developing the statistical information. After discussion, the committee decided they wanted research staff to continue through aid of the legislative auditor, to secure as accurate information as possible. A member of the research staff will report further at next meeting, Friday, April 20.

Chairman Dennis introduced Judge Hillary J. "Buddy" Crain, Twenty-Second Judicial District Court, St. Tammany and Washington Parishes, who gave his views on the organization, structure and powers of the courts.

Chairman Dennis recessed the meeting at 11:15 a.m., resumed at 11:25 a.m.

Preliminary, non-binding proposals were placed before the committee. Chairman Dennis stated that anything decided today is merely a guide to the research staff in drafting first part of Judiciary Article relating to structure of the court system. He suggested that the Judiciary Committee first decide whether to include all of the courts thought to be existing in the state at this time in the constitution, or whether to simply state that the "judicial power is vested in the Supreme Court and such other courts as the legislature wants to establish, or in the Supreme Court, Courts of Appeal, District Courts, and such other courts as the legislature would establish."

After deliberation Mr. Landry moved that judicial power shall be vested in Supreme Court, Courts of Appeal and

-3-

District Courts. The legislature may by two-thirds vote, subject to approval of the electors of the area affected, establish, abolish or otherwise affect other courts of trial jurisdiction.

Mr. Justice Tate offered an amendment to substitute motion: "...except that this provision shall not apply to Civil and Criminal Districts in New Orleans." Because of disagreement among committee, Mr. Bergeron called the roll and took vote: Proposed amendment defeated by twelve to four vote, with one abstention.

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Substitute motion adopted without objection.

Mr. Justice Tate moved that the present system of review of facts in civil cases be continued. Without objection, motion carried.
Mr. Kelly moved to adopt §9 of "Draft A." Motion carried without objection.

Mr. Sandoz moved to provide in §6 the power for Supreme Court justices to appoint judges to other courts, including all retired judges. Motion carried. Mr. Venich voted against.

Mr. Drew moved to leave in the first sentence of §11(a) and insert the words either "four or more" or "at least four" and delete the second sentence of §11(a) and delete all of §11(b) and (c). Motion carried without objection.

Mr. Kelly moved to combine §§11 and 12, and in §12(a) leave out the word "rotating" and leave out §12(c). Motion carried without objection.

Mr. Avant moved to insert in §13(b) the words "at least" between the words "into" and "three." Motion carried without objection. Mr. Tobias moved to provide for at least three equally apportioned districts. Motion was withdrawn.

Mr. Bel moved to retain the present twelve-year terms for Courts of Appeal judges and leave out the second sentence in §13(c). Motion carried without objection.

Mr. Tobias moved to add the word "civil" between the words "all" and "cases" in §14(a). Motion was withdrawn.

Mr. Sandoz moved to delete §14(b) and insert the word civil in §14(a) between the words "all" and "cases." Motion carried without objection.

There was much discussion about appeals from decision of administrative agencies. §14(c) was adopted without objection, deleting the words "civil service or."

Mr. Tobias moved to have the staff determine a way to combine §§14(a) and (b). Motion carried without objection.

Mr. Kelly moved to keep appeals of juvenile cases in the Courts of Appeal and use the language of the present §29. Motion carried without objection.

Mr. Gauthier offered a substitute motion to direct the staff to put juvenile appeals in the Supreme Court. Motion carried four to nine.

Mr. Willis moved the adoption of §15 of "Draft A" with an amendment to delete the words "shall have the power to" and insert in lieu thereof the word "nay." Motion carried without objection.

Mr. Avant moved to provide in §16 for the election of a chief judge in the Court of Appeal for a five-year term and provide the same term for the chief justice of the Supreme Court. Motion carried without objection.

Mr. Sandoz moved to change the word "appoint" in §17 to "select" and delete the last sentence and make the same change in the Supreme Court provision. Motion carried without objection.

Judge Tate moved to delete §18 of "Draft A." Motion carried without objection.

The committee recessed at 12:40 for lunch. The meeting resumed at 2:30 p.m.

Chairman Dennis moved the adoption of §19 of "Draft A." Motion carried without objection.

After discussion by the committee, §§20(b) and (c) were deleted.

Mr. Avant moved to insert the language calling for two-thirds of the Legislature and a vote of the people to make changes in the court structure and it shall apply to all courts except Justices of the Peace and Mayors into §20(b).

Mr. Sandoz offered a substitute motion to delete the requirement of a vote of the people in Mr. Avant's motion. Motion failed five to nine.

Mr. Kelly offered a substitute motion to insert "a majority of the Legislature," in lieu of two-thirds in Mr. Avant's proposal, and excluding Mayors and Justices of the Peace Courts. Motion carried nine to six.

After some discussion, §20(d) was deleted.

Mr. Tobias moved for twelve-year terms for all District Court judges. Mr. Avant offered a substitute motion to provide six-year terms for all District Court judges. Motion carried eight to seven.

Mr. Gauthier moved that District Court judges shall have six-year terms except in a judicial district having a population in excess of 300,000, wherein they shall be elected for twelve-year terms. Motion failed seven to nine.

Mr. Tobias moved to provide that District Court judges have initial terms of six years and then run for twelve-year terms. Motion failed seven to nine.

Judge Tate moved to provide terms for all District Court judges of not less than six, nor more than twelve years, and the Legislature shall provide the terms. Provided that the present terms of judges shall not be affected.

Mr. Kilbourne offered a substitute motion to provide twelve-year terms in Orleans and six-year terms in the rest of the state. Mr. Avant called for a roll call vote and the motion carried eight to two with four abstentions.

Mr. Tobias moved to provide twelve-year terms for District Court judges in Jefferson Parish.

Mr. Landry offered a substitute motion to provide twelve-year terms for District Court judges in judicial districts comprised of one parish, having a population in excess of 300,000, based on the latest official U. S. Census. Motion carried eleven to three.

Judge Tate moved to adopt §21 as written. Motion carried without objection.

Mr. Avant offered a proposal for a special three-judge panel. Motion was withdrawn.

Mr. Drew asked the staff to draft a proposal to continue
present terms of office of judges now sitting and their
jurisdiction, benefits, etc.

Mr. Avant asked the staff for a copy of the proposal of
Article VII thus far.

Chairman Dennis stated that the draft would be prepared
and mailed out as soon as possible.

Meeting adjourned at 5:15 p.m.

Chairman Dennis circulated a letter from the Clerk of
First District Court in Caddo Parish, who stated that he
thought the clerks of court should not be ex officio clerks
in juvenile courts. (presented by Tom Stagg)

Chairman Dennis read a memo from Mr. Gene Murrett, judicial
administrator to the members of the Judicial Committee. It
stated what action the Judicial Council took concerning terms
of judges when it met on April 27, 1973.

A memo presented to the Composite Committee from District
Attorney John Richardson of Caddo Parish was filed with the
committee.

Mr. Deshotels introduced a copy of a letter from Justices
of the Peace Johnson and Leger, Allen Parish, asking that the
section of the constitution pertaining to justices of the
peace be left as it is. A copy was filed with the committee.

The decision was made to continue taping the meetings.

Discussion continued on Draft "A."

Mr. Kilbourne moved the committee defer action on Section
22. Motion carried without objection.

Mr. Tobias moved to change "presiding" judge to "chief"
judge in Section 23(a). Motion carried without objection.

Mr. Kelly moved to delete Section 23(a). Motion failed.

Mr. Gauthier moved that the judges elect a chief judge.

Motion failed.

Mr. Deshotels moved to adopt a plan of appointing judges
on merit. Motion failed.

Mr. Willis moved that Section 23(a) and (b) be combined
to read "Each multi-judge district court may elect from its
members a chief judge who shall exercise such administrative
functions as may be prescribed by rule of that court." Motion
carried, with Mr. Kelly objecting.
Mr. Sandoz moved to delete Section 24. Motion carried without objection.

Judge Tate moved to delete Section 25. Motion carried without objection.

Mr. Avant moved to have the staff prepare a provision concerning Section 26 that would not conflict with anything the committee has tentatively done concerning courts and how they can be altered, changed, or abolished, but which would give to the legislature the right to define the age of juveniles and what circumstances certain persons within that age could be excluded from the category of juveniles. Motion carried without objection.

It was moved that Section 28 be deleted. Motion carried without objection.

Mr. Bel moved that the committee adopt Section 29(a). Motion carried with Mr. Kilbourne objecting.

Mr. Bel moved to adjourn the meeting at 5:15 p.m. until 9:00 a.m. Saturday. Motion carried.

Chairman

Vice Chairman

Secretary

MINUTES


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

State Capitol, Baton Rouge, Louisiana


Presiding: Judge James L. Dennis, Chairman. The meeting was called to order at 9:20 a.m.

Mr. Philip O. Bergeron, secretary, called the roll. Fifteen of eighteen members were present, representing a quorum.

Seventeen members attended meeting.

Present  Absent  COURSE
Avant  
Bel  
Bergeron  
Burns  
Dennis  
Deshotels  
Drew  
Gauthier  
Kelly  
Kilbourne  
Landry  
Martin  
Sandoz  
Tate  
Tobias  
Vesich  
Willis

Mr. Sandoz moved that in Section 30, the committee go on record as opposing nonpartisan election. Motion withdrawn.

Mr. Avant moved that the legislature shall provide for the election of judges at a time when the congressmen are elected, under no circumstances shall any judge who is appointed be eligible to run for the office for which he is appointed. When the governor appoints someone to fill a vacancy, he shall appoint someone who is ineligible to run for office. Motion withdrawn.

Mr. Willis offered a substitute motion for Section 30(a) and (b) to read: (a) The election of judges shall be held at the regular congressional election; (b) If a vacancy occurs, a special election is to be held to fill the vacancy within six months. Until the vacancy is filled, the supreme court shall assign or appoint an otherwise qualified individual to the duties of the office at pleasure, who shall be ineligible to be a candidate for election to the vacancy. Motion carried.

Mr. Tobias moved to change "four months" to "three months" in Section 10(b). Motion carried.

Mr. Avant moved to hold the election at the next regularly scheduled election. Motion withdrawn.

Mr. Willis moved to change "four months" to "six months" in Section 10(b). Motion carried.

Judge Tate asked that the resolution be typed as amended during lunch. The committee recessed for lunch at 12:20 p.m.

The committee reconvened at 2:05 p.m. The committee read
the section as amended and voted to consult Mr. "Red" Wood concerning the election of judges and have him appear and give a written memo to the committee on it.

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Sections 30(a) and (b) were adopted as amended.
Judge Tate moved the committee express themselves regarding nonpartisan election of judges. Motion withdrawn.
Mr. Sandoz moved to delete (c) of Section 30. Mr. Drew objected. Mr. Drew moved to table Section 30(c). Motion failed 4-8.
Mr. Sandoz moved to oppose nonpartisan election of judges. Motion carried 7-5.
Mr. Sandoz moved the adoption of Section 30(d). He also moved to instruct the research staff to "make it better," with the advice of Mr. "Red" Wood. Motion carried.
Mr. Willis moved to strike Section 30(e). Motion carried 9-4 with one abstention.
Mr. Avant moved to insert between "judges" and "of" in Section 31(a), "and a system of survivors' benefits for widows and minor children." After the period "," add "These systems may be on a contributory basis." Motion was withdrawn.
Mr. Sandoz offered a substitute motion to adopt Section 31(a) as written. Motion carried.
Mr. Tobias offered a substitute motion to adopt "at least equal to all other state employees." Motion was withdrawn at Mr. Drew's request.
Mr. Tobias moved to add "or judicial administrator" after "judge" on the first line of Section 31(b), and strike the last sentence. Motion carried.
Mr. Landry moved to have a new system for all judges not retired. Motion failed.
Mr. Avant moved that until the legislature shall provide any retirement system different from the present constitution, any judge who takes office after the adoption of this constitution shall be covered by the old system. Motion carried.
Mr. Bergeron moved to delete Section 31(c). Motion failed.
Judge Dennis moved to amend Section 31(c) to read: If he is found to be incompetent, he shall be retired. His benefits shall be two-thirds of his pay. If he is not under the statutory program, he shall receive the same benefits as under the 1921 constitution. No action taken.
Mr. Avant moved to add to Section 31(c) "or any such greater sum to which he is legally entitled by law." Motion carried 10-1.
Mr. Kelly moved to adopt Section 31(d), striking the last sentence. Motion carried 8-4.
Mr. Willis moved to strike Section 31(e) and make Section 31(a) read "full time judges of courts of record." Motion withdrawn.

Mr. Vesich moved to adopt Section 31(e). Motion carried without objection.
Mr. Avant moved to reconsider Section 31(c), and make first line read "A judge of a court of record who has served six years or more and who is found by two..."
Mr. Kelly moved to delete Section 31(c) in its entirety.
Judge Dennis asked Mr. Avant to withdraw his amendment and Mr. Kelly to withdraw his substitute motion and the committee would reconsider Section 31(c) at a later date. Both motions withdrawn.

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Mr. Tobias moved that Section 32 should prohibit all judges from practicing law. Motion failed. / / 
Judge Tate moved to adopt Section 32. Motion carried.
Mr. Willis moved to change the wording of Section 32 so that the subject would be first and add "all others that the legislature shall prescribe" between "judges" and "shall." Mr. Tobias objected. Motion carried 10-1.
Mr. Avant moved that the chairman appoint a three-man subcommittee to look into the question of judges' retirement.
Judge Dennis appointed Mr. Avant, Mr. Vesich, and Mr. Drew, with Mr. Drew as chairman.
Meeting was adjourned at 5:10 p.m.

Chairman
Vice-Chairman
Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973
Held pursuant to notice mailed by the Secretary of the Convention on May 17, 1973
Law Center, L. S. U., Baton Rouge, Louisiana, Friday May 25, 1973
9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee.

PRESENT
Avant
Belcher
Bergeron
Burns
Dennis
Deshoteles
Drew
Gauchier
Kelly
Kilbourne
Landry
Martin
Oursou
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT
None
The committee heard the following speakers on the Orleans Parish prison and the criminal sheriff:
  
  State Rep. Edward Booker, New Orleans;  
  Mr. Raymond Nance, president, Community Action for Correction;  
  Mr. Robert Blumberg, inmate, Orleans Parish Prison.

Mr. Joseph N. Joachim, executive vice president and general counsel, Louisiana City Marshals and Constables Association, spoke to the committee concerning the standardization of terms for city marshals and city constables and increasing city court jurisdiction.

The committee recessed for lunch at 12:30 p.m.

The committee reconvened at 2:00 p.m. and Mr. Bergeron, secretary, read the minutes of the May 11, and May 12, 1973 meetings.

Mr. Bel moved that the minutes of May 11, 1973, be adopted as amended. Motion carried.

Mr. Tobias moved to add "no action taken" to Judge Dennis's motion on page five of the May 12, 1973 minutes. Motion carried.

Mr. Tobias moved to insert into the minutes of May 12, 1973, his motion prohibiting judges from practicing law, which failed. Motion carried.

The motion was made to correct the spelling of Mayor Nall's name on page two of the May 12 minutes. Motion carried.

Mr. Bel moved the minutes of May 12, 1973, be adopted as amended. Motion carried.

Mr. Tobias moved that the committee consider Section 5(A) of Draft "A," qualifications of judges, to be combined with the provision prohibiting judges from practicing law.

Motion carried.

Mr. Tobias moved that a judge shall be an elector of this state who has been admitted to the practice of law in this state. He shall have resided within the territory of the district from which elected for two years immediately preceding his election. Motion carried.

Mr. Avant moved as a substitute that the qualifications of judges of the supreme court, court of appeal, and district courts shall be: an elector of this state who has been admitted to the practice of law for five years preceding his election, residing in the territory of the district for two years prior to his election. Motion carried.

Mr. Avant moved that the Judiciary Commission be contained in the constitution, with its membership and the grounds for removal clearly defined.

Mr. Deshotels made a substitute motion that the committee defer voting on whether there should be a Judiciary Commission and whether it should be put in the constitution, and requested the staff to prepare a brief on how the other states handled this question. Motion failed.

Mr. Tobias moved that the chairman appoint a subcommittee to explore the matter and report back to the committee. Motion failed.

Mr. Avant's primary motion was adopted.

Mr. Avant moved that the Judiciary Commission consist of one appeal court judge, two district court judges, one lawyer, and three citizens, the latter appointed by the Judicial Council.

Mr. Willis offered a substitute motion that the Judiciary Commission consist of one court of appeals judge and two district court judges, appointed by the supreme court, three members of the bar appointed by the District Judges' Association, and three citizens appointed by the District Judges' Association.

Mr. Willis amended his motion to provide that the members of the bar shall have practiced for at least ten years prior to his appointment.

Mr. Avant offered an amendment to the substitute stating that the three lawyers be appointed by the Louisiana Court of Appeal Judges' Association and the three citizens be appointed by the District Judges' Association, or their successor. Motion carried.

Mr. Willis's substitute motion as amended was adopted.

Mr. Burns moved that Section 33(B) of Draft "A" be adopted. Motion carried.

Mr. Kelly moved that Section 33(C) of Draft "A" be adopted. Motion carried.

Mr. Willis moved that Section 33(D) be adopted. Motion carried.

The committee began discussion of Mr. Eugene Murret's draft proposal for grounds for removal of judges, a copy of which is attached hereto and made a part of these minutes.

Mr. Avant moved that beginning on line five of the Murret proposal, the words "habitual" to "disrepute" be deleted. Motion carried.

Mr. Sandoz moved to accept Mr. Murret's proposal as submitted. Motion withdrawn.

Mr. Kilbourne moved to substitute the words "notorious and public conduct prejudicial..." for the phrase "habitual... disrepute," in line five of the Murret proposal. Motion failed.

Mr. Kilbourne moved that "persistent and public conduct prejudicial..." be substituted for the phrase "habitual... disrepute," and to add the words "or conduct while in office which constitutes a felony under law or conviction of a felony." Motion carried.

Mr. Avant moved to adopt each sentence of the Murret proposal separately. Motion carried.

The first sentence was adopted as amended.

The second sentence was adopted.

The third sentence was adopted.

Mr. Vesich moved to strike the fourth sentence. Motion carried.

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Mr. Sandoz moved to strike the fifth sentence. Motion carried.

The sixth sentence was adopted.

Mr. Sandoz moved to adjourn the meeting until 9:30 a.m., May 12, 1973.

Motion carried and the meeting was adjourned at 5:00 p.m.

Chairman

Vice Chairman

Secretary

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MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on May 17, 1973.

Law Center, L. S. U., Baton Rouge, Louisiana, Saturday, May 26, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Gauthier
Kelly
Kilbourne
Landry
Martin
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT

Drew

The committee heard the following speakers concerning the judicial system in Louisiana:

Judge William Hawk Daniels, City Court, Division B, Baton Rouge;

Judge J. Cleveland Fruge, Third Circuit Court of Appeal;

Associate Justice Frank W. Hawthorne, retired, Louisiana Supreme Court.

The committee recessed for lunch at 12:30 p.m.

The committee resumed at 2:00 p.m.

Mr. Tobias moved to discuss Section 44 of Draft "A."

Motion carried.

Sheriff Martin moved to delete the second paragraph of Section 44. Motion carried without objection.

Mr. Deshotels moved that the question of the sheriff's provision be divided and considered point by point. Motion carried.

Judge Tate moved to provide that there will be a sheriff elected by the qualified electors of each parish who shall be elected at the general state election for a term of four years. Motion carried without objection.

Judge Tate moved to charge the sheriff with executing the orders and process of the court. Motion carried without objection.

Judge Tate moved the sheriff be charged with law enforcement duties and collection of state, parish, and all other taxes, except inheritance and municipal taxes, and such other tax collecting duties as provided by law.

Mr. Kilbourne moved to amend Judge Tate's motion to state that "the sheriff be the chief law enforcement officer of the parish, except as otherwise provided by this constitution." Motion carried.

Mr. Tobias moved to amend Judge Tate's motion to omit "inheritance taxes" and add "and such other duties as provided by law." Motion carried.

Judge Tate's primary motion as amended carried.

The committee discussed the tax collecting duties of the sheriff and asked the staff to determine (1) what state taxes the sheriff collects, (2) whether license and occupational taxes are considered taxes, and (3) what laws limit the jurisdiction of the state police.

Judge Tate moved to provide that in any parish at the time of the adoption of this constitution, in which there is a civil sheriff and a criminal sheriff, the office shall be continued and the duties assigned to them continued until changed by a vote of the majority of the legislature and a majority of the electorate concerned at an election called for that purpose.

Mr. Tobias moved to amend the motion to read that there shall be one sheriff in each parish of the state. Motion failed.

Mr. Avant moved to amend the motion to provide that the sheriffs as previously constituted are retained until the legislature with a majority of each house and the electorate change it. Motion failed.

Judge Tate's primary motion was adopted.

The committee moved to direct the staff to prepare a provision to prevent reduction of salaries of the elected officers provided for in Article VII. Motion carried.

Judge Tate moved Section 40 be adopted but inserting the word "staff" in lieu of the words "office force" Motion carried without objection.

The committee then considered Section 41 of Draft "A."

Judge Tate moved to adopt Section 41 amending the first sentence to read, "The attorney general and the first and second assistants shall..." and substitute "Attorney general shall attend to..." in the second sentence.
Mr. Kelly moved to amend Judge Tate's motion by striking the last sentence in the first paragraph. Motion carried.

Mr. Burns moved that the committee defer action on Section 41 until the research staff could draft a section to prevent the attorney general from superseding the district attorney except under certain circumstances. Motion failed.

Mr. Avant moved to amend Judge Tate's motion to delete "they deem necessary," substituting "shall be necessary." Motion carried.

Judge Tate's original motion with amendments carried.

The committee tentatively adopted the second paragraph of Section 41.

Mr. Burns moved to adjourn the meeting at 5:00 p.m.

Sheriff Ourso moved to meet on June 1 and June 2, 1973. Motion carried.

Mr. Burns motion carried.

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Secretary Bergeron read the minutes of the May 25 and May 26, 1973 meetings.

Mr. Tobias moved to add "motion carried" to his motion on page 3 of the May 25, 1973 minutes. Motion carried.

Mr. Bell moved the adoption of the minutes as amended. Motion carried.

Mr. Bergeron moved to defer voting on the minutes of May 26, 1973, pending correction of Judge Tate's motion concerning the tax collecting duties of sheriffs.

The committee began discussion of Section 42 of Draft "A."

Mr. Willis moved to adopt Section 42 as written.

Mr. Kelly amended Mr. Willis's motion to state: "The district attorney shall have been admitted to the practice of law for three years prior to his election and shall be an elector of the judicial district from which he serves for two years." Motion failed.

Mr. Avant amended Mr. Willis's motion to add to the district attorney's qualifications: "He shall be an elector of the judicial district from which he is elected for two years and admitted to the practice of law in Louisiana for five years prior to his election." Motion carried.

Mr. Willis's motion as amended carried.

Mr. Tobias moved to delete Section 43 and refer it to the committee on Legislative Liaison and Transitional Measures with the recommendation that it be included in the statutes. Motion failed.

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Judge Tate moved that no district attorney nor assistant district attorney shall appear, plead, or in any way defend any criminal prosecution or charge. Motion failed.

Mr. Avant moved to place a period "," after the word "charge," in Section 43 of Draft "A" and omit the remainder of the section. Motion carried.

Judge Tate moved to add a section above Section 43 authorizing the district attorney to select his assistants and other personnel and to prescribe their duties.

Mr. Tobias moved to amend Judge Tate's motion to combine the proposed section with Section 42. Motion carried.

Judge Tate's motion as amended carried.

The committee began discussion of the draft on judges' retirement drafted by Judge Luther Cole and submitted by the Subcommittee on Retirement: Mr. Drew, Mr. Vesich, and Mr. Avant.

After lengthy discussion, Mr. Drew moved to ask the staff to shorten the draft. Motion carried.

The committee recessed for lunch at 12:30 p.m.

The committee reconvened at 2:00 p.m.

Discussion began on Section 45 of Draft "A" concerning clerks of court.

Mr. Landry moved to amend Section 45 to state: "(A)

In each parish, a clerk of the district court shall be
elected by the qualified electors of the parish for a term of four years. He shall be ex officio notary public and parish recorder of conveyances, mortgages, and other acts and

shall have such other duties and powers as may be prescribed by law. The clerk may appoint deputies, and with the approval of the district judges, may appoint minute clerks with such duties and powers as may be prescribed by law. (b) Notwithstanding subsection (A), in each parish with a criminal and a civil district court, the office of clerk of court shall remain until changed by a majority of the elected members of each house of the legislature and a majority of the electors in the parish, and they shall exercise such duties as may be prescribed by the legislature.

Mr. Willis moved to amend Mr. Landry's motion by adding: "(C) The legislature shall establish statewide uniform office hours for all clerks of district courts." Motion carried.

Mr. Landry's motion as amended carried.

The committee began discussion of Section 47 of Draft "A."

Mr. Sandoz moved: "In each parish a coroner shall be elected for a term of four years with such qualifications and duties as prescribed by law." Motion carried.

The committee began discussion of the staff's proposal prohibiting the reduction of salaries and retirement benefits of elected officials while in office.

Judge Tate moved: "The attorney general, district attorney, sheriff, or clerk of court shall have neither his salary nor retirement benefits diminished during his term of office." He recommended that the staff add any other constitutional officers he omitted. Motion carried.

After discussion of Article VII, Section 89, the committee requested the staff to draft a section protecting constitutional officers from abolishment.

The committee took a brief recess after which Chairman Dennis took the chair.

Mr. Willis moved: When a vacancy in the office of an elected official occurs, the person to succeed him be clearly defined in the constitution. He further moved that if there is no such person to assume the duties at the time of the vacancy, the governing authority or the governing body of the parish or parishes concerned shall appoint such a successor until the vacancy is filled by an election called for that purpose.

Judge Dennis amended the motion to state: "Until a vacancy is filled by..." first and the successors stated in the second part. Motion carried.

Mr. Willis's motion as amended carried.

The committee began discussion of the proposal submitted by Mr. Drew and Mr. Landry providing for the creation of parish courts.

Judge Tate moved to combine Sections 15(A) and 18 of Draft "A" and the proposal submitted by Messrs. Drew and Landry with the following points considered: (1) the continuation of the existing courts and that they can be changed only by a two-thirds vote of the legislature; (2) the continuation of existing judicial districts and that they can be changed only by a majority of the legislature and a majority of the electors in the district affected; (3) giving the legislature the power to create additional courts such as parish courts; and (4) continue, under the proper wording, to recognize courts and officers of Orleans Parish which can be changed only by a majority of the legislature and a majority of the electors in the district affected. Motion carried.

Mr. Burns moved to adjourn the meeting until 9:30 a.m. Saturday, June 2, 1973.

The motion carried and the meeting adjourned at 9:35 p.m.

Chairman

Vice Chairman

Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

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

Law Center, L. S. U., Baton Rouge, Louisiana, Saturday, June 2, 1973

9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

PRESENT

Avant
Bel
Bergeron
Burns
Dennis
Drew
Kelly
Kilbourne
Landry
Oarso
Sandoz
Tate
Tobias
Veitch
Willis

ABSENT

Deshotels
Gauthier
Martin
Discussion began on the provisions referred to the Judiciary Committee by the Coordinating Committee.

Mr. Kelly moved to recommend that in reference to the legislature passing local and special laws, that the Committee on Legislative Powers and Functions use generally the language of the Model State Constitution and continue enumerating the prohibitions but provide that the list be nonexclusive. Motion carried.

Mr. Willis moved that the committee defer action on forced heirship in Article IV, §16, for one week to allow time for study.

Mr. Sandoz amended the motion to request the staff to draft a proposal which would allow the legislature to change the grounds for disinheritance. Motion carried.

Mr. Willis's motion as amended carried.

Mr. Sandoz and Mr. Willis moved to delete §16 of Article XIX of the present constitution. Motion carried.

Mr. Avant moved that: "There shall be a regular grand jury in each parish to serve for six months. On the recommendation of the district attorney, the judges of a district court may cause to be selected one or more special grand juries to consider particular matters designated by the district attorney and approved by the judges of the district court. A special grand jury shall serve until discharged by the court. All proceedings of a grand jury shall be secret, including the identity of witnesses appearing before it until an indictment has been returned. Any violation of the secrecy of grand jury proceedings shall constitute a contempt of the court appointing it."

Mr. Kelly offered a substitute motion stating there shall be a grand jury or grand juries in each parish of the state whose qualifications, duties, and responsibilities shall be prescribed by law. The legislature shall also provide for the secrecy of such proceedings.

Judge Dennis moved to amend the substitute motion stating, "The legislature may provide..." Motion failed.

Mr. Kelly's substitute motion passed.

Mr. Avant moved to request the staff to draft a sample and short provision stating that any officer of the court who discloses any information pertaining to the proceedings of the grand jury, including the identity of witnesses who testify before the grand jury, before the return of an indictment, shall be guilty of contempt of the court.

Mr. Tobias moved to table the motion. Motion failed.

Mr. Avant's motion carried 7-6 with Mr. Bergeron abstaining.

The committee recessed for lunch at 12:20 p.m.

The committee reconvened at 1:45 p.m.

Mr. Kelly moved to reconsider the last two motions passed by the committee. Motion carried.

Mr. Kelly moved to delete both motions previously passed and substitute: "There shall be a grand jury or grand juries in each parish whose qualifications, responsibilities, and duties shall be prescribed by law. The legislature shall further provide for the secrecy of the proceedings including the secrecy of the identity of witnesses appearing before the juries." Motion carried.

Mr. Bergeron read the minutes of May 26, 1973. Mr. Bel moved the minutes be adopted as corrected. Motion carried.

Mr. Landry moved: "A citizen of the state, upon reaching the age of majority shall be eligible to serve as a juror. The supreme court by rule shall provide for the selection and drawing of competent and intelligent jurors for the trial of civil and criminal cases."

Mr. Sandoz moved to amend Mr. Landry's motion to delete "competent and intelligent." Motion carried.

Mr. Landry's motion as amended carried.

Mr. Kelly moved to request the Legislative Liaison and Transitional Measures Committee to explore the possibility of creating an indigent defender system in Louisiana. Motion carried.

Mr. Burns moved to notify the Coordinating Committee that the Committee on Local and Parochial Government and the Judiciary Committee had acted inconsistently concerning the filling of vacancies for district attorney, sheriff, clerk of court, and coroners. Motion carried.

Mr. Avant moved: "No person shall be subjected to any forfeiture, imprisonment, or fine in excess of one hundred dollars without the right of an appeal based upon a complete record of all evidence upon which such judgment is based. This section does not limit the power of any court to punish a contempt in its presence as otherwise provided by this constitution."

Judge Tate moved to insert "or supervisory review" between "appeal" and "based."

Mr. Tobias offered a substitute motion stating all proceedings in all courts in Louisiana shall be recorded when requested. Motion carried.

Judge Tate moved that no new court shall be established except such as served by full-time judges with the qualifications of district judges. Motion carried.

Mr. Drew asked the committee to consider at the meeting of June 8, 1973, the use of the words "control of" in Section 5 of the Third Preliminary Draft of the committee.

Mr. Sandoz moved to adjourn.
Motion carried and the meeting adjourned at 5:00 p.m.

Chairman

Vice Chairman

Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice mailed by the Secretary of the Convention on June 4, 1973

Law Center, L. S. U., Baton Rouge, Louisiana. Friday, June 8, 1973, 9:30 a.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

PRESENT
Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Gauthier
Kelly
Kilbourne
Landry
Ourso
Sandoz
Tate
Tobias
Vesich
Willis

ABSENT
Drew
Martin

Judge Dennis read a letter from Mr. Tom Stagg, CC/73 delegate, expressing his views on the committee's nonbinding vote taken concerning the membership and selection of the Judiciary Commission. A copy of Mr. Stagg's letter is filed with the committee.

Judge Dennis also read a letter from Mr. Robert Aertker, Committee on Education and Welfare, concerning Article IV, Section 16. A copy of Mr. Aertker's letter is filed with the committee.

Secretary Bergeron read the minutes of June 1 and June 2, 1973.

Mr. Bel moved to adopt the minutes. Motion carried.

Mr. Kelly moved to reconsider Section 21 of the Fourth Preliminary Draft. Motion carried.

Judge Tate moved that the committee use the staff's outline of the courts as a ballot to determine the committee's views on action concerning courts in Louisiana. Motion carried.

Judge Dennis moved to delete the "A" alternative of the outline. Motion carried.

A copy of the vote is attached hereto and made a part of these minutes.

Mr. Stagg spoke to the committee concerning selection of the Judiciary Commission.

Mr. Sandoz moved to request the staff to draft a proposal whereby the creation of a parish court is to be voted on by the electors of a parish, and which would provide for the abolition of city courts and any other courts below that level. Motion carried.

2

Mr. Bel moved to increase the monetary jurisdiction of the first city court in Orleans from one thousand dollars to three thousand five hundred dollars, and give it complete jurisdiction on evictions. Motion failed.

Mr. Avant moved to request the staff to prepare a provision which would incorporate the action the committee took on the written ballot, the proposal offered by Mr. Sandoz on parish courts, the proposal offered by Mr. Bel on constitutional officers in Orleans Parish, and that the proposal be sent to the committee before the next meeting, and that it be the first order of business on June 15. Motion carried.

The committee recessed for lunch at 12:00 noon.

The committee reconvened at 1:45 p.m.

Mr. Avant moved to consider the staff's proposed section on judges' retirement.

Mr. Avant moved to adopt paragraph A. Motion carried.

Mr. Avant moved to adopt paragraph B, and insert "including the right to remain in office as judge during his present term," between "rights" and "provided" on line four.

Mr. Willis moved to amend Mr. Avant's motion to change "a" to "his" and omit "thereof" on line five of paragraph B. Motion carried.

Mr. Avant's motion as amended carried.

Mr. Tobias moved to consider paragraph D before paragraph C. Motion carried.

Mr. Sandoz moved to adopt paragraph D, Alternative One. After lengthy discussion, the committee asked Judge Luther Cole to appear and answer questions on judges' retirement

3

Mr. Avant offered a substitute motion, the adoption of paragraph D, Alternative Two.

Mr. Tobias moved to amend Mr. Avant's motion by changing "one-third" to "two-thirds" in subparagraph 3, and "one-third" to "two-thirds" in subparagraph 4, and "six percent" to "four percent" in subparagraph 6. Motion failed.
Mr. Willis moved to amend Mr. Avant's motion changing the age of unmarried children from "twenty-one" to "eighteen" in subparagraph 4. Motion carried.

Mr. Kelly moved for a roll call vote. The results of the roll call vote was as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Ayes</th>
<th>Nays</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avant</td>
<td>Deshotels</td>
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<td>Vesich</td>
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</table>

Mr. Avant's motion as amended carried.

Mr. Avant moved to adopt paragraph C. Motion carried.

Discussion began on Judiciary Staff Memorandum No. 21, Article IV, Section 16.

Mr. Deshotels moved: "The legislature may authorize the creation of trusts for any purpose; Substitutions are prohibited, except in trusts as provided by law; No law shall be passed abolishing forced heirship, but the legitime may be placed in trust to the extent authorized by the legislature; 4

An adopted child is a forced heir to the same extent as if born to the adopter and retains his rights as heir of his blood relatives, but his blood relatives lose their rights of inheritance from the adopted child." Motion carried.

The committee decided to meet Friday, June 15, and Saturday, June 16, 1973.

Mr. Burns moved to adjourn. Motion carried and the meeting adjourned at 5:00 p.m.

Secretary Bergeron called the roll.

Secretary Bergeron read the minutes of the meeting on June 8, 1973.

Mr. Tobias moved to lower case the letters following the semicolons in the last paragraph on page four, continuing on page five. Motion carried.

Mr. Landry moved to adopt the minutes as corrected. Motion carried.

Mr. Bel moved for the committee to begin discussion of the provision on jurisdiction in coastal waters, Article VI, Section 1(A-l) of the present constitution referred to the committee by the Coordinating Committee.

Mr. Kelly moved that the committee defer action on Article VI, Section 1(A-l) and requested the staff bring to the attention of the Bill of Rights Committee the problems in the provision.

Judge Dennis amended Mr. Kelly's motion to request the staff to draft a comprehensive proposal to apply to waters all over the state and to suggest to the Bill of Rights Committee to allow the legislature latitude. Motion carried.

Mr. Kelly's motion as amended carried.

The committee began discussion on the staff's proposed sections on merger, establishment, and abolition of courts and retaining the Orleans officials.

Mr. Deshotels moved the adoption of Paragraph (A) of the staff proposal. Motion carried.

Mr. Deshotels moved that Paragraph (B) state: "Notwithstanding any provision of Subsection (A) to the contrary, the legislature may, with the approval in a referendum in the parish affected, create in that parish a court to be called the 'Parish Court of _____ Parish.' The judge of a parish court shall possess the same qualifications as a district court judge and shall not practice law. All other courts of limited jurisdiction in the parish are simultaneously abolished."

Mr. Kelly moved to amend Mr. Deshotels' motion to include: "The term of the judges shall be six years."

Mr. Deshotels moved to add Subsection (C), stating:
"The parish court created under the provisions of Subsection (B) shall have jurisdiction limited to the trial of misdemeanors and three thousand five hundred dollars, exclusive of interest and costs."

Mr. Avant moved to amend Mr. Deshotels' motion to state: "The legislature may establish a parish court of jurisdiction limited to three thousand five hundred dollars and criminal jurisdiction not to exceed one thousand dollars and imprisonment not to exceed six months. When a parish court is created, other courts of limited jurisdiction are simultaneously abolished."

Judge Dennis relinquished the chair to Mr. Landry in order to submit a substitute motion.

Judge Dennis moved: "(A) The following are continued subject to abolition, merger, or realignment by two-thirds vote of each house of the legislature: the judicial districts, the district courts, the family court, juvenile courts, city courts, parish courts, municipal court, traffic court.

(B) The legislature by two-thirds vote of the elected members of each house, may create new courts."

Judge Tate moved to amend Judge Dennis' motion to delete "the district court" in Section (A). Motion carried.

Judge Dennis' motion failed 4-14.

Mr. Avant moved to have Mr. Deshotels' motion put in writing for the committee.

Mr. Deshotels amended Mr. Avant's motion to state that his written proposal be the first order of business after lunch. Amendment carried.

Mr. Avant's motion as amended carried.

Mr. Sandoz moved to begin discussion on the "Fourth Preliminary Draft." Motion carried.

Mr. Vesich moved the adoption of Section 1 of the draft. Motion carried.

Judge Tate moved to insert in Section 2 of the draft "a writ of habeas corpus," between the words "issue" and "all," and add a new sentence at the end: "The power of the courts to punish for contempt shall be limited by law."

Motion carried.

Section 2 was adopted as amended.

Mr. Sandoz moved the adoption of Section 3.

Mr. Tobias moved to amend Mr. Sandoz's motion to delete the words "seven judges" and insert "a chief justice and six associate justices." in Section 3. Motion carried.

Mr. Sandoz's motion as amended carried.

Mr. Burns moved the adoption of Section 4 of the draft. Motion carried.

Mr. Drew moved to delete the words "control of and" in Section 5 of the draft and have the first line read: "The supreme court shall have general..." Motion carried.

Mr. Avant moved to insert the word "other" in lieu of the word "inferior" in the first sentence of Section 5(A). Motion carried.

Judge Tate moved the adoption of Section 5(A) as amended. Motion carried.

The committee recessed for lunch at 12:05 p.m.

The committee reconvened at 1:30 p.m.

The committee adopted Section 5(B) of the "Fourth Preliminary Draft."

Mr. Avant moved to defer action on Section 5(C) until the committee had acted on Mr. Deshotels' motion. Motion carried.

Mr. Tobias moved the adoption of Section 5(D) of the draft. Motion carried.

Mr. Deshotels moved the adoption of his three-part proposal.

Mr. Bergeron moved to discuss each section of Mr. Deshotels' proposal separately. Motion carried.

Mr. Deshotels moved the adoption of Subsection (A) of his proposal.

Mr. Avant moved to amend Mr. Deshotels' motion to insert the word "trial" in lieu of the words "these courts or" in Subsection (A). Motion carried.

Mr. Willis moved to amend Mr. Deshotels' motion changing the word "create" to the word "establish" in Subsection (A). Motion carried.

Judge Tate moved to insert the words "merge trial courts of limited or specialized jurisdiction or" between the words "or" and "judicial" in Subsection (A). Motion carried.

Mr. Deshotels' motion to adopt Subsection (A) carried as amended.

Mr. Deshotels moved the adoption of Subsection (B) of his proposal.

Mr. Tobias moved to change the word "create" to "establish." Motion carried.

Mr. Avant moved as a substitute motion that Subsection (B) read: "Notwithstanding any provision of Subsection (A) to the contrary, the legislature may, with approval in a referendum in the parish affected, establish in that parish, a parish court, and other courts of limited jurisdiction may be simultaneously abolished. A judge of a parish court shall be elected, for a term which shall not exceed six years."

Mr. Kelly moved to amend Mr. Avant's substitute motion to state: "A judge of a parish court shall be elected for a term of six years." Motion carried.

Mr. Avant's substitute motion as amended carried.

Mr. Deshotels moved the adoption of Subsection (C) of his proposal.

Mr. Willis moved to amend Subsection (C), changing the word "created" to the word "established" and inserting the words "be uniform throughout the state and" between "shall" and "be."
Judge Tate moved as a substitute amendment to Subsection (C) to state: "When the legislature establishes a trial court of limited or specialized jurisdiction under Subsections (A) or (B), such courts shall have jurisdiction of uniform statewide limits as provided by law."

Mr. Landry moved to amend Judge Tate's motion adding: "The criminal jurisdiction of such courts shall be limited to the trial of misdemeanors." Amendment accepted.

Mr. Deshotels moved to amend the Tate amendment to delete the words "the legislature establishes" and insert between the words "jurisdiction" and "under" the words "is established." Amendment accepted.

Judge Tate moved the adoption of Subsection (C) as amended. Mr. Avant moved the words "or specialized" in Subsection (C) be deleted. Motion carried.

Judge Tate moved to revert to Subsection (A) of the Deshotels proposal. Motion carried without objection.

Mr. Kelly moved to revert to Subsection (C) of the Deshotels proposal. Motion carried without objection.

Mr. Kelly moved to reconsider everything done in Subsection (C). Motion carried without objection.

Mr. Deshotels moved the adoption of Subsection (C) of his proposal.

Mr. Willis moved to amend Mr. Deshotels' motion changing the word "created" to the word "established" and inserting the words "be uniform throughout the state and" between the words "shall" and "be" in Subsection (C). Motion carried.

Judge Tate moved as a substitute motion for Subsection (C) to state: "When a trial court of limited jurisdiction is established under Subsection (A) or (B), such courts shall have jurisdiction of uniform statewide limits as provided by law. The criminal jurisdiction of such courts shall be limited to trial of misdemeanors."

Judge Tate's substitute motion failed.

A roll call vote was requested and taken on Mr. Deshotels' motion:

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<thead>
<tr>
<th>YEAS</th>
<th>NAYS</th>
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<tbody>
<tr>
<td>Avant</td>
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</table>

Mr. Deshotels' motion as amended carried eleven to six.

Mr. Avant moved the adoption of Mr. Bel's proposal which would continue the officers in Orleans Parish which are presently provided for in Article VII, § 89.

Mr. Tobias moved to amend the proposal to include certain changes for style and drafting. Motion carried without objection.

Mr. Bel moved the adoption of the proposal as amended. Motion carried without objection.

Mr. Bergeron moved to revert to Section 5(C) of the "Fourth Preliminary Draft." Motion carried.

Mr. Avant moved to amend the first sentence of Section 5(C) to read: "In civil cases, an appeal to or review by the supreme court's jurisdiction extends to both law and facts; however, no finding of fact by the trial court shall be set aside or otherwise modified unless found to be manifestly erroneous and then, upon detailed written reason specifying with particularity, the evidentiary basis upon which such action is based and concurred in by five judges."

Mr. Kilbourne moved to amend Mr. Avant's motion to change "five judges" to "four judges." Mr. Avant accepted the amendment.

Mr. Avant's motion as amended failed.

Mr. Burns moved to adjourn until 9:30 a.m., June 16, 1973.

The motion carried and the meeting adjourned at 5:05 p.m.
Secretary Bergeron called the roll.

Discussion continued on the "Fourth Preliminary Draft of the Judiciary Article."

Mr. Tobias moved to delete the last sentence of Section 5(C). Motion carried.

Judge Tate moved to adopt Section 5(C) as amended. Carried without objection.

Section 5(D) was adopted without objection.

Mr. Deshotels moved to amend Section 5(E) by striking out the first line and the words "on any issue" of the second line and inserting in lieu thereof the words "Subject to the provisions of subsection (C): in the third line strike out the word "other", at the end of the line strike out the period ".", and insert in lieu thereof the words "any civil action properly before it."

Mr. Sandor moved to adopt Section 5(E) as amended. Motion carried without objection.

Mr. Landry moved to amend Section 6(A) to provide that the selection of the chief justice be by seniority. Motion carried.

Mr. Sandor moved to adopt Section 6(B). Motion carried without objection.

Mr. Landry moved the adoption of Section 7. Motion carried without objection.

Section 8 was adopted without objection.

Section 9 was adopted without objection.

Section 10(A) was adopted without objection.

Mr. Willis moved the adoption of Section 10(B). Motion carried without objection.

Section 11 was adopted without objection.

Mr. Landry moved to amend Section 12 to require that the chief judge be selected by seniority. Motion failed 8 to 8.

Mr. Kelly moved to reconsider Sections 6(A) and 12. Motion carried.

Mr. Kelly moved to amend Sections 6(A) and 12 to provide for the selection of the chief justice and chief judge by seniority, and to require that the successor to the offices be the judge oldest in point of service on the court below the age of 65.

Mr. Bergeron moved for a roll call vote. Motion carried.

The results of the roll call vote were:

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<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
<th>Abstentions</th>
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<tbody>
<tr>
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<tr>
<td>Tobias</td>
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</table>

Mr. Kelly's motion carried 11 to 5.

Mr. Bergeron moved the adoption of Section 13. Motion carried without objection.

Mr. Bergeron moved the adoption of Section 14. Motion carried without objection.

Mr. Deshotels moved to defer action on Section 15(A) until the staff could come up with an alternative to the section. Motion carried.

Mr. Willis delivered prepared remarks to the committee concerning the tenure of judges which are attached hereto and made a part hereof.

Mr. Willis moved to strike out all of Section 15(B) with the exception of the first line and the second sentence and in the second sentence change the word "lengthen" to the word "shorten".

A roll call vote was requested and ordered; the results were:

<table>
<thead>
<tr>
<th>Yeas</th>
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Mr. Willis' motion failed 11 to 7.

Mr. Avant moved to amend Section 15(B) by adding after the word "election" in the fourth line the words "and those in the judicial district where the state capitol is located".

Mr. Tobias moved to amend Mr. Avant's motion to read:

"The term of a district judge shall be twelve years. This provision shall not be construed to shorten the term for which any judge has been elected."

Mr. Bel moved for a roll call vote. Motion carried without objection. The results were as follows:

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<thead>
<tr>
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</thead>
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</table>

Mr. Tobias motion carried 9 to 8 with 1 abstention.

Mr. Willis asked to be allowed to change his vote to yeas, thereby making the final vote 10 yeas and 8 nays.

Mr. Avant moved to reconsider the vote by which Mr. Tobias' motion carried.
A roll call vote was requested and ordered on the motion to reconsider; the results were as follows:

<table>
<thead>
<tr>
<th>Year</th>
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<tbody>
<tr>
<td>Avant</td>
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</table>

Motion to reconsider carried 10 to 8.

Mr. Avant moved to withdraw his original motion. The chairman ruled that he could not as objection was urged.

Mr. Kelly moved for a ten-minute recess. Motion carried without objection and the committee recessed.

The committee resumed debate.

A roll call vote was requested and ordered on reconsideration of Mr. Tobias' amendment to Mr. Avant's motion. The results were as follows:

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<tr>
<th>Year (continued)</th>
<th>Nays (continued)</th>
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<tbody>
<tr>
<td>Tobias</td>
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</table>

Mr. Tobias' motion on reconsideration failed 10 to 8.

Mr. Avant withdrew his previous motion to amend Section 15 (B). Mr. Kilbourne moved to delete all of the first sentence of Section 15(B) with the exception of the first line and in the second sentence change the word "lengthen" to "shorten".

Mr. Bergeron offered a substitute motion to leave Section 15(B) as drafted.

Mr. Deshotels moved to amend the substitute motion to read as Mr. Kilbourne's motion.

Mr. Bergeron withdrew his motion.

Mr. Tobias moved to amend the main motion to leave Section 15(B) as drafted. A roll call vote was requested and ordered, the results were as follows:

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<thead>
<tr>
<th>Year</th>
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<tr>
<td>Tobias</td>
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Mr. Tobias' motion failed 10 to 8.

Mr. Tobias moved to amend the main motion to provide six-year terms for district judges, except in Orleans and Jefferson Parishes where they shall have twelve-year terms, and the proposition is not to be construed to lengthen any present terms.

A roll call vote was requested and ordered; the results were as follows:

<table>
<thead>
<tr>
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</table>

Mr. Tobias' motion failed 10 to 8.

Judge Tate offered a substitute motion to require the legislature to provide uniform statewide terms of not less than six nor more than twelve years, and until they act the terms as they presently are shall be retained.

A roll call vote was requested and ordered and the results were as follows:

<table>
<thead>
<tr>
<th>Year</th>
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<th>Absentions</th>
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</thead>
<tbody>
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</table>

Judge Tate's motion failed 10 to 7 with 1 abstention.

Mr. Vesich moved: All terms of district judges shall be six years. The present terms of judges are retained. By a vote of the legislature and a referendum of the people in the parish, in any parish where the judges have terms in excess of six years, they may be reduced to not less than six years.

A roll call vote was requested and ordered; the results were as follows:

<table>
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<tr>
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Mr. Vesich's motion carried 10 to 8.

The committee recessed for lunch at 1:00 p.m. and reconvened at 2:15 p.m.

Debate continued on the "Fourth Preliminary Draft of the Judiciary Article".

Mr. Avant moved the adoption of Section 17.

Mr. Tobias moved to amend the motion to delete the word "multi-judge". Amendment accepted.

Mr. Avant's motion as amended carried without objection.

Mr. Sandoz moved to adopt Section 18. Motion carried without objection.

Section 19 was adopted without objection.

Section 20(A) was adopted without objection.

Mr. Sandoz moved to adopt Section "20 alternative".
Mr. Avant moved to amend the Sandoz motion to allow the supreme court to appoint more than one person to fill a vacancy. Amendment accepted.

Mr. Sandoz's motion as amended failed.

-8-

Mr. Landry moved to adopt Section 20(B). Motion carried without objection.

Mr. Kilbourne moved to reconsider Section 15(B).

A roll call vote was requested and ordered; the results were as follows:

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
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</table>

Mr. Kilbourne's motion to reconsider Section 15(B) failed 9 to 8.

Mr. Deshotels moved the adoption of Section 15(A) on the "special sheet" prepared by the staff.

Mr. Avant moved to amend the motion to add the words "the civil and criminal districts" after the words "district courts" in the first line, and in the sixth line after the words "judicial districts" add the words "or may merge a criminal and a civil district court in a parish". The amendment was accepted.

Mr. Deshotels' motion as amended carried.

Mr. Avant moved that in Section 16 in the second line strike out the words "or by law" and in the first line after the word "provided" insert the words "or authorized" and in the fourth line after the word "jurisdiction" strike out the word "in" and insert in lieu thereof the words "of all felony cases and". Motion carried.

Section 16 as amended carried without objection.

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Mr. Landry moved the adoption of Section 19 on the "special sheet". Motion carried without objection.

Mr. Bergeron moved the adoption of Section 20(A) on the "special sheet". Motion carried without objection.

Section 20(B) on the "special sheet" was adopted without objection.

Mr. Vesich moved to reconsider Section 16. Motion carried.

Mr. Vesich moved to add to Section 16 a "(B)" section to provide that a civil district court and criminal district court shall have the jurisdiction provided in subsection (A), respectively.

Mr. Avant moved the adoption of Section 21 as amended at the committee meeting on June 8, 1973.

Mr. Willis moved to change "one-third" to "two-thirds" in Section (D). Motion carried without objection.

Mr. Avant's motion as amended carried without objection.

Mr. Landry moved to amend Section 22 at the beginning of line two by striking out the word "or" and after the word "court" insert the words "or parish court" and on line four after the word "district" insert the words "or parish". Motion carried without objection.

Judge Tate moved to strike out the word "resided" in line four of Section 22 and insert in lieu thereof the words "domiciled". Motion carried without objection.

Section 22 as amended was adopted without objection.

Mr. Avant moved to adopt Section 23. Motion carried without objection.

Section 24 was adopted without objection.

Mr. Vesich moved to adopt Section 26(A) and to delete Section 26(B).

-10-

Mr. Avant moved to insert in line three of Section 26(A) (A) after the word "parish" the words "except as otherwise provided by this constitution". Motion carried without objection.

Mr. Vesich's motion as amended carried without objection.

Mr. Burns moved to adopt Section 27. Motion carried without objection.

Sheriff Orso moved to adopt Section 28. Motion carried without objection.

Mr. Kelly moved to adopt Section 29(A) and delete Section 29(B). Motion carried without objection.

Section 29(C) was adopted without objection.

Section 30 was adopted without objection.

Section 31 was adopted without objection.

Mr. Deshotels moved the adoption of Section 32.

Mr. Bel moved to amend the motion to insert in the proposal that the officers in Orleans Parish retained in the constitution be provided for insofar as their terms compensation and retirement benefits be reduced. Amendment accepted.

Mr. Deshotels' motion as amended carried without objection.

Mr. Bergeron moved to adopt Section 33. Motion carried without objection.

Mr. Landry moved to adopt Section 34 as per staff amendments. Motion carried without objection.

The Section prepared by the staff concerning continuing mayors' courts and justices of the peace was adopted without objection.

Mr. Tobias moved to adopt the provision requiring all courts to record all proceedings when requested. Motion carried without objection.

Judge Dennis read a letter from some of the judges in Orleans Parish concerning Justice Summers' remarks at a previous committee meeting.

Mr. Avant moved that the proposal as voted on be introduced on July 5, 1973, subject only to technical changes.

The meeting adjourned at 5:20 p.m.
TENURE OF LOUISIANA DISTRICT JUDGES

By virtue of the authority vested in me as a Delegate, I invoke Rule 30 of our Convention for whatever part of 15 minutes I need to precisely speak on this question of tenure for District Judges and, by virtue of being a citizen of Louisiana, I should hope you would, by unanimous consent, allow me more time, if necessary. I will yield to no questions during the interim or until I am done.

We have unanimously decided that the selection of our judges shall be by election; and, I think properly so. We have tentatively decided that the tenure of our district judges shall be for 6 years, except--with cute statistics--those of two of our 64 parishes. The only arguments advanced for this disparity is that campaign cost more in a "metropolitan area". That is no reason; it is a poor excuse.

I own and hold the view that this unconvincing argument should be more mature and must most certainly discommodate a man of good judgment. Such an argument fertilizes my imagination. It does not besmirch my good judgment, it does not convince me. It does not confuse me. It may capture the impressionable mind of the youth, of the unknowledgeable, of the thoughtless, of the inexperienced or of the unimpressionable mind of those locked and bound for some reason or other. It could only be a poor argument to appoint judges by the mule-headed plan of eggheads from the show me state.

Campaign costs were tallied during the testimony we heard, but we were only partially told from where, to whom or from whom the costs were raised and were not told whether or why these movements were all that well-advised. Anyone capable of putting at least two ideas together can understand the necessity of putting this information on the scales to test how lightweight the argument is.

The argument that, because campaign costs are higher in a "metropolitan area", the terms of district judges should be double that of other areas is pigmy. Dissect the argument and you will immediately see it only biases our district judges unequally, unjustly and unnecessarily.

We are told that history recommends the retention of this disparity. I tell you that we should not be happy with this bad habit of ancient form. Substitution from the bad to the good is the solution of, by, for, to and with the best. If legal history teaches us anything, it is that adherence to the unequal for the equal is judicious and the courtship of its self-destruction.

It is good time for that area on both sides of the crescent of the river of water, as it meanders through our State, to perish the thought of the lost cause of executive, legislative and judicial succession by way of exceptions and to think of resigning the State of Louisiana, just as sure as "[united we stand; divided we fall]": equality unites and inequality divides.

Must we rob the transitory present to embrace the bitterness of the past and ignore the sweetness of the future? Should we set the terms by the campaign expenses or population of districts? Why keep the watergates opened? What would that encourage? Where is foresight? Graceto you, gentlemen, and logic to Louisiana! Why is this argument not available to all other less-man-state-wide elected officials in a "metropolitan area" including appellate judges and Supreme Court justices and representatives and senators and lower-level executive and legislative and judicial officials? Should not our three branches of government be co-equal?

We are dedicated to remove the blemishes and dead wood from our Constitution. The time is ripe for this Committee to remove that speck of imperfection regarding the terms of district judges all over Louisiana.

There is no Commandment saying. Thou shalt not think or learn the difference between right and wrong or truth and falsity or beauty and ugliness.

Give me leave to ask us to ask ourselves if the continuous repetition of wrong makes it right. Simultaneously with that, reflect upon the still-sterling McNaughton Rule [10 Clark & Fim. 200, 9 Eng. Rep. 718 (1843)] and what it means not to know the difference between right and wrong, then contemplate on the echo of this continuous repetition of a wrong. There is no gifted insanity. Also, please ponder the insight of Kant that truth and beauty are synonymous.

It is a fraud on my feelings to be proposed that a "metropolitan judge" is worth twice another judge. That proposal dishonors honor to me. It is a phantom of justice and abolishes feelings which God has planted in my heart. God and good sense decrees that injustice--especially to those who dispense justice--may never be justice. To maintain that it may is as rewarding as the attempt to square the circle and as productive as infertility.

If we are to frame the wisest system of justice and especially for those who dispense it, it must not be in bondage or in the frenzy of distempered ambition. We must not travel this Constitution back for such or any soiled gain. It must be in the beautiful atmosphere of righteousness and verity. So, let us come near to each other and have proper understanding.

To do otherwise is to embark on a Titanic with bricks for life preservers, sails for lifeboats, arsenic for food and the salty sea for water. We might as well turn our Constitution adrift upon the turbulent ocean of injustice regarding those who dispense its opposite. Today we launch. Where shall we land?

The chart we use will tell. The Charter we write will give us an inkling. The articles we sign had better endure the entire cruise. I hope that when we reach our destination and anchor our judicial ship, it will be in deep-enough waters that the ebbing tide will not set us aground and that when we weigh anchor for home, our rudder will be sturdy enough and our helmsman steady enough and our captain courageous enough to steer a straight course.

Let us make all abatement we can to all of our district judges by employing the little time which remains to us in endeavoring to undeceive ourselves and balance the scale, which is the symbol of my profession, by making each district judge as ponderous as the other.

I know your devotion to justice is generous and I know you will contribute to it generously. Our reverence to justice demands it; otherwise, we poison the very principle of justice by which we are acculturated and allow it to lose its proper definition. Be not impatient to sacrifice justice for judges. Patience has never lied to
its master. Wrong has never prevailed over right. Equal judges should have equal terms. That is the best emancipation of our judiciary and a noble enterprise. We should have a printed plan regarding our judiciary which is plain and particular and without exception.

I am anxious to suppose that disparity in the term of equal judges will have a brief sojourn in all fair minds. To consign our district judges to this disparity is the consignment of and by the unwise for the wise. I cannot bow in silence to meet the fate that awaits the injustice as her consigned. To do so would be cowardly.

I know all of you have had a virtuous education which has planted justice in your bosoms and are capable of listening and understanding the voice of reason, if not from me, from your God, when you censure the matter in your wisdom so that you might the better judge. But, I cannot imagine that your minds are so bound as to receive no impression from what I say, because I hope that what I have to say will alter the Committee's thus far unbinding determination by which I cannot abide. I say it to rescue justice, which is more dear to me than gold and silver and more precious than pompous power.

The work of this Committee will die on the last day of this year, but its memory will live, on record, even after our existence is abridged. I seize upon this opportunity to remind us all of that fact, so that we do propose a paragon for our Constitution which will not only be acceptable to us but also to our people, the best depository of power in a true republic, and to our posterity, so that it is not chocked again with continual amendments.

You are telling our district judges that most of them must fly our State flag at half-mast or stop half of a mast. You are telling me to address the pleasure of most of them by their "half-honor" or that they be half-pleased because they are half-judges. Imagine my having to say, "May it half-please your honor", or "May it please your half-honor"! That dehumanizes me! Let us give our district judges due process in this matter and upgrade them to their just dimension, thus giving all of them equal protection of the law.

I have heard, to my great astonishment, "gentlemen's agreement" used as catch words or a camouflaged vehicle for support for unequal terms for equal judges. Give me leave to tersely tell you what I think of that. Such an agreement is a nullum pactum, contra bonus moras, and too ugly to be so commoned. No real man, with backbone, could make such a nullum pactum and,

if he would, he is other than gentle or genteel to himself, the other party or to the public at large. Such a pact is not valid--neither binding nor enforceable--because it cannot be confected in good faith and can only result in disenchantment to the always-vacillating participants sooner or later and mostly sooner.

I lay no such imputations against any member of this Committee or Convention. I warrant and boldly proclaim by the spirit which prompts me that no member is venal and that each is of good faith and that each member will search his soul and vote his sincere conscience and best judgment, unfettered by any one of the seven deadly sins. I further warrant that each member will vote equally for all of Louisiana and for all Louisianians, which include our district judges.

I do not wish to awaken any remorse in any of you, except as may be salutary to you, to our State, and to our district judges.

I am not unalterably against more than 6-year terms for district judges. I am for any district judge having 12-year terms, if he qualifies at the beginning and during the middle of his term. In fact, I am for life terms for district judges, if they qualify every 6 years. What I am unalterably against is injustice or unequal terms for equal judges, regardless of the length of the term for the sole and pitiful excuse that campaigns are costly. I prefer 6 years to give the people appropriate accountability. Very few good judges have had serious opposition. Less than the amount were unsuccessful at election time. Those very few who were defeated did not pass the test of their own peers. A good judge has nothing to worry about. A no-good judge should worry.

If we give credibility to the testimony and statistics supplied this Committee, the so-called "metropolitan judges" get more money, more time off, plus more years between elections and, thus, less worry about campaign costs, less work and less accountability to the people. That to which we must give

credibility is the quantity and quality of witnesses who testified that equal judges should have equal terms.

The remedy for "metropolitan areas", and there are more than one in Louisiana, if and when there is need, is more judges, not more years to their terms of office or more-divided or more-fragmented courts.

The remedy for high campaign costs is either not running at all or, if a lawyer decides to run or a judge to requalify, the possession of the best qualification, a pledge to judge, if elected ("no brag, just facts"), and better financial judgment to make these known--not 12 years in office. I question the judgment of a judge who runs and spends more money than his salary to campaign or get elected. I would wonder about a judge who wins simply because he promised more than judging or he received (before or after election) or spent more money in his campaign than his opponent. I would think the Legislature should think upon this and give us the remedies. That is the tune of justice.

And, in tune with a well-known prayer, I pray that I possess the serenity to accept which I cannot change, the courage to change that which I can, and, most importantly, the wisdom to know the difference.

One of the many verities of William Shakespeare is found in the fifth act of "Measure for Measure":

"Truth is truth to the end of reckoning."

I have one final request. Do not asperse my motives. Assign them as for the perpetual prosperity and glory of justice in Louisiana. Recount them as accused by what I believe to be right and true and with the sincerity that I would repeat what I said to anyone, anywhere, anytime, because I mean what I said and I said what I meant.

To facilitate this and prevent misunderstanding or misquotation, I record this transcript of my remarks with the permanent records of this Committee on the judiciary on this 16th day of June, 1973.
I thank you for your courteous attention.
I now yield to pertinent questions.

J. BURTON WILLIS
Delegated-District 46
Louisiana Constitutional Convention of 1973
422 South Main Street
St. Martinville, Louisiana

MINUTES
Minutes of the Judiciary Committee
of the Constitutional Convention of
1973
Held pursuant to notice by Secretary
Committee Room One, State Capitol
Baton Rouge, Louisiana, Wednesday,
July 18, 1973, 9:00 a.m.

Presiding: Judge James L. Dennis, Chairman of the
Judiciary Committee

Secretary Bergeron called the roll.

PRESENT
Avant
Bel
Bergeron
Dennis
Deshotels
Drew
Gauthier
Kilbourne
Landry
Martin
Ours
Sandoz
Tate
Tobias
Veitch
Willis

ABSENT
Burns
Kelly

Judge Dennis called the meeting to order and introduced
the speaker, Judge Frank J. Shea from Section G, Criminal
Court, New Orleans, who indicated ultimate merger of courts.

Mr. Harry McCall, a New Orleans attorney and President
Elect for the New Orleans Bar Association, appearing individ-
ually and at the request of judges of the Civil District
Courts of New Orleans, addressed the committee requesting
consideration be given to retention of the operation of Civil
District Courts in New Orleans.

Mr. Frederick J. Gisevius, past president of the Trial
Attorneys' Bar Association, stated he was against the merger
of the courts in Orleans Parish due to specialization by many
judges in either criminal or civil law.

Chairman Dennis requested the members take the minutes
of the previous meetings home to read so they may be approved
at the next meeting.

There being no further business, the meeting was adjourned
at 12:00 noon.

James L. Dennis, Chairman
Ambrose Landry, Vice Chairman
Philip G. Bergeron, Secretary

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MINUTES
Minutes of the Judiciary Committee
of the Constitutional Convention of 1973
Held pursuant to notice by the Secretary
of the Convention.
Committee Room One, State Capitol
Baton Rouge, Louisiana, Thursday,
July 19, 1973, 9:00 a.m.

Presiding: Judge James L. Dennis, Chairman of the
Judiciary Committee

Roll was called.

PRESENT
Avant
Bel
Bergeron
Dennis
Deshotels
Drew
Gauthier
Kilbourne
Landry
Martin
Ours
Sandoz
Tate
Tobias
Veitch
Willis

ABSENT
Burns
Kelly

Chairman Dennis called the meeting to order. Roll
was called and a quorum present.

The chairman introduced Captain Robert Shanks from
New Orleans, who directed his remarks to the section in
the constitution pertaining to forced heirship.

Judges Charles Gaudin and Wallace LeBrun from the
Twenty-fourth Judicial District spoke to the committee on
reconsideration of the six-year term for Jefferson Parish
and include it in the twelve-year term.

Mr. Charles Dupuy, representing the South Central
Bell Telephone Company, stated his company's position is
it feels its appeals from the decisions by the Public Service
Commission as it is now written should not be changed.

Chairman Dennis introduced the Committee Proposal on
Forced Heirship. Mr. Landry moved that the committee re-
commend to the Legislative Department Committee that they
introduce it as a proposal in the convention. Adopted.
There being no further business the meeting adjourned at 11:30 a.m.

James L. Dennis, Chairman

Ambroise Landry, Vice Chairman

Philip O. Bergeron, Secretary

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice
Committee Room One, State Capitol, Baton Rouge, La.
Wednesday, July 25, 1973
5:00 p.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee
Secretary Bergeron called the roll.

Present:  Avant
          Bergeron
          Burns
          Dennis
          Deshotel
          Drew
          Kelly
          Kilbourne

Absent: Bel
         Gauthier
         Sandoz

Chairman Dennis called the meeting to order.
Secretary Bergeron called the roll. A quorum was present.

Guest speaker Chief Justice Sanders, Louisiana Supreme Court, spoke on the unification of the trial courts. A copy of his speech is attached hereto.

William A. Culpepper, Judge of the Third Circuit Court of Appeals, appeared as Chairman of the Judiciary Commission of Louisiana.

Paul B. Landry, Jr., Judge of the First Circuit Court of Appeals, also appeared.

Professor Leon Hebert, former Chairman of the Committee on Professional Responsibility for the Louisiana State Bar Association, spoke to the committee concerning the retention of Section 4-F, Article IX, in the present Constitution.

Meeting adjourned at 7:15 p.m.

James L. Dennis, Chairman

Ambroise Landry, Vice Chairman

Philip O. Bergeron, Secretary

PRESENTATION OF CHIEF JUSTICE JOE W. SANDERS TO THE JUDICIARY COMMITTEE OF THE LOUISIANA CONSTITUTIONAL CONVENTION ON JULY 25, 1973 AT 5 P.M., IN COMMITTEE ROOM 1, STATE CAPITOL, BATON ROUGE, LA.

Judge Dennis and Members of the Committee:

I appreciate this second opportunity to appear before you for the purpose of expressing my views on the judicial article. In my first appearance, on March 23, I discussed with you eight major points of court organization. Since then, you have prepared and filed with the convention a proposed article, providing for the judicial branch of government.

I have reviewed the proposal and called a number of drafting problems to the attention of the staff of the Committee. Today, I would like to center your attention upon the provisions for unifying the trial courts. Unification has been an objective of agencies concerned with the improvement of justice since Roscoe Pound's famous address to the American Bar Association in 1906. In 1961, in a study sponsored by the Louisiana State Bar Association, the National Council on Crime and Delinquency recommended court unification by merging family and juvenile courts into a specialized division of the district court. 1 In 1972, court unification in our state was again recommended by the Institute of Judicial Administration in its statewide court study commissioned by the Chief Justice of Louisiana. 2 In May of this year, the American Judicature Society completed a study of our trial courts of limited jurisdiction and likewise recommended that city, family and juvenile courts be merged into the district courts. 3

Your work draft, as I construe it, leaves all trial courts--district, juvenile, family, and city--as they are now. Provision is made for future unification upon the enactment of legislation approved by a majority of the elected members of both houses, accompanied by approval in a referendum election in the area affected.

Although well-intended, the procedure for unification is cumbersome and defers the problem for future handling on a piecemeal basis. It also violates a general objective of the Constitutional
Convention, that of reducing the number of items on which the people are required to vote.

I think it would be far better to face the problem of unification now. It seems to me that there are three alternatives: (1) A three-tier court system: supreme court, court of appeal, and district court, with the city, family and juvenile courts merged into the district court; (2) A four-tier court system: supreme court, court of appeal, district court, and parish court; and (3) An intermediate approach: a constitutionally created three-tier court system—supreme court, court of appeal and district court—with authorization for the legislature to create a parish court where and when needed. Because of its long and unique history in a special court structure, Orleans Parish could well be excepted from strict unification.

-3-

Of these alternatives, I am of the opinion that Number 3, the intermediate approach, is the most reasonable at this time and should be seriously considered.

With this approach, the Constitution would create only one court at the trial level, the district court of general jurisdiction. Into it would be merged the present judges of city and local courts, separate juvenile courts, and family courts. These courts of special and limited jurisdiction would cease to exist.

The district court would have divisions established by court rule, thus providing maximum flexibility. For example, the court rule might well provide for the following divisions: criminal, civil, family, traffic, and small claims.

The present juvenile and family court judges would staff the family division. They would continue to have a specialized staff of probation officers and counsellors to prevent marriage break-up and rehabilitate children.

The traffic and small claims divisions would, of course, be authorized to hold hearings at various places in the parish as needed, utilizing when possible the courtroom facilities of the present city courts.

The judicial article would authorize the legislature to create parish courts of uniform limited jurisdiction to serve parish-wide when and where needed under the new court structure. Hopefully, in most parishes, the enlarged district court will provide adequate service and the parish court will not be needed.

Although court reorganization is always difficult and requires a tedious process of practical detail, I believe we should undertake it. This may be our last chance for another half century. I place the matter before you for consideration.

I shall, of course, be happy to answer any questions that you may have.

-5-

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice

Room 206, State Capitol

Baton Rouge, Louisiana

Thursday, July 26, 1973

9:00 a.m.

Present: Judge James L. Dennis, Chairman of the Judiciary Committee

Secretary Bergeron called the roll.

Present

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Chairman Dennis called the meeting to order.

Roll was called and a quorum present.

Dr. George Pugh, Professor at Louisiana State University School of Law, spoke concerning a uniform integrated court system.

The meeting adjourned at 11:00 a.m.

James L. Dennis, Chairman

Ambrose Landry, Vice Chairman

Philip O. Bergeron, Secretary

[270]
Mr. Tobias offered an amendment to Section 3:
On page 1, line 24 in the title, after the word "Court," delete remainder of line and insert "Composition: Judgments: Terms"

There being no objections, amendment was adopted.

Mr. Tobias offered an amendment to Section 5(A) as follows:
On page 2, line 8, after the word "over" and before the word "all", insert the following: "and control of"

The amendment failed. Mr. Avant moved to reconsider the matter. Mr. Kilbourne seconded the motion and asked for a roll call vote:

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The amendment failed 12 to 1 with 1 abstention and 1 absent.

Chairman Dennis moved: On line 10, page 2, immediately after the words "assign a" and before the word "judge" delete the words "sitting or retired" and insert in lieu thereof the following:

"retired judge, with his permission or a sitting"

The roll call vote was as follows:

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The amendment failed with 8 nays to 5 yeas and 2 absent.

Mr. Deshotels presented an amendment to Section 5, line 10:
"At the end of the line, remove the word "another" and insert in lieu thereof the word "any"

Without objection amendment passed.

Mr. Tobias' amendment:
On page 2, line 20, after the word "law" insert the words "or ordinance"

was passed by roll call vote as follows:

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Mr. Landry offered an amendment to Section 6(A), line 2, page 4, line 32, immediately after the words "age of" and before the word "years" strike out the word "sixty-five" and insert in
lue thereof the word "sixty-seven". The amendment was de-
defeated by roll call vote:

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Defeated 11 to 3 with 1 absent.

Chairman Dennis moved to insert on page 2, line 32, the following:

"A member of the court may refuse the office of chief justice or resign from the office without resigning from the court."

The amendment was defeated.

An amendment by Chairman Dennis to Section 6(B), page 3, lines 2 and 3, delete the words "subject to rules adopted by the court." failed.

Meeting adjourned at 12:00 Noon.

James L. Dennis, Chairman

Amroise Landry, Vice Chairman

Philip O. Bergeron, Secretary

Page 5

COMMITTEE AMENDMENT Exhibit "A"

Amendment 8 proposed by Committee on the Judiciary to Committee Proposal No. 6

by Delegate Dennis, et al.

Amend printed proposal as follows.

AMENDMENT NO. 1

On page 4, delete lines 27 through 32, in their entirety and insert in lieu thereof the following:

"Section 15. Courts; Continued; Judicial District Changes; Terms
Section 15(A) The district, parish, city, family, and juvenile courts existing at the time of the adoption of this constitution are retained. Except as provided in Section 37 of this Article, the legislature may establish, abolish, or merge trial courts of limited juris-
diction subject to the limitations in Sections 16 and 23 of this Article.
(B) The judicial districts existing at the time of the adoption of this constitution are retained. The legislature, by a majority vote of the elected members of each house, with approval in a referendum in each district or parish affected, may establish or merge judicial districts, subject to the limitations of Section 23 of this Article."

AMENDMENT NO. 2

On page 5, delete lines 1 through 4 in their entirety

AMENDMENT NO. 3

On page 5, line 5, at the beginning of the line change "(B)" to "(C)"

AMENDMENT NO. 4

On page 6, delete lines 2 through 24 in their entirety

AMENDMENT NO. 5

On page 13, delete lines 18 through 31, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 37. Orleans Parish, Courts, Officials; Continued
Section 37. Notwithstanding any provision of this Article to the contrary, the following courts and officers in Orleans Parish are continued, subject to change by a majority vote of the elected members of each house of the legislature and by approval in a referendum in the parish: the civil and criminal district courts, the city, municipal, traffic and juvenile courts, the clerks of the civil and criminal district courts, the civil and criminal sheriffs, the constables and the clerks of the first and second city courts, the register of conveyances, and the recorders of mort-
gages. These officers shall be elected for four-year terms with such duties and powers as provided by the legislature and terms of office, retirement benefits, or compensation shall not be reduced during their terms of office."

2

MINUTES

Minutes of the Judiciary Committee
of the Constitutional Convention
of 1973

Held pursuant to notice
Committee Room No. 1, State
Capitol, Baton Rouge, Louisiana
Thursday, August 2, 1973, 9:30 a.m.

Presiding: Judge James Dennis, Chairman of the Judiciary
Committee

Roll Call:

Present
Avant
Bel
Bergeron
Burns
Drew
Gauthier
Kelly
Kilbourne
Landry
Martin
Sandoz
Tate
Tobias
Vesich
Willis

Absent
Deshotels
Ourso

Chairman Dennis called the meeting to order. Roll was
called and a quorum was present.

Mr. Avant offered the amendment to page 6, lines 31 and
32, which the subcommittee of Messrs. Tate, Drew, Kelly and
Avant were appointed to consider:

"Section 22. No person shall be subjected to imprisonment or fine nor suffer forfeiture without
a right of review based upon the complete transcript of
all evidence upon which such judgment is based."

Mr. Drew proposed an amendment to the amendment to include
after the word "forfeiture" and before the word "without" the
words "in any court."

There was no objection to Mr. Drew's amendment to the
amendment.

The Chairman asked the subcommittee if they would recon-
sider the amendment. It was decided that they would not.

Mr. Tobias proposed a substitute motion that chairman
create another subcommittee to reconsider the amendment for
one week.
Substitute motion carried 10 to 3.

The chairman appointed Messrs. Tobias, Tate, Landry, Bergeron and himself to the subcommittee adding that anyone who desired could attend the meeting.

Mr. Bel proposed an amendment to Section 19.

On page 6, between lines 10 and 11, insert the following:

"The city courts of New Orleans shall have exclusive original jurisdiction in all cases where the amount in dispute or fund to be distributed does not exceed one thousand dollars,

Page 2

exclusive of interest, including suits for the ownership or possession of movable pro-

erty not exceeding that amount in value, and including suits by landlords for posses-

sion of leased premises when the monthly rent does not exceed three hundred dollars.

It has concurrent jurisdiction with the civil district court for the parish of

Orleans in all cases except divorce, alimony, titles to real estate and probate matters, when the amount in dispute or fund to be distributed exceeds one thousand dollars, but does not exceed two thousand five hun-

dred dollars, exclusive of interest, attorneys' fees, and penalties, including suits for the ownership or possession of movable property not exceeding one thousand dollars in value."

The amendment was defeated 5 to 4.

Mr. Tobias proposed amendments on page 3, line 4, to capitalize the word "court" and change the word "Clerk" to "Clerks".

Without objection the amendments were adopted.

Chairman Dennis proposed amendments Section 7:

Page 3, line 8, at the end of the line delete the period "." and insert in lieu thereof the following: "and compensation.";

and on page 4, line 22, at the end of the line delete the period "." and insert in lieu thereof the following: "and compensation."

Both amendments were adopted without objection.

Chairman Dennis proposed amendments to Section 10:

Page 3, line 32, immediately after the word "prosecutions" insert a period "." and delete the remainder of the line; and on page 4, line 1, at the beginning of the line delete the word "juveniles" and delete the period "."

They were defeated 10 to 1.

Page 3

The meeting adjourned at 12:15 p.m.

James L. Dennis, Chairman

Ambrose Landry, Vice Chairman

Philip O. Bergeron, Secretary
on line 13. Then pick up the deleted paragraph again in Section 37.

Without objection the amendment was adopted.

Chairman Dennis proposed:

On page 7, line 2, at the end of the line add a semicolon ";" and the words "nongovernmental Functions, Prohibited"
The amendment failed by tie vote 6 to 6.

Mr. Tobias called for reconsideration of the vote.
The reconsideration failed 8 to 5.

Chairman Dennis moved:

On page 7, line 29, immediately after the word "except" delete remainder of line and insert the following:

"...a sitting judge who has attained the age of seventy years at the time of the adoption of this constitution or who will attain that age before the expiration of his present term may remain in office until his seventy-fifth birthday."

Mr. Avant offered substitute motion:

On page 8, line 2, following the word "term" and before the word "provided" delete the comma ",," and insert the word "as"

Substitute motion adopted without objection.

Mr. Tobias proposed:

On page 7, line 12, delete the words "the day"

and insert in lieu thereof "the date on which"

Adopted.

Chairman Dennis proposed:

On page 6, line 14, immediately after the word "be" and before the word "en" insert the words "vested with and"

Adopted.

Mr. Tobias moved to add

on page 9, line 23, and on page 11, line 12, after the word "law" and before "for" the words "in this state."

Adopted.

Chairman Dennis moved to adopt on page 10, between lines 31 and 32, insert the following:

"(F) Action against a judge under this Section shall not preclude disciplinary action against his practice of law."

Adopted.

Mr. Bell introduced an amendment:

On page 13, between lines 31 and 32, insert the following:

"Section 37(a). City Marshals: Continued Section 37(a). The office of city marshal is continued, subject to change by a majority vote of the elected members of each house of the legislature and by approval in a referendum in the area affected."

Mr. Bergeron sent word he would like to be heard on this amendment. It was decided to hold up temporarily.

Mr. Vealich offered amendment:

On page 13, between lines 31 and 32, insert the following:

"A judge of the juvenile court of Orleans Parish shall have practiced law in their state for not less than five years previous to his election and shall have resided in the Orleans Parish for at least two years immediately preceding his election."

It was decided to withdraw this amendment temporarily.

Chairman Dennis proposed:

On page 14, delete lines 1 through 3, and insert:

"Section 38. The supreme court by rule shall provide for the qualification and selection of jurors."

Mr. Willis questioned on page 13, line 32, the word "Selection"

Chairman Dennis asked committee to pass over and requested staff to work on this section.

Mr. Willis recommended Section 38 read:

"All electors are eligible to serve as jurors."

Mr. Oursso moved:

On page 13, line 32, delete the word "Selection" and on page 14, at the end of line 2, delete "The supreme court" and delete line 3 in its entirety.

Motion adopted.

Mr. Tobias moved:

On page 7, line 18, change word "all" to "a" and on page 25, after the word "year" and before the word "the" insert the words "in which"

Adopted.

Mr. Tobias proposed:

On page 8, line 4, delete the word "thereof"

Adopted.

Page 5

Mr. Tobias moved:

On page 9, line 27, in place of "Membership" insert the word "Composition"

Adopted.

Mr. Tobias also moved:

On page 11, line 10, after the phrase "Section 29." add "(A)", and on line 20, before "in" add "in"

Adopted.

Mr. Bell introduced amendment adding new Section 40:

On page 14, line 11, add the following:

"Section 40. Fees: Orleans Parish Section 40. The judges of the civil district court and the city courts of Orleans Parish shall set the fees for civil cases filed in their respective courts."

Adopted.

Mr. Landry moved:

On page 4, delete lines 27 through 32, both inclusive, in their entirety and delete the committee amendment approved thereto on July 27, 1973, and insert in lieu thereof the following:

"Section 15. Courts; Continued; Jurisdiction; Judicial District Changes; Terms Section 15(A). The district, parish, city, family, and juvenile courts existing at the time of the adoption of this constitution are retained. Except as provided in Section 37 of this Article, the legislature may abolish or merge trial courts of limited jurisdiction subject to the limitations in Sections 16 and 23 of this Article. Except as provided in Section 37 of this Article, the legislature may establish trial courts of limited jurisdiction which shall be uniform throughout the state.
(B) The judicial districts existing at the
time of the adoption of this constitution are
retained. The legislature, by a majority vote
of the elected members of each house, with
approval in a referendum in each district or
parish affected, may establish or merge judi-
cial districts, subject to the limitations of
Section 23 of this Article."

Adopted.

Mr. Tobias moved to adjourn until further notice.

There being no objection, the meeting adjourned at 12:00 noon.

Page 6

Mr. Drew moved to table amendment.

Motion to table carried.

Judge Tate moved:

On page 5, between lines 26 and 27, insert the
following:

"(B) A district court shall have
appellate jurisdiction as provided
by law.

Adopted.

Judge Tate moved:

On page 3, line 29, after partial word
"tution" delete comma "," and insert
"or by law"

The amendment failed by roll call vote of 10 nays and 5 yea:

Yea

Nays

Drew

Avant

Gauthier

Bergeron

Kilbourne

Burns

Tate

Deshotels

Tobias

Kelly

Landry

Ours

Vesich

Willis

Page 2

Judge Tate moved to reconsider. Without objection, the motion passed. Reconsidered motion adopted.

Chairman Dennis offered:

On page 6, line 25, before word "Justices" delete words "Mayors' Courts;"

Amendment failed.

Mr. Tobias moved:

On page 9, delete lines 27 through 32, both
inclusive in their entirety.

Amendment withdrawn by Mr. Tobias.

Judge Tate moved to adopt Mr. Tobias' motion and in
addition added:

On page 10, delete lines 1 through 13, both inclusive,
in their entirety and insert in lieu thereof the following:

"Section 27. Judiciary Commission: Continued
Section 27. The Judiciary Commission is
presently constituted and its powers, duties,
and functions are retained subject to change
by a two-thirds vote of the elected members of
each house of the legislature."

Defeated.

Mr. Tobias moved:

On page 8, delete Section D.

Defeated.

Mr. Vesich moved:

On page 9, line 22, after "court" insert "or
a juvenile court of Orleans Parish"

Mr. Avant proposed substitute motion:

On line 21, after the numeral 26, and on
line 22, before "shall" insert:

A judge of the supreme court, court
of appeals, district court, family
court, parish court or court having
solely juvenile jurisdiction"

Mr. Vesich has no objection.

The previous question ordered. Substitute Amendment
adopted.
Mr. Tobias moved:

On page 11, line 10, immediately after the period ",," delete the remainder of the line and delete lines 11 and 12 in their entirety.

Mr. Deshotels made substitute motion:

On page 11, delete lines 10 through 19, and insert "Section 29."

Mr. Willis added:

"after first sentence before "as" add "except as otherwise provided for in this constitution and"

There being no objection, the amendment was adopted as amended.

Mr. Burns moved to adjourn until immediately after the convention adjourned on August 9.

There being no objection, meeting adjourned at 8:30 p.m.

JACOB L. DENNIS, Chairman

Amorye Landry, Vice Chairman

PHILIP O. BERGERON, Secretary

Page 4

MINUTES

Minutes of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice

Committee Room One, State Capitol, Baton Rouge, La.

Thursday, August 9, 1973

6:30 p.m.

Presiding: Judge James L. Dennis, Chairman of the Judiciary Committee

Secretary Bergeron called the roll:

Present: Avant, Kelly, Bel, Kilbourne, Bergeron, Landry, Burns, Ourso, Dennis, Sandoz, Deshotels, Tate, Drew, Tobias, Gauthier, Willis

Absent: Martin, Vesci

The meeting was called by Chairman Dennis. Roll was called and a quorum present.

Mr. Avant offered amendment to Mr. Deshotels' amendment of the previous meeting.

Mr. Kelly suggested substituting the No. 2 we adopted in lieu of Mr. Avant's No. 2. Then instead of "exercising Judicial", say "advise and assist a district attorney in the prosecution of a case."

Mr. Burns moved to put Mr. Deshotels No. 2 in place of Mr. Avant's No. 2 and use ",, advise and assist" and adopt Mr. Avant's amendment.

Adopted.

Mr. Landry:

On page 8, delete lines 5 through 32 in their entirety and insert in lieu thereof the following:

"(c) A judge taking office after the adoption of this constitution and a judge in office who so elects within ninety days of the adoption of this constitution by notifying the secretary of state, shall be vested and entitled to the following retirement benefits:

(1) This subsection applies to a judge of a court authorized by this constitution, except mayors and justices of the peace.

(2) A judge with sixteen years of judicial service may retire at any age; a judge of twelve years of judicial service shall retire with benefits commencing at the age of fifty-five. On retirement, a judge shall receive annually as retirement, benefits four percent of his salary times the number of years served, but not more than ninety percent.

(3) A judge who is physically or mentally incapacitated to perform his duties shall be retired. He shall receive as annual retirement benefits two-thirds of his annual salary, or four percent of his salary times the number of years served, whichever is greater, not to exceed the maximum amount provided in paragraph (2).

(4) Upon the death of a judge, in office or retired, the surviving spouse, until remarriage, shall be entitled to one-half of his annual salary as judge prior to death or retirement. If the judge is not survived by a spouse, or if the spouse dies, his unmarried children shall be entitled to the benefits provided in this subsection until the age of eighteen."

This substitution would also delete line 1 through 11 in their entirety on page 9.

By roll call vote the amendment was adopted 11-1 as follows:

Yea's: Avant, Bel, Bergeron, Burns, Gauthier, Kilbourne, Landry, Ourso, Sandoz, Toby, Kelly, Willis

Nay's: Martin, Vesci

Chairman Dennis offered Amendment No. 1 proposed by subcommittee concerning right of appeal:

On page 2, line 25, at the end of the line add the following:

"In other criminal cases an accused shall have the right of appeal or review, as provided by law or by rule of the supreme court or inconsistent therewith."

and Amendment No. 2:

On page 6, between lines 1 and 2, insert the following:

"Section 19. Preservation of Evidence. Section 19. Evidence shall be preserved in all trials. The method of preservation shall be provided by law or by rule of the supreme court or inconsistent therewith."

The amendments being divisible, No. 1 adopted 11 to 1, and Amendment No. 2, adopted 9 to 3.

Page 3

Mr. Bel moved:

On page 14, line 12, add the following:

"Section 11. Judicial Expense Fund: Orleans Parish: Continued. Section 11. The judicial expense fund of Orleans Parish as existing at the time of the adoption of this constitution is retained subject to change by two-thirds vote of the elected members of each house of the legislature."

[276]
Adopted.

Vice Chairman Landry assumed the chair.

Judge Dennis moved adoption:

On page 3, between lines 8 and 9, insert the following:

"Section 8. Budget. Section 8. The Supreme Court shall submit an annual consolidated budget for the entire judicial system and the total cost of the system shall be paid by the state. The legislature may provide by law for the reimbursement to the state of appropriate portions of such cost by political subdivisions."

Amendment defeated 8 - 2 with 1 abstention.

Chairman Dennis resumed the chair and introduced the amendment.

On page 5, delete lines 5 through 11, both inclusive, in their entirety, and insert in lieu thereof the following:

"(C) The term of a district judge upon initial election to that office for a full term shall be six years. If, without an interruption in service, he is reelected, each succeeding term shall be twelve years.

This provision shall not extend the term which a judge is serving at the time of the adoption of this constitution. It shall apply to a judge who is reelected thereafter."

Defeated.

Mr. Bel suggested stylistic changes be accepted.

There were no objections to reporting the proposal as substitution.

Judge Tate moved stylistic changes be adopted. No objection. Adopted.

Mr. Tobias moved amendments adopted at this meeting be put in substitute proposal as adopted unless another meeting is called.

Motion adopted.

Meeting adjourned at 3:25 p.m.

Page 4

Delegate Drew's Proposal No. 32 was discussed with respect to court of appeal circuits and districts.

Judge Dennis introduced Judge Jack Watson, presently assigned to the First Circuit Court of Appeal in Raton Rouge and Judge-elect to the Third Circuit Court of Appeal.

Judge Watson spoke on the court of appeal districts as they are presently divided. Delegate Ruth Miller addressed the committee. Judge Minos D. Miller, Jr., at-large from Third Circuit Court of Appeal, opposed Mr. Drew's amendment and supported the floor amendment adopted by the convention.

Mr. Bel moved to defer action on Delegate Proposal No. 32. There being no objections, the matter was deferred.

Judge Dennis announced next on the agenda Delegate Johnny Jackson's Proposal No. 43 providing for juvenile court jurisdiction.

Speaking in favor of his proposal were Delegates Johnny Jackson, Robert Pugh and Alphonse Jackson.

Mr. Avant moved to defer action until further notice Delegate Johnny Jackson stated he preferred to defer action to work out problems in the proposal.

Without objection, action was deferred on Delegate Proposal No. 43.

Page 5

Chairman Dennis appointed a subcommittee of Messrs. Tate, Tobias and Vesich to study the status report of the Judiciary Committee.

Mr. Vesich suggested future committee meetings be called after adjournment of convention.

Mr. Avant moved adjournment of the committee until further notice.

There being no objection, the meeting adjourned at 12:15 p.m.
Minutes of the Judiciary Committee of the Constitutional Convention of 1973
Held pursuant to notice on October 31, 1973
Convention Floor, Independence Hall,
Baton Rouge, Louisiana, Thursday,
November 1, 1973 at 12:00 o'clock noon.

Present: Judge James L. Dennis, Chairman of the Judiciary Committee

Present
Avant
Bel
Bergeron
Burns
Dennis
Deshotels
Kilbourne
Landry
Martin
Sandoz
Tate
Tobias
Vesich
Willis

Absent
Gauthier
Drew
Kelly
Ourso

Chairman Dennis called the meeting to order.
The committee on Transitional Measures submitted
its report to the entire committee.
Judge Tate moved that the entire committee accept
the committee's report subject to any modifications the committee
members might want to make within three days from date.
Without objection the motion passed.
Mr. Bel moved to adjourn.
There being no objections, meeting adjourned.

Held pursuant to notice in the Treaty
Room of the White House Inn, Baton Rouge,
Louisiana, November 14, 1973, 3:15 p.m.

Present
John L. Avant
Clyde F. Bel, Sr.
James L. Dennis
R. Harman Drew
Wendell H. Gauthier
Richard H. Kilbourne
Ambroise M. Landry
Gordon J. Martin
Albert Tate, Jr.
Anthony J. Vesich, Jr.
J. Burton Willis
Max H. Tobias, Jr.

Absent
Philip O. Bergeron
James T. Burns
Ezrool D. Deshotels
Donald G. Kelly
Jessel M. Ourso, Sr.
Lawrence B. Sanders, Jr.

Chairman Dennis called the meeting to order.
A quorum was present.
The chairman announced Delegate Johnny Jackson
was present to discuss his Delegate Proposal No. 43
concerning juvenile courts original jurisdiction.
Mr. Jackson introduced guests Sidney Barthelemy,
Director, City Welfare Department, City of New Orleans;
and Mrs. Elyane B. Bryant, Juvenile Protection Chairman,
East Baton Rouge Parish PTA.
Mr. Jackson stated he would prefer to report
the proposal "Without Action".
Mr. Avant moved to report the Proposal "Without
Action."
There being no objections, Delegate Proposal No. 43
will be reported "Without Action."
Chairman Dennis read a letter from the judges of
the Orleans Parish Juvenile Court urging acceptable provision
for Juvenile Courts to have rank of District Courts.
(Copy attached hereto)
Chairman Dennis then brought the matter of Delegate
Proposal No. 32.
Mr. Drew stated he had no objection to reporting his
proposal "Without Action.
Mr. Landry moved to report the proposal "Without Action."
There were no objections.
Mr. Tobias moved for adjournment.
There being no objections, the meeting adjourned at
5:40 p.m.

MINUTES

Minutes of the meeting of the Judiciary Committee of the Constitutional Convention of Louisiana of 1973

[278]
The Honorable James L. Dennis
Chairman, Judiciary Committee
State Capitol Building
Baton Rouge, Louisiana

Dear Judge Dennis:

The Judges of this court are unable to attend the Committee meeting to be held this afternoon at 3:00 P.M. because of a prior commitment which we are unable to cancel. We understand that further efforts are being made to make the Juvenile Courts Constitutional Courts and to set forth the jurisdiction of such Courts in the Constitution.

As you may recall, Judge Gillin has, on two occasions, appeared before your Committee urging that the status of Juvenile Courts as Constitutional Courts be perpetuated. The last provision which we have seen does not so provide. At a time when throughout this country there is a concerted movement to upgrade Juvenile Courts, it appears that your Committee and the members of the Convention as a whole are prepared to take a step backward. There is no reason or justification for the failure of the Committee and the Convention to advocate that Juvenile Courts have the rank of District Courts (this being the present status of Juvenile Courts in the Louisiana Constitution). If Juvenile Courts are to be subject to the kinds of emotions expressed at the last session of the Legislature, it is predictable with certainty that more harm will result than good considering the worthy postulates of the Juvenile Justice System. We again strongly urge the adoption of a sensible acceptable provision which provides that Juvenile Courts have the rank of District Courts; that the jurisdiction of Juvenile Courts be set forth in the Judicial Article, that the Legislature be given no authority to alter such jurisdiction; and that the language "to abolish Juvenile Courts" be deleted. If these provisions are not carried forward into the proposed new Constitution, we can foresee much opposition, which, in turn may further jeopardize the passage of the basic document.

Please read this letter to your Committee and if possible see that each member of the Committee receives a copy before its reading in order that its content may be considered with reflection.

With best personal regards, we remain,

[Signature]

[Signature]

MINUTES

Minutes of the Meeting of the Judiciary Committee of the Constitutional Convention of 1973

Held pursuant to notice in the Treaty Room, White House Inn, Baton Rouge, Louisiana, Friday, December 14, 1973 at 12:00 noon.

Present: Judge James L. Dennis, Chairman

Absent:

Chairman Dennis called the meeting to order. Roll was called by the secretary and a quorum established.

The chairman introduced District Attorney John M. Mamoulidas from Jefferson Parish who spoke in favor of Delegate Proposal No. 35, introduced by Delegate Miller, providing for equally divided supreme court districts with one judge for each district.

Mrs. Miller spoke briefly urging support of her proposal.

Mr. Tobias moved to table Delegate Proposal No. 35. By roll call vote the proposal was tabled with nine yeas and four nays:

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<td>Avant</td>
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<td>Bergeron</td>
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<td>Tobias</td>
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Next Delegate Proposal No. 44, introduced by Delegate Vick, making provisions for the powers, duties and qualifications for the state attorney general was discussed.

Delegate Kendall Vick spoke in favor of his proposal, and District Attorney Edwin O. Ware from Rapides Parish spoke against it. Mr. Gauthier moved to table this proposal. Roll was called and the proposal was tabled by a vote of eleven yeas and one abstention:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
<th>Abstaining</th>
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<td>Avant</td>
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Vice Chairman Ambrosie Landry assumed the chair.

Mr. Deshotels moved to pass over Delegate Burson's Proposal No. 62, making provisions for the grand jury. There being no objections, it was passed over.

Chairman Landry requested Delegate Tate to explain the
caveat to the Judicial Article adopted by the Committee on Style and Drafting on November 27, 1973.

Judge Tate explained that Chairman Dennis had appointed a four-man committee to go over the Article and the subcommittee came up with these changes to be voted on by the Judiciary Committee:

Section 8:
Mr. Drew moved to go along with Style and Drafting on inserting "en banc or" after "reargued" and before "before". There were no objections, motion approved.

Section 9:
Mr. Avant moved that the Judiciary Committee approve Style and Drafting Committee's report and delete the sentence "After January 1, 1975, no judge shall be elected at large from within the circuit". There being no objections, the motion was approved.

Section 10:
On line 9, page 12, change "cases" to "matters". Judge Tate moved to accept Style and Drafting Committee's change and it was approved without objection.

Section 16:
Mr. Willis moved to adopt the change suggested of the word "subdivision" to "corporation". No objections. Approved.

Section 16:
Mr. Avant moved to retain "constitution" instead of "article". Approved without objection.

Section 16:
Judge Tate moved to amend Section 16 changing "Article" to "Section 16." Approved without objection.

Section 19:
Mr. Avant moved to change "legislature" to "law". Approved.

Section 21:
Mr. Willis moved to retain "shall not practice law". Approved.

Section 27:
Mr. Kilbourne moved to revise section to refer to qualification time for candidates rather than election time with reference to residency and practice requirements. Approved without objection.

Section 32:
Mr. Avant moved to leave section as written. Approved.

Section 33:
Mr. Willis moved to adopt the change by Style and Drafting Committee to "change by law." Approved.

There being no further business, the meeting adjourned at 1:55 p.m.

[Signatures]
B. Subcommittee Minutes

NOTES
Subcommittee Minutes of the Subcommittee on Judicial Retirement of May 17, 1973 were never produced in official typescript format. A staff file bearing a label indicating that its contents are notes and materials from that meeting are set out below in Chapter IV. The informal handwritten minutes have been typed by the Records Commission staff so that this material may be included in this work.

[Typescript made from handwritten notes taken at Subcommittee meeting of May 17, 1973, of the Judiciary Committee, Subcommittee on Judicial Retirement prepared by the Louisiana Constitutional Convention Records Commission.]

Meeting in Speaker [sic] Office on May 17 at 6 P.M.

Present: Drew - Chair, Avant, Vesich, and Judge Cole and Judge McGehee

Cole: Problem with providing for old judge and then new judges.

Deal is to put reasonable retirement system in the Const.-- Do you want to do this or not?

Need money from legislature to provide for prior service.

McGehee: 1/3 to 50% of Judges in the state would not be interested in a contributory retirement system.

Cole: need some minimum number of years for retirement under §31(c)

Cole explained the District Judges' plan for retirement.

Cole: Let Judges prepare an optional plan for retirement. Wait and see what happens to HB 97.

Cole: at a stage where there are many young judges.

Avant: Seniority list for all Judges.

Cole: will send seniority list of District Judges (119) (33 on ct. of app. + Sup.Ct.)

Cole: not a retirement system, but a pension plan underwritten by the state. The state would not have to put up money each year, but only in case someone retired. However, the Judges would be paying in and a person would invest this fund.

Drew: Ask about 70 yrs.max. retirement age?

Cole said this is good after much study by law inst. and others.

Cole: O's for Chief Judge and Chief (sic) Justice being elected.

Cole: asked for guideline? %/yr, maximum to be earned?

Judges are older when they take the bench therefore, their benefits should vest early.

Avant: Asked Judge Cole to chg. mental or phys. incap. to retire at not less than 25%, but any greater sum he would be entitled to under other provision.

Would get 4½/yr., but not less than 25% retirement.

McGehee: for election of C.J.

(Maybe a Sr. Justice)

Cole: Limits to 75% maximum pay. Salary based on 3 highest yrs. Judge contribute 6½/yr. Judges only want their retirement in Const. if the legislature will provide for HB 97.

If it passes, just need a grandfather clause.
II. Additional Judiciary Committee Materials Relating to Committee Meetings

NOTES
Draft recommendations of the Louisiana Constitutional Revision Commission with regard to the Judiciary of March 9, 1972 have been omitted. They are found in the working file for the meeting of the Constitutional Convention Judiciary Committee of March 2, 1973.

NOTES
The following documents are found in the work file for the meeting of March 9, 1973.
Number of Justices and Judges:

- Supreme Court: 7
- Courts of Appeal: 26
- District, Family and Juvenile: 118
- City and Parish Courts: 59
- Total: 210
CHART # 1 NOTES

SUPREME COURT - has general supervisory jurisdiction over all lower courts and exercises appellate jurisdiction and some original jurisdiction. Original and appellate civil jurisdiction is very limited, but the court has exclusive criminal appellate jurisdiction in all but minor misdemeanors.

In 1972 the number of appeals filed was 214, an increase of 42% (104% since 1970); the number of writs filed was 822, an increase of 18% (27% since 1970); the number of rehearings applied for was 123, an increase of 29% (34% since 1970) and the number of opinions rendered on the workload was 291, an increase of 38% (68% since 1970).

COURTS OF APPEAL - have only civil appellate and supervisory jurisdiction. Supervisory jurisdiction extends to all lower courts from which an appeal would lie.

In the Courts of Appeal in 1972 there were 1573 appeals filed, an increase of 19% (25% since 1970); rehearings acted upon were 680, an increase of 17% (16% since 1970), and 1367 judgments were rendered in 1972, an increase of 20% since 1971 and 14% more than 1970.

DISTRICT COURTS (Exclusive of Orleans Parish) - There are 35 Judicial Districts, each comprised of one to three parishes. In general, District Courts have original jurisdiction over all matters within their territorial (parish) jurisdiction. Notable exceptions occur in Orleans, the 1st, 10th, and 21st Districts, where Family and Juvenile Courts have exclusive jurisdiction over certain types of cases. Further, District Courts exercise a limited appellate jurisdiction in trials de novo over minor misdemeanors not appealable to the Supreme Court. In civil matters their appellate jurisdiction extends to cases involving less than $100.00. 1972 data shows 97,970 civil filings and 162,895 criminal filings.

FAMILY AND JUVENILE COURTS (in their respective parishes only) - These courts have exclusive original jurisdiction of juvenile matters and, in addition, the Family Court has jurisdiction over adoption of minors and marital cases, exclusive of property matters.

The total number of cases filed in these courts in 1972 was 21,700, an increase of 6% over 1971.

4. CITY COURTS - Outside Orleans Parish, these courts, established on a Ward basis, have limited civil and criminal trial jurisdiction and, where no separate juvenile or family court exists, they have juvenile jurisdiction within their wards. At this same court level there is included the 1st and 2nd City Courts of New Orleans which have only limited civil jurisdiction; New Orleans Municipal Court which jurisdiction is limited to violations of City ordinances except traffic; and the New Orleans Traffic Court which handles only New Orleans traffic ordinance violations. Also included at this court level are the two Parish Courts of Jefferson which have limited civil and criminal (except municipal ordinances) jurisdiction throughout the parish.

Statistical data collection on these courts was started in 1972 and is not considered substantially complete. Reports received, however, show 475,625 cases filed in these courts and 367,935 terminated. The totals include civil, criminal, traffic and juvenile cases.

5. MAYOR'S COURTS - These courts are established in municipalities where city courts do not exist. Their jurisdiction is limited to the trial of municipal ordinance violations.

There is no statistical information available.

6. JUSTICES OF THE PEACE - have no criminal jurisdiction, except as committing magistrates and the issuance of peace bonds. Civil jurisdiction is limited to money claims not in excess of $100.00. Justices of the Peace are abolished in Wards where city courts exist.

No statistical information is available.
1. **SUPREME COURT** - Reduce criminal appellate jurisdiction to felony cases only.

2. **COURTS OF APPEAL** - Add final criminal appellate jurisdiction to extend to misdemeanors requiring right to trial by jury.

3. **DISTRICT COURTS** - Reduce criminal jurisdiction to felony cases and those misdemeanors requiring a right to trial by jury. Reduce civil jurisdiction in money claims to amounts involving in excess of $5,000 and add all juvenile and family case jurisdiction to all district courts by eliminating the Juvenile, Family and City Courts. The various types of jurisdiction could be split up into divisions of the court as desired. Add final appellate jurisdiction (3-judge panels) for misdemeanors not requiring the right to trial by jury and civil matters from Parish Courts. Abolish trials de novo on appeal.

4. **PARISH COURTS** - Provide for trial jurisdiction in civil claims not to exceed the sum of $5,000 and criminal trial jurisdiction of all misdemeanors not requiring a right to trial by jury including all municipal ordinance violations within the territorial jurisdiction.

**COURTS ABOLISHED** - Family Court, Juvenile Courts, City Courts, Mayors' Courts, and Justice of the Peace Courts.
SUPREME COURT OF LOUISIANA

CIVIL APPEALS AND CRIMINAL APPEALS

1. COURT OF APPEAL
   FIRST CIRCUIT
   Baton Rouge

2. COURT OF APPEAL
   SECOND CIRCUIT
   Shreveport

3. COURT OF APPEAL
   THIRD CIRCUIT
   Lake Charles

4. COURT OF APPEAL
   FOURTH CIRCUIT
   New Orleans

3. DISTRICT COURTS
   (16 Parishes)

4. DISTRICT COURTS
   (20 Parishes)

5. DISTRICT COURTS
   (21 Parishes)

6. DISTRICT COURTS
   (7 Parishes)

4. Courts abolished

CHART # 3 NOTES

1. SUPREME COURT - Reduce criminal appellate jurisdiction to felony cases only.

2. COURTS OF APPEAL - Add final criminal appellate jurisdiction to extend to misdemeanors requiring the right to trial by jury.

3. DISTRICT COURTS - Provide for original trial jurisdiction of all matters. Court could sit in divisions by type jurisdiction where desirable. Provide for appellate division (3-judge panels) with jurisdiction of criminal appeals in misdemeanor cases not involving the right to trial by jury. Abolish trials de novo on appeal.

4. COURTS ABOLISHED - Family, Juvenile, Parish, City, Mayors' and Justice of the Peace.
NOTES
The following documents are found in the work file for the meeting of March 16, 1973.


Gentlemen:

My name is Don C. Greishaber and I am Judge of Section B of the First City Court of New Orleans. I am here representing Judges Seeber, O'Keefe and Wingerter of the First and Second City Courts of New Orleans. My purpose in being here is to offer some recommendations for your consideration regarding the City Courts in New Orleans, which we believe are unique in respect to the other City Courts throughout the State of Louisiana.

The First City Court of New Orleans is composed of four Sections, A, B, C and D, and Section "D" which is presided over by the Judge of the Second City Court in addition to his duties as Judge of the Second City Court. Although the Court is called a City Court, the truth of the matter is it has nothing to do with any Municipal or Traffic matters. This Court is a Court of Record and the Judges' salaries are paid by the State of Louisiana and the Judicial Expense Fund only. The City of New Orleans contributes nothing to our salary.

As a matter of fact, the Court has been looked upon as a District Court of limited jurisdiction and functions as such. We have exclusive original jurisdiction up to $100.00, concurrent jurisdiction with the Civil District Court up to $1,000.00, and unlimited jurisdiction on reconviction demands on all money matters.

Historically, many years ago, the maximum jurisdiction of the Court was $100.00. It was changed to $1,000.00 jurisdiction because of inflation. Now inflation has eroded the $1,000.00 jurisdiction to a point where it has become insignificant. We propose the following:

1. That the First City Court of New Orleans be made a part of the Civil District Court.
2. That the jurisdiction of this Court on money matters be limited to:

   (a) Exclusive original jurisdiction up to $4,000.00.
   (b) Concurrent jurisdiction up to $5,000.00, and unlimited jurisdiction on reconviction demands.
   (c) Exclusive jurisdiction on all rent matters.
   3. That the terms of the Judges be 12 years, the same as the Civil District Court.
   4. That the salaries of the Judges be the same as the Civil District Court Judges.

In all other respects the present Constitutional Article shall remain the same.

We believe if the above recommendations are carried out there would be a definite improvement in the overall administration of justice in civil matters. We might point out that insofar as the removing of the right to practice law, there would be no objection from the Judges of the Court because as a matter of fact, we would be compensated by an increase in our term of office and in increased salaries for our foregoing the practice of law.

The terms of office and salaries should be the same as the Civil District Court Judges since we will be contributing the same amount of time and effort. It is in our opinion that the First and Second City Courts should be consolidated.

There is no doubt that if the above proposals are carried out it will relieve the work load of the Civil District Court Judges whose time could be spent more profitably on other matters such as having more time for jury trials.

Respectfully submitted,

Don C. Greishaber
Judge, First City Court, Section B
Representing all Judges of the First and Second City Courts of New Orleans

AGENDA
COMMITTEE ON THE JUDICIARY
MARCH 23, 1973

Roll Call
Reading of the minutes
Announcements

Speakers:

Chief Justice Joe W. Sanders
Louisiana Supreme Court

Associate Justice John A. Dixon, Jr.
Louisiana Supreme Court

Judges of the Parish Courts of Jefferson Parish:
Judge Cyril J. Gracianette (1st Parish Court)
Judge John Jackson Holison (2nd Parish Court)
Judge Douglas A. Allen (1st Parish Court)

Judge Bernard J. Bagert
Criminal District Court, Orleans Parish

Judge Edward N. Engolio
18th Judicial District Court

Business of the Committee
Adjournment

[End of document]
the judicial system in deciding matters outside the exist-
ing legal structure.

As for the suggestion of shortening the Constitution by relegating a vast bulk of legislative matter to the status of "super statutes," for example, removing civil service provisions from the Constitution, with the requirement that they be only be amended by two-thirds vote of the legislature this plan will result in a unique judicial activity in Louisiana. We have no body of law in this State precedent

The interpretation of "super statutes." It is probable that at one of the first sessions of the legislature there will be legislative acts affecting the subject matter of some "super statutes" which will be passed by a simple-majority vote. The judiciary in the judicial system will be unable to uphold the legislative act, in spite of any provision, which would prohibit the amendment of the "super statute" except by a two-thirds vote of the legislature.

In my opinion, the initiation of statutory materials with three levels of force and dignity--constitutional, "super statutes," and ordinary statutes--will furnish frequent subject matter for litigation and considerable uncertainty. I think it would be much better to have a lengthy Constitution with some certainty about methods of interpretation than a shorter Constitution, with greater powers of interpretation given to the judicial system, with a new kind of statute, the methods for interpretation of which have not yet been invented.

A general observation about the judicial article is that there should be two principles considered in deciding each question that will arise before this committee. The principles which should govern all decisions in determining each controversial question in the judicial article are:

1. It is essential for the adoption of the Constitu-
tion and for the successful operation of the judicial system that the people of the State have confidence in the judiciary.

2. It is essential that the judicial officers enjoy the function for which it is designed--that is, the determination of disputes among the citizens of the State according to law.

Several things may contribute to public confidence in the judicial system. One of the most obvious is the method of selection. The other, of course, is how well the courts do their work.

The so-called merit system of selection has a nice sound to it, and is at present popular among informed people. However, if such a system is adopted in the future, and people realize that they have almost no voice in the selection of the judges in this State, there will be an immediate loss of confidence in the system.

Under any system of merit selection, there is a committee of some sort which determines what names shall be submitted to the appointing authority to fill judicial offices.

Who names the committee who names the candidates from whom the judge will be named?

I would not anticipate that this will be the case. In the long run, we cannot in the public interest, without a change in the method of selecting federal judges.

As a matter of fact, in Louisiana, there have been some serious arguments which add to the uncertainty but much more serious if they had found support in other states by change as much as possible the appointment method of selecting federal judges.

It would be very difficult to prove that the merit system of selection of judges deserves less public confidence than election. Nevertheless, I am also convinced that the argument will be made, and that there would be a very strong and very vocal opposition to a plan which changes judicial selection from the elective process to a plan of so-called merit selection. Very active in opposition is a change from the existing system of judicial selection will be nearly all the incumbent judges. I have only known a few judges in Louisiana who favored the abolition of the present system of judicial selection. Everybody thinks that the way the office is the right way, and the way it ought to be, with two important exceptions:

1. Every judge who has been considered in a general election against a Republican opponent was convicted of the crime of perjury elections, that is, at times in which judicial candidates are nominated by the party against which the candidate would be nominated by the opposition. If Judge

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I imagine there will be some controversy over retaining the existing retirement system within the Constitution, when so much effort will be made to remove other retirement systems from the Constitution. It seems to me that this decision should be controlled by determining whether leaving the judicial retirement system in the Constitution will tend toward a more independent judiciary. If I think, I think the judicial retirement system ought to stay in the Constitution.

There are some specific reasons why I concluded in the selection of the system which would be: to retain continuity in the judiciary; to avoid being involved in a situation that will be caused by groups who want to change the present system. Some of these will occur if there are increments.

The particular subject to which I would like to call your attention are:

1. Retention of the Louisiana system in the trial and appeal of civil cases.
2. Uniformity of the court system.
4. Status of special courts and "fourth-level" courts.
5. Mandatory retirement age.
7. Removal of district boundaries from the constitutional article.

Louisiana is a unique law jurisdiction, both as to substantive law and procedure. Our historical events enabled me to catch the net upon the legal genius of both systems of law in the Western world. As Louisiana procedural law developed, it created a model for other progressive states in the United States. We developed early, many historical aspects such as one of the best-protected judges in the United States, for instance.
of the country. But it is true that, at least since the advent of the civil jury in Louisiana, there is almost no delay in the trial of civil cases, and the absolute necessity to the final disposition of those cases on appeal.

By this I mean that, in almost every jury case, a civil action which is ready for trial any Tuesday can be fixed for trial on Wednesday, and trial during the next week. I don't know of another place in the country where this can be done.

It is true that sometimes a decision is delayed by a trial judge who does not act conditionally. However, in the absence of such a delay, a case tried in the district court can be appealed and finally decided in the appellate process within six months from the date of trial.

One thing that makes this possible in Louisiana is the general practice of trying civil cases to a jury, with or without a jury. Louisiana lawyers and judges have been satisfied with this procedure because of the highly complex nature of civil cases, and the fact that the appellate review is so lengthy and costly, that the country is not used to civil cases in civil cases. In fact, the United States Supreme Court has specifically held that an appeal from a district court is not a speedy and final determination of the facts.

On the other hand, Louisiana retention for the great value in the availability of juries in the trial of civil cases. Summarizing cases arising out of contracts or torts can be decided by jury in the district court.

Special interest groups in Louisiana complain that our law does not provide that a determination of fact by the jury is final. Sometimes a jury verdict is reversed on appeal on questions of law. This is not a frequent occurrence, and my experience as a trial and appellate judge has been that the factual finding of a jury is accorded great weight in the Louisiana judicial system. Appellate judges are much more reluctant to overturn a factual finding of a jury than the factual finding of an individual judge. It is my conviction that the power (and the obligation) of the appellate courts to review the facts in civil cases is a great safeguard to the rights of Louisiana citizens.

2. Unified System of the Court System

The evolution of the court system in the state is a subject of interest which you are thoroughly familiar, and I shall only mention that the current division of trial courts into an Appeals Court, District Court, and other tribunals is a great step forward. In this situation of the uniformity of trial courts, we can make a much more uniform and accurate test of the facts and conclusions drawn from the evidence, and in this way improve the quality of jurists, as a result of the uniformity of the trials, and in this way improve the quality of the civil jury, and the performance of the district judges, and the performance of the trial judges.

On the other hand, these special courts, the juvenile courts, family courts, and the courts which require specialized knowledge, or special talents are much more likely to be staffed by judges with such knowledge, and talents in a multi-judge district where the courts can fit the judge to the job, and can shift judges as the burdens in certain areas temporarily increase or decline.

3. Management and Administration of Multi-Judge Courts

The success of the unification of the court system probably depends on the management of a multi-judge district. At present, each judge is an elected public official. With rare exceptions, he is subject to no one in the performance of his duties. He is completely autonomous and works as he sees fit, subject only to vague political pressures. There is no "head man" in a multi-judge district, under our existing law. Since judges are constitutional officers, it would be desirable, if there is a unification of the court system at the trial level, to include a provision for making one judge to be the administrative officer of the court.

In pursuit of the unification of the court system in the state, I submit to you this conclusion that our duty is to choose the peace of mind of the people of the state, and to improve the quality of justice. In my opinion, the unification of the court system is the proper means for the improvement of justice, and for the protection of the interest of the people of the state.

years by his fellow judges would obtain the best idea for the job.

1. Status of Special Courts and "Fourth Level"

Courts

If a system of unification is adopted, constitutional status of city courts, justices of the peace, and specialty courts should be removed (and probably should be removed whether or not there is a constitutional provision concerning unification).
5. **Mandatory Retirement Age.**

Some older judges with whom I have discussed the matter consider that mandatory retirement age should be seventy. One immediate advantage of the institution of such a mandatory retirement provision would be to make available for special assignment in emergency areas experienced and competent judges who have already reached mandatory retirement age. This will allow Louisianans not to waste the talents and abilities of these judges who are over seventy who are still vigorous, alert and experienced.

**Court Sessions.**

There has been much discussion in recent years concerning court terms or sessions. Most courts in the urban areas are presently sitting on a wide range of cases throughout the year. The time has come, I think, to recognize in our Constitution that justice is not seasonal. I recommend, therefore, that the judicial article provide that all state courts sit throughout the year, with a provision that the Chief Justice and Judicial Administrator arrange for each judge to have a personal vacation as fixed by Supreme Court rules. I attach to this presentation a nationwide study that I have had made for the use of your committee.

**Selection of Judges.**

A public dialogue has been in progress for sometime relating to the method of selecting judges. Such public discussions are to be commended, in that they tend to promote improvement. Some sincere people favor a system whereby judges will be appointed by the Governor from a list of nominees submitted by a nominating committee composed of judges, lawyers, and citizens. The appointment would be followed after a fixed term by a submission to the people of the question of whether the judge should be retained in office. This system, in my opinion, does not eliminate politics in judicial selection but narrows it to a small group. I have given the matter thoughtful consideration for several years. In my judgment, our elective system of selecting judges should be retained but strengthened by providing that judicial candidates should be placed under a non-party listing on the ballot.

I favor the elective system for many reasons. I mention only three.

First, it is democratic.

Second, it supports the principle of full accountability of judges for their actions while holding judicial office.

Third, it promotes public interest in our court system.

**Retirement of Judges.**

Under the principle already adopted in the 1921 Constitution, the new Constitution should provide for the compulsory
retirement of judges at a fixed age. This provision is designed to prevent the retention of judges in full-time serving beyond the time when they lose their full powers and faculties.

I recommend that the compulsory retirement age be fixed at 70 years, with a provision that the new retirement age shall not affect the present term of any judge and as to those who would otherwise be affected in the term, that they mandatorily retire at 75.

The use of retired judges on assignment with their consent should be continued. The assignment provision would, of course, permit the use of any retired judge who is willing and capable to sit during docket emergencies, illness of other judges, and related contingencies.

The retirement pay provisions of the present Constitution should not be changed to the prejudice of any judge now serving or previously retired. Scores of judges now serving left law practices with higher income relying upon the retirement pay presently provided.

DISCIPLINE OF JUDGES

The present Judiciary Commission, composed of Judge, lawyer and citizen representation, has done an excellent job in the discipline of judges for misconduct.

I recommend that it be retained as presently constituted.

I also recommend, however, that the procedure be strengthened in one respect. The Constitution should provide that when the Commission files a petition for removal of a judge in the Supreme Court of Louisiana, the Commission may recommend and the Court may order the immediate suspension of the judge pending the outcome of the case.

The spectacle of a judge under serious charges for removal hearing important cases affecting life, liberty, and property shocks the public conscience.

A nationwide study relating to this recommendation is attached to this presentation.

COURT OF GENERAL JURISDICTION

The court of general jurisdiction should be the district court, merging into it the separate juvenile and family courts now existing in various parts of the state. The unified court would have a flexibility of divisions created by court rule according to need, i.e. criminal division, family division, small claims division, civil division, etc.

Such a unified court, in my opinion, would be an improvement.

CITY COURTS - PARISH COURTS

Consideration should be given to merging the City Courts into Parish Courts, with authority for the court to sit in any locality within the parish as the public need for judicial service would require.

JURISDICTION OF SUPREME COURT

For sometime careful observers have known that the caseload and work of the Supreme Court has increased many times. The volume is such as to detract from the quality of the Court's work. It places an unreasonable burden on the members of the Court. A revision of the Court's appellate jurisdiction is required.

In civil matters, the Supreme Court should have jurisdiction on direct appeal only when a state statute has been declared unconstitutional by the trial court. All other civil matters would follow the regular route through the Court of Appeal.

In criminal matters, the Supreme Court should retain criminal jurisdiction. Convicted defendants should have an appeal as a matter of right in all felonies and in those misdemeanors in which imprisonment of more than six (6) months or a fine of more than Five Hundred ($500.00) Dollars has actually been imposed.

Such a definition of direct appeal would conform to the jury trial provisions in our code and leave the direct-appeal right broader than it is in some states. In other misdemeanors, the defendant could obtain review by application under the Court's supervisory jurisdiction.

THE OFFICE OF CHIEF JUSTICE

Several legal authorities who have appeared before your committee have recommended that the Judicial Article have a clear statement of the administrative authority of the Chief Justice. I agree with this recommendation.

Again, I thank the Committee for hearing my views on these aspects of the Article. I file with the Committee for its further consideration a copy of this presentation with the studies attached.
II. CONTINUOUS COURT SESSIONS AND JUDICIAL VACATIONS
(Source: Letters received in June, 1972 from State Court Administrators throughout the United States for the Louisiana Legislative Council, see also Memorandum of Frank Loize outlining the provisions of Louisiana law on the subject)

The courts in the following states are in continuous session throughout the year, and judges' vacations are arranged by the Supreme Court for periods varying from three to six weeks depending upon the State:

- New Jersey
- New York
- Maryland
- North Carolina
- Puerto Rico

The courts in the following states are in continuous session throughout the year, and judges' vacations are arranged at the discretion of the individual judge or by the chief judge of the court, rather than by the Chief Justice of the Supreme Court and the Judicial Administrator, with vacation periods varying from three to six weeks depending upon the State:

- Missouri (metropolitan courts only)
- Guam
- Kentucky
- Idaho
- Oregon
- Arkansas
- Connecticut
- California
- New Mexico
- Texas
- Iowa
- Indiana
- Arizona

EXHIBIT 2

I. COMPULSORY RETIREMENT OF ALL JUDGES AT AGE 70

Retirement is compulsory at age 70 in the following states:

- Alabama
- Connecticut
- Florida
- Hawaii
- Idaho
- Illinois
- Kansas
- Maryland
- Massachusetts
- Michigan
- Missouri (metropolitan courts only)
- Nebraska
- New Hampshire
- New Jersey
- New York
- North Carolina (superior court judges)
- Ohio
- Pennsylvania
- Puerto Rico
- Utah (trial judges)
- Vermont
- Virginia
- Wisconsin

1 Judge may complete his term if he has served at least half of it when reaching age 70.

2 A judge may complete a term started before reaching age 70.

3 Retirement must occur within 30 days after reaching age 70 or after ten years' service, whichever is later.

4 For those judges under the Missouri Non-partisan Court Plan.

5 Retired judges may be certified by an administrative board as active retired justices of the Supreme Court (trial court) for three successive periods of two years, up to age 76.

6 A judge may not be appointed or elected to a term beginning after his 70th birthday.

The following states penalize judges for failing to retire at age 70 by reducing their pension benefits:

- Arkansas (100%)
- Minnesota (100%)
- Tennessee (50%)
- California (judges' and widows' benefits reduced)
- New Mexico (forfeits widows' benefits)

Retirement is compulsory at age 71 in the following state:

- Maine

Retirement is compulsory at age 72 in the following states:

- Colorado
- Iowa
- South Carolina
- Utah (Supreme Court)

The following states have no compulsory retirement age:

- Delaware
- Indiana
- Kentucky
- Mississippi
- Nebraska
- North Carolina

LOUISIANA JUDGES IMMEDIATELY AFFECTED BY A COMPULSORY RETIREMENT AT AGE 70
PROVISION ADOPTED IN FEBRUARY, 1974

<table>
<thead>
<tr>
<th>Name</th>
<th>Court</th>
<th>Age on 2/14</th>
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<tbody>
<tr>
<td>H. W. Ayres</td>
<td>2nd Circuit Court of Appeal</td>
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<tr>
<td>William T. Bennett</td>
<td>20th Judicial District - East</td>
<td>70</td>
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<td></td>
<td>&amp; West Feliciana Parishes</td>
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<tr>
<td>Oliver P. Carriere</td>
<td>Civil District Court - Orleans Parish</td>
<td>70</td>
</tr>
<tr>
<td>James R. Dawkins</td>
<td>3rd Judicial District - Lincoln &amp; Union Parishes</td>
<td>72</td>
</tr>
<tr>
<td>J. Cleveland Fruge</td>
<td>3rd Circuit Court of Appeal</td>
<td>73</td>
</tr>
<tr>
<td>W. Blair Lancaster, Jr.</td>
<td>New Orleans Municipal Court</td>
<td>72</td>
</tr>
<tr>
<td>S. Sanford Levy</td>
<td>Civil District Court - Orleans Parish</td>
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<tr>
<td>Morris A. Lottinger</td>
<td>1st Circuit Court of Appeal</td>
<td>71</td>
</tr>
<tr>
<td>Louis Lyons</td>
<td>City Court of Bossier City</td>
<td>74</td>
</tr>
<tr>
<td>Arthur J. O'Keefe, Jr.</td>
<td>1st City Court of New Orleans</td>
<td>72</td>
</tr>
</tbody>
</table>

NOTE: THESE WOULD BE ALLOWED TO SERVE UNTIL THEY REACH 75 YEARS.
III.

SUSPENSION OF A JUDGE AND HIS SALARY PENDING THE OUTCOME OF A CRIMINAL CHARGE OR A REMOVAL PETITION FILED BY THE JUDICIARY COMMISSION

(Source: Judicial Disability and Removal Commissions, Courts and Procedures, American Judicature Society, 1972)

The typical provision on the subject is as follows:

a) "A judge is disqualified from acting as a judge, without loss of salary, while there is pending

1) an indictment or information charging him in the United States with a crime punishable as a felony under 'Alaska' or federal law, or

2) a recommendation to the Supreme Court by the Commission for his removal or retirement.

b) "On recommendation of the Commission or on its own motion, the Supreme Court may suspend a judge from office without salary when in the United States he pleads guilty or no contest or is found guilty of a crime punishable as a felony under 'Alaska' or federal law, or of any other crime that involves moral turpitude under that law. If his conviction is reversed, suspension terminates, and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final, the Supreme Court shall remove him from office."

The above provision is essentially found in the following states:

- Alaska
- Indiana
- Arizona
- Minnesota
- California
- Missouri

Provisions in the state of Utah contain only Paragraph (b) above.

The state of Colorado has a slightly more detailed provision, as follows:

"Whenever a justice or judge of any court of this state has been convicted in any court of this state or of the United States or of any state, of a felony or other offense involving moral turpitude, the supreme court shall, of its own motion or on petition filed by any person, and upon finding that such a conviction had entailed an order suspending said justice or judge from office until such time as said judgment of conviction becomes final, and the payment of salary of said justice or judge shall also be suspended from the date of such order. If said judgment of conviction becomes final, the supreme court shall enter its order removing said justice or judge from office and declaring his office vacant and his right to salary shall cease from the date of the order of suspension. If said judgment of conviction is reversed or modified, or reversed in whole or in part, the supreme court shall enter its order terminating the suspension of said justice or judge and said justice or judge shall be entitled to his salary for the period of suspension. A plea of guilty to any offense containing to such a charge shall be equivalent to a final conviction for the purpose of this section."

The provision for the District of Columbia is also slightly different, as follows:

"A judge of a District of Columbia court shall be suspended from all or part of his judicial duties, with salary, if the Commission, upon the concurrence of three members, (A) orders a hearing for the removal or retirement of the judge pursuant to this subsection and determines that his suspension is in the interest of the administration of justice, and (B) files an order of suspension in the District of Columbia Court of Appeals. The suspension shall terminate as specified in the order (which may be modified, as appropriate, by the Commission) but in no event later than the termination of all appeals."

Likewise, the New Jersey provision differs slightly, as follows:

"The Supreme Court may suspend a judge from office, with or without pay, pending the determination of the proceeding, provided, however, that the judge shall receive pay for the period of suspension exceeding 90 days. L. 1976, c. 131, sec. 5, eff. July 24, 1976."

In Oklahoma, the provisions are as follows:

"Pending the determination of the proceedings, the Trial Division in its discretion may suspend the respondent from the exercise of his office."

"In the event the petition prays for a temporary order suspending the respondent from the exercise of his office during the pendency of the proceedings for removal from office or compulsory retirement from office, said petition shall show upon its face facts that an emergency exists and that great and irreparable harm and injury will occur if the respondent is not so suspended."

"Upon the filing of said petition, the presiding judge shall issue an order to the respondent to appear at a date, time and place certain to show cause why he should not be suspended from the exercise of his office pending further proceedings in said cause."

"The burden of proof at the show-cause hearing shall be upon the prosecution."

"The presiding judge shall convene the Court within five (5) days from the issuance and service of said order to hear said show-cause order."

"At the hearing upon the show-cause order, the respondent may raise any jurisdictional issue he may desire."

The provisions in the state of Oregon are also somewhat differently worded, as follows:

"If, after hearing or after considering the record and report of the masters, the commission finds that the conduct of the judge justifies censure, suspension or removal from office, the commission shall recommend to the Supreme Court the censure or suspension or removal of the judge."

"During the pendency of any proceedings under this section, the Supreme Court by order may disqualify the judge whose conduct is the subject of such proceedings from exercising any judicial function."

NOTES

great emphasis has been placed upon the work of the Juvenile Courts, resulting in greater receptivity by public officials regarding the needs of Juvenile Courts. We are confident that if the separate identity of Juvenile Courts is maintained, the hard won gains will be preserved. If, on the other hand, Juvenile Courts are incorporated into a conglomerate, we envision that the old experience will again return and Juvenile Courts will receive second-class status in the judicial family. Presupposing the integration toward a unified and standardized administration of courts and the funding of courts, we would be further impressed that the specific and unique needs of Juvenile Courts will not be thoroughly understood or appraised by administrators who have had no experience at all with Juvenile Courts. We urge that your Committee maintain the separate status of Juvenile Courts, which are now separate in jurisdiction and concept. If, upon consideration of the foregoing, the Members of your committee believe that the thoughts expressed above have merit, or at least create a lingering doubt about integration of Juvenile Courts, then we respectfully request that you take such a position consistent with our views.

Juvenile Court Judges have the rank of District Judges according to the present Constitution, receive the same salary, and must possess the same qualifications as District Judges. We are members of the District Judges Association. Our term is for eight years. Juvenile Court Judges should have the same term of office of District Judges sitting within their Parish, which in Orleans Parish is twelve years. We are of the opinion that District Judges and separate Juvenile Court Judges, having the rank of District Judges, throughout the State should have a uniform term of twelve years. The public complains about politics within the judiciary. The only way to make the judiciary independent of politics is for an informed electorate to vote for their Judges and to extend a term sufficiently lengthy to remove the newly elected Judges from the pressures which inevitably accompany him to the bench. We call to your attention the many excellent younger men coming to the Louisiana bench. If these Judges cannot feel secure and removed from political pressures and are required to stand for re-election repeatedly, it is likely that the old experience, which gows at the public conscience, will never vanish. An expression by your Committee extending twelve-year terms will strike a note of confidence for the future, and a break with the reactionary pressures of the past.

Finally, Juvenile Court Judges feel that jurisdiction over juvenile traffic matters should remain in Juvenile Court rather than placing such cases in specialized traffic courts. The Judge feels, however, when one is reminded of the purpose and philosophy of Juvenile Courts. Judges in a Juvenile Court setting are concerned with the education and development of the juvenile mind and habits of responsibility, not primarily concerned with revenue for the Parish treasury. We have an opportunity to discuss all of the problems with the parents and child, to work together in Juvenile Court, and can very often lay the foundation for greater communication between the parent and child and responsibility on the part of the child of the authority and role of the parent. It is in such hearings as traffic cases that Juvenile Court Judges can do much in preventing delinquency. It is not likely that specialized Traffic Courts can render such individualized consideration and produce such fruitful returns.

We are prepared to assist your Committee in whatever way possible toward the accomplishment of the ends expressed above. We are available for further testimony or advice at your pleasure.

Yours truly,

[Signature]

Judge Leo B. Blasing

[Signature]

Judge Edward G. Gillin

[Signature]
In both the civil and criminal field, not to mention administrative law, it is sheer folly to expect as desirable an increase in the judges' knowledge and expertise. Law generally covers all of man's activities. There can be no doubt that in the past 25 years there has been a burst and expansion of law covering. For example, the growth and development of aviation law, as well as that governing the affairs of increasing numbers of governmental bureaus and divisions.

In every other field, particularly medicine, there has been recognized and applied the need for specialization. It seems to me that the unification of civil and criminal jurisdiction represents the antithesis, and is pointed in the wrong direction. Instead of developing civil and criminal law specialties, this move would serve to attenuate, dilute, and diversify the attention and expertise of the judges. It simply does not, to my mind, make good sense. If it is implemented in the field of law, I darsay it would be the only profession which is moving in this backward direction. It amazes me that intelligent people who have had experience in law even contemplate such a regressive step.

In the past 12 years, due largely to an activist United States Supreme Court, there has been a veritable revolution, with many cases making the great body of federal criminal law applicable to the states. This results in state judges not only having to know state law but federal law as well. For example, in 1961, the case of Mapp vs Ohio, decided by a divided United States Supreme Court, made the exclusionary rule formerly existing only in the federal jurisdictions applicable to all 50 states.

Additionally, with the advent of the great outpouring of applications for writs of habeas corpus by convicted state prisoners who find a receptive ear in the federal judiciary, there has been a great need for state trial judges to explore and become adept in this wide field of law.

I recognize that there are those who state an argument which in substance goes like this: It would be well to consolidate civil and criminal jurisdictions because criminal judges handle nothing but oppressive, melancholy, and sad criminal cases, dealing with the dregs of humanity, thereby become warped, calloused, and cold; and it would be a refreshing change were they to handle civil cases as well. My opinion is that this represents an uninformed, superficial, and rather vague position, and is not worthy of more than a casual but firm rejection.

If, on the other hand, "unification" has a reference to the financing and administrative aspects of court operation, I would be one hundred percent for it. For one thing, it would eliminate or at least tend to alleviate the struggles which the criminal judiciary have had in an attempt to secure public recognition of its problems and adequate financing, i.e., the long neglected and horrendous parish prison situation.

In short, I believe that there are easy improvements that could be made by unifying the courts from those standpoints, but by having the judges engage in their respective specialties rather than diluting and therefore weakening their capabilities.

I would appreciate the response of the League to my position as stated herein.

I feel certain that I speak for other judges in expressing to the League my appreciation for its interest in judicial affairs.

Sincerely,

Oliver P. Scholingkamp, Judge, Section "F"

[Presentation of Judge S. Stanford Story]

Mark of the time element, my age and tenure of office, the latter apparently being protected by the call for the Constitution Convention Amendments, I believe that I can qualify as an impartial witness. I would not, however, consider myself as being a disinterested witness, because I am interested in trying to preserve, what my experience as a practicing attorney for some 25 years and a District Judge for about eight years and a City court judge for one year, has convinced me is one of the best and most practical judicial systems to be found in any large Metropolitan Area. In my attendance at the annual meetings of the National Conference of Trial Judges I have had an opportunity to learn of the frailties and short coming of the type of system which some now advocate we adopt.

I am primarily opposed to change just for change sake alone, and unless someone can show that our system is not working to the best advantage of litigants I certainly feel that no change should be made.

If it ever becomes possible to adopt what I consider to be the Federal System where there is erected one very large building in which all District, City, Juvenile courts, mortgage and conveyance and Notarial archives, Clerk of court and Sheriff are housed and each Judge has his own fixed dockets, whether it be Civil, Criminal or Juvenile, then this may be a step forward--although I doubt it. In this event, of course, there would be no need for the Sheriffs, four clerks, and a Constable.

However, if you give consideration to any idea of having one set of judges sitting in the building at Broad and Tulano Avenue and the other set sitting in the present Civil Courts Building, interchanging the judges at the direction of either the Supreme Court or the Chief Justice of that Court, then I say to you that you make everybody's business nobody's business and you not only do not improve the system but you actually bring about a lawlessness of what I consider to be a least efficient judicial system of handling of all civil matters.

I might point out that it is essential for the operation of the Civil Courts that the offices of the Mortgage and Conveyance and now even the Notarial Archives be located in the same or an adjacent building and obviously the Criminal Court must be near some type of detention facilities. These may seem to be details but they are important ones which must be determined before you make any change in the present system. Then there is the matter of finances. The Civil District Court is financed by the self sustaining Judicial Expense Fund which has its counterpart in every other Parish of the State by what is termed the "Clerk's Salary Fund", while the Criminal Court is financed by the State and partially by salary to the Judges--by the City of New Orleans.

Until you are ready to have the State take over the complete financing of all judicial functions to attempt to interweave the judicial expense fund with any other fund used to finance the criminal court system here would be to place an undue burden on the Civil Litigants. At present the civil litigants bear the costs of operation of the Civil district Court, except for the major portion of the judges salaries which is paid by the State--actually the State should pay all of the judges' salaries because they are

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state judges and litigants should not be burdened with this cost. On the other
hand the state and or the City which means the taxpayers of the State and City
gay the costs of operating the Criminal District court. This is as it should be
because that court is there for the protection of the public- the taxpayer -
generally and is not for the benefit of particular litigants.

The best legal brains of those seeking to improve the judicial
system and the judicial process are convinced, as I am, that pre-trial conferences
are of inestimable value in reducing the backlog of cases, both criminal and
civil and especially civil. The use of the pre trial conferences has permitted
civil judges to reduce their docket from a backlog of 600 cases to less than 300
and permits the trial of sometimes two and three civil cases a day as compared
to cases which might otherwise take two or more days to try. It is therefore
most important that a judge have a docket of cases especially assigned to him.
He cannot with facility try a case which has not been pre-tried by him or take
over one in which easy motions, exceptions or other similar types of pleadings
have been heard by another judge. If there therefore is any idea of moving
judges from one courtroom or courthouse to another trying cases not heretofore
assigned and pre-tried by him you will do violence to the very procedure which,
I have said, the best brains consider to be a most important step forward in the
improvement of the judicial process. And as I said before, everybody's business
becomes nobody's business and you take away the incentive of a try first, no
other docket. Judges are no different than other individuals and they must
have some incentive to do better - to actually compete with their fellow judges -
to try to do a better job than the other.

Although I am of the opinion that we are living in an age of
specialisation and that any professional person can do a better job if he becomes
more experienced in one area than another and that the proverb that "a jack of all
trades is master of none," I have no hesitancy in saying that I am satisfied
that any of our Criminal Judges are just as capable as any of our Civil Court
judges to try a civil matter and similarly any of our Civil Court Judges are as
capable as trying a criminal case as any Criminal Court Judges. However, if we
are to have a system of elected judges - not appointed - and I for one hope

you preserve the elective system in the new Constitution - then I think the
public should have the right to elect a Judge to a particular type of court.
Certainly a lawyer having devoted his professional career to the trial of
criminal cases may be better qualified to be a criminal court judge than
one who has never seen the inside of the criminal court building and vice versa.
Again I think you do violence to the elective system if you permit any other
body, be it the Supreme Court or the Chief Justice to place a judge in a
position to which he was not elected, except of course either to fill a
temporary vacancy or to relieve a heavily burdened docket.

You, of course, if you want, for some reason to simply do away with
the name Civil District Court, Criminal District Court, Civil Court, Juvenile
Court, all in New Orleans and you wish to have a 34th Judicial District Court
for the Parish of Orleans, to conform to the names used for the remainder of
the State, and you have a criminal, a civil, a juvenile and a small claims
court as divisions of that 34th Judicial district court with judges elected
to a judgeship in a particular division of that court, no one can find fault
with such a decision but you are simply calling a rose by another name.
If this is done the method of selecting judges for a particular position or
division should be left to the electorate and not to any group of either
individuals, lawyers or judges. Either we have a complete elective system or
we beat about it and let judges be appointed by some committee or the
Supreme Court.

Until you find a way to have one large building erected to
house all of the courts including all offices adjacent to the court and find
some way of meeting political opposition to the abandoning of at least one
sheriff, clerk and constable, I plead with you, the members of this
Constitutional Convention not to disturb a plan which has worked so well for
so long a period of time, with the least possible burden on the already
burdened taxpayers of our community.

[Presentation of Judge Richard J. Surrey]

It is my opinion from talking to lawyers, litigants,
citizen committees, civic organizations and others, that the prime
concern of the citizens is for an independent judiciary; a judiciary
independent from pressure and outside influence that will interfere
with an efficient, honest, objective administration of justice.

In order to have an independent judiciary, many elements
are necessary. First, the salary must be adequate compensation for
the responsibility. The salary should be periodically adjusted to
keep pace with inflation and other factors without requiring the
Judiciary to lobby, plead with or take commitments to the Legislature.
This can be accomplished by establishing a Commission which would
periodically review the salaries and make recommendations which
would become law if not vetoed by the Budget Committee of the Legislature.

Second, the terms of office of a Judge should be of
sufficient length to remove him from the political arena.

I do not think it is reasonable to enforce on a
Judge the Code of Ethics which prohibits outside Business Interests,
Honest and Bank Board membership, membership in political parties
engaging in politics, running for any other office while a Judge and
yet tell this same Judge that he must run for office every six years.
Reasonable men must conclude that the shorter a Judge's term, the
more political he can be expected to become.

The same is true when you consider the retirement of
a Judge.

SHEET P2

I know of few Judges who retire voluntarily. Most serve
until they are forced to retire because of a love of the law and their
profession. But, when a lawyer leaves a successful law practice and
becomes a Judge, any defeat prior to twenty-three years leaves him with
no pension and no law practice. This necessitates deep concern when
an election draws near and there is a serious temptation to protect
one's interest by politics. I would seriously recommend to this Committee
that they consider that all elections are for a full term and not an
unexpired portion of a term and that all terms be for twelve years.

The City of New Orleans differs from most parishes in
the State as to its lawyers and its Courts.

Few lawyers practice both Civil and Criminal Law and the
majority of lawyers specialize not only in civil law but have sub-
specialties within the Civil law.
The Judges have specialized, and few Civil Judges have ever practiced Criminal Law, and few Criminal Judges have ever practiced Civil Law.

A look at the statistics will show the efficiency of that system. Referring to Annual Report, 1972 of the Judicial Council:

Jefferson Parish, a parish similar in that small civil cases, misdemeanors and traffic have been removed from the district court, as in Orleans, we see the following from Table 111F & G.

1972 Jefferson - Civil Cases terminated by Judge trial 936 Orleans -- " " " " 1,386

1972 Jefferson - Criminal Cases terminated by Judge trial 55 Orleans -- " " " " 1,036

SHEET #3

1972 Jefferson - Civil Cases terminated by Judge trial 14 Orleans -- " " " " 31

1972 Jefferson - Criminal Cases terminated by Judge trial 12 Orleans -- " " " " 171

Gentlemen, I feel that all Judges are capable of handling all types of cases. However, specialization permits a Judge to develop an expertise in a particular branch of law, be it Traffic, Juvenile, Criminal or Civil, and to be more effective.

I thank you for this opportunity to appear before you, and I have confidence in your dedication and sense of obligation.

Richard J. Garvey

STATEMENT OF CHIEF JUSTICE (RETIRED) WALTER B. HANLIN

Gentlemen:

I would like to ask for your indulgence in my presentation here today. My understanding was that this hearing was to be held in the City of New Orleans, which of course, would not necessitate my traveling out of the City. To be frank with you the current driving habits and trends are not what I consider to be conducive to long life or steady nerves.

Therefore, I would appreciate it very much, if you would allow my remarks to be entered into the record, subject however, to the fact that this committee may request certain questions of me which I would be happy to reply to in writing. Or better still, if a hearing is held in New Orleans, I would be most happy to appear.

I trust that you understand that the reasons I have listed here would best be explained by a personal appearance; but again, asking your indulgence for the reasons mentioned above, I trust that you will allow me the courtesy of having these remarks placed of record.

I have been a member of the Bar of the State of Louisiana for almost 54 years, having been admitted in June, 1919. I practiced both civil and criminal law from 1919 until 1942, when I gave up the practice of criminal law. I was a Judge of the Civil District Court for the Parish of Orleans for 10 years.

Since the Constitution of 1812, more than 161 years ago, there has been a divided jurisdiction.

As far as I have been able to ascertain from articles in the newspapers, those who advocate the merging of the Civil and Criminal District Courts have not advanced cogent reasons for the merger. No one has come forward with an idea as to how the transition is to take place.

I have heard nothing about:

1. The cost of an additional building or buildings. New quarters alone will cost not less than five million dollars.

2. Nothing has been said about bookkeeping and accounting services for the intended merging of the courts. It is well to remember that civil costs will have to be handled, as well as criminal costs -- fines, bond forfeitures, and other expenses incident to the operation.

3. Nothing has been said about the fees collected by the Recorder of Mortgages, Register of Conveyances, and the First and Second City Courts, all of which presently go into the Judicial Expense Fund, which has been in existence since 1879.

4. Nothing has been said about whether the Judicial Expense Fund will continue in existence, and if not, what disposition will be made of same. If it is abolished, then the City or State will have to set up a system to take its place, in order to bear the expenses of the Court. Without a good system the court will not be able to function.

5. What disposition is to be made of the present Clerks of the two courts, and the Civil and Criminal Sheriff? Is there to be one Sheriff? Who will administer the Parish Prison?

6. Has the City of New Orleans, through its proper finance officer, been consulted? The City is going to have to bear a great portion of the expense with regard to the transition and the building or alteration of a new building or buildings. This will amount to an enormous sum.

7. I believe that the members of the Louisiana Bar Association residing in New Orleans and the metropolitan area should be consulted. They are vitally interested. Their clients are vitally interested. They will be able to speak from their viewpoint and that of their clients.

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8. I believe the convenience of the citizens should be taken into consideration. Prospective jurors, witnesses and litigants all have a great interest in the efficiency of the transition and the operation of the new court being considered. At this time, I do not believe that the change should be made. There has not been enough thought and study. It should be approached with great caution and after deep thought and consideration. If the present system is changed, it will be in effect for a very long time; if it should be found unsatisfactory the people will have to bear it for years and years. Vast sums of public money should not be spent without caution.

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STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973
L R VON MILLER

AGENDA
COMMITTEE ON THE JUDICIARY
April 13, 1973

Roll Call
Reading of the Minutes
Announcements
Speakers:

Mr. Glenn R. Winters, Executive Director
American Judicature Society

Judge Staci R. Smith, Fourth Circuit Court of Appeal
Representative Edward H. Booker
District 91, New Orleans

Judge Carl E. Vernon
14th Judicial District Court
Calcasieu and Cameron Parishes

Judge C. J. Bolin, Jr.
1st Judicial District Court, Caddo Parish

Judge David T. Caldwell
2nd Judicial District Court
Benton, Claiborne and Jackson Parishes

Judge Edward A. de la Houssaye, III
18th Judicial District
Iberia, St. Martin and St. Mary Parishes

Judge Harry Thomas Lemmon
4th Circuit Court of Appeal

Business of the Committee
Adjournment

STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973
L R VON MILLER

AGENDA
COMMITTEE ON THE JUDICIARY
April 14, 1973

Roll Call
Speaker: Judge Hillary J. "Buddy" Crain
22d Judicial District Court
St. Tammany and Washington Parishes

Business of the Committee
Adjournment

STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1973
L R VON MILLER

AGENDA
COMMITTEE ON THE JUDICIARY
April 20, 1973

Roll Call
Minutes
Announcements
Speakers:

Mr. Ben R. Miller
Attorney at Law

Judge Luther F. Cole
19th Judicial District Court
East Baton Rouge Parish

Mr. Eugene Murret
Judicial Administrator

Judge Fred A. Blanche, Jr.
First Circuit Court of Appeal

Judge Thomas Wicker
24th Judicial District Court
Jefferson Parish

Business of Committee
Adjournment

Supreme Court
STATE OF LOUISIANA
New Orleans

March 28, 1973

MEMORANDUM

TO: Members of the Judiciary Committee of the Louisiana Constitutional Convention

FROM: Eugene J. Murret, Judicial Administrator

Mr. Ben R. Miller, Sr., Chairman of a special committee appointed by the President of the Louisiana State Bar Association to represent the Association before your Committee, will appear before you at 9:30 a.m. on Friday, March 30.

Enclosed are materials which he will discuss with you at that meeting.

EJM/1m

Enclosures

CC: Mr. Ben R. Miller, Sr.
Mr. Lee Hargrave
Mr. C. B. Forgetston

INTRODUCTION

My name is Ben R. Miller. I am a practicing lawyer in Baton Rouge, Louisiana. My interest in Judicial Administration began some forty years ago when enrolled in the graduate school at LSU. My thesis for my Master's Degree was "The Louisiana Judiciary" which the LSU Press later published
under that title. Among the changes I then urged is the so-called Well System of Selection of Judges.

No doubt because of this background, I was appointed to the Judiciary Committee of the project of the Louisiana Law Institute for a new Constitution. Each of you have that project. For the work of that committee I made a comparative analysis of the judiciary structures of the other states of the union as of the mid-nineteen forties. This was published by the Louisiana Law Review in its volume 7, pages 440, et seq.

In the fifties I served for several years as chairman of both the Selection of Judicial Candidates Committee of the State Bar and its Committee on Jurisprudence and Law Reform; and for the last several years I have again been chairman of the first named committee and vice-chairman of the expanded Law Reform Committee.

For some nine years I served on the Federal Judiciary Committee of the American Bar Association and authored a resolution adopted by the ABA in 1958, urging the institution in the federal system of such a system as this for federal court appointments. And I chaired a special committee of the ABA which unsuccessfully sought to have the two political parties accept such a plan on the federal level.

As some of the judges now serving were serving when I first urged a new selection system for our judges and many were not even born at the time some forty years ago when in my book "The Louisiana Judiciary" I first urged such a new system of selecting judges. It is obvious I would hope that I am not reflecting on any incumbent judge in urging such a change.

In complete sincerity I believe such a change is in the best interest not only of the public but of the incumbent judges.

This is but one of the suggestions I will offer; however, and since you have already heard much on this topic I will be fairly brief as to it.

THE RULE-MAKING POWER

The complete rule-making power to govern the practice and procedure in the courts should be vested in the judiciary. It is particularly incongruous for a state which long (and properly) has granted its appellate courts the right to itself determine the facts and overturn the finding of facts by the trial judge and even by the jury, to deny the Supreme Court the complete rule-making power. What would those of you who are legislators say if the Supreme Court undertook to tell you what rules of procedure you must follow?

The Judiciary Committee of the Institute's project for a New Constitution had recommended a section for a new judiciary article to read:

"The Supreme Court shall have the power to make and promulgate general and uniform rules of pleading, practice and procedure in all civil actions in the courts of this state."

And it recommended that the Judicial Council be empowered to prepare and recommend such rules.

I have not researched the present status in the other states but this is a standard I wrote at the time.

"THE RULE-MAKING POWER BELONGS TO THE JUDICIARY"

On April 16, 1957, there was a day long meeting of the general membership of the Institute at which the tentative project's provisions expressly vesting in the Supreme Court the power to exercise complete rule-making authority was not debated. That evening at its meeting those of the council who were present reversed this position, one which had been unanimously taken by the Institute's sub-committee on the judiciary, concurred in by the general committee, and by the Council previously, and incorporated in every tentative draft considered by the Council in almost three years of its regular meetings.

Minimum Standards of Judicial Administration, edited by Arthur T. Vanderbilt, Chief Justice of the New Jersey Supreme Court, published for the National Conference of Judicial Councils and by the press in early 1950, not only the latest but the best source of ready, comparative reference. Louisiana is shown by this magnificent work to be one of the only twelve states wherein procedure in civil cases is still regulated almost completely by statute.

The recommendation approved by the American Bar Association in 1938 for 'regulation of procedure by court rule' was said by its Committee to be but a return to fundamental principles. This book edited by Judge Vanderbilt, then points out that, as it uses the term, 'procedure', includes matters of pleading, practice, evidence and management. As to the meaning of the term 'rules of court', the book states:

"Rules of Court is also an ambiguous term, as there are two types of rule making power. One is a supreme court power that is, the power of a court to make rules which supplement a set of statutory rules. The other is the general power; that is, the power confered by the legislature by court rules which supersede statutory enactments. The supplementary power is broad, and but a few courts exercise such a power to some extent. The complete power is the true rule-making power both historically and terminologically, a court cannot be said to be exercising rule making power unless its rules overrule statutory rules. Such complete power is the real subject of this chapter."

In an historic address before the American Bar Association in 1926, Dean Ranose Pound of the Harvard Law School, asked "How did it happen - that in the United States - we committed ourselves thoroughly for a season to habitual legislative interference with what ought to be left to the courts?"

Then after giving and analyzing four historical reasons, Dean Pound continues:

"In truth procedure of courts is something that belongs to the court rather than to the Legislature, whether we look at the subject analytically or historically. It is a misfortune that the courts ever gave it up. Analytically, there is no more warrant for the legislature assuming a strait-jacket of statutory procedure upon the court than for it doing the like with the executive. -- Historically the matter is even more clear."

"It is a misfortune that American courts ever gave up their control of procedure. It may be that today, after seventy-five years of codes and practice acts and recent judicial legislation, we can't go far as to pronounce such legislative interference with the operations of a coordinate department to be unconstitutional. -- Equally, however, we should insist that the legislature ought not to go so far as to give such things, not merely on grounds of expediency and for the sake of a better and more effective administration of justice, but as a matter of due regard for the constitutional system of separation of powers. None of the coordinate equal departments of our polity can do its work effectively if the minut details of its procedural operations, as distinct from the substa-
the law it applies or ministerts, are dictated by some other department. But the legislature should claim such a power is something that confers power to give the executive its claims of the legislature in the period of legislative hegemony. (601)

"Experience shows abundantly that provision of procedure by rules of court is the best way to insure a simple, effective procedure, attained by gradual and conservative overhauling, and reshaping of existing practice. " (602)

of court is an unwise advantage in that they are interpreted by the same body that makes them. They are not made by one body and then interpreted and applied by another body, which is not in sympathy with them. Moreover, it is unwise to bring professional opinion to bear upon the rule-making power, whereas the difficulty of procuring a decisive action with references to even the most crying needs of judicial procedure is notorious. -- Most of all, however, the procedure is governed by rules of court rather than by statute, the tendency is to make procedure subsidiary to the substantive law as it ought to be." (602)

John R. Wigmore, in 1936, in an article entitled "Legislature has no power in Procedural Field", began in this language:

"It is high time to raise a constitutional question which has long remained in abeyance. It is that the legislature (federal or state) should not, contrary to its explicit constitution, create a body which it then attempts to impose upon the judiciary my rules for the guidance of the judiciary's actions. All legislatively declared rules for procedure, civil or criminal, in the courts, are void, except such as are expressly stated in the Constitution.

This proposition was found on the basis: first, logic, as deduced from the constitutional terms; and secondly, policy, as verified by experience."

After an eloquent but concise discussion, Dean Wigmore concluded his article in this language:

"Thus, then, will not some courageous council take an early opportunity to assert before a Supreme Court the following propositions:

1. All rules of procedure, in courts, not expressly or implicitly prescribed by the constitution, fall under the same qualification, for the purpose of making or changing them.

2. All rules of procedure decided by the Supreme Court are void, notwithstanding any enactment of the legislature that may be inconsistent.

3. All rules of procedure declared by the legislature to be void, has now only another effect as the court of the judiciary may give by following them in the absence of any rules made by the judiciary." (606)

Chief Justice Vanderbilt concluded his chapter on "Rule-Making" with this unambiguous statement:

"In conclusion it is to be noted that the authorization of rule-making action by the courts is not sufficient if the legislature retains the right to disapprove rules, and does so, as in Nebraska."

In the Handbook on 'The Improvement of the Administration of Justice' prepared by the Section of Judicial Administration of the American Bar Association while the Honorable Alfred P. Murrah, 10th Circuit United States Court of Appeal was the Section's Chairman, 1948, there is this language:

"The Rule-Making Power"

"The keystone of the American Bar Association's program for reform of judicial procedure is the first recommendation adopted by the House of Delegates in 1930:

"That practice and procedure in the courts should be regulated by rules of court; and that to this end the courts should be given full rule-making powers."

"The conferring of the rule-making power on the courts and its exercise is indispensable to the most thorough-going and effective realization of the program."

"The American Bar Association has been committed to the principle of judicial control of court procedure from a third of a century ago. For most of that time its efforts were concentrated on securing a grant of power to the United States Supreme Court to prescribe rules of practice for the federal courts. With the adoption of the Enabling Act of 1933, and the subsequent statutes relating to criminal procedure, the Association turned its attention to the state courts.

"The movement for return of rule-making authority to the courts began many years ago, with the enactment of the English Supreme Court of Judicature Act of 1873. In 1902 the latter, which began by a growing number of jurisdictions have enacted statutes or constitutional provisions empowering the highest court of the state to regulate practice and procedure in all, or practically all, of the courts of the state, until now the last states are equally divided between those in which the court has such power and those in which it does not. In a number of the latter states active efforts are being made to obtain passage of a rule-making act."

"The case for judicial control of procedure. The arguments in favor of judicial rule-making are many. The courts are experts in the matter of procedure; members of the legislature are not trained in the subject. Where the legislative regulation of procedure, particular changes may be blocked or pushed through from considerations of personal interest on the part of individual members. Legislative enactments are not subject to the same kind of judicial review and precedent; by judicial action it should be fairly, continuously, and thoroughly, to judge Bordeaux once said:

"The legislator, informed only casually and intermittently of the needs and problems of the courts, without expert or responsible or unbiased or systematic advice as to the workings of one rule or another, pokes at the fabric here and there, and more often when it could need."

"It has been pointed out, also, that where procedure is regulated by statute the procedural system tends to become rigid and dogmatic. No law is frequently on points of practice, and that the opinion of responsibility for the administration of justice between the legislative and judicial departments is not to result in further democratic it's assuming proper responsibility. The courts are blamed for whatever the administration of justice and they should have the power to meet such criticism."

"Arguments against judicial rule-making. It will be contended that the highest court of a state is not sufficiently in touch with practice and procedure in the trial courts. The objection has not hold water in the case of the English Supreme Court of Judicature or the United States Supreme Court. As has been done with the judicial bodies of Civil and Criminal Procedure, the court can appoint an advisory committee to do the same work, with sound and of the high and low bar can be received, and any decisions of opinion settled by the court. The objection that matters of procedure cannot be clearly differentiated from matters of substantive right, like tax, has been shown by experience to be a serious problem, and the same is true of the argument that the court should not be put in the position of making, in its judicial capacity, to pass on the validity of rules promulgated by it in its legislative capacity. It is true that in the past, in some states, courts have been unwilling to exercise such power."

Even in England, where there is no written constitution the separation of its government into the three, independent branches, where Parliament is the real sovereign and the 'constitutiveness' of its normal enactments may not even be considered in the courts, except for a short period in the 19th century, and continuously since the Judicature Act of 1873, the judiciary there has possessed complete rule-making power. The possibility of Parliament veto
is not analogous to America for, as stated, Parliament is in effect the real sovereign in England.

Judge Murrah, in his letter to me of April 5, 1950, said in part that:

""The courts can never fulfill their proper function in our system of government until their rule-making power is restored. I say restored, because not only is it inherent in the power of the court, but it is traditional in Anglo-Saxon jurisprudence. One of the prime recommendations of the Section of Judicial Administration, adopted by the American Bar Association in 1938, was the rule-making power of the courts."

And Chief Justice Vandervilt, in his letter to me of April 11, 1950, states:

"I am sorry to see that there is such a strong effort in your State to slide away from putting the rule-making power where it obviously should be placed - in the court of last resort.

There would seem to be no doubt but that in principle the rule-making power is properly vested in the courts; nor the statement of Dean Wigmore on p. 91 of "Major Standards of Judicial Administration." Dean Pound has been equally explicit in his articles on the subject in the American Bar Association Journal."

It may well be that when it senses it has the firm backing of an enlightened, courageous, profession, our Supreme Court would assert - as Dean Wigmore urges all Supreme Courts to assert - that inherently...

The existing legislative Code of Civil Procedure would of course continue to be applicable until and unless amendments or changes were made by rule. But needed amendments would not await the protracted legislative process of at least two year intervals.

If any restriction is considered advisable against recognizing such a complete rule-making power in the judiciary, the Alaska provision could be added: that by a two-thirds vote of each House of the Alaska legislature, any rule promulgated by the Supreme Court could be repealed or modified.

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ADDITIONAL TOPICS FOR CONSIDERATION

1. The boundaries of the various judicial districts and the jurisdiction of the various courts:
   Should either or both be left to legislative discretion with constitutional restrictions and safeguards such as: not to affect an incumbent during his term; protect his rights under the retirement system; require an extra aiding vote in the legislature; perhaps require ratification by the electorate of the judicial district affected.

2. Declaring acts of the legislature unconstitutional.
   Should a two-thirds majority of the appellate court be required?

3. Advisory Opinions.
   Should the legislature be expressly authorized or expressly denied to (authorize) (require) the Supreme Court to render advisory opinions to the executive and legislative departments?

4. Comment on the evidence.
   Should the judge in a jury case be expressly (authorized to) (denied the right to) comment on the failure of a defendant in a criminal case or a litigant in a civil case to take the stand?

5. Grand Jury.
   Should it assemble only on the call of a trial judge, or of its foreman or of two-thirds of its members?

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April 20, 1973

TO THE JUDICIARY COMMITTEE OF THE 1973 LOUISIANA CONSTITUTIONAL CONVENTION

This is late in the game for me to try to persuade you to the
merits of proposing a new method of selecting the judges of our state courts. I do believe, however, I have a few arguments you haven't yet heard, and a few suggestions for desirable constitutional flexibility particularly of a local home-rule nature.

You may well be the one responsible for a judicial system governing your grandchildren and great grandchildren and I know you wish your product to be one that they will be proud of.

On my first appearance before you I stated that approximately half those sitting on our courts first entered the judiciary by appointment from the governor. That was correct as of September 1969 according to the list of the individuals so appointed, furnished to me by the then State Court Administrator and the Secretary of State. In Orleans, for example, four of the judges of the Civil District Court, five of the judges of the Criminal District Court, two of the Orleans Juvenile Court, three of the judges of the First City Court of New Orleans, three of its Municipal Court and one of its Traffic Court, came to the judiciary for the first time by appointment.

To the extent these men sit in office, all appointed by the governor, have made fine judges, why should one fear appointment for a short trial period from a panel of three submitted by an independent commission? To the extent any may not have made fine judges, isn't that of itself proof that the competitive election system by which they have been retained in office isn't the method to obtain judges who are among the best qualified to serve?

The need for a new system is obviously greater in the large metropolitan areas and in the appellate districts than it is in the so-called "country" parishes. Just a few months ago the campaign of the successful candidate for the Orleans Court of Appeals cost over $100,000, as you heard Judge Patrick M. Schott say last Friday.

Those of you who are lawyers may or may not have received invitations to attend on April 24th a testimonial luncheon at $100.00 a ticket to help pay the cost of the successful candidate for the Supreme Court seat.

Another successful candidate for the district court in Jefferson Parish spent over $60,000 and those of you who are lawyers may or may not have received a similar request from a committee of Jefferson Parish lawyers recently.

A district judge elected in my parish had the expense of two primary battles and then a general election—plus even the expense of a lawsuit from an unsuccessful first primary election! I am not aware of any testimonial dinner for him.

I am told that Chief Justice Poinset's last election campaign cost over $200,000. These experiences show one of two things: either a man must be rich to seek an elective judgeship in the larger districts or he must be prepared to suffer the embarrassment and the censures though often anonymous remarks of critics over the implications of such methods of financing a judgeship campaign. And since only the winners receive such testimonial help it really means that in the larger districts one must either be rich enough to face the possibility of losing or else have financial commitments in advance from those who must fall in one of two categories: attorneys who will be practicing before him, or laymen or corporations who are at least potential litigants before him, or .

This would appear especially significant to any of you who may cherish the ambition to some day be a judge, and to those of you who may think the younger aspirant has more advantage under an elective system than he would under a merit selection one. For, believe me, the bitter and costly these campaigns are not far off from even the most rural of districts.

Bloc voting by "party affiliation," by economic, religious, ethnic and racial groups is certainly the trend—here as elsewhere. We are soon to be a real two party, if not three party, state. The United States Supreme Court has already outlawed any lengthy residence period as a qualification even for voting in state-wide elections. No one can forecast how long it will be before the technique John Slidell so skillfully used in the election of 1844, of moving blocs of people from New Orleans to selected outlying parish where the vote of election to give him the balance needed over Soule's faction, will be used in some rural parish to elect a particular bloc vote candidate but himself only recently moved to the district.

Some judges express a fear of fighting a phantom at the retention election under this plan. The public would react against any such hidden opposition. And how long could a phantom conceal his identity? What better campaign argument could the judge seeking retention have than to call attention to the cowardly tactics of his hidden adversary. Moreover, what would it gain such a phantom, for one who would engage in such tactics would not be able to be on the panel from which the successor would come.

There is a misconception, I believe, as to the attitude of the Louisiana voters, particularly in the large metropolitan areas, toward our present so-called elective system for judges. On January 23-25, 1964, a Louisiana conference on judicial selection was held in New Orleans. The merits and demerits of our elective system and of the merit system were fully explained. There, as I believe now, those who favored retaining our present system were more vocal than those who did not, leading the two reporters for the conference to erroneously conclude that the "consensus" favored retention of our present system. A poll of 100 citizens in attendance, at least 80 of whom were lay leaders from business, education, and labor, showed that a large majority favored a change to such a system as the state bar association is now urging.

In urging that a formal poll be taken, one layman at the Conference on January 28, 1964, wrote the president of the state bar. In a discussion entry he said, "The vote was 10 to 3 in favor of some adoption of the "Missouri Plan." And Dean Herbert on January 29, 1964 wrote that "I sat in three of the four groups (II, III and IV) and... had a distinct impression that a majority of the lay participants in the Conference were of the opinion that some adoption of the Missouri Plan should be worked out for Louisiana to provide a better method of judicial selection than the method we presently have." He, by the way, personally favored the principle of the plan and said, too, that "It is my view that the adoption of some variation of the Missouri Plan would be a protection to sitting judges."

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The report of the Advisory Committee to the Mayor of New Orleans on Crime and Delinquency, in June 1969, had expressly "endorse[d] and urge[d] the adoption of the merit selection plan generally of the type used successfully in Missouri for some 26 years and long supported by the American Bar Association and the American Judicature Society." The New Orleans States on June 25, 1969 editorially favored this. The New Orleans Times-Picayune of April 5, 1973, carried the story about 19 area civic organizations establishing a coalition and with it been asked to support such a new system.

Although the membership has varied considerably over the period of the last 25 years, the Standing Committee of the Louisiana State Bar Association on "Selection of Judicial Candidates" has from time to time reiterated the committee's recommendation that a type of Merit Selection and Retention of Judges System be substituted for our so-called elected system.

Those who as committee members at one time or another during this period have been on record as favoring such a new system include six past presidents of the state bar: the late George S. Hall of Alexandria, Thomas W. Leigh of Monroe, the late Cuthbert S. Baldwin of New Orleans, J. J. Davidson, Jr. of Lafayette, Leon Sarpy of New Orleans, and Clarence T. Lancaster of Shreveport; as well as Dudley L. Flanders, the late W. Ford Reese, Howard Lenfant, and Michael N. Maloney of New Orleans, Victor Sachse of Baton Rouge, J. Winston Fontenot of Lafayette, Orlando N. Hamilton of Oak Grove, W. R. Jackson, Jr. of Leesville, Charles H. Bass, Jr. and Robert Robert, JYL and J. Bennett Johnson (no longer new Senator) of Shreveport. Those who have consistently opposed the plan of least publicity/signs of change appear. Some would favor the retention portion of it; while others would favor the selection portion if appellate positions were to be filled only from district courts. One rural judge, Earl Edwards of Marksville, expressed himself in a letter of January 26, 1970:

"(Other) judges look with disfavor upon this proposal; I cannot exactly understand why. It seems they have the most to gain by the plan... I must say that I endorse and like the plan and would favor its adoption."

Such a plan, calling for vacancies and new judgeships to be filled from a select panel submitted by an independent commission, and going before the electorate just two years later on the question of retention for the remainder of the term and at the end of the full term again going before the electorate on the question of retention for another term, is as different from the present federal system as night and day. Indeed it is the model for what two of the South's best loved and respected senators have urged for the federal system. For Senator Stennis of Mississippi as early as 1955 urged the creation of an independent commission to submit a panel of names to the president from which he would be compelled to appoint (or otherwise the Senate would not confirm). And Senator Harry Byrd, Jr. of Virginia has urged that federal judges come back each 4 or 12 years for a study of their record and vote (by the Senate) on reconfirmation and retention for a further such period, or rejection.

Assuming your committee won't recommend inclusion in a draft of a new Constitution provisions expressly providing for such a merit plan of selection and retention for the larger metropolitan districts and for the appellate courts, I would hope you would at least recommend:

A. Constitutional provisions

1. Permitting the legislature by a majority of the elected members of each House and subject to ratification by the electors of the particular judicial district as to application to the courts of that district, to adopt such a plan for that district subject to certain constitutionally expressed restrictions such as (a) not adversely affecting an incumbent's tenure, jurisdiction, compensation or provisions applicable to retirement benefits; or (b) changing the qualifications, tenure, jurisdiction, compensation, retirement, discipline and removal from that applicable to judges of such courts in the other judicial districts of the state.

2. Requiring an election to be held in any particular judicial district upon the petition of at least 10% of the registered voters of such a judicial district, to adopt or reject a specific plan of selection and retention, but subject to the same constitutionally expressed restrictions as set forth above; and if approved by a majority of those voting at such election (the registered voters) such plan would be self operative without legislative action.

3. Requiring modification or repeal of such plan as thus adopted to be only by one of the means permitted for its adoption; and subject to the same constitutionally expressed restrictions.

B. Submitting as an alternate, to be voted on separately and only by the electorate of Orleans Parish, and if adopted by them to be self-operative without legislative action required, a specific such plan of merit selection and retention. There are many possibilities as to composition of the "commission" for this Orleans suggestion, such as, for example only: one member selected by the Supreme Court, one by the members of the Orleans Court of Appeal, with those two selecting the third who must be a layman unless one of the first two is a layman; or the first two chosen by the presidents of Tulane, Loyola and L.S.U.; or the first two by the (Mayor), (Council) and (Secretary of State) (Governor).

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Mr. Ben R. Miller, Chairman
Committee on Judicial Selection
Louisiana State Bar Association
Post Office Box 1588
Baton Rouge, Louisiana 70821

Dear Ben,

I have obtained from the office of the Secretary of State the enclosed list of judges currently sitting, who were originally appointed by the Governor.

Sincerely yours,

Robert E. LeCorgne, Jr.

JUDGES WHO WERE ORIGINALLY APPOINTED TO OFFICE

Court of Appeal

District Judges

Eugene B. Middleton, Fourth Judicial District, Div. B
C. J. Bolin, Jr., First Judicial District, Div. C
Wm. F. Woods, First Judicial District, Div. D
Lee S. Thompson, Fourth Judicial District, Div. A
Jesse S. Heard, Fourth Judicial District, Div. B
Robert T. Farr, Fourth Judicial District, Div. C
R. F. Boyd, Jr., Seventh Judicial District
Harrell L. Allen, Eighth Judicial District
Field V. Gremlinton, Ninth Judicial District, Div. A
Guy E. Humphries, Jr., Ninth Judicial District, Div. B
Richard B. Williams, Tenth Judicial District, Div. A
Jack E. Burgess, Eleventh Judicial District, Div. A
John S. Pickett, Eleventh Judicial District, Div. B
Earl Edwards, Twelfth Judicial District
Joe R. Vidrine, Thirteenth Judicial District

Date of Appointment
9-10-68
9-17-66
8-8-66
2-10-64
4-17-65
4-4-65
12-17-69
9-17-64
9-7-66
9-26-66
7-27-66
9-26-66
7-26-66
10-14-60
8-31-66
7-23-64
10-13-65
4-1-66
1-31-65
11-13-64
7-7-67
7-25-64
6-17-66
9-2-66
1-5-65
8-16-66

Edward J. Stoudt, Twenty-Fourth Judicial Dist., Div. A
Denny L. Saba, Twenty-Fourth Judicial Dist., Div. B
Terrell L. Godwin, Second Judicial Dist., Div. D
August A. Noble, Jr., Twenty-Fifth Judicial Dist., Div. A
Eugene E. LeLn, Jr., Twenty-Fifth Judicial Dist., Div. B
Richard H. Gourley, Twenty-Fifth Judicial Dist., Div. C
Monty M. Wyche, Twenty-sixth Judicial Dist., Div. A
Enos C. McClendon, Twenty-sixth Judicial Dist., Div. B
Walter C. Peters, Thirty-first Judicial Dist., Div. A

Civil District Court - Orleans Parish

Thomas A. Early, Jr., Division A
Richard J. Carvey, Division C
S. Sanford Levy, Division D
Oliver P. Carriers, Division H

Criminal District Court - Orleans Parish

Matthew S. Braniff, Division B
Oliver P. Schoulingkamp, Division F
Bernard J. Bagert, Division II
Israel M. Augustine, Jr., Division I
Alvin V. Oser, Division J

Orleans Parish Juvenile Court

James C. Guastella, Division A
James P. O'Connor, Division C

City Courts

Marcus A. Broussard, Jr., Abbeville
George X. Foote, Alexandria
Daniel W. LeBlanc, Baton Rouge
William Haws, "Dill" Daniels, Baton Rouge
Edmund M. Reggie, Crowley
J. Y. Gimenez, Morgan City
Donald A. Berlin, Rayne
Ganer R. Miller, Shreveport
Gus A. Fitchie, Slidell

First City Court of New Orleans

Arthur J. O'Keefe, Jr., Section A
Dominic G. Grieskhter, Section B
Morton G. Seiber, Section C

Municipal Court of New Orleans

Joseph X. Bechet
Andrew G. Ducaro
James E. Glancy, Jr.

Traffic Court of New Orleans

Lambert J. Hassinger (appointed by Mayor on 5-5-64)

Mr. Ben R. Miller, Sr.
Sanders, Miller, Downing & Kean
Attorneys at Law
P. O. Box 1588
Baton Rouge, Louisiana

Dear Ben:

Pursuant to our conversation of this afternoon, there is enclosed herewith the memorandum furnished by Mrs. Powell in connection with the original appointment of Judges of the Supreme Court and of the Courts of Appeal.

A further search of the Commission books has failed to confirm that either Judge Savoy or Judge Regan was appointed in the first instance.

Sincerely yours,

[Signature]

C. C. Wood
CCW emb
Enclosure
SUPREME COURT

1st District Walter B. Hamlin, commissioned 4-13-48 as Judge, Civil District Court for Orleans Parish. I do not know if he was elected or appointed. In column for 'date of election' the words "election called off" had been written.

5th District Joe W. Sanders, appointed 12-10-54 as Judge, Family Court of East Baton Rouge Parish.

6th District Frank W. Summers, appointed District Judge, 15th Judicial Court on 7-30-52.

COURT OF APPEAL

1st Circuit Paul D. Landry, Jr., appointed 7-17-53 as Judge, 18th Judicial Court.

1st Circuit G. Lenort Sartain, appointed 11-4-66 as Judge of the Family Court Parish of East Baton Rouge.

1st Circuit Frederick S. Ellis, appointed 10-31-60 as Judge, 22nd Judicial Court.

1st Circuit William A. Culpepper, appointed 10-6-54 as Judge, 9th Judicial Court.

3rd Circuit J. Cleveland Fruge appointed 11-3-35 as Judge, 13th Judicial Court.

4th Circuit Luther E. Hall appointed 7-8-48 as Judge of the Civil District Court for the Parish of Orleans.

4th Circuit William Redmann appointed 8-14-68 to Court of Appeal.

HONORABLE EUGENE J. MURRET

Chief Judge

Court of Appeal

FOURTH CIRCUIT

STATE OF LOUISIANA

NEW ORLEANS, LOUISIANA 70112

April 17, 1973

HONORABLE EUGENE J. MURRET

JUDICIAL ADMINISTRATOR

Supreme Court of Louisiana

321 Loyola Avenue

New Orleans, La. 70112

RE: Canons of Judicial Ethics

Dear Geno:

In connection with your letter of April 2, I have given some thought to the proposed canons and am particularly concerned about canon 7, which I believe may be somewhat inconsistent with our system of requiring judges to run for re-election in partisan competitive elections at the end of each term of office.

The statement that a judge should refrain from political activity inappropriate to his judicial office cannot be reconciled with the requirement that we run for re-election every few years. My point is that I do not know what type of political activity can be inappropriate for one who anticipates running for or four years from now who is automatically so every practical person who must run for office that he runs all the time between elections. This is highlighted by paragraph (2) which prescribes that a judge may attend political gatherings and speak to such gatherings on his own behalf "when he is a candidate for election or re-election." I take the position that a man who is running for office every six years, or perhaps even every 12 years, is always running for re-election and consequently may find it appropriate and perhaps necessary to attend political gatherings all the time while he is on the bench under these circumstances.

Also, paragraph (4) which has a blanket prohibition against a judge engaging in "any other political activity" is altogether impractical for a man who anticipates running every few years for re-election.

With respect to campaign conduct, paragraph (1), subparagraph (c), states that a candidate may not announce his views on disputed legal or political issues and here again I cannot reconcile this prohibition with the practical aspects of a campaign. Anyone who has run for office knows that he is forced to appear before literally thousands of people in hundreds of groups numbering from a handful to several hundred at one time. He is asked questions to give the voters an insight into his position, and almost any position could be classified as a political issue. To tell the judge that he cannot state his views on issues is to say that he can't campaign, in effect, and I do not see how this can be squared with our present system.

Finally, under campaign conduct, paragraph (2) is altogether impractical. When a candidate is required to spend enormous sums of money he should not be told that he cannot personally solicit or accept campaign funds. As a practical matter, many would be unable to contribute to the candidate and not to some committee. This particular suggested provision really takes on ridiculous proportions when you consider the fact that it is designed to make the public have greater respect and confidence in the judiciary and yet no one in the public would ever believe that under the system suggested, that is, to have the committees solicit and account for funds, leave the candidate in the dark as to who is making the contributions, really has that effect. For instance, if a testimonial function is put on for a candidate the candidate who is at the function obviously learns who made the contributions when the candidate sees who attends the function. Furthermore, potential donors have a right to expect the simple courtesy of a thank you from the candidate himself, and it does seem incongruous that under this proposal their thanks would come only from a committee of supporters as opposed to the candidate.

It is apparent from the commentary following this subsection that the purpose for all of this is to prevent the candidate from even knowing the names of his contributors, and certainly no one believes that such a result would ever follow from the adoption of any canons as long as candidates are required to spend as much as they are in order to campaign.

In conclusion, I would suggest that all of canon 7 is not only inconsistent with our system but as long as we have the present system it is indeed hypocritical for us to adopt such high sounding and idealistic rules which we know cannot be followed.

Very truly yours,

HONORABLE WALTER R. MARCUS, JR.

April 17, 1973
Section 53 of our Constitution states "The Clerks of the District Courts shall be Ex-Officio Clerks of the Juvenile Court." I think this should be eliminated as to Caddo Parish.

The Juvenile Court in this Parish operates on a special tax. I do nothing in operation of the Juvenile Court.

Sincerely,

Dwight D. Pyburn
CLERK OF COURT

[Preservation of Justices of the Peace Johnson and Leger]

[To the Honorable members of the Louisiana Constitutional Convention:]

In connection with the projected revision of our state constitution, it has been asserted by some of the members of our citizenry that the office of Justice of the Peace would be abolished or at least amended from our basic law. Could this be done the people of Louisiana will lose a most useful service of the judicial branch of our government, especially in rural areas.

The advocates of abolition have advanced the theory that these offices are antiquated, outdated and have outlived their usefulness. Nothing could be further from the truth and it can be seen that the authors of this argument are not familiar with the Justice of the Peace Court and the judicial service it renders to the local citizens of the rural communities. Neither are they oriented to the rural life and problems enjoyed by over half of the population of our great state. On the contrary, they are given to the idea of sophistication and the metropolitian custom of high cost of everything, even equity and common justice.

The Justice of the Peace Court is the lowest rung of the judicial ladder serving the people at the grass roots level and thus relieving the District Court of innumerable minor matters which, although comparatively unimportant, would have to be heard at the District level were it not for the local justice of the peace. One who is familiar with the crowded docket of the district courts will understand the problems of delay as well as the court costs encountered there.

The Justice of the Peace Court is the closest to the people and is available to them at all times. Within its简易的 jurisdiction, the decrees and orders of the Justice of the Peace Court are equally as valid and enforceable as those of the district court at only a fraction of the time and cost. The conscientious Justice of the Peace is on hand at all hours to hear and evaluate unusual evidence gathered by law enforcement agencies, issue warrants, fix bail, counsel the parties, and often settle disputes in a friendly manner when no law has been violated. He accepts civil suits, performs marriages and handles evictions in the same manner as the district court. The proceedings are brief, informal and a case can be disposed of in the Justice of the Peace Court in much less time than is required to have it placed on the district court docket at enormous cost to the litigants.

It presents the Justice of the Peace Court has no trial jurisdiction in any criminal matter but only as a "consulting magistrate." Civil jurisdiction is fixed at $500 exclusive of interest and costs--an amount fixed during the 19th century--and should be increased at least $500. Ordinary traffic cases and some minor criminal offenses could safely be placed in the hands of the local Justice of the Peace and thus further relieve the District Court docket. The Justice of the Peace Court is truly a court of the people, conducted at local level at minimum cost and by all means should be preserved in the state constitution and with increased jurisdiction. It is quite obvious that the Justice of the Peace Court is a bargain for the taxpayers as well as the litigant parties and at a time when cost of government is all important. Should the proposed new constitution omit the officers of the Justice of the Peace and Constable, it will certainly be defective to that extent at least.
Professor Geoffrey C. Hazard, Jr.
Professor, Yale Law School

Report for the special committee of the American Bar Association of the Standards of Judicial Administration. Drafts new standards of judicial administration.

Attorney General William J. Custe, Jr.
Served in Louisiana State Senate 1968-72
Elected Attorney General in 1972

Aaron Kohn, Managing Director, Metropolitan Crime Commission, New Orleans, Louisiana
FBI, 1970-79, Supervisor of Identification Division, Supervisor of Crime Laboratory Branch, Administrative Assistant to J. Edgar Hoover

Eastern Regional Executive, Fees-For-Book Co.

Emergency Crime Committee of the Commission Council, Chicago Chief Investigator and Acting Chief Council

Roosevelt College, Chicago, Special lecturer on municipal government and political science

Special Citizens Investigating Committee of New Orleans Commission Council, June 1953 - April 1954

Executive Director and Chief Investigator, Metropolitan Crime Commission, Managing Director, Initiated Staff activities.

Dr. Hypolite Landry, Jr., Coroner, East Baton Rouge Parish

Sheriff Bailey Grant, Monroe, Louisiana
Elected Sheriff in 1968, was a U.S. Marshall before being elected sheriff

Is a member and past officer of various charities; mostly concerned with boys clubs.

Member of Masonic Lodge

Past president of Kiwanis Club

Past president of La. Sheriffs' Association

Past Sect.-tress. of La. Sheriffs's Association

Appointed by Governor Edwards to chairmanship of the Louisiana Commission on Law Enforcement and Criminal Justice

Mayor Doris Godet
Elected Mayor in 1969. Was a business executive in the Port Barre area prior to election.

Justice Frank W. Summers
LLB received from Tulane University

Admitted to the Bar in August, 1938, began practice in Abbeville in 1938.


Professional Organizations: Past president of the fifteenth Judicial District Bar Association; former member of the Louisiana District Judges Association; President of the Vermilion Parish Bar Association; Fifteenth District Bar Association; Louisiana State Bar Association; American Bar Association; and American Judicature Association. President of Tulane Law Alumni Club, 1962-63; Honorary member of the Order of COIP, Tulane University Chapter, May 9, 1966.

PROPOSED BY MR. AVANT:

A. There shall be a three judge court composed of district judges selected as provided in Sub-section B hereof, which shall have exclusive original jurisdiction of:

1. All actions to which an elected or appointed state officer, board, or commission having governmental authority is a party and the constitutionality of a state statute or administrative rule or regulation under which said officer, board, or commission claims to exercise authority is at issue.

2. All actions containing a prayer for injunctive relief against any elected or appointed state officer, board, or commission in their official capacity.

3. All election contests or quo warranto proceedings in which the right to or election or nomination of any candidate for a state wide elective office or the office of supreme court justice, court of appeal judge, public service commissioner or member of the State Board of Education is at issue.

B. Any pleading seeking relief requiring a three judge court shall include a prayer requesting the convening of such court. The Supreme Court shall by rule establish a procedure whereby the district court receiving such a pleading shall immediately communicate that fact to the Clerk of the Supreme Court.

Under such rules as the Supreme Court may establish a justice or justices of the supreme court shall convene a three judge court, when appropriate, by designating three district judges to constitute such court. No two of such judges shall be from the same court of appeal circuit.

C. Appeals from the judgment of a three judge court shall be to the supreme court which shall by rule of court provide for expeditious hearing thereof.

[308]
The statistical data was furnished to the committee by Mr. Gene Hurret, Judicial Administrator.

**LOUISIANA DISTRICT COURTS**

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**Ouachita** | $ 415,314 | $ 274,150 | $ 141,155 | $ 0 |
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**Rapides** | 106,437 | 83,977 | 22,460 | 0 |
**Red River** | 381,807 | 283,477 | 98,330 | 0 |
**Richland** | 65,249 | 31,861 | 33,388 | 0 |
**Sabine** | 72,107 | 56,939 | 15,168 | 0 |
**St. Bernard** | 87,150 | 56,312 | 30,838 | 0 |
**St. Charles** | 297,730 | 261,271 | 36,459 | 0 |
**St. James** | 174,480 | 104,660 | 69,820 | 0 |
**St. John** | 32,540 | 68,600 | 36,060 | 0 |
**St. Martin** | 44,888 | 52,054 | -7,166 | 0 |
**St. Mary** | 17,151 | 54,291 | 57,140 | 0 |
**St. Tammany** | 263,945 | 215,645 | 48,300 | 0 |
**Tangipahoa** | 144,060 | 97,182 | 46,878 | 0 |
**Terrebonne** | 297,268 | 184,219 | 103,049 | 0 |
**Union** | 430,878 | 274,134 | 156,744 | 0 |
**Vernon** | 166,232 | 187,789 | -21,557 | 0 |
**Washington** | 228,008 | 243,873 | 15,865 | 0 |
**Webster** | 61,691 | 61,505 | 1,186 | 0 |
**West Baton Rouge** | 143,249 | 105,286 | 37,963 | 0 |
**West Carroll** | 88,675 | 79,168 | 19,513 | 0 |
**West Feliciana** | 84,792 | 71,406 | 13,386 | 0 |
**Winn** | 138,222 | 96,533 | 41,689 | 0 |

**TOTAL** | $ 12,750,041 | $ 12,306,092 | $ 424,949 | $ 424,949 |

**TOTAL AGGREGATE SURPLUS** | $ 424,949 | 0 | 0 | 0 |
that whenever a vacancy shall occur in the office of Chief Justice of the Supreme Court of the State of Louisiana, the Justice oldest in point of service shall succeed thereto;

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Judiciary Committee of the Constitutional Convention.

The following Members were present:

Edwin O. Ware, Alexandria, President
Byron P. Legendre, Lafayette, First Vice-President
Leander H. Perez, Jr., Belle Chasse, Second Vice-President
Melvin P. Barre, Edgard, Past President
Ronald C. Martin
W. C. Faulkner, Vidalia
John A. Richardson, Shreveport
Ossie Brown, Baton Rouge
John M. Mamoulides, Gretna

AGENDA
COMMITTEE ON THE JUDICIARY
May 12, 1973

Roll Call
Announcements
Speakers:

JUSTICE FRANK W. SUMMERS,
Louisiana Supreme Court

MAYOR DORRIS GODET
Port Barre, Louisiana

Business of the Committee
Adjournment

TOWN OF GRAND COTEAU
THE TOWN WITH A BRIGHT FUTURE
Grand Coteau, Louisiana
70441

May 11, 1973

Honorables Chairman and Members, Judiciary Committee,
Louisiana Constitutional Convention

Attached letters from Mayors of Towns and Villages of St. Landry Parish who could not be present today:

1. Town of Grand Coteau
2. Town of Washington
3. Village of Cankton
4. Village of Sunset
5. Village of Palmetto
6. Town of Malleville

Mayors of St. Landry Parish who are present:

1. Dorris Godet, Town of Port Barre
2. J. E. Hall, Town of Eunice
3. James H. Boudreaux, Town of Arnaudville

Respectfully submitted

Dorris Godet

TOWN OF GRAND COTEAU
THE TOWN WITH A BRIGHT FUTURE
Grand Coteau, Louisiana
70441

May 11, 1973

Honorables Chairman and Members, Judiciary Committee,
Louisiana Constitutional Convention

The Town Council of Grand Coteau, in opposition to the proposal to eliminate the power of the mayors of town ordinances, respectfully请求您在会议上对这项提议进行投票。

Sincerely,

Dorris Godet

MAYOR

---

TOWN OF WASHINGTON
Washington, Louisiana
May 7, 1973

Mayor Dorris Godet
P.O. Box 387
Port Barre, La.
70577

Re: Mayor's Court

Dear Mayor Godet:

May this letter serve as my proxy in behalf of the Town of Washington, La., I request that you represent me at the meeting on Saturday May 11, 1973. I am truly sorry that I cannot attend the meeting.

inconsiderate,

D. E. Guirk, Mayor

TO/att

CITY OF CANTON

Village of Cankton

Dear Mayor Godet:

You may use this letter to express my views on Mayor's Court to the Judicial Committee of the Constitutional
The following documents are found in the work file for the meeting of May 25, 1973.

NOTES

Town of Melville
Melville, Louisiana

Honorable Chairman and Members of the Judiciary Committee
Louisiana Constitutional Convention

The Town of Melville is opposed to the proposal to eliminate Mayor’s Courts and other similar courts in the State. It is the opinion of the Committee that the elimination of Mayor’s Courts will improve the judicial system of justice. The proposal will be considered by the Committee before the Constitutional Convention meets in special session on July 6, 1973.

Sincerely yours,

Jack Beard
Mayor of Melville

Louisiana State Law Institute
Baton Rouge, Louisiana

MEMORANDUM

TO: Members of the Judiciary Committee of the Louisiana Constitutional Convention

FROM: Eugene J. Murrell, Judicial Administrator

In my appearance before you on Friday concerning the proposal of certain provisions of the Louisiana Constitution for a Constitutional Convention, I indicated that a proposal to alter the judiciary was not a violation of the Constitution. I expressed the opinion that a copy of an alternative draft which relegates procedural matters to be handled by rule of the Supreme Court is attached to a copy of that draft.

Also attached to a copy of brief materials prepared by the Louisiana State Law Institute explaining the reasons for the creation of the Judiciary Commission. Also note that the Institute took the position that the Constitution of Louisiana should be placed in Article IX rather than Article VII. I express no opinion on this point.

Finally, a few of you expressed reservations about accepting our recommendations to add censure and suspension as possible disciplinary sanctions. I simply wish to point out here that you should make a distinction between censure or suspension as a final action, on the one hand, and suspension pending the outcome of disciplinary proceedings in the Supreme Court on the other hand. Your reservations about censure or suspensions as a final action were based on possible impairment of future confidence in a censured or suspended judge who would ultimately continue
on the bench, at least for the remainder of his term. This same reason, in my opinion, does not obtain if a judge were to be temporarily suspended pending the outcome of the proceedings in the Supreme Court. At present, the Supreme Court can remove or involuntarily retire a judge or dismiss the proceedings. In either case, temporary suspension would not have the effect of possible future lack of confidence in the judge for, if the judge is removed or retired, the problem is at an end; conversely, if the proceedings are dismissed, then the public recognizes that grounds for disciplinary action did not exist and that the temporary suspension during the proceedings was invalid because of possible doubts raised in the public mind at that stage.

Members of the Judiciary Committee of the Louisiana Constitutional Convention
April 24, 1973

Page 2

In short, even if you do not additionally grant powers of censure and suspension as final actions, nevertheless we would recommend that you approve the additional discretionary power of temporary suspension pending the outcome of proceedings in the Supreme Court, for it may be foreseen that instances will arise when public confidence in the judiciary will require such temporary suspensions pending the outcome of the proceedings in the Supreme Court.

EJM/mm
Enc. 2
cc: Hon. W. A. Culpepper

Article 9, Section 4

4. Judiciary Commission; removal or involuntary retirement of judges and justices

Section 4. A. Judiciary Commission, membership; terms.

(Same as at present)

NEW
B. Powers and duties; rules. On recommendation of the Judiciary Commission, the Supreme Court may censure, suspend with or without salary, remove from office or retire involuntarily a justice or judge for willful misconduct relating to his official duty, willful and persistent failure to perform his duty, or otherwise being a law. On recommendation of the Judiciary Commission, the Supreme Court may disqualify a justice or judge from exercising any judicial function, without loss of salary, during the pendency of the proceedings in the Supreme Court.

On recommendation of the Judiciary Commission, the Supreme Court may retire involuntarily a justice or judge for disability that seriously interferes with the performance of his duties and that is, or is likely to become, of a permanent character. The Judiciary Commission may recommend, and an order of removal or involuntary retirement by the Supreme Court may provide for, the disqualification of the justice or judge from holding judicial office in this state thereafter, either permanently or for a specified period of years, and make rules implementing this section and providing for confidentiality and privilege of proceedings.

OMIT Section 4. (C, D, E, F, and G.)

Comments: In keeping with the desire of the Judiciary Committee of the Constitutional Convention to shorten provisions wherever possible and to reduce as much material as possible to rules of court or statutes, the present constitutional provision regarding the Judiciary Commission has been altered as follows:

Paragraph A on the creation of the Commission and provisions for its membership and their terms has been retained in its entirety. This is in conformity with the constitutional provisions of almost all of the 32 states which have judicial discipline and removal commissions.

Present Paragraph B has been expanded to include censure and suspending provisions (for the reasons noted in the comments on the previous pages), as well as to include all necessary effects of removal or involuntary retirement which are found in the present Paragraph C and D.

Present Paragraphs E, F, and G have been deleted. In as much as the provisions thereof can be provided for by rules of the Supreme Court as authorized in the last sentence of the proposed new Paragraph B above (this same sentence is found in the provisions of 17 of 30 states which have a judicial discipline and removal commission).

- 2 -

SUBJECT
Submitted by Joseph W. Jordan
Executive Vice-President and General Council
Louisiana City Marshals and Constables Association
To: Judiciary Committee
Judge Dennis, Chairman
Constitutional Convention; Baton Rouge, Louisiana
May 25, 1973

The following is a brief resume submitted to the members of the Judicial Committee presided over by Judge Dennis, Chairman, at the committee's request, by the undersigned, concerning the status and/or proposed changes in the offices of the City Marshals and Constables throughout the State and the city courts which they serve.

The city courts, sometimes referred to in certain municipalities as municipal courts, are basically charged with the handling of legal matters smaller than those normally handled by the district courts.

The benefits derived from the city courts include the much swifter disposition of cases for smaller amounts and generally at a lower cost. Generally speaking, the city courts and their marshals and/or constables have been and are now operating very efficiently and there is no reason seen for any basic changes in the system excepting:

a. In standardization of their terms of office and procedures
b. Adjustment of their jurisdictions.

Concerning "a" above it should be noted that all of the City Marshals and/or Constables in the State serve 6 year terms excepting those of Baton Rouge and New Orleans who serve 4 year terms which run concurrently with those of the respective mayors of these cities.

It is submitted that the terms of all City Marshals and/or Constables should be standardized to 6 years and their elections held in even years not concurrent with those of the mayors of the cities, as the offices involved do not form a part of the executive branch of municipal government, but rather are a part of the judiciary.

Page 2.
As concerns "b" above the jurisdictions of the city courts, particularly in civil matters, would more realistically meet the modern present day needs of the litigants. (Note: The jurisdiction of the city court of New Orleans has not been changed in over 20 years at which time the minimum wage was 70c per hour.) Since the time most of the jurisdictions of the city courts were set, inflation has effectively reduced these jurisdictions, thus placing a greater work-load on the district courts. For example, the damages now resulting from a relatively small automobile accident can very easily exceed what was at one time the total value of an automobile, the rents resulting from the average modern apartment now exceed what was one the rent for a half of a small double house.

It is submitted that, in civil matters, the exclusive jurisdiction of the city courts be set at $500.00. Such jurisdiction concerns the amount in dispute or the funds to be distributed, and that the restrictions on judicial amounts for rents be completely removed.

The city courts are quite often referred to as "the poor man's court" but without the above changes to keep pace with present day economic reality, these persons are being forced to seek relief at a greater expense and delay than in the district courts, which in turn crows the dockets of those district courts.

The undersigned, because of his residency in New Orleans, is advised that not only are the charges of the city court of New Orleans in favor of the above charges, but that all of the judges of the Civil District Court will heartily recommend such realistic adjustments and dollar figure changes in jurisdiction.

The undersigned is also advised not only by the executive board of this association, but by resolution of all of its members of the Louisiana City Marshals and City Constables Association that such changes are necessary for their offices to keep pace with present day conditions.

Respectfully submitted,

Joseph M. Joachim
Executive Vice President and General Counsel
Louisiana City Marshals and City Constables Association
2101 American Bank Bldg.
New Orleans, La. 70110

\[\text{July} \text{aw} \]


As citizens of the city of New Orleans, the members of the New Orleans Chapter of Community Action for Corrections propose the following actions by the Judiciary Committee of the Constitutional Convention. It is our feeling that the criminal justice system, composed as it is of various governmental agencies, must be responsive to the needs of the citizens of this state and to the needs of those most directly affected by its crimes. Hence, those arrested for a criminal act, we hope that the suggestions we offer will be considered seriously and will be viewed as an attempt to provide a more humane correctional system for the state of Louisiana. The actions that we propose are as follows:

1. That special references to the election of a Criminal Sheriff for Orleans Parish be deleted from the Constitution so that that matter can be turned over to local government.

2. That the term for judges in the Criminal District Court in Orleans Parish be reduced from twelve years to six years.

3. That a board or panel be established to appoint persons to fulfill vacancies in the Coast Court where such vacancies occur within one year of an election.

4. That a full time, professional Pardon Board be established with full authority to grant reprieves or pardons, and furthermore that such a board be constituted by professionals such as psychologists, sociologists, penologists, and lawyers.

5. That the constitutional rights of persons arrested for crimes be guaranteed except in cases where such rights are inherently inconsistent with the operation of an institution, such as a penitentiary, and furthermore that such rights be restored when a person is released from prison. Specifically, we refer to the right to vote.

Finally, we wish to affirm those public officials who are trying to create a more humane criminal justice system. We hope that the Constitutional Convention will continue to be responsive to citizens groups and will join with us in these additional efforts to improve the system.

Raymond Hance, President
500 St. Charles Ave.
New Orleans, La. 70115

891-0223

AGENDA
COMMITTEE ON THE JUDICIARY
May 26, 1973

Roll Call
Announcements
Speakers:

JUDGE WILLIAM HAWK DANIELS, City Court,
Division B, Baton Rouge

ASSOCIATE JUSTICE FRANK W. HAWTHORNE, Retired
Louisiana Supreme Court

Business of the Committee
Adjournment

NOTES
The following documents are found in the work file for the meeting of June 8, 1973.
The Committee on Education and Welfare has reviewed Article IV, Section 16 and recommends retention of the proviso that would authorize the creation of express trusts for educational, charitable or religious purposes.

We would appreciate the results of your decision in reference to this provision.

Respectfully submitted,

Robert P. Acker, Chairman,
Committee on Education and Welfare

RJ/Ap/1

235 Pennsylvania Av.
Shreveport, La. 7111
23 May 1973

Legislature
Capital Building
Baton Rouge, La.

Deer Legislators:

Wills written by lawyers force survivors to pay "just debts".

Just Debts should not include entire research and tryouts - without a legal agreement by patient or close relative or guardian. This legal agreement must not cost to survive as that everyone pays, the hospital, the doctor, the survivor. Those who are not sign must be given some consideration and help to not pay anything with research and tryouts, since the government and detention organizations give to research, largely, and for transplants and get paid while they live if they can.

Those who conscientiously object naturally do not leave such debts and research.

Research and tryouts and transplants are failure, thus dead and left for survivors to pay as it now stands.

The doctor, in almost all cases, has charged enormous prices already for tryouts in doctor visits and none are considered "just debts". He, a doctor may not use initiative for finding new, progressively visit and eventually hospitalization. So he has had plenty of time to find a cure, possibly even in many cases if he had had less excessive, a heart attack was was told by his doctor later to lose weight. The patient said I drink beer as weak ends and the doctor said that is alright. The doctor did not make note of it in his chart. Patient doubled up an beer all during the week and become a profound alcoholic (stomachic). Two years was one tell a lady to start staying to stay constipated. She cannot stop smoking now. He gets paid for all such as this classified as just debts.

In his hospital report he wrote the charges but he may be not be motivated to study further and keep current presence if not substantiated by a written agreement on research and tryouts.

Please, your honors, check this "just debts" to wills for us.

Thank you.

Sincerely,

Mrs. Cobett A. Conaway

The following documents are found in the work file for the meeting of July 27, 1973.

NOTES

The following documents are found in the work file for the meeting of July 27, 1973.

Louisiana State University
Agricultural and Mechanical College
Baton Rouge - Louisiana - 70803
Law School

Judge James Dennis, Chairman,
Committee on the Judiciary
Constitutional Convention of Louisiana of 1973
Baton Rouge, Louisiana

Dear Judge Dennis:

First, I should like to express my sincere appreciation to you and the members of your committee for the opportunity twice to appear before you and present my views concerning your most important work. At the request of your committee, I am honored to submit this somewhat hurriedly written memorandum setting forth various problems that occur to me with
respect to the draft proposal. In advance, I apologize for what may appear to be hypertechnical comments, but it is my understanding that this is what the committee felt would be most helpful in its further deliberations.

Structure and Organization of the Courts. First, as to the overall approach, let me reemphasize my hope that the committee and the Convention will adopt a three-tier unified, integrated, and independent judicial system. To my mind, this could best be achieved by abolishing inferior courts and merging them into a three-tier system (the Supreme Court, Courts of Appeal, and District Courts) to be entrusted with the entire judicial power. Specialized needs, such as juvenile, family, and traffic matters, could be handled by separate divisions of the district courts in a manner most appropriate to the diversified, particularized needs of the various judicial districts.

Louisiana, I feel, would miss a magnificent opportunity if at this point in our history we continued down the road of judicial fragmentation rather than establish and fully implement a simple well-integrated three-tier system. Instead of frontally attacking the fragmentation of jurisdiction that has occurred since the adoption of the 1921 Constitution, the draft proposal authorizes further proliferation of trial courts of limited or specialized jurisdiction.

Administration of the Courts. In my opinion responsibility for judicial administration should be clearly fixed, and the judicial structure should be one that lends itself to effective, efficient administration. The draft proposal very wisely provides that the Chief Justice shall be the administrative officer of such court, but does not make mandatory the selection of a chief judge for each of the various multi-judge district courts. I would urge that this be done.

Style and Drafting. The draft proposal in my opinion is deceptive in its simplicity, for although it is concise and simply stated, it very often forces one to return to many of the provisions currently on the 1921 Constitution. (See, for example, the provisions governing supreme court, court of appeal, and district court districts, the jurisdiction of the many courts of limited or specialized jurisdiction, etc.) It seems to me that one should be able to look to some easily ascertainable place for the laws governing the judiciary, and to this end perhaps thought should be given to preparing a judicial code of the laws governing the organization and structure of the Louisiana courts, some of which may be deemed so important that they could be changed only by a two-thirds vote of the legislature.

Further, it seems to me that the provisions pertinent to the court system in the parish of Orleans are somewhat obscure. If it is determined that Orleans should be given special and separate treatment, then I would think it desirable that it be done openly, as under the existing constitution.

Referendums. The administration of justice is, I feel, a matter of statewide concern and should be determined on a statewide basis after careful study. Although I am much devoted to democratic principles, I believe that allocation of jurisdiction is best determined by the people's representatives who can have the benefit of statistical studies and can view the problem on a statewide basis, rather than by the people through direct vote. In general, Louisiana electors have, by their attitude toward the numerous constitutional provisions presented to them, recently evinced great lack of enthusiasm for referendums, and I think it would be unwise to extend the referendum principle to jurisdictional allocation. If it is felt that some other organ should share responsibility with the legislature for establishment, abolition, etc. of courts, then I feel the Judicial Council is the more appropriate body.

Appellate Jurisdiction. As I understand it, the draft proposal provides for full appellate review on both law and facts for all civil cases as a matter of right, regardless of the amount in controversy or the subject matter in litigation. (See Sec. 10) On the other hand, it provides for appellate jurisdiction as a matter of right in criminal cases on questions of law only (see Sec. 5(C)) when the defendant has been sentenced to imprisonment for more than six months or fined more than $500, and in cases where a defendant might have been imprisoned at hard labor (see Sec. 5(D)(2)). Thus, if a person is ordered to pay $5.00 to a neighbor by a justice of the peace court, there will be the right of appeal on both fact and law to a three-judge court of appeal, whereas a person fined $500 and imprisoned for six months can secure appellate review merely as a matter of discretion, and even then only as to questions of law. This seems to me wholly undesirable, for it would subordinate a person's freedom to his financial concerns. Although I agree that the constitution should expressly provide that appellate review in civil cases should extend to both the law and the facts, I think it unwise for the constitution to preclude appellate review on the facts in criminal cases. Further, I submit that there should be appellate review to some court as a matter of right whenever a citizen is sentenced to imprisonment. Also, I should think that if a right of appeal is given in a civil case involving a stipulated jurisdictional amount in controversy, a defendant in a criminal case fined an equivalent amount should likewise have a right of appeal.
Powers of Attorney General. One of the most critical problems with respect to administration of criminal justice in Louisiana, as elsewhere in the country, is the problem of delay. Some one person should, I feel, be charged with ultimate responsibility for seeing that the prosecutorial function is efficiently and effectively performed. Rather than weaken the powers of the Attorney General, I feel they should be strengthened. In my opinion it is very unfortunate, therefore, that Section 29 of the proposed draft deletes the language now contained in Section 56 providing that the Attorney General and his assistants "shall exercise supervision over the several district attorneys throughout the State".

Judicial Function. I am concerned about the deletion of the important current provision in Section 3: "No function shall ever be attached to any court of record, or to the judges thereof, except such as are judicial". Unless there is a prohibition against assignment of non-judicial function to courts, I feel inroads upon this salutary principle may be made.

Detailed Considerations

Putting these general observations to one side, I should like to discuss problems that occur to me with respect to various individual sections.

Section 2. It may be unwise to give authority to issue writs of habeas corpus and other writs to a city judge, municipal judge, parish judge, etc., and I fear that a justice of the peace or a mayor who presides over a mayor's court may for the purpose of this section be regarded as a "judge".

With respect to the courts of appeal, which generally sit in panels, it may be undesirable to provide, as appears to be the case, that exercise of the writ authority by a single judge is subject to review by the "whole court". Generally, I should think that it would be appropriate for supervisory jurisdiction of a court of appeal to be exercised by a three-judge panel of that court, as with other of the court's judicial powers. It therefore might be desirable to say that exercise by a single judge of the court of appeal is subject to review by the panel of which he is then a member.

Section 5(4). To insure that a retired judge not be assigned against his will, I suggest that the last sentence of the paragraph read as follows: "It may assign a sitting or, with his consent, a retired judge to another court." (Page 2, lines 9 and 10.)

Section 5(c). As indicated above, I would delete the provision limiting supreme court review in criminal cases to law only.

Section 5(d)(2). As indicated above, I am very concerned that no right of appeal is given to a defendant in a criminal case who is imprisoned for six months or less or fined $500 or less, other than criminal cases in which imprisonment at hard labor might have been imposed. Although it might well overburden the supreme court to give appellate jurisdiction in all such cases, I feel that in many, a right of appeal to some court should be afforded.

Perhaps there should be a statement in Section 5(d) to coordinate it with Section 27 relative to the jurisdiction of the supreme court concerning the censure, suspension, removal, etc. of judges on recommendation of the Judiciary Commission.

Section 10(A). Since the usual proceedings against juveniles are technically not criminal in character, I would suggest deletion of the phrase "of persons other than juveniles". (Page 3, lines 31 and 32.)

Sections 15(B) and 16(B). As indicated above, if it is decided it is desirable to have longer terms for New Orleans district judges than for others throughout the state, (and I would prefer a uniform eight-year term for all district judges), I feel it is preferable for the constitution openly to recognize the difference. Otherwise it seems to me we are recognizing by these sections three types of district judges and three types of district courts (district, civil district, and criminal district).

Section 17. As suggested above, I feel it is very desirable to make the selection of a chief judge of a multi-judge district court mandatory.

Section 19. As stated earlier, I should much prefer for us to adopt a three-tier unified, integrated system. Aside from this, however, it does not seem to me that the proposal affords needed flexibility in a system, for it freezes in constitutional form the jurisdictional format presently existing. A simple authorization of jurisdictional variation, (as, for example, by insertion of the word "alter" in line 34, page 3), would not seem to me satisfactorily to meet the problem, for it would authorize the destruction of whatever uniformity now exists in the court structure, and promote great variation in the jurisdiction of courts of the same category, thereby working great confusion to members of the bar and general public.

Section 20. A three-tier system seems to me more desirable than a four-tier system. Establishing parish courts, I feel, would be unnecessarily expensive and duplicative.

As proposed, the plaintiff in a parish having a parish court would, in cases falling within the jurisdiction of the parish court, be privileged to choose whether he would sue the defendant in the parish or district court, and thus often could "choose his judge". Since the establishment of a parish court does not necessitate the abolishment of other courts of limited jurisdiction (as, for example, city courts), often in these localities the plaintiff would have a choice among three courts, all of which would have concurrent jurisdiction over the suit. Because of the inflationary aspect, I think it unwise to state a $3500 jurisdictional maximum.
Since the United States Supreme Court has held that a person subject to incarceration for more than six months is entitled to a jury trial, whether or not the offense charged is a misdemeanor, I think it unwise to phrase criminal jurisdiction of the parish court in terms of "misdemeanors"—unless, of course, it is desired that there be jury trials in parish courts.

To help prevent parish judges from being regarded as second-class judges and to avoid there being local courts, I believe it would be well to provide that they should serve full time, and that the salary of the judge of the parish court should be the same as that of the district judge and paid from the same source.

Since the section says "notwithstanding the provisions of Sections 15 and 19 to the contrary", I assume a parish court can be established and a city court simultaneously abolished without approval by a majority of the persons voting in the city affected, which seems to be out of harmony with the philosophy underlying Section 19.

Perhaps a provision should be inserted as to whether a district attorney, or some other official, is responsible for the prosecution of offenses in a parish court.

Section 21. As indicated above, it seems desirable to me to abolish both the mayor's courts and the justice of the peace courts and merge their jurisdiction into that of the district courts.

Section 22. Although I agree that, if requested, proceedings in a trial court should be transcribed, I fear that the language used ("shall be recorded when requested") may cause confusion by risking the reclassification of certain courts of limited jurisdiction as "courts of record." Further, it is my understanding that it was intended that the right to transcribe testimony apply only to trial courts, rather than "all courts" as stated in the section, and I believe this should be spelled out.

Section 24(b). It seems undesirable to have judgeship vacancies of less than six months to be filled by supreme court appointment with persons meeting the qualifications of office, but who then would be ineligible to be elected. I should think it might be difficult to find competent persons to accept such appointment, since it would be very disruptive of a law practice, and so "transient" in character.

Section 24(c). Is it possible that there may be a conflict between this provision and the 75-year-old compulsory retirement provision?

Section 29. As indicated above, I think it unfortunate to delete the provision that the Attorney General and his assistants "shall exercise supervision over the several district attorneys throughout the State"

Section 31. I believe it wise to include a provision that a minute clerk shall serve at the pleasure of a judge.

Section 37. As explained above, I feel the provisions for special exceptions for judicial officials of Orleans Parish, including the provisions relative to referendum, are undesirable.

Section 38. I fear that there may be an implication in the section that no qualifications other than majority or citizenship may be established for jury duty, and I would therefore suggest that language be inserted that the supreme court by rule may provide for both the selection and qualification of jurors.

With the hope that the foregoing will be of assistance, and with warmest best wishes to you and the members of the committee in your most significant and challenging task, this memorandum is respectfully submitted.

Yours sincerely,

George W. Pugh

Honoroble Ambrice H. Landry
Vice Chairman, Judiciary Committee
Constitutional Convention of 1973
P. O. Box 1746-A
Baton Rouge, Louisiana 70803

Dear Mr. Landry:

This is in further reference to the discussion that I had with you several days ago regarding my concern that the Committee on Professional Responsibility of the Louisiana State Bar Association, in connection with a proposal that the new constitution eliminate the provision contained in the second paragraph of Article 11, Section 4-7 of the present constitution, which reads as follows:

"Every justice on a judge under this section shall not preclude disciplinary action against him with respect to his license to practice law."

As Chairman on the Committee of Professional Responsibility of the Louisiana State Bar Association, I sincerely feel that it is most important that this provision be kept in the Judiciary Commission Article.

As I mentioned to you in our discussions, I originally intended to be present at the meeting to be held at 9:30 a.m. on Friday, July 20, 1973, but unfortunately, I cannot attend. However, I have asked Mr. Leon Roburt, a former chairman and present member of the Committee of Professional Responsibility to attend in my place, and I would appreciate it if you would make the contents of this letter known to the other members of your committee.

Sincerely,

George W. Pugh
Chairman, Committee on Professional Responsibility
Louisiana State Bar Association

NOTES

The following documents are found in the work file for the meeting of August 8, 1973.
AMENDMENT NO. 1

On page 5, delete lines 28 through 30, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 17. There shall be a chief judge of each district court who shall serve as the judge oldest in point of service on the court below the age of sixty-five years at the time he takes office, who shall exercise such administrative functions as prescribed by rule of court."

AMENDMENT NO. 2

On page 1, delete lines 18 through 23, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 2. The courts, in aid of their authority, issue all needful writs, orders, and process. A judge of the supreme court or of a court of appeal, subject to review by the other members of his court, and a judge of a district court may issue writs of habeas corpus in cases within their jurisdiction."

AMENDMENT NO. 3

On page 14, line 11, add the following:

"Section 40. Judicial Expense Fund; Orleans Parish

Section 40. The clerk of the civil district court, the clerks of the first and second city court, the register of conveyances, and the recorder of mortgages, shall keep account of all fees collected in their offices respectively, and they shall furnish daily to the commissioner of public finance of the city of New Orleans transcripts of said accounts, and they shall pay daily into the treasury of the city of New Orleans the whole amount of fees so collected by them, which shall constitute the judicial expense fund of the parish of Orleans, and the salaries of the said above named officers and their deputies, as well as the expenses of their respective offices, shall be paid therefrom upon warrants signed by the chief judge of the civil district court.

The judges of the civil district court shall have control over the judicial expense fund and to this end shall fix and regulate, from time to time, the number of deputies and employees of the officers of the clerk of the civil district court, the city courts, register of conveyances, and recorder of mortgages, and their expenses, and also shall have power to fix the tariff of costs and charges to be paid for official services, in said offices, which are paid into, and constitute said fund; due publications of which tariff, when made, shall be given. They shall have power to determine, whether any amounts from said fund, or its excess, shall be devoted to the expense of taking testimony by shorthand and to regulate and provide for the same. The judges of said court shall each receive an additional annual salary which shall be payable out of this fund and, provided further, that the judges are authorized to contribute out of said surplus fund, to the embellishment and maintenance of the courthouse and its furnishings, and may contribute to any pension, retirement system, and group hospitalization plans to which officers and employees paid out of said fund may belong.

The judges of the civil district court shall file with the clerk of the court on January first and July first, of each year, a statement of the condition of the judicial fund showing the receipts and disbursements of said fund accompanied with a certificate of the bank or banks selected as a judicial depository showing the amount in bank actually to the credit of said fund."
## III. Staff Memoranda

### STAFF MEMORANDA
Committee: Judiciary

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**NOTES**

Judiciary Committee Staff Memoranda do not follow a uniform style indicating Memo number. Numbers are inserted in brackets [ ]

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TO: Members of the Judiciary Committee
FROM: Research Staff

Pursuant to the Committee's request, attached are the following materials prepared by Lee Hargrave and C. B. Forotston, Jr.:

1. A brief outline of the Louisiana court system.
2. A compilation of the constitutional provisions on the judiciary of various jurisdictions which give an indication, in comparison to Louisiana's provisions, of what matters are normally covered in constitutional provisions, yet presented in a more concise manner.

Also attached are:

3. A table indicating the number and distribution of justices of the peace in the state.
4. The United States Supreme Court decision in Ward v. Village of Monroeville, relative to the constitutionality of mayor's courts, and a brief of the case's implications prepared by the Attorney General's Office.

The materials which follow this cover are found compiled in the Judiciary Committee Staff Memo Book as Memos Nos. 1-4. They do not appear in the order recited in the letter but as cited in the Table of Contents of the Staff Memoranda Book, supra, this chapter. It appears that the assignment of numbers did not take place until sometime after June 6, 1973.

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**Brief Outline of the Louisiana Judicial System**

(Prepared for the Committee on the Judiciary by the Research Staff, CC/73, February 27, 1973)

**Supreme Court**

One court domiciled in New Orleans, composed of seven justices elected from six districts for sixteen-year staggered terms. Justices must be 35 years old and have practiced law for ten years. Present salary is $37,500 per year.

Jurisdiction: (1) "control of, and general supervision over all inferior courts"; (2) Original Jurisdiction for removal of judges, disbarment of attorneys, and other questions of fact affecting its own jurisdiction; (3) Appellate Jurisdiction (appeals of right) in criminal matters when a felony is involved or a misdemeanor in which the actual monetary excesses $300 or 6 months imprisonment; in civil matters on the (a) cases involv-
ing the constitutionality of a tax, (b) when a statute or ordinance is declared unconstitutional, (c) when the Public Service Commission is party to the suit, and (d) election contests if the electoral district covers more than one court of appeal circuit; (4) Writ jurisdiction (review is discretionary with the court) over all other civil cases, and (5) ability to decide questions certified to the court by courts of appeal.

Courts of Appeal

Four territorial courts: First Circuit in Baton Rouge with six judges, second in Shreveport with five, third in Lake Charles with six, fourth in New Orleans with nine judges. Judges elected for twelve-year staggered terms, must have practiced law for six years. Present salary of $35,000 per year.

Jurisdiction: Civil appellate jurisdiction (appeals of right) over all civil cases except those where an appeal lies directly to the Supreme Court. No criminal jurisdiction.

District Courts

Courts of record. Thirty-three territorial courts with civil and criminal jurisdiction, plus separate civil and criminal district courts in Orleans Parish. About 116 judges, elected for six-year terms, who must have practiced law for five years. Legislature can create additional judgeships by 2/3 vote. State salary of $20,500, which can be, and in some cases must be, supplemented by parishes.

Jurisdiction: Original civil and criminal jurisdiction in virtually all cases regardless of the amount in dispute or the type of case. Has appellate jurisdiction to try de novo appeals (hears evidence again) from Mayors Courts, Justices of the Peace, and, if less than $100 in dispute, from city courts.

Special Courts

Juvenile Courts

Separate juvenile courts exist in Caddo (one judge), Jefferson (one judge) and Orleans (four judges). Qualification and salary are the same as for district judges.

Jurisdiction: Offenses committed by juveniles under 17 (under 15 for capital offenses and attempted aggravated rape); neglected and abandoned children; adoptions and related matters; also jurisdiction over adults accused of neglect of family.

In districts without a separate juvenile court, the District Court functions as a juvenile court, using a special procedure.

Family Court

One exists in East Baton Rouge Parish, with two judges (one provided for in constitution; one as a special division of the District Court). Jurisdiction is that of a juvenile court, plus authority over marital disputes—separation, divorce, annulment, disavowal of children, etc. Qualifications and salary as for district judges.

Courts of Limited Jurisdiction

City Courts

About 43 exist. Can be created for parish seats and cities of more than 5,000, with authority within the municipality. Judges elected for six-year terms, must be attorneys, but can practice law in addition to the judgeship. Salary paid by the municipality.

Jurisdiction: misdemeanor criminal jurisdiction, preliminary examinations, peace bond proceedings, violations of ordinances, and authority to perform marriages. Also, in civil cases, jurisdiction of cases involving not more than $500 or $1,000, depending on population of the municipality.

Mayors’ Courts

1. Municipalities without city courts, the mayor serves as judge of a court with jurisdiction over violation of municipal ordinances. About 250 exist.

Justices of the Peace

Police jurors (Orleans excepted) can divide parishes into wards from which justices of the peace serve. The Legislature can abolish the office of the justice of the peace. Must be qualified electors, not necessarily lawyers, who are elected for four-year terms. In civil cases, the justice of the peace collects fees; for criminal work, the parish provides a small salary. Presently, 147 in office.

Jurisdiction: civil disputes involving $100 or less; act as committing magistrate; set bail in minor felonies and misdemeanors; peace bond proceedings; perform marriages.

New Orleans Municipal Court

Jurisdiction over violations of city ordinances, other than traffic regulations.

New Orleans Traffic Court

Jurisdiction over violations of city traffic ordinances.

Jefferson Parish Court

Jurisdiction similar to a city court. Two exist, one with jurisdiction over the territory of the parish east of the Mississippi, the other with jurisdiction over the area of the parish west of the River.

NOTES

Staff Memos Nos. 2 and 3 are omitted.
Staff Memo No. 3 enumerates the number of Justices of the Peace by parish from information compiled from Louisiana Roster of State Officials [1971].
For the purposes of the listing, it is assumed that all provisions in Article VII of the 1921 Constitution are within the charge of the Committee on the Judiciary, as per Rule 49.

The Committee considers provisions relating to the judiciary that are not part of Art VII.

1. Provisions which might be considered by the Committee

Art. IV sec. 4 Prohibition on local or special laws applying to: change of venue; procedure, jurisdiction and rule of evidence of the courts; any civil or criminal actions.

Art. IV sec. 14 District court jurisdiction in coastal waters.

Art. VI sec. 5 Review of Public Service Commission orders.


Art. XIX sec. 3 Treason, definition and evidence required to convict.

Art. XIX sec. 17 Limits on the power of courts to punish for contempt.

2. Provisions which probably would not be considered by the committee

Art 1, secs 6-12 Bill of Rights Guarantees: open courts; legal remedies protected, searches and seizures, indictment, speedy trial, jury trial, venue, witnesses, right to counsel, double jeopardy, information as to accusation, peremptory challenges, self-incrimination, confessions, excessive bail and fines, cruel and unusual punishment.

Art II sec. 1-2 Separation of powers provision.

Art III sec. 31 Attorney General on the Legislative Bureau.

Art III sec. 35 Suits against the state.

Art IV sec. 2(a) Attorney General as member of the Board of Liquidation of State Debt.

Art IV sec. 10 Pardon and Commutation of Sentences.

Art VIII sec. 23 Corrupt Election Offenses.

[Staff Note No. 6]

DISCUSSION

Art. IV

§ 4. Local or special laws; prohibited subjects

Section 4. The Legislature shall not pass any local or special law on the following specified subjects:

- Changing the names of persons.
- Changing the venue in civil or criminal cases.
- Authorizing the adoption or legitimation of children or the emancipation of minors.
- Granting divorces.
- Changing the laws of descent or succession.
- Affecting the estates of minors or persons under disabilities.
- Regulating the practice or jurisdiction of any court, or changing the rules of evidence in any judicial proceeding or inquiry before courts, or providing or changing methods for the collection of debts or the enforcement of judgments, or prescribing the effects of judicial sales.

16. Treasons; forfeited heritable; abolition practiced; adopted natives

Section 16. The Legislature may abolish all heritages for any purpose, including but not limited to private treasurers, treasurers for charitable, charitable, or religious purposes, and mixed trusts for any combination of purposes. Submissions not in trust and enfeoffed, but trusts may contain written restrictions in the discretion authorized by the Legislature. No person shall be fined or punished, but the legislature may give lands in trust, to the extent authorized by the same extent as it was in the adjudging and shall return their rights as heirs of their blood relatives, but their blood relatives shall have their rights of inheritance from those children terminated.

ARTICLE IX

§ 4. Judicial Commission; removal or involuntary retirement of judges and justices

Section 4. A. Judicial Commission: membership; terms. The Judicial Commission is hereby created. It shall consist of:

1. One of the circuit judges and three judges of courts of record, other than the supreme court or the courts of appeals, at least two of whom shall be district court judges, all selected by the supreme court;
2. Two members of the Louisiana State Bar Association who shall be attorneys in good standing in this state for at least ten years, appointed by the board of governors of the Louisiana State Bar Association, either of whom shall be a judge or a justice of any court, active or retired, and no member public official; and
3. Two members appointed by the Judicial Council, both of whom shall be a justice or a judge of any court, active or retired, and no member the Louisiana State Bar Association, nor any elected public official.

Members of the commission shall serve for terms of four years; provided, however, that no member of the commission who has served a four-year term shall be eligible to serve again.

Membership in the commission shall terminate (1) when a judge sworn to be a member of the court from which he was selected; (2) when a member appointed by the board of governors of the Louisiana State Bar Association becomes a justice or a judge of an elected public official or is elected to a member of the Louisiana State Bar Association; (3) when a member appointed by the Judicial Council becomes a member of the Louisiana State Bar Association, or an elected public official.

When a vacancy in the Membership occurs for any reason, a new member shall be appointed for a four-year term by the appointing authority for the position for which the vacancy occurred.

The Governor for removal or involuntary retirement. A justice or judge may be removed from office or retired involuntarily for willful misconduct relating to his official duty or willful and persistent failure to perform his duty, or for habitual intemperance or for conduct, while in office, of a felony.

A justice or judge may be retired involuntarily for disability that seriously interferes with the performance of his duties and that is, or is likely to become, of a permanent character.

C. Investigation; hearing: recommendation to supreme court; rules. After such investigation as the judiciary commission deems necessary, it may make a hearing on the petition on the removal or involuntary retirement of a justice or judge. After a hearing, if the conclusions from such hearing.

D. The commission may make a recommendation that the justice or judge be disqualified from judicial office in this state; that he be notified of the recommendations; and that he be given a specific period of time within which to make a response.

§ 4. The commission shall act in cases involving the issues not inconsistent with rules adopted by the Supreme Court.
Articles Xorns.

§ 16. Prescription against State

Section 16. Prescription shall not run against the State in any civil matter, unless otherwise provided in this Constitution or expressly by law.

PROVISIONS OF ARTICLE VII OF THE CONSTITUTION ASSIGNED BY THE COORDINATING COMMITTEE TO COMMITTEES OTHER THAN THE COMMITTEE ON THE JUDICIARY:

§ 641. Selection of jurors; women jurors

§ 69. Those provisions dealing with the filling of vacancies of offices not dealt with in the Judiciary Department.

PROVISIONS OF ARTICLE VII OF THE CONSTITUTION ASSIGNED BY THE COORDINATING COMMITTEE TO BE CONSIDERED BY BOTH THE JUDICIARY COMMITTEE AND THE COMMITTEE ON LOCAL AND PARISH GOVERNMENT:

§ 70. Coroners; establishment of office; election; term

§ 71. Coroners; qualifications; acting for sheriff

§ 72. Coroners; vacancy

Louisiana Constitution

Article VII

JUDICIARY DEPARTMENT

§ 1. Judicial power; change in structure, districts

Section 1. The judicial power shall be vested in a Supreme Court, in Courts of Appeal, in District Courts, and in such other courts as may be authorized by this Constitution. The Legislature may, by a two-thirds vote and upon the conference of a majority of the voters in the jurisdiction affected, establish, abolish, or otherwise affect courts of trial jurisdiction. Further, the Legislature, by the same vote and procedure, may merge, consolidate, re-align or separate any courts provided for in this Constitution subject to the provisions of Section 300 of this Article.

§ 2. Notice ofheels; document in aid of jurisdiction; returns for ref. 1

Section 2. The Supreme Court, the Courts of Appeal, and each of the judges thereof, subject to review by the court of which he is a member, and each district judge throughout the State of Louisiana, or any person acting for any such judge, may order a writ of habeas corpus, mandamus, prohibition, quo warranto, and all other civil writs, orders and process, and where any of said writs are refused, the appellate courts shall indicate the reasons therefor.

§ 3. Judicial functions; law practice by judges

Section 3. No judge shall be attached to any court of record, or to the judges thereof, except as such are judicial, nor shall such judges practice law. This shall not apply to judges of city courts, which may become courts of record.

§ 4. Membership; en banc, number necessary to judgment; calling in judge of other court

Section 4. Except when judges of other courts are called in, an en banc meeting of this Constitution, the Supreme Court shall be composed of a Chief Justice and six Associate Justices, four of whom shall concur to render judgment when the court is sitting en banc, and whenever so sitting, if four members concur in any case, or in one of any case, for any cause except, in case of illness of any justice causing his absence for more than two weeks, or during any vacancy in the office of any justice which the court is not authorized to fill, the court shall have authority to call on any justice of the Courts of Appeal, or District Courts, whose duty it shall be, when so called upon, to sit in any and all cases as the court may direct. (Amended Acts 1916, No. 615, adopted Nov. 2, 1916.)

§ 5. Divisions; number necessary to judgment; applications for rehearing

§ 6. Divisions; rotation, considerations of terms, qualifications; terms, composition

The justices of the Supreme Court shall be elected, by the voters of the United States and of this State, not less than thirty-five years of age, and each shall have practiced law in the State for at least ten years preceding his election, and shall have resided within the territory of the district from which elected, for the two years immediately preceding. They shall be elected for terms of fourteen years, except as hereinafter provided. The retention in office of any justice, or any vacancy in the office of any justice which the court is not authorized to fill, the court shall have authority to call on any justice of the Courts of Appeal, or District Courts, whose duty it shall be, when so called upon, to sit in any and all cases as the court may direct.

§ 7. Retention notice; application for term; retention

§ 8. Retirement

The legislature shall provide a retirement system for judges. However, no judge in office, elected or retired prior to the adoption of this constitution shall have his retirement benefits reduced or his contributions to a retirement system increased.

§ 9. Supreme court district; justices

Section 9. The State shall be divided into six Supreme Court Districts, and the Supreme Court, except as otherwise provided in this Constitution, shall always be composed of justices from said Districts.
First district. The parishes of Orleans, St. Bernard, Plaquemines and Jefferson shall compose the First District, from which one justice shall be elected.

Second district. The parishes of Cadiz, Catahoula, Webster, Caddo, Bienville, Natchitoches, Red River, De Soto, Tunc, Vernon and Sabine shall compose the Second District, from which one justice shall be elected.

Third district. The parishes of Calcasieu, Grant, Avoyelles, Lafayette, Evangeline, Allen, Beauregard, Jefferson Davis, Calcasieu, Cameron and Acadia shall compose the Third District, from which one justice shall be elected.

Fourth district. The parishes of Union, Lincoln, Jackson, Caldwell, Oushita, Morehouse, Richland, Franklin, West Carroll, East Carroll, Madison, Tensas, Concordia, La Salle and Catahoula shall compose the Fourth District, from which one justice shall be elected.

Fifth district. The parishes of East Baton Rouge, West Baton Rouge, West Feliciana, East Feliciana, St. Helena, Livingston, Tangipahoa, St. Tammany, Washington, Iberville, Pointe Coupee and St. Landry shall compose the Fifth District, from which one justice shall be elected.

Sixth district. The parishes of St. Martin, St. Mary, Iberia, Terrebonne, Lafourche, Assumption, Ascension, St. John the Baptist, St. James, St. Charles and Vermillion shall compose the Sixth District, from which one justice shall be elected.

§ 10. Salaries and expenses of assessed judges

§ 12. Assignment of district judges; judge of juvenile court; reports; investigations

§ 11. Certiorari and other writs to courts of appeal; times; judgment of court of appeal

§ 13. Judges of the Supreme Court shall be $3,000 a year, subject to removal by the Governor if the Senate shall so resolve.

§ 14. Section in New Orleans

The Supreme Court shall hold an annual session in the City of New Orleans, unless otherwise ordered by a majority of the Supreme Court, and shall adjourn on the 1st day of January.
12. Qualifications of judges; salary

The judges of the several courts of appeal shall be citizens of the United States and of the State in which they reside, and shall be at least 35 years of age. They shall hold their offices during good behavior.

13. Preparation of judgments; salaries; sessions; vacancies

14. Session of domestic; domestic

15. Jurisdiction of domestic courts; apportionment of cases

16. Jurisdiction of domestic courts; apportionment of cases

17. Trial on original record; rules of practice

18. Court facilities: court

19. Appellate and superior jurisdiction

20. Appellate and superior jurisdiction

21. Dispositions of appeals and transfers

DISTRICT COURTS

22. Judicial districts

23. Judicial districts

24. Judicial districts

25. Judicial districts

26. Judicial districts

27. Judicial districts

28. Judicial districts

29. Judicial districts

30. Judicial districts

31. Judicial districts

32. Number of judges

33. District judges; election; residence, training, and experience qualifications; term of membership

34. District judges; election; residence, training, and experience qualifications; term of membership

35. Salaries; jurisdiction

36. Salaries; jurisdiction

37. Salaries; jurisdiction

38. Salaries; jurisdiction

39. Salaries; jurisdiction

40. Salaries; jurisdiction

41. Salaries; jurisdiction

42. Salaries; jurisdiction

43. Salaries; jurisdiction

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65. Salaries; jurisdiction

66. Salaries; jurisdiction

67. Salaries; jurisdiction
Brief judges shall receive a salary of five thousand dollars per annum, payable halfable on or before the first Monday in January, and shall receive five thousand dollars per annum until the expiration of four years, or their successors are appointed, whichever is later.

Caddo parish; additional salary. The public of Caddo Parish may pay, for the use of the Publics of the First Judge, one hundred dollars per annum until the expiration of four years, or their successors are appointed, whichever is later.

Civil jurisdiction; exception of Orleans parish; court of record. The District Court, even in the parish of Orleans, shall have exclusive jurisdiction in all cases involving suits of the amount of a thousand dollars, or over, and the fund to be distributed, in cases where the amount is more than one thousand dollars, exclusive of the amount of interest; in all cases where the action or suit is in equity, or other public matters, or where the parties are foreign, and in all cases where no specific amount is in contest, except that such matters may be tried and determined by a judge in the Court of Common Pleas, without the intervention of a jury, except in cases where they have concurrent jurisdiction with the courts of the peace.

Criminal, probate, and receivership jurisdiction; peace bonds. They shall have unlimited and exclusive original jurisdiction in all criminal cases, except such as may be vested in other courts authorized by this Constitution; and in all probate and succession cases, and where the State, a parish, municipality, or other political corporation, or an individual, is a party to or interest in, any suit or action, and in all cases in which the action or suit is in equity, or other public matters, or where the parties are foreign, and in all cases where no specific amount is in contest, except that such matters may be tried and determined by a judge in the Court of Common Pleas, without the intervention of a jury, except in cases where they have concurrent jurisdiction with the courts of the peace.

Section 42. Grand jury; district judges, authority in criminal cases. A grand jury of twelve, none of whom shall constitute a quorum, and must concur to find an indictment, shall be convened in each parish twice in each year, and shall continue in office until a succeeding grand jury shall have been assembled, except the parish of Cameron, in which at least one grand jury shall be convened each year. The district judges shall have authority to issue a writ of demurrer, and when a judge is satisfied for the eleventh hour or capital or necessarily punishable at hard labor, and to receive pleas of guilty in all cases less than capital.

Section 43. Res judicata; findings of fact and reasons for judgment.

Section 44. Waiver of citation; confession of judgment.

Section 45. Change of venue. The Legislature shall provide by law for change of venue in civil and criminal cases.

Section 46. Justice of the peace wards; appointment of justice of the peace wards.

Section 47. Justice, qualifications; election and term of office.

Comment: There is some question as to the constitution of the executive process exception should be left in, in light of recent court decisions declaring some states' process unconstitutional.

Section 48. General election of judges.

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In the parish of Jefferson, the boundaries of each Parish Court shall be fixed by the Legislature, and while such boundaries are defined, they shall include all land now owned by the United States, and also all land hereinafter acquired by the United States, but such boundaries shall not be altered, revised or amended without the consent of the Legislature of the State, to be obtained at a constitutional election to be held at least four years prior to such amendments.

The Legislature shall also provide for the necessary funds to be expended for the operation of each Parish Court and State and State Parishes shall not be required to provide any money, either by loan or otherwise, for the operation of said Courts.

The jurisdiction of the Parish Courts shall be as follows: Provisional Court, Parish Court, and Sister Parish Court.

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E. Judges, plenary, trials, appeals. The rules of evidence, the pleadings, and other matters in the trial of cases in the Family Court shall be the same as provided for in the trial of cases in the juvenile and district courts of the State of Louisiana. Appeals from judgments or orders of the Family Court shall be in the same manner as is provided by law governing appeals in similar matters from the juvenile or district courts of the State of Louisiana.

C. Judges; qualifications; first essay; election. There shall be one judge presiding over the Family Court who shall perform the same qualifications required of district judge. The first essay shall be appointed by the governor for a term to expire at the time the term of the present judges of the Nineteenth Judicial District Court expires; thereafter the judges shall be elected for the same term and at the same time fixed by law for the election of all other district judges throughout the state, except the Parish of Orleans.

D. Salary of judge. The judges of the Family Court shall receive the same salary as the district judges of the Nineteenth Judicial District Court, payable monthly upon his own warrant, in the same manner as the district judges are paid.

E. Clerk. The Clerk of the Nineteenth Judicial District Court shall be ex-officio the clerk of the Family Court.

F. Continuous session; vacation or absence of judge. The Family Court shall be in continuous session throughout the year. The judge, however, shall be entitled to a vacation of one month during each year and in that case, he shall appoint one of the judges of the Nineteenth Judicial District Court to preside in his place. In the event of the judge's absence from the Parish or inability to serve, the judges of the Nineteenth Judicial District Court shall name one of their number to serve temporarily in his place.

G. Place of sessions; resident of home county; expenses, and per diem. The sessions of the Family Court shall be held separately and apart from the Nineteenth Judicial District Court in grades to which the judges are appointed, and the Parish of East Baton Rouge.

H. Procedure except as otherwise provided; jurisdiction. The Family Court shall have jurisdiction over the correction of juvenile delinquency, over cases in which the interests of the minor are involved. The Family Court shall have jurisdiction over the determination of the disposition of all cases involving the care, custody, education or support of minors or the interests of the minor involved. The Family Court shall have jurisdiction over the determination of the disposition of all cases involving the care, custody, education or support of minors or the interests of the minor involved.

§ 54. Court; authority to act in case of family judge's absence; rights and duties

DEPARTMENT OF JUSTICE

§ 55. Establishment; composition; attorneys general; elections and assistants

Section 55. There shall be a Department of Justice consisting of an Attorney General, one or more Assistant Attorneys General, and such necessary assistants and office force as the Governor shall appoint. The Attorney General shall be elected every four years for the term of four years as provided for in the general State election, and the assistants shall be appointed by the Attorney General to serve during his pleasure.

§ 56. Attorney general; qualifications; powers and duties

Section 56. The Attorney General and the assistants shall be elected in the manner prescribed in the Constitution, have the duties prescribed in the Constitution, and shall perform such additional duties as may be necessary to carry out the purposes of the Constitution. They shall serve without compensation and shall perform all other duties assigned to them by law.

§ 57. Salaries

DISTRICT ATTORNEYS

§ 58. Establishment of office, election term, qualifications

Section 58. There shall be a district attorney for each judicial district in the State, who shall be elected by the qualified voters in said judicial district in the same manner and for the same terms as provided for in the election of judges.

§ 59. District attorney; qualifications

Section 59. The district attorney shall be a resident of the district for which he is elected and shall have the qualifications set forth in Section 58 of this Title.
§ 61. Assistant qualifications; powers
(OMITTED)

§ 62. Assistant salary
(OMITTED)

§ 63. Defense of criminal prosecutions; removal from office
(OMITTED)

§ 64. Salary provisions; effective date; fees
(OMITTED)

SHERIFFS

§ 65. Establishment of office; election; ex-officio tax collector
Section 65. There shall be a sheriff in the State of Louisiana in each parish, elected by the qualified electors of each parish, who shall hold the office for four years. The sheriff shall, in addition to other duties and powers, be the collector of all fees and taxes, except the county taxes, which, however, under the laws of Louisiana, he may also collect.

§ 66. Establishment of office; election; powers and duties
Section 66. There shall be a chief of the Civil District Court in each parish, elected by the qualified electors of each parish, who shall hold his office for four years, and be annually paid the sum of ten dollars. The sheriff shall have power to execute all process, and perform all acts necessary for the enforcement of the provisions of this part; and in all cases the powers vested shall be deemed and determined.

§ 67. Deps
(OMITTED)

§ 68. Salaries
(OMITTED)

VACANCIES

§ 69. Vacancies; appointment; salary
(Section 93, Revised Laws of 1876. Section 117, Revised Laws of 1884.)

1. Any vacancy in the office of judge of a district court shall be filled by appointment of the governor of the State, in like manner as otherwise provided in this Constitution.

2. The governor may fill any vacancy in the office of sheriff, or other elected officer, for a term of one year, or until a successor is elected and qualified.

COMMENT: In Section 69 there are provisions for vacancies in offices not within the purview of Article VII.

CORONERS

§ 70. Establishment of office; election; term
Section 70. There shall be established, in each parish, one coroner, who shall be elected by the qualified electors of each parish, and who shall hold office for four years.

§ 71. Qualifications; acting for sheriff
(OMITTED)

§ 72. Vacancy
(OMITTED)

§ 73. Regulation of fees and costs; compensation of officers; service of process and pleadings by litigants
(OMITTED)

§ 74. Compensation of sheriffs and clerks of court
(OMITTED)

COURTS AND OFFICERS FOR THE PARISH OF ORLEANS

§ 75. Qualifications
Section 75. Except as herein otherwise provided, the judicial officers of the parish shall be elected in the manner provided for the State, and shall have the qualifications of the State for five years, and shall have been actual residents of the parish of Orleans for at least two years next preceding their election or appointment.

COURT OF APPEAL FOR THE PARISH OF ORLEANS


CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

§ 80. Establishment; composition; compensation; additional stipends for the services of judges
Section 80. There shall be one "Civil District Court for the Parish of Orleans." It shall be composed of not fewer than five judges; they shall be elected by the qualified electors of the parish of Orleans for terms of twelve years, and shall each receive an annual salary of

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

§ 81. Civil and appellate jurisdiction
Section 81. The civil district court for the parish of Orleans has the same civil jurisdiction in the district courts throughout the State, except as otherwise provided in this Constitution.

It has appellate jurisdiction over all cases tried in the city courts of New Orleans where the amount in controversy exceeds $100, or in the parish court in which the amount in controversy exceeds $100, and in civil actions where the amount in controversy exceeds $100, and in which the defendant is a resident of the parish of Orleans, except in the cases of the收件, in which the defendant is a resident of the parish of Orleans, except in the cases of

CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS

§ 82. Establishment; composition
Section 82. There shall be one "Criminal District Court for the parish of Orleans." The said District Court shall have jurisdiction of all cases involving or relating to the violation of any of the laws of the State, or any ordinance of the State, or any county, or any city, or any corporation, or any individual, and shall be subject to the appellate jurisdiction of the Supreme Court of the State.

Clerk and deputies. There shall be three separate sections of the Criminal District Court for the parish of Orleans, each presided over by one of said judges. All of said judges shall hold court in one building to be provided by the City of New Orleans.

Clerk and deputies. Until otherwise provided by law, the Clerk of said Criminal District Court shall appoint, with the approval of the judge, two substitute clerks, and two clerks, and deputies of said courts, and shall provide also a clerk of said courts, and deputies, who shall conduct the business of said courts, and shall provide also a clerk of said courts, and deputies, who shall conduct the business of said courts.
§ 82. Second city court; jurisdiction; officers; interchange of judges and clerks

(As amended by Acts 1939, 45th Leg., 2nd C.S., ch. 514, § 5)

§ 93. First city court; judge; term; salary

Section 29. There shall be a First City Court of the City of New Orleans, consisting of a judge elected by the voters of said city for a term of eight years, to be appointed and elected by the supreme court of the State of Louisiana to hold court at the seat of government of the State of Louisiana and of the State of Louisiana, for the purpose of conducting the business of the said court, and of performing all such acts and matters as are necessary to the proper functioning of the said court.

Section 30. The judge of the First City Court shall be appointed by the supreme court of the State of Louisiana, and shall hold office for the term of eight years, and shall be paid a salary of six thousand dollars per annum, or as nearly as may be, for the services rendered in the performance of such duties as may be necessary for the proper functioning of the said court.

§ 94. New Orleans; municipal and traffic courts; procedure; jurisdiction; appeals

Section 24. The courts of New Orleans shall have jurisdiction over all matters not specifically excluded from their jurisdiction by law, and shall have all such power and authority as is necessary to the proper functioning of the said court.

MUNICIPAL COURT OF NEW ORLEANS

(Commenced with the Most Honorable Court as for Mr. Lelé's Signature)
Criminal Court shall have power to adopt such rules and regulations governing the operation thereof as may be necessary for the proper functioning of the Court.

(b) Each Judge shall appoint his own minute clerk and stenographer and the Clerk of the Criminal Court of New Orleans shall appoint such deputies, assistants and employees as the Legislature may provide.

(i) There shall be a right to appeal in all cases from the Criminal Court of New Orleans to the Criminal District Court for the Parish of Orleans, and appeals shall be taken by the parties in accordance with the Criminal District Court shall have general and supervisory jurisdiction over the Municipal Court of New Orleans, and shall have the right to issue such writs and orders as may be necessary in aid of its appellate and supervisory jurisdiction.

The Municipal Court of New Orleans shall be a judicial Court having the same powers and duties as a Justices of the Peace, and having jurisdiction over all civil actions and proceedings and all other matters that may be committed to its jurisdiction by law, and it shall have jurisdiction over all criminal cases and proceedings in the said Parish, and it shall have power to issue all writs, process and orders required by law, and in cases of emergency it may issue such writs, process and orders as may be necessary to effectuate the orders and judgments of the Court.

The Municipal Court of New Orleans shall have the power to impose fines and to imprison persons for the violation of any municipal ordinance, and it shall have power to issue all writs, process and orders required by law, and in cases of emergency it may issue such writs, process and orders as may be necessary to effectuate the orders and judgments of the Court.

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The judge of the Orleans Parish Court for the Parish of Orleans shall hold, by the time of the election, the he(s) or sh(eth) of the person having a right to vote, the right of each person to vote for the seal of office of that judge by the secret ballot. The judge of the Parish Court for the Parish of Orleans shall hold, in the same manner and at the time of the election, the secret ballot of each person to vote for the seal of office of that judge by the secret ballot. The judge of the Parish Court for the Parish of Orleans shall hold, by the time of the election, the secret ballot of each person to vote for the seal of office of that judge by the secret ballot.

§ 07. Time of election of judges and other public officers

Section 57. The election of judges, and other officers, for the parish of Orleans and City of New Orleans, hereinafter referred to, the time of which is not especially fixed, shall be held at the time of the parish and municipal elections; provided, the judges of the Court of Appeals, and of the Civil and Criminal District Courts, and of the city courts, and of the Juvenile Court, shall serve until December 31st of the year, in which their terms shall expire, and their successors shall be elected at the Congressional election next preceding.

[Staff Memo No. 5]

TO: Members of the Judiciary Committee
FROM: C. B. Forotston

Attached are two discussion drafts of Article VII of the Constitution. These provisions which in my opinion were legislative in nature have been omitted. The omission or inclusion of certain language or sections is entirely my opinion and is not necessarily the opinion of any Delegate or of any other member of the research staff. These attachments in no way should be construed to represent a completed draft of the Judiciary Department of the Constitution as there are many unresolved issues not included in the materials. The purpose of the drafts is merely to stimulate thought.

CBP/mmb

Attachments

§ 1. Judicial power; judicial commissions of arrest; judicial processes; reasons for judicial power not

Section 1. The judicial power shall be vested in a Supreme Court, in Courts of Appeal, in District Courts, and in such other courts as are hereinafter provided.

§ 2. Writs of habeas corpus and in aid of jurisdiction; reasons for refusal

Section 2. The Supreme Court, the Courts of Appeal, and each of the judges thereof, subject to review by the court of which he is a member, and each district judge throughout the State, including judges of the Civil and Criminal District Courts of the Parish of Orleans, may issue Writs of Habeas Corpus in aid of such jurisdiction as in actual cases of common or quasi-controversy shall be necessary to aid their respective jurisdictions, original, appellate, or supervisory, issue writs of mandamus, certiorari, prohibition, quo warranto, and all other needed writs, orders, and processes, and where any of said writs are refused, the appellate courts shall indicate the reasons therefor.

§ 3. Judicial functions: law practice by judges

Section 3. No judge shall ever be attached to an court of record, or to any of the judges thereof, except as are judicial; nor shall such judges practice law. Their compensation shall be in addition to their compensation, which may become court of record.

COMMENT: The wording as it judicial functions only, was deleted so as to allow the courts to provide for their own administration. Possible wording: "No judge of any court of record shall practice law."

§ 4. Membership; or lease, number necessary to judicial power

Section 4. Except when judges of other courts are called in, as elsewhere provided in this Constitution, the Supreme Court shall consist of nine judges, and the Supreme Court shall consist of nine justices, who shall be appointed for the term of three years, and shall be removed by the Governor, in the discretion of the Supreme Court, for any cause of which the court shall be satisfied, and shall have authority to call on any judge of the Courts of Appeals, or District Courts, when such or any of them are necessary to the proper administration of justice.

(As amended Acts 1910, No. 515, adopted Nov. 2, 1910.)

§ 6. Division; relation; consideration of cases; qualifications; terms; compensation

The justices of the Supreme Court shall be judges of the law, citizens of the State of Louisiana, and of the State, not less than twenty-five years of age, and shall have practised law at the Bar for at least ten years, preceding his election, as shall be elected within the districts therein specified, for the term of three years, and shall be removed by the Governor, in the discretion of the Supreme Court, for any cause of which the court shall be satisfied. Whenever a vacancy shall occur in the office of Chief Justice, the Justice shall in point of seniority succeed thereto, and when sitting in divisions, the Justice foremost in regularity of service shall sit with the

§ 7. Salary, term; elevation; retirement; residue; providing justice

COMMENT: Some provision shall be made so there shall be a retirement system with a "Grandfather Clause" and leave the actual provisions to the Legislature.

[331]
§ 33. District judges; election; residence, training, and experience qualifications; bar association membership

Section 33. District Judges shall be elected by a majority of the qualified voters of their respective districts in which they shall have been actual residents for two years next preceding their election. They shall be not less than forty nor shall they have practiced law in the State of Louisiana five years previous to their election and shall be a member in good standing of the Louisiana Bar Association. They shall be elected at the time now prescribed by law and every six years thereafter. Provided that, when any judicial district shall be divided for any reason, the Judges therein created or any Judge or Judges shall be elected at a special election called for that purpose for the first time in which shall be determined and fixed the other judicial districts and the number of Judges therein to be elected at any time as provided by the Constitution. The Judges shall be elected at the same level by law for the election of Judges to fill vacancies in the Supreme Court and other courts of record in this State for three years, and may increase or decrease the number of Judges in any district. (See Comment under Sec. 20)

§ 34. Rearrangement of district; change in number of Judges

Section 34. The law hereby enacted shall remove the old judicial districts, and by a two-thirds vote of the membership of each house, may increase or decrease the number of Judges in any district. (See Comment under Sec. 20)

§ 39. Practice of law; service as justice or judge included

Section 39. Wherever in this Constitution the word "Judge" or "Justice" is used it shall be understood to mean any Judge or Justice elected under this Constitution or a Judge elected under the Constitution of 1861, and the Judges appointed by the Governor or Judges elected by the Legislature on the recommendation of the Governor, during the term for which they were elected, and shall include the practice of law in the courts of the State.
§ 42. Grand Jury; district judges, authority. In criminal cases Section 42. A grand jury of twelve, of whom shall constitute a quorum and must return to find an indictment, shall be empanelled in each county and shall remain in office until a succeeding grand jury shall have been empanelled. Notice of the commencement of the grand jury shall be given to the district judges of the county, and they shall be present when the grand jury is sitting. If the district judges are unable to attend, they may authorize their deputies to attend.

§ 44. Waiver of citation; confession of judgment Section 44. Service of citation shall not be waived, nor judgment confessed, prior to the maturity of the obligation sued on, except for the purpose of the process for execution. Service of summons shall not be waived, nor shall the right to a jury trial be waived, except in cases of voluntary empanelment of the jury.

§ 45. Change of venue Section 45. The Legislature shall provide by law for change of venue in civil and criminal cases.

JUSTICES OF THE PEACE AND CONSTABLES

§ 46. Justice of the peace wards; number, stuffing, retention of office Section 46. Any parish or group of two or more parish may be divided by the proper jury into wards, each of which shall elect one justice of the peace, unless the parish council, by a vote of two-thirds of all its members, elects such justice or justice and ward(s) of the parish.

DEPARTMENT OF JUSTICE

§ 55. Establishment; composition; attorney general, election and assistants Section 55. There shall be a Department of Justice consisting of the Attorney General, an Assistant Attorney General, and two or more necessary assistants and office force. The Attorney General shall be elected every four years. He shall be a member of the General Court, and shall have an office at the State House, which shall be appointed by the Attorney General to serve during his pleasure.

§ 56. Attorney general; qualifications; powers and duties; creation Section 56. The Attorney General and the assistants shall be deemed in the department to have actual power to act in all matters arising in the discharge of the duties of the office, and shall do and perform all acts necessary for the execution of the powers and duties of the office. The Attorney General shall have power to hire such assistants as may be necessary for the execution of the powers and duties of the office. The Attorney General shall have power to hire such assistants as may be necessary for the execution of the powers and duties of the office. He shall have power to hire such assistants as may be necessary for the execution of the powers and duties of the office. He shall have power to hire such assistants as may be necessary for the execution of the powers and duties of the office. He shall have power to hire such assistants as may be necessary for the execution of the powers and duties of the office.
**DISTRICT ATTORNEYS**

§ 58. Establishment of office; election; term

Section 58. There shall be a district attorney for each judicial district in the State, who shall be elected by the qualified electors of the judicial district at the same time and for the same term as is provided herein for district judges.

§ 59. Salary; qualifications

Section 59. He shall receive from the State a salary of $1,500, and from individuals for services properly performed, the regular per diem fees for grand and petit juries, provided that a district attorney is required to reside in the judicial district in which he is elected, provided that in a judicial district composed of more than one parish, the district attorney shall be elected in at least one of such parishes, payable in addition to such fees for services properly performed by the regular per diem fees, non-resident, as required by the laws of the State. He shall be eligible for re-election as provided by the laws of the State.

**SHERIFFS**

§ 65. Establishment of office; election; ex-officio as collector

Section 65. There shall be a sheriff elected by the qualified electors in each parish in Louisiana who shall be elected at the general State election and hold office for four years. The sheriff, except in the parish of Orleans, shall be ex-officio collector of State, parish and all other taxes, except income tax, which, however, under legislative authority, he may also collect. He shall, within thirty days from the date of his election, give surety on his official bond as required by law, for the faithful performance of his duties in each capacity, and if he fails to do so, the office shall be declared vacant, and he shall be discharged from all duties until he has given such bond.

**CLERKS**

§ 66. Establishment of office; election; powers and duties

Section 66. There shall be a clerk of the District Court in each parish, who shall be elected by the qualified electors of the parish every four years. Each county shall have an ex-officio public notary and an ex-officio register of conveyances, mortgages, and other acts.

The Legislature shall have power to vest in clerks of courts of limited jurisdiction the power to issue and to do such acts as may be deemed necessary for the furtherance of the administration of justice, and in all cases the powers thus vested shall be specified and determined.

**VACANCIES**

148. Vacancies: salaries; appointments; vacancies in courts.

Section 68. A. Vacancies in the office of collector or any other officer of the State, Judicial Department, sheriff, justice of the peace, district attorney, or the office of any elected official, shall be filled by appointment of the Governor by the Senate, and the salaries of the several judicial officers in the State shall be fixed by the Legislature.

B. Vacancies in the office of a district attorney in Orleans Parish shall be filled by appointment of the Governor, with the advice and consent of the Senate.

**COMMENT:** In Section 69 there are provisions for vacancies in offices not within the purview of Article VII.

**CORONERS**

§ 70. Establishment of office; election; term

Section 70. There shall be a coroner in each parish, who shall be appointed by the qualified electors of each parish, who shall hold office for four years, and who shall be elected at the general State election and who shall hold office for four years.

**COMMENT:** The provisions as to the qualifications of coroners was omitted unlike what was done for other officials in the Constitution to protect those parishes which in the future may not have a medical doctor available.

**NOTE:** All provisions excluded (denoted by asterisks) were considered to be of the nature that could best be provided for either by the Legislature or by court rules.

**LOUISIANA CONSTITUTION**

**AS AMENDED THROUGH FEBRUARY, 1973**

**ARTICLE VII**

**JUDICIARY DEPARTMENT**

§ 1. Judicial power; judges—creation of office; terms

Section 1. The judicial power shall be vested in a Supreme Court, in Courts of Appeal, in District Courts, and in such other courts as are hereinafter provided.

**§ 2. Writs of mandamus, quo warranto, and in aid of jurisdiction; reasons for relief**

Section 2. The Supreme Court, the Courts of Appeal, and each of the judges thereof, subject to review by the court of which he is a member, and in all other courts throughout the State, may, upon a sufficient showing before a judge of the court in which the action is pending, grant the writ of mandamus, quo warranto, or in aid of jurisdiction, or any of them, in the manner prescribed by law, and may also, in aid of their respective jurisdictions, original, appellate, or supervisory, issue writs of mandamus, certiorari, prohibition, quo warranto, and all other needful writs, orders and process, and where any of said writs are refused, the appellate courts shall indicate the reasons therefor.

**§ 3. Judicial functions; law practice by judges**

Section 3. No function shall ever be attached to any court of record, or to the judges thereof, except such as are judicial; nor shall such judges practice law. This shall not apply to judges of city courts, which may become courts of record.
§ 4. Membership; en banc, number necessary to judgment; calling in judge of other court

Section 4. Except when judges of other courts are called in, as elsewhere provided in this Constitution, the Supreme Court shall be composed of a Chief Justice and six Associate Justices, four of whom shall concur to render judgment when the court is sitting en banc, and whenever so sitting, if four members cannot for any cause concur in any case, or in case of illness of any justice causing his absence for more than two weeks, or during any vacancy in the office of any justice which the court is not authorized to fill, the court shall have authority to call on any judge of the Courts of Appeal, ex-District Courts, whose duty it shall be, when so called upon, to sit in any and all cases as the court may direct. (As amended Acts 1918, No. 515, adopted Nov. 2, 1918.)

§ 5. Divisions; number necessary to judgment; applications for rehearings

§ 6. Divisions; session; consideration of cases; qualifications; terms; compensation

The justices of the Supreme Court shall be bom and have been the citizens of the United States and of this State, not less than thirty-five years of age, and shall have practiced law in the State for at least ten years preceding their election, and shall have resided within the territory of the district from which elected, for the two years immediately preceding the time they shall be elected to terms of fourteen years, except as hereafter provided, and each shall receive a salary of eight thousand dollars per annum, payable monthly on the 1st day of each month.

§ 7. Establishment of three-judge election; committee; removing justice

When a vacancy shall occur in the office of chief justice, the justice eldest in point of service shall succeed thereto; and in the event of vacancies the justice longest in service shall succeed.

§ 8. Retirement

(OMITTED)

§ 9. Supreme court district; justices

Section 9. The State shall be divided into six Supreme Court Districts, and the Supreme Court, except as elsewhere provided in this Constitution, shall always be composed of justices from said Districts.

COMMENT: The actual districts have been omitted therefore it would be necessary to provide for two justices from one district.

§ 10. Supervisory, superintending, disciplinary jurisdiction

Section 10. The Supreme Court has control of, and general supervisory jurisdiction over all inferior courts.

§ 11. Corridor and other works to courts of appeal; time; judgment of court of appeal

(OMITTED)

§ 12. Assignment of district judges; judge of juvenile court; reports; investigations

(OMITTED)

§ 13. Salaries and expenses of assigned judges

(OMITTED)

§ 14. Section in New Orleans

Section 14. The Supreme Court shall hold an annual session in the City of New Orleans, immediately after the last Monday in the month of October, and sitting and disposing of all the business of the court in each year.

§ 15. Clerks

Section 15. The Supreme Court shall appoint its own clerks and remove them at pleasure.

§ 16. Court buildings; court library; state library

(OMITTED)

§ 17. Decisions of supreme court and courts of appeal, reporting and publication; stenographers

(OMITTED)

§ 18. Trial of appeals; order of preference

(OMITTED)

§ 19. Good behavior of judges; election

Section 19. Judges, justices of the peace, and justices of the court of civil and criminal jurisdiction of the parishes of Orleans, St. Bernard, St. Tammany, St. Charles, Jefferson, and St. John, shall be elected by the people of said parishes respectively, and shall hold their offices during the term for which they shall be elected, unless they shall be removed from office, by the mode provided in this Constitution for the removal of judges and justices of the peace.

§ 20. Circuit courts of appeal; circuit courts of Orleans; circuit courts of St. John; circuit courts of St. Tammany

(OMITTED)

§ 21. Circuit courts of appeal; domicile; number of judges; initial terms

(OMITTED)

§ 22. Certainty of judges; salary

Section 22. The judges of the courts of appeal shall be citizens of the United States and qualified voters of the State, and shall be required to practice law in the State for at least three years immediately preceding the election. They shall be resident in the circuit or districts from which they are respectively elected, and must have resided in their respective circuits or districts at least twelve months immediately preceding their election.

The salary of each judge of the court of appeals in the State of Louisiana shall be fixed by an act of the Legislature in the amount of which the salaries of judges of the superior courts in the State shall be increased or diminished, as prescribed by the Constitution; and the fixing of salaries of such judges shall be a necessary appropriation. (As amended Acts 1918, No. 515, adopted Nov. 2, 1918.)

§ 23. Promulgation of rules and regulations; salary

(OMITTED)

§ 24. Section 24. At domicile; annualances of appeals; number of judges

Section 21. The sessions of the several courts of appeal shall be held at their respective domiciles only, and shall commence for a period of at least three months during the latter part of each year; and ending not earlier than the thirty-first day of June in the following year, and no appeal or motion shall be deemed to have been made or filed, or the cause the time of the commencement of the appeal or motion.
Act 42. (OMITTED)

§ 34. Appellate and supervisory jurisdiction

(OMITTED)

§ 35. Dissolution of appellate; transfer

(OMITTED)

§ 36. Districts; transfer

(OMITTED)

§ 37. Twenty-sixth judicial district; additional judge

(OMITTED)

§ 38. Twenty-fifth judicial district; additional judge

(OMITTED)

§ 39. Number of judges

(OMITTED)

§ 40. District Judges; election; residence, training, and experience qualifications; bar association membership

Section 33. District Judges shall be elected by a plurality of the qualified voters of their respective districts in which they shall have been actual residents for two years next preceding their election. They shall have been in the bar association and shall have practiced law in the State of Louisiana five years previous to their election and shall be a member in good standing of the Louisiana State Bar Association. They shall be elected at the time now prescribed by law and every six years thereafter, provided that, when in any judicial district of the State the judges may be elected in the manner prescribed by the Constitution, those who have held the office of District Judge for a term of six years shall not be eligible to be elected judge or their terms shall be limited to a special election called by the Governor for the first term which shall not exceed the period of the other District judges on the bench. Moreover, such judges shall be elected at the time fixed by law for the election of District Judges throughout the State of Louisiana. (As amended Acts 1958, No. 67, adopted Nov. 3, 1958; Acts 1954, No. 761, adopted Nov. 2, 1951)

§ 41. Reorganization of districts; change in number of judges

Section 34. The Legislature may reorganize the judicial districts, and by a two-thirds vote of the membership of each house, may increase or decrease the number of judges in any district.

§ 42. Salaries; jurisdiction

(OMITTED)

§ 43. Cases within concurrent jurisdiction; procedures; default; judgments by default or confession

(OMITTED)

§ 44. Trial of divided cases

(OMITTED)

§ 45. Practice of law; service as justice or judge included

Section 39. Wherever in this Constitution the qualifications of any justice or judge shall be stated to have been the practice of law for a term of years, there shall be included in such term the time such justice or judge shall have occupied the bench of any court of record in this State. (OMITTED)

§ 46. Jurisdiction of the peace ward; member-ward; abolition of office

Section 45. Any portion of the State, the inhabitants of which are, by virtue of law, authorized to elect a justice of the peace, or an officer of like character, shall be deemed a peace ward, from each of which there shall be elected one justice or justice of the peace, provided, that the Legislature may reduce such number or even abolish the office of justice of the peace throughout the State.
§ 47. Justices; qualifications; election; terms of office
Section 47. Justices of the peace shall be of good moral character, speak and understand and qualify electors, able to read and write the English language, and shall possess such other qualifications as may be prescribed by law.

They shall be elected at the general state election for terms of four years, by the qualified voters within the territorial limits of their jurisdiction.

§ 48. Juvenile courts
Section 48. Justices of the peace shall have concurrent jurisdiction with the district courts in all civil matters when the amount in dispute shall not exceed one hundred dollars, exclusive of costs and interest, including suits for the possession or ownership of movable property not exceeding one hundred dollars in value, and in suits of landlord for the possession of leased premises, where the monthly or yearly rent, or the rent for the unexpired term of the lease, does not exceed one hundred dollars.

They shall have no jurisdiction in succession or probate matters, or in cases in which a judgment may be entered as aforesaid, nor shall they have jurisdiction in cases of ejectment, or where the title to real estate is involved.

They shall have criminal jurisdiction, as committing magistrates only, and shall have power to bind or discharge, in cases not capital or necessarily punishable at hard labor, and may require bonds to keep the peace.

§ 49. Constables; election; term of office; qualifications
Section 49. There shall be one constable for the court of each justice of the peace in the several parishes of the State who shall be elected at the general state election for a term of four years by the qualified electors within the territorial limits of the justice of the peace ward of the court for which he is elected.

He shall be of good moral character, able to read and write the English language, and shall be an elector and resident of the ward from which elected, and shall possess such other qualifications as may be prescribed by law.

§ 50. Fees; salaries
(OMITTED)

MUNICIPAL COURTS

§ 51. Justice of the peace courts; city courts
Section 51. A justice of the peace shall have concurrent jurisdiction with the district courts in all civil matters when the amount in dispute shall not exceed one hundred dollars, exclusive of interest and attorney fees, with concurrent jurisdiction with the city courts in all civil matters when the amount in dispute shall not exceed twenty dollars, and with concurrent jurisdiction with the district courts in all civil matters when the amount in dispute shall not exceed twenty dollars, not including interest and attorney fees.

§ 52. Parish courts; Jefferson Parish
(OMITTED)

§ 53. Juvenile court for Parish of East Baton Rouge
(OMITTED)

§ 54. Parish courts; jurisdiction
(OMITTED)

DEPARTMENT OF JUSTICE

§ 55. Establishment; composition; attorney general, election and assistants
Section 55. There shall be a Department of Justice consisting of an Attorney General, a Solicitor General, and assistant solicitors and the office of the attorney general shall be located in the city of Baton Rouge,

They shall have jurisdiction in succession or probate matters, or in cases in which a judgment may be entered as aforesaid, nor shall they have jurisdiction in cases of ejectment, or where the title to real estate is involved.

They shall have criminal jurisdiction, as committing magistrates only, and shall have power to bind or discharge, in cases not capital or necessarily punishable at hard labor, and may require bonds to keep the peace.

§ 56. Attorney general; qualifications; powers and duties
(OMITTED)

§ 57. Salaries
(OMITTED)

DISTRICT ATTORNEYS

§ 58. Establishment of office; election; term
Section 58. There shall be a district attorney for each judicial district in the State who shall be elected by the qualified electors of the judicial district at the same time and for the same term as is provided here for district judges.

§ 59. Salaries; qualifications
(OMITTED)

§ 60. Assistant district attorneys
(OMITTED)

§ 61. Assistant district attorneys; qualifications; powers
(OMITTED)
§ 62. Assistant: salary  
(
OMITTED
)

§ 63. Defense of criminal prosecutions; removal from office  
(
OMITTED
)

§ 64. Salary provisions; effective date; fees  
(
OMITTED
)

SHERIFFS

§ 65. Establishment of office; election; ex-officio tax collector; bond; supervision or collector  

Section 65. There shall be a sheriff elected by the qualified electors of each parish in the State constituting the civil division of Louisiana, who shall be elected at the general State election and hold office for four years. The sheriff, except in the parish of Orleans, shall be ex-officio collector of State, parish and all other taxes, except municipal taxes, which, however, under legislative authority, he may also collect.  

He shall, within sixty days from the date of his commission, give separate bonds as required by law, for the faithful performance of his duties in each capacity, and if the holder of the office shall be declared vacated, he shall not be discharged as the collector until he shall have satisfied the court that he has completed the legal bonds as collector thereof.

CLERKS

§ 66. Establishment of office; election; powers and duties  

Section 66. There shall be a clerk of the District Court in each parish, the positions of Clerk of Orleans, who shall be elected by the qualified electors of the parish every four years, and shall be ex-officio notary public and parish recorder of conveyances, mortgages, and other acts.  

The Legislature shall have power to vest in clerks of court authority to grant such orders and to do such acts as may be deemed necessary for the furtherance of the administration of justice, and in all cases the powers thus vested shall be specified and determined.

§ 67. Deputies  
(
OMITTED
)

§ 68. Deeds  
(
OMITTED
)

VACANCIES

§ 69. Vacancies; appointive; appointment; removal  

[Section 69] § 69. Vacancies in the offices of judge of a district, justice of peace of a town, clerk of the District Court and Recorder of Conveyances in the parish, sheriff, coroner, clerk of a District Court and Recorder of Conveyances, recorder of mortgages and other registers of that town or parish, shall be filled by appointment by the Governor, with the advice and consent of the Senate.

COMMENT: In Section 69 there are provisions for vac., i.e., in offices not within the purview of Article VII.

CORONERS

§ 70. Establishment of office; election; term  

Section 70. Unless otherwise provided by law, there shall be a coroner elected by the qualified electors of each parish, except in the parish of Orleans, who shall be elected at the general State election and who shall hold office for four years.

§ 71. Qualifications; voting for sheriff  
(
OMITTED
)

§ 72. Vacancy  
(
OMITTED
)

§ 73. Regulation of fees and costs; compensation of officers; service of process and pleadings by litigants  
(
OMITTED
)

§ 74. Compensation of sheriffs and clerks of court  
(
OMITTED
)

COMMENT: ALL PROVISIONS AFFECTING THE PARISH OF ORLEANS WERE OMITTED. THOSE PROVISIONS BEING ARTICLE VII SECTIONS 75 THROUGH 97.

NOTES

Staff Memo No. 6 is omitted. It reproduces 1972 Annual Report of the Judicial Council of the Supreme Court of Louisiana, 28-49.

STATE OF LOUISIANA CONSTITUTIONAL CONVENTION OF 1972 P.O. BOX 1074 BAYONTE BY LA 70804

[Staff Memo No. 7]

March 16, 1973

MEMORANDUM

To: Members of the Judiciary Committee

From: C. B. Forgetton, Jr., Sr. Research Assistant

Subject: SALARIES OF JUSTICES OF THE PEACE

As requested, the following is the result of a recent survey of salaries of Justices of the Peace throughout the state made by Mr. Gene Murrett, Judicial Administrator, based on 100 replies:

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<th>Number of Justices</th>
<th>Monthly Salary</th>
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<tr>
<td>21</td>
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<td>$50 - $100</td>
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<tr>
<td>4</td>
<td>$100 - $200</td>
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<tr>
<td>4</td>
<td>$350 - $400</td>
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It is assumed that most of the approximately 445 Justices of the Peace in the state, are paid the $30.00 per month by the parish police jury required by P.S. 33:1702.

CRP/mrb

[338]
[Staff Memo No. 8]

DISTRICT JUDGES' SALARY PROPOSAL

(1/2 or 1/4 of Criminal Court Fund of each Parish to be paid to the State; State pays additional salary of $15,300 to each District Judge, including Juvenile and Family Court Judges, to equal salary of $35,800, highest salary now paid in State to District Judges.)

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## District Judges' Salary Proposal

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1/2 of Criminal Court Funds to State - Total...... $2,215,286
125 Judges at $15,300 additional salary paid...... 1,912,500
Gain to State.................................. $ 302,786

1/4 of Criminal Court Funds to State - Total......... $1,107,638
125 Judges at $15,300 salary paid.................... 1,912,500
Additional Expense to State......................... $(804,862)
NOTES
Staff Memo No. 9 is omitted. It consolidates material set out in Staff Memo No. 6. See Notes, above.

[Staff Memo No. 10]
TENTATIVE SCHEDULE — DISCUSSION DRAFT

ORGANIZATIONAL MEETINGS AND ORIENTATION

1. February 23, 1973
   - Organization
     - General remarks on La. Judiciary by Eugene Murrett, Judicial Administrator

11. March 2, 1973
   - Organization

I. POWERS, ORGANIZATION AND ADMINISTRATION
   OF COURTS

1. March 9, 1973
   Scheduled:
   Invited:

2. March 16, 1973
   Scheduled:
   Invited:
   - Hon. Melvin P. Barre, Pres., District Attorneys’ Asn.
   - Mr. Christian, Nat. Center of State Courts
   - Mr. Solomon, Instr. of Court Mgt.

3. March 23, 1973
   Scheduled:
   - Hon. J. Burton Foret, Pres., Juvenile and Family Court, Judges’ Asn.

4. March 30, 1973
   Invited:
   - Mr. Marvin L. Lyons, La. Municipal Assn.
   - Mr. W. F. Johnson, Asst. Clerk of Courts Assn.

March 30, 1973 (cont.)
Invited:
- Mr. Marvin L. Lyons, La. Municipal Assn.
- Mr. W. F. Johnson, Asst. Clerk of Courts Assn.

II. FINANCE, SELECTION, TENURE
   AND COMPENSATION

1. April 6, 1973
   Invited:
   - Mr. Lowe, Amer. Judicature Society
   - Mr. Ben Miller, Past Pres., State Bar
   - Frank W. Hawthorne, Asoc. Justice La., State Sup. Ct. (Retired)
   - Mr. Dudley Henderson, Attorney-at-law, New Orleans

2. April 13, 1973

3. April 20, 1973

III. COURT RELATED OFFICERS

1. May 11, 1973
   Invited:
   - Presidents of D.A.'s, Sheriffs, Clerks of Court, Coroner Associations, et al

2. May 18, 1973

NOTES
Staff Memo No. 11 has been omitted. It reproduces Louisiana Legislative Council Memorandum in re. Local and Special Laws, June 20, 1968.

William J. Guste, Jr.
Attorney General
August 21, 1973

Constitutional Convention 1973
Independence Hall
Baton Rouge, Louisiana

Dear Delegate:

I am very concerned with the proposed article on the powers of the Attorney General which has been reported to the Convention floor by the Committee on the Judiciary.

In this connection, I am enclosing a copy of Public Affairs Research Council (PAR) Convention Commentary dated August 21, 1973.

As PAR points out, the Committee's proposal "would weaken the present authority of the Attorney General."

"The present Constitution gives the attorney general the power to institute and prosecute or intervene in any civil or criminal case as is necessary to protect the rights and interests of the state. In addition, he has the power to supervise district attorneys. It is essential that the attorney general have not only the authority to supervise district attorneys but to supercede and intervene in cases where the district attorney's power is not properly serving the best interest of the state. The power of the attorney general to use these functions is a must in cases such as organized crime and labor racketeering in which large financial resources may be used to insure protection from local law enforcement and prosecution officials. These types of criminal activity are also state and nationwide in character, and therefore the attorney general should have the power to go beyond parish boundaries." (PAR August 21, 1973)

Constitutional Convention 1973
August 21, 1973
Page 2

Furthermore, the powers of the Attorney General would be weakened in its effort

* to persuade public officials to repay the state for misuse of public property.
* to conduct investigations involving alleged public bribery or payroll
padding and act with respect to same.

And

* to take original action in cases of public contract fraud or where the public bidding statutes of the state are violated,

* to act in criminal matters in the interest of the public when a district attorney refused to act in the face of patent violation of the law, or when a district attorney was misusing the office without original criminal jurisdiction.

The present Constitution empowers the Attorney General

* to institute and prosecute or intervene in any civil or criminal case as is necessary to protect the rights and interests of the state. In addition, he has the power to supercede district attorneys. As we interpret the case law, it holds that the attorney general can supercede district attorneys for cause.

The proposal presently before the Convention does not permit the Attorney General to act in criminal cases unless requested to do so by a district attorney. It does not provide that the attorney general can supervise district attorneys.

It provides that the Attorney General can supercede any attorney representing the state in civil or criminal cases.

Constitutional Convention 1973
August 21, 1973
Page -3-

"When authorized by the court in which the case is pending, subject to jurisdictional review."

This language coupled with the failure to include original criminal jurisdiction and the authority to supervise district attorneys, would mean that the attorney general could not initiate an investigation into wrongdoing in any parish or municipality, or could not participate in grand jury proceedings.

It should be noted that at the investigative and grand jury investigation stage of a criminal proceeding, there is no case "pending." Hence, the attorney general could never supercede until a case was pending.

I urge you to amend Section 27 of the Judiciary Article to provide as follows:

"Powers and Duties of the Attorney General

There shall be a department of justice, headed by the attorney general who shall be the state's chief legal officer. As may be necessary for the assertion or protection of the rights and interests of the state, the attorney general shall have authority to:

(1) institute, and prosecute or intervene in any legal actions or other proceedings, civil or criminal;

(2) exercise supervision over the several district attorneys throughout the state; and

(3) for cause, supercede any attorney representing the state in any civil or criminal proceeding.

He shall have such other powers and perform such other duties as may be authorized by this constitution or provided by statute."

Constitutional Convention 1973
August 21, 1973
Page -4-

Items (1) and (2) above constitute a restatement of Article VII, Section 66 of the Constitution of 1921 on the powers and duties of the Attorney General. Item 3 clarifies existing case law on the subject.

Your careful consideration of this matter, I am sure, will be appreciated by the people of Louisiana.

With kindest regards, I am

Very truly yours,

WILLIAM J. GUST, JR.
Attorney General

NOTES


[Staff Memo No. 13]

Draft B

section_____

The judicial power shall be vested in a supreme court, courts of appeal, district courts and such other courts as may be provided in this constitution.

section_____

The courts may, in aid of their authority, issue all needful writs, orders and process. A judge of the supreme court or of a court of appeal, subject to review by the other members of his court, and a judge of a district court may issue writs of habeas corpus in cases within their jurisdiction on behalf of any person in custody.

section_____

No function shall ever be attached to any court of record, or to the judges thereof, except such as are judicial; nor shall such judges practice law.

section_____

The legislature shall provide a retirement system for judges. However, no judge in office, elected or retired prior to the adoption of this constitution shall have his retirement benefits reduced or his contributions to a retirement system increased.

section_____

No judge shall have his salary, or retirement benefits diminished during the term for which he was elected.
Service of citation shall not be waived, nor judgement confessed, prior to the maturity of the obligation sued on, except for purpose of executory process.

The courts shall have the right to select and remove their own clerical and other personnel.

The supreme court shall be composed of a chief justice and six associate justices, electors of the state when elected. Each shall have been licensed to practice law in this state for at least ten years preceding his election, and each shall have resided in the district from which elected for two years immediately preceding his election. The term shall be fourteen years. Whenever a vacancy shall occur in the office of the chief justice, the senior justice in point of service shall succeed thereto. The domicile of the supreme court shall be in the city of New Orleans.

The supreme court has control of, and general supervisory jurisdiction over all other courts.

A judge of a court of appeal shall be an elector of the state licensed to practice law in the state for at least six years preceding his election, and shall have resided in the district from which elected for the two years immediately preceding his election. The term shall be twelve years. Whenever a vacancy occurs in the office of presiding judge, the senior judge in point of service shall succeed thereto.

A district judge shall be an elector of the state licensed to practice law in the state for at least five years preceding his election, and shall have resided in the district from which elected for two years preceding his election. The term shall be six years.

There shall be a department of justice directed by an attorney general who shall have the power to appoint assistants to serve at his pleasure. He shall be an elector of the state and have resided in the state and have been licensed to practice law in the state for at least five years preceding his election. He shall exercise supervision over the district attorneys and perform the duties imposed by law.

There shall be a district attorney for each judicial district who shall be an elector and who shall have been a resident of the district from which elected for three years and licensed to practice law in the state for at least three years. The term shall be six years.

All district attorneys serving at the time of the adoption of this constitution, may retire on reaching the age of eighty years, if they have served continuously as district attorney for thirty years, immediately preceding their retirement, and shall thereafter receive full pay for life. Provided however, no district attorney previously retired under this provision shall have his benefits diminished.

There shall be a sheriff elected by the electors of each parish in the state, who shall be elected at the general state election and hold office for four years. The sheriff shall be ex-officio collector of state, parish and all other taxes, except municipal taxes, which, however, under legislative authority, he may also collect.

There shall be a clerk of the district court in each parish, who shall be elected by the electors of each parish at the state general election and who shall hold office for four years, and shall be ex-officio notary public and parish recorder of conveyances, mortgages, and other acts.

The legislature shall have power to vest in clerks of court authority to grant such orders and to do such acts as may be deemed necessary for the furtherance of the ad-
ministration of justice; and in all cases the powers thus vested shall be specified and determined.

section

Vacancies in the office of judge, district attorney, sheriff, clerk of district court shall be filled by appointment by the governor, with the advice and consent of the senate to serve until such time as their successors shall be chosen.

section

Unless otherwise provided by law, there shall be a coroner elected by the electors of each parish, who shall be elected at the state general election and who shall hold office for four years.

NOTES
Staff Memo No. 14 is omitted. Text of the Memo is reproduced together with comments below as Staff Memo No. 15.

[Staff Memo No. 15]

301 Loyola Avenue
New Orleans, Louisiana 70112
April 17, 1973

MEMORANDUM TO: Members of Judiciary Committee, CC/73
FROM: Al Tate, Jr.

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DRAFT "A" -- with explanatory comments

TENTATIVE WORKING DRAFT PROPOSED TO SERVE AS A POINT OF DEPARTURE ONLY

NOTE:

Delegate Tate drafted the following tentative working paper as an aid to discussion of concepts proposed at our meetings. He does not advocate this draft or any of the proposals contained in it, some of which he may not agree with. Cross-references are listed to provisions of the Constitution of 1921 and to the 1942 Projet by the Louisiana State Law Institute for a new state constitution. We have also prepared a compilation of the provisions of the present constitution which should possibly be transferred to statutory form, some subject to amendment by majority vote and some subject to amendment only by two-thirds of the legislature. The staff will also send you a shorter draft, prepared at my direction, known as "Draft B."

ARTICLE 1. THE JUDICIARY DEPARTMENT

GENERAL

PART A. JUDICIAL POWER IN GENERAL

Section 1. Judicial power

The judicial power shall be vested in a supreme court, courts of appeal, district courts, and such other courts as this constitution may authorize.

Source: Article VII, Section 1.

Projet: Article VI, Section 1.

Comment: No essential change except to simplify language.

* * *

Section 2. Needful writs, orders, and process

The courts established or authorized by this constitution may issue writs of habeas corpus in cases within their jurisdiction and all other needful writs, orders, and process in aid of their respective jurisdictions, original, appellate, or supervisory. This authority may be exercised by a judge of the supreme court or of the court of appeal, subject to review by the court of which he is a member.

Source: Article VII, Section 2.

Projet: Article VI, Section 11.

Comment: No essential change except to simplify language.

* * *

PART B. THE SUPREME COURT

Section 3. Supreme court; membership; domicile

The supreme court shall be composed of a chief justice and six associate justices. The supreme court shall be domiciled in New Orleans.

Source: Article VII, Section 4.

Projet: Article VI, Section 14.

Comment: No essential change except to simplify language.

* * *

Section 4. Supreme court; number necessary to judgment; calling in judge of other court; divisions

(a) When the court sits en banc, at least four of the judges of the court must concur to render judgment. When, due to vacancy or absence of more than two weeks caused by illness, less than seven judges participate, the court shall have authority to assign any judge of the court of appeal or district court to sit in such cases as the court may direct.

(b) The court may sit in divisions of three or more judges, under such rule as the court may adopt. In such event, applications for rehearings shall be decided by the court en banc.

Source: Article VII, Sections 4, 5, 6 and 7.

Projet: None.

Comment: As to (a), no essential change other than simplification of language. This provision should be retained to provide authoritative direction in the event of internal disagreement within the court.

As to (b), the authority to sit in divisions should be retained to assure a means of extending the court's manpower to dispose of routine appeals of right in the event of continuing increase. This procedure was only utilized once, during 1921-23, but the reserved power should be retained in the event of future need. Minor changes are made in the present provisions, such as eliminating the power to call up other judges to form additional divisions and such as eliminating the provision that rehearings shall be submitted to another division (other than considered en banc as here proposed).

* * *

Section 5. Supreme court; qualifications; districts; terms

(e) A judge of the supreme court shall be an elector of this state who has been admitted to practice law in this state at least ten
years preceding his election. He shall have resided within the territory of the district from which elected for at least two years immediately preceding his election.

(b) The state shall be divided into at least six supreme court districts, with at least one judge elected from each district. The presently constituted districts, and the number of judges assigned to each, are retained, subject to change by two-thirds vote of the legislature.

(c) The judges shall be elected to terms of fourteen years. A vacancy in an office shall be filled as provided by section 30 of this article.

Source: Article VII, Sections 6, 7, 9.

Project: Article VI, Sections 14, 15.

Comment: No substantial change is made, except as noted below.

As to (a), the age requirement is eliminated as unnecessary.

As to (b), the present districts are retained, but it is provided that they may be changed by two-thirds vote of the legislature (i.e., two-thirds of the members of each house, as to be defined in the article on the legislative department). The districts will be defined by supplementary statute or by appendix, as the Co-Ordinating Committee decides by way of general approach. It is suggested that this may provide a method of changing the districts to reflect population changes in the future, without the necessity of statewide vote on the amendments. There will be a saving provision that the term of no judge may be shortened by gerrymandering.

As to (c), a method of filling vacancies in all judicial offices will be suggested in section 30 below.

---

Section 6. Supreme court—supervisory, original, and appellate jurisdiction; rule-making power

(a) The supreme court has control of, and general supervisory jurisdiction over all inferior courts. The supreme court shall also exercise general procedural rule-making power not in conflict with procedural statutes and codes enacted by the legislature.

(b) The supreme court has exclusive original jurisdiction of disbarment cases involving misconduct of members of the bar, with the power to suspend or disbar under such rules as the court may adopt.

(c) In civil cases, its appellate jurisdiction extends to both the law and the facts. In criminal matters, its appellate jurisdiction extends to questions of law only.

(d) The following cases shall be appealable to the supreme court:

1. A case in which a law of this state has been declared unconstitutional;

2. A criminal case in which the penalty of death or imprisonment at hard labor may be imposed, or in which a fine exceeding five hundred dollars or imprisonment exceeding six months has been actually imposed.

If a case is appealed properly to the supreme court on any issue, the supreme court has appellate jurisdiction over all other issues involved in the case.

(e) (Upon certification by a majority of the supreme court that such relief is necessary?), the legislature may by two-thirds vote transfer the criminal appellate jurisdiction of the supreme court to the courts of appeal (or to such other intermediate court as the legislature may create?).

(Upon certification by a majority of the supreme court that such relief is no longer necessary?), this transfer may not (may?) be rescinded.

Source: Article VII, Sections 10.

Project: Article VI, Sections 16 and 17.

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Comment: Except to eliminate absolute provisions (i.e., with the Judiciary Commission there are no longer suits to remove judges) or those unnecessary in view of other provisions (i.e., the needful orders provision, Section 2, above), eliminates any express need to state supreme court has original jurisdiction to determine its own appellate jurisdiction: in addition to which, since monetary limits on amounts appealed has not applied since 1958, no useful purpose is any more served by the 1921 provision, no substantial change has been made except:

As to (a), the second sentence expressly recognizing the present rule-making power is added at the suggestion of Chief Justice Sanders.

As to (c), the direct civil appeals to the supreme court have been restricted to instances where legislative action has been declared unconstitutional, in view of Chief Justice Sanders' recommendation. Also, in accordance with same, the monetary threshold in criminal appeals has been raised from three hundred to five hundred dollars.

As to (e), authority is provided to the legislature to transfer criminal appellate jurisdiction, thus eliminating the need for state-wide amendment to accomplish this result. I am not certain that such a major change should not need the full amendment process; nor, if not, that supreme court certification should be necessary. Other alternatives are noted in parentheses with question marks.

---

Section 7. Supreme court; certiorari and other writs to the courts of appeal

(a) The supreme court may require by wri of certiorari, or otherwise, any case to be certified from the courts of appeal to it for review, with the same power and authority in the case as if it had been carried directly by appeal to the said court.

(b) Where the application is based solely upon the ground that the decision of the question of law involved is in conflict with a decision of the supreme court or of another court of appeal or panel thereof upon a question not yet decided by the supreme court and it is found that such is the fact, or where the court of appeal has declared unconstitutional a law of this state, then the application shall be granted as a matter of right.

(c) The supreme court shall not exercise the power conferred by this article unless the application shall have been made to the court or to one of the justices thereof within thirty days after a rehearing shall have been denied by the court of appeal.

(d) The application shall be made as provided by the rules of the court.

Source: Article VII, Section 10.
Section 8. Supreme court: the chief justice

(a) "Whenever a vacancy in the office of chief justice occurs, the justice oldest in point of service on the court shall succeed to the office.

(b) The chief justice shall serve as chief administrative officer of the judicial system of the state. His powers in this regard shall be provided or limited by general rule adopted by the court.

Source: Article VII, Section 7.

Project: Article VI, Section 14.

Comment: No substantive change is made.

As to (b), this authorizes and ratifies the present practice. Chief Justice Sanders suggested this, it may be so that a Judicial Council should be created by the constitution, which (rather than the court itself) should provide for the administrative powers of the chief justice.

As to (a), the committee might suggest some alternative. For instance, to avoid the superannuated chief justice who continues to serve only in order to attain the title, perhaps the senior justice below sixty-five (sixty-seven?) years of age should succeed. Again, since the chief justice has administrative functions and perhaps should be chosen for administrative ability rather than age, perhaps whenever a vacancy occurs the court should be authorized to elect a chief justice from its membership for a term long enough to provide leadership and direction (e.g., seven years?), eligible to succeed himself. We have been fortunate in that our long-term chief justices have possessed administrative ability (Chief Justice Sanders is an outstanding example), and perhaps should not tamper with fate; on the other hand, by the chance of a few days or months of seniority, the court system could be saddled with a long-term chief justice with no interest in administration.

Section 9. Supreme court: judicial administrator, clerk and staff

The supreme court shall have authority to appoint a judicial administrator and its own clerks and other staff personnel and to prescribe their duties. They shall serve during the pleasure of the court.

Source: Article VII, Sections 12, 13, 14, 15.

Project: Article VI, Section 9.

Comment: No substantive change.

Section 10. Supreme Court: assignment of judges

(a) In addition to the authority provided by Section 4 of this article, the supreme court shall have the power to assign a judge of the district court to another district court or to a court of appeal.

(b) In addition to the authority provided by Section 4 of this article, the supreme court shall have the power to assign a judge of the district court to another district court or to a court of appeal.

(c) The supreme court shall have the power to assign a judge of any statutory court authorized by this constitution to another statutory court or to a district court.

(d) The supreme court may, with his consent, assign any judge entitled to judicial retirement benefits to any court created or authorized by this constitution.

(e) The assigned judge shall possess the qualifications of length of admission to practice law in this state required of a judge elected to the office to which assigned.

(f) If otherwise entitled to practice law, any judge so assigned may not do so during the period of his assignment, unless the judges permanently serving on such court may do so.

(g) The legislature shall make necessary appropriations to pay the reasonable expenses and the supplements to salaries or retirement benefits to such assigned judges, so that they receive compensation equal to that of judges permanently serving in the position to which assigned.

Source: Article VII, Sections 4, 5, 8(b), 12, 13, 20 G, 22, 26, 38, 96.

Project: Article VI, Section 10.

Comment: This proposed section is intended to consolidate assignment provisions scattered throughout the present constitution.

The authority to assign court of appeal and district judges to the supreme court is provided by Section 4 above and is limited to calling up judges to fill vacancies or absences.

The proposed section also broadens the assignment power by expressly authorizing (a) assignment of court of appeal judges to other positions (but, since each court of appeal has a collegiate responsibility to develop a uniform jurisprudence for the territory it serves, only with the consent of a majority of the court) (see (a) above) and (b) fourth tier judges, i.e., of the statutory courts, to the district courts and to other fourth-tier courts (see (c) above).

In isolated instances (i.e., Article VII, Sections 26 and 96), the present authority of the courts themselves or of the supreme court to appoint qualified non-judge lawyers is omitted as unnecessary and rarely utilized. Perhaps, instead, the committee should consider granting express authority to assign qualified non-judge lawyers to courts, thus increasing the available manpower.

Another alternative possibility is provide a broad provision permitting the supreme court to assign any active or retired judge of any court of record to serve on any court.

If the judge is assigned to fill a temporary vacancy, Section 10 below provides that the assigned judge may not be or become ineligible to fill the vacancy.

Comment: This provision is intended to provide some judicial expertise in cases where a court's staff is insufficient, but the difficulty of assigning a judge who has better qualifications elsewhere is inherent in the system. This section also allows the court of appeal or district court to assign judges to provide expertise where needed, but only with the judges' consent.
PART C. THE COURTS OF APPEAL

Section 11. Courts of appeal; membership; domiciles; sessions

(a) The state shall be divided into four court of appeal circuits. The court of appeal for each circuit shall be composed of five or more judges.

(b) The courts of appeal shall be domiciled as follows: First, at Baton Rouge; Second, at Shreveport; Third, at Lake Charles; Fourth, at New Orleans.

(c) The sessions of the several courts of appeal shall be held in the parish of their domiciles only.

Source: Article VII, Section 20.

Projet: Article VI, Section 19.

Comment: No substantive change, except to eliminate from constitution specific territorial description of circuits and districts thereof. In Section 11 below present circuits and districts will be continued, subject to change by two-thirds vote of the legislature.

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Section 12. Courts of appeal; panels; number necessary to decision; appointment of district judges to sit in the case

(a) The courts of appeal shall sit in rotating panels composed of at least three judges selected in conformity with the rules adopted by the court. However, when deemed expedient by the judges thereof, a court of appeal may sit en banc.

(b) A majority of the judges sitting in the case must concur to render judgment.

(c) If for any reason a majority of judges do not concur, or if a judge is absent or unable to serve, then a majority of the court may appoint a district judge to sit in the case.

Source: Article VII, Sections 23 and 26.

Projet: None

Comment: No change. The authority to appoint judges ad hoc is retained (Section c), as for the single case need this is less cumbersome than the supreme court appointment process. In event of such ad hoc appointment, no salary supplement is paid, as at present.

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Section 13. Courts of appeal; qualifications; circuits and districts; terms

(a) A judge of a court of appeal shall be an elector of this state who has been admitted to practice law in this state at least six years preceding his election. He shall have been domiciled within the territory from which elected for at least two years immediately preceding the election.

(b) Each circuit shall be divided into three districts, with at least one judge elected from each. One or more judges of each court of appeal may be elected at large from within the circuit. The presently constituted circuits and districts thereof, and the number of judges elected either at large or from districts in each circuit, are retained, subject to change by two-thirds vote of the legislature.

(c) The judges shall be elected to terms of twelve years. A vacancy in an office shall be filled as provided by Section 30 of this article.

Source: Article VII, Section 20.

Projet: Article VI, Section 20.

Comment: No substantial change is made, except as noted below.

As to (a), the age requirement is eliminated as unnecessary.

As to (b), the present circuits and districts are retained, but it is provided that they may be changed by two-thirds vote of the legislature. (I.e., two-thirds of the members of each house, as to be defined in the article on the legislative department.) The circuits and districts will be defined by supplementary statute or by appendix, as the Co-Ordinating Committee decides by way of general approach.

It is suggested that this may provide a method of changing the circuits and districts to reflect population changes in the future, without the necessity of statewide vote on the amendments. There will be a saving provision that the term of no judge may be shortened by gerrymandering.

As to (c), a method of filling vacancies in all judicial offices will be suggested in Section 30 below.

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Section 14. Courts of appeal; appellate and supervisory jurisdiction

(a) The courts of appeal have general appellate jurisdiction of all cases decided by district and other courts within their respective jurisdictions, except as otherwise provided by this constitution.

(b) Where, in a case otherwise appealable to the court of appeal

(1) The amount in dispute or fund to be distributed, exclusive of interest and attorney's fees, or

(2) The value of the movable property the possession or ownership of which is sought, or

(3) The monthly or yearly rent, or rent for the unexpired term of the lease, is less than one (three?) hundred dollars, then the trial court decision is not appealable, but review thereof may be obtained only by application to the supervisory jurisdiction of the court of appeal with appellate jurisdiction over decisions of such trial court. If the court of appeal grants supervisory review, then the matter shall be decided by it as in the case of an appeal. The appellate jurisdiction under this subsection is determined by the prayer in the main demand.

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(c) The appeal to the court of appeal shall be on both the law and the facts, except where the appeal is limited to questions of law by provisions of this constitution or, in the case of civil service or administrative determinations, by legislative enactment.

(d) Each court of appeal has supervisory jurisdiction, subject only to the general supervisory jurisdiction of the supreme court, over all cases in which an appeal would lie to the court of appeal.

Source: Article VII, Section 29. However, Article VII, Sections 1, 35, 36, and 48 must also be consulted.

Projet: Article VI, Section 22.

Comment: A major simplification of present provisions has been sought by the present proposed section.

Generally speaking, as the source provisions note, the courts of appeal presently have appellate jurisdiction over all cases fileable in the district court except those which may also be filed in the justice of the peace courts. (These generally fall in the categories of (b) above, being minor matters of less than one hundred dollars in value.) This essential scheme has been retained.

The provision as written provides for direct appeals to the court of appeal in all such matters. However, the proposal envisages review by the court of appeal under its supervisory jurisdiction of matters below the appealable threshold. The chief changes thus proposed are: (1) to eliminate the appeal and trial de novo to the district court in city and municipal courts (this will be retained for the justice of the peace, if the office is retained, see below) and transfer them in civil cases to the court of appeal and (2) to provide for review under supervisory jurisdiction (i.e., discretionary) by the court of appeal rather than (as now) the supreme court where the amount decided is below this jurisdictional threshold.

The committee should seriously consider raising the threshold of appeal from one hundred to three hundred dollars. The one hundred dollar figure was established by the Constitution of 1879, when the purchasing power of the dollar was much greater.

The above proposal does not expressly note that the court of appeal is not given jurisdiction of criminal prosecution in family or juvenile court against persons other than juveniles, as presently expressly stated in Section 29. By Section 6(d) above, the supreme court is given exclusive appellate jurisdiction in criminal cases.

With regard to (d), the supervisory jurisdiction of the court of appeal is made subject only to the supervisory jurisdiction of the supreme court, thus overruling judicial interpretations which provide that, if the court of appeal grants a supervisory writ, its judgment does not become final until the full appellate delays run (i.e., a minimum of forty-four days). As Dean McRohon noted, these interpretations are mistaken and have the effect of making resort to the court of appeal's supervisory power useless in many cases. See Michigan Wisconsin Pipe Line Company v. Fruge, 201 So.2d 672 (La.App.3d Cir.1972) for full discussion.

** **

Section 15. Courts of appeal; certifications to supreme court of questions of law; determination

A court of appeal shall have the power to certify to the supreme court any question of law before it; and thereupon the supreme court may give its binding instruction, or it may consider and decide the case upon the whole record.

Source: Article VII, Section 25.

Projet: Article VI, Section 22.

Comment: No substantive change. The simplification of language of the Projet is substituted for the present version. Certification is a useful enough procedure, in the writer's opinion, to be retained.

** **

Section 16: Courts of appeal; presiding judge

The senior judge in service on the court of appeal shall be the presiding judge and shall exercise administrative powers as provided by general rules of the court.

Source: Article VII, Section 23.

Projet: Article VI, Section 19

** **

Comment: Since administrative responsibility may be entrusted to the presiding judge, perhaps the court should be authorized whenever a vacancy occurs to elect a presiding judge from its membership for a term long enough to provide leadership and direction (i.e., five years), eligible to succeed himself. Also, perhaps the title should be changed to "chief judge".

** **

Section 17. Courts of appeal; clerks and staff

Each court of appeal shall have authority to appoint its respective clerk and staff personnel and to prescribe their duties. They shall serve during the pleasure of the court.

Source: Article VII, Section 28.

Projet: Article VI, Section 9.

Comment: No substantive change. Elimuated from the proposal is the present provision of Section 28 that the sheriff of the parish must furnish a deputy to execute the orders of the court.

** **

Section 18. Courts of appeal; court facilities

The governing authority of the parish in which the court of appeal is domiciled shall provide adequate courtrooms, offices, and other facilities for the use of the court, its judges, and staff.

Source: Article VII, Section 28.

Projet: None.

Comment: The writer considered eliminating this provision from the draft. Properly speaking, the state should bear the expense of operating this state facility. However, in point of fact, each domiciliary parish has already furnished these facilities; it might cause more disruption than reform to change the present arrangements. Perhaps, however, this provision should be transferred to the statutes rather than retained in the constitution.

** **

PART D. THE DISTRICT COURTS

Section 19. District courts; judicial districts

The state shall be divided into judicial districts, each composed of one or more parishes and served by one or more district judges.
Source and Projct: See Section 20 below.

Section 20: District courts; qualifications; districts; divisions; terms

(a) A district court shall be an elector of this state who has been admitted to practice law in this state at least five years preceding his election. He shall have resided within the district from which elected for at least two years immediately preceding the election.

(b) The judicial districts as presently constituted, and the number of judges elected to each, are retained, with the Civil and Criminal District Courts for the parish of Orleans being combined to form the Orleans District Court having the same total number of judges as are presently elected to each of these courts. The Family Court for the Parish of East Baton Rouge is combined with the district court serving this parish, with said district court having the same total number of judges as are presently elected to each.

(c) By two-thirds vote, the legislature may create a judicial district, transfer a parish from one district to another, or may alter the number of judges elected from a district.

(d) In multi-judge districts, a majority of the judges may by court rule establish specialized divisions and provide for assignment of cases and judges to each, subject to the general supervisory rules of the supreme court.

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(e) Except in the parish of Orleans, the district judges shall be elected to terms of six years. In Orleans Parish, the district judges shall be elected to terms of twelve years. A vacancy in an office shall be filled as provided by Section 30 of this article.

Source: Article VII, Sections 31-34, 53, 80-82.

Projct: Article VI, Section 23.

Comment: The proposed section creates a unified district court within each judicial district, combining the Civil and Criminal District Courts of Orleans and the East Baton Rouge Family Court into a district court. I think a better drafting technique could be used to accomplish this result (i.e., without referring to the new constitution to abolished courts), but I am not taking the time to do it now.

The present power of the legislature to re-arrange districts (Article 34) and to add judges by two-thirds vote is retained. (Query: Do we need a two-thirds vote to add judges?) However, the legislature is additionally empowered to create new judicial districts. The present districts will be defined by supplementary statute or by appendix, as the Co-ordinating Committee decides by way of general approch.

The twelve-year term for Orleans Parish judges is retained because (a) a uniform term of twelve years or more than six) for all district judges throughout the state could probably not pass and (b) it will be unfair to decrease the terms of judges elected in Orleans Parish on the basis of twelve-year terms, which are moreover probably justified by the exorbitant cost of political campaigns in that parish. Perhaps we should study Judge Cole's suggestion of an initial six-year term for all judges, followed by twelve-year terms if re-elected.

The power of a majority of the judges in the district to provide by rule for specialized divisions is recognized, but the supervisory rule-making power of the supreme court is preserved for the extreme cases where a local district's approach results in inefficiency.

Section 21. District courts; original jurisdiction

The district courts shall have original jurisdiction in all civil and criminal matters, unless otherwise provided in this constitution or by law. They shall have exclusive original jurisdiction in cases involving the title to immovable property: the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or a succession, as a party defendant, regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

Source: Article VII, Sections 35, 81, 82.

Projct: Article VI, Section 26.

Comment: With a minor change in wording, the section above was taken from the 1954 Projct. It retains the traditional jurisdiction of the district courts. Query: Should this be retained? Is it really essential, for instance, that district courts be given exclusive jurisdiction of liquidators suits or suits against successions (recognizing, however, the better policy probably is to provide such exclusive jurisdiction to prevent disruption of settlement by splitting up jurisdiction)? Perhaps the committee should note and may prefer the approach of the Constitutional Revision Commission, Dean Morgan's committee:

§2. Jurisdiction

Except as otherwise provided in this constitution or by statute, district courts have original jurisdiction in all legal cases.

District courts have such appellate jurisdiction so as to be conferred upon them by general laws.

The legislature may, by law affecting the parish of Orleans only, re-establish the civil jurisdiction and the criminal jurisdiction of the district court or courts in the district composed of the parish of Orleans, which jurisdiction may be vested separately in separate district courts.

Source: Former 113.

Section 22. District courts; appellate jurisdiction

(a) A district court shall have appellate jurisdiction in all matters decided by justices of the peace within its district, and in all criminal cases where a fine or imprisonment has been imposed by a statutory court authorized by this constitution within its district.

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(b) An appeal from a justice of the peace court shall be tried de novo.

(c) An appeal in a criminal case shall be on the law and the facts and shall be on the record made in the statutory court.

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Source: Article VII, Sections 16, 81, and 83.

Project: Article VI, Section 28.

Comment: The proposed article retains the appeal and trial de novo in justice of the peace cases. However, it eliminates the trial de novo in other minor civil cases tried before other statutory courts, since in those instances the review is by supervisory writ by the court of appeal, see Section 14(b) above.

In criminal cases, review on law and facts is retained as presently provided. However, instead of a trial de novo in non-Orleans district courts (with the unworkable provision that no evidence not introduced below may be admitted), it provides for review on the record made in that court. This may be an optimistic assumption that facilities are available to make such a record, as they should be. This is in fact the provision presently in effect for review of fourth-tier criminal or juvenile adjudications in Orleans Parish. See Article VII, Section 83. However, in Orleans Parish review is by two or more district judges.

There may be some question as to the need of inventing appellate jurisdiction in the district courts, rather than having these minor convictions reviewed (as they are in district court minor criminal cases) under the supervisory jurisdiction of the supreme court. The writer submits this to the judgment of the committee: on the whole, however, possibly the more adequate district court review of a decision by one judge of a fourth-tier court should be retained.

Section 21. District courts; presiding judge

(a) Each multi-judge district court shall elect a presiding judge from among its judges. The presiding judge shall serve for a term of three years and is eligible for re-election. When a vacancy occurs in the office, the successor shall be chosen for a term of three years. If a majority of the judges cannot agree, or during the period of the vacancy, the judge most senior in continuous service on that court shall serve as acting presiding judge.

(b) The presiding judge shall exercise such administrative functions as may be prescribed by rule of that court or by supervisory rule of the supreme court.

Source and Project: None.

Comment: In the more complex and contested trial courts of this date more administrative leadership is necessary.

Section 24: District courts; minute clerks, court reporters and staff

Each district court shall have authority to appoint its minute clerks, court reporters, and other staff personnel. A district court may appoint a judicial administrator to assist the presiding judge in the performance of administrative functions.

Source: Article VII, Section 85 (Criminal District Court of Orleans only)

Project: None.

Comment: This section may be controversial and is hesitantly advanced only in response to the several suggestions to the effect that the district court should have control of the personnel immediately serving it. The present system of the personnel being furnished by the clerk of court and the sheriff has worked reasonably well. Also, perhaps this should be omitted and left to statutory regulation. Further, if the courts can find the money (i.e., the local government), I think they can at present appoint judicial administrators without constitutional authority.

This section is primarily included to provoke discussion and because the Orleans Criminal Court presently has such a provision. At this time we should also discuss whether, for instance, the constitution should note the power of the legislature to provide for commissioners or magistrates, to be appointed by the courts (like the Associate Judges in Illinois), to carry out quasi-ministerial duties (committing magistrates, confirm defaults, etc.).

Section 25. District courts; appointment of judges ad hoc

If for any reason a district judge is unable to serve in a case, he may appoint a lawyer to serve as judge ad hoc who has all the qualifications required for a district judge except that of residence in the district, or he may arrange for another district judge to serve in his place.

Source: Article VII, Section 38.

Project: None.

Comment: This easily administered provision for an ad hoc judge should probably be retained. Query: Is it necessary to do so in the constitution? (Note: The supreme court may also assign another judge to sit for the recessed or absent judge, but this provision does specifically authorize the use of non-judge lawyers.)

PART E. STATUTORY COURTS

Section 26. Statutory courts; in general

The legislature may, by two-thirds vote, establish, abolish, or otherwise affect other courts of trial jurisdiction. The legislature may also, by two-thirds vote, merge any statutory court authorized by this constitution with the district court of the parish.

Source and Project: None.

Comment: This general provision affects the present special and fourth-tier courts, which are continued by the following section, and it also enables the legislature to establish parish courts or a procedure by which they may be established. In my view, it authorizes the legislature to provide that parish courts may sit in divisions and have judges elected from separate territorial areas within a parish, and to transfer city judges to it (i.e., by consolidating the existing city court(s) with the parish court). We may or may not wish to spell this out. I think not, as the legislature has more flexibility.

Section 27. Statutory courts; existing courts continued

Juvenile courts that exist on the effective date of this constitution, and courts existing on the effective date of this constitution that have jurisdiction inferior to that of district courts, including but not limited to city courts,
parish courts and the courts in the parish of Orleans inferior to the district courts are continued in existence as statutory courts.


Comment: This continues justice of the peace courts, among others. Presently these courts may be abolished by majority vote of the legislature. See Article VII, Section 46. Similarly, mayor's courts are continued as statutory courts (with jurisdiction over violations of municipal ordinances; these may presently be established or abolished by majority vote, Article VII, Section 51 E.). The effect of including both of these as statutory courts is to require a two-thirds vote of the legislature to do so. (Query: Should these courts be excepted from the two-thirds requirement, as now?)

All of the statutory courts so continued will be specified by re-enactment of present constitutional articles regulating them as special statutes or as an appendix to this constitution, as the Co-Ordinating Committee may decide.

* * *

Section 28. Statutory courts; ex officio juvenile judges

In all parishes where separate juvenile courts have not been established, the district judges of the district including that parish shall be ex officio juvenile judges for that parish. In all such instances, the judge of a city court within the parish shall within his jurisdiction, be ex officio judge of the juvenile court, exercising juvenile jurisdiction concurrent with that of the district court.

* * *

Source: Article VII, Section 52.

Projet: Article VI, Section 31 (Domestic Relations Court)

Comment: This provision is continued in view of its importance under present operations of our juvenile law. I am inclined to think it should instead be relegated to the two-thirds statutory provisions, as it is included within the present constitutional section creating and regulating juvenile courts.

(Note: This draft does not incorporate a provision providing for selection of a presiding (administrative) judge for multi-judge statutory courts. Perhaps it should, if this general scheme is adopted for district courts. The reason for the omission is that the legislature, in creating the courts, may provide for the office.)

* * *

PART F. JUDGES IN GENERAL

Section 29. Judges; term of office or compensation may not be decreased

(a) The term of office or compensation of a judge elected to any of the courts established or authorized by this constitution shall not be decreased during the term for which he is elected.

(b) If the legislature exercises its authority to affect a statutory court as provided by section 26 of this article, it may provide that the judge of the statutory court so affected shall serve as an additional judge of the court to which the jurisdiction of the statutory court is transferred.

(c) If the legislature transfers the parish in which a supreme court or court of appeal judge is domiciled to another district, no vacancy in office is so created and the term of the judge shall not be affected by this transfer.

(d) If the legislature transfers the parish in which a district judge is domiciled to another district, the term of the judge shall not be affected by this transfer.

* * *

Source: Article VII, Section 40.

Projet: Article VI, Section 4.

Comment: The source article also prevented change in the territorial jurisdiction, reacting in 1940 against the gerrymandering of Judge Foyout of office in 1935. Continuation of this limitation is not recommended, since the isolated instance does not justify the rigidity for the future; it would hamper the consolidation of the statutory courts and, for instance, the creation of parish courts which include the city courts within the parish as divisions.

* * *

Section 30. Judges; non-partisan election; vacancy in office; terms

(a) The general election of judges shall be held at the regular congressional election or, if the legislature so provides, at one of the statewide primaries thereafter; unless a special election to fill a vacancy is required to be held at another time by subsection b of this section.

(b) If a vacancy occurs in the office of any judge, a special election to fill such vacancy shall be called by the governor and held within four months of the time the vacancy occurs. Until the vacancy is filled, the supreme court shall assign a judge to the duties of the office as provided by section 10 of this article, but this assigned judge shall be ineligible to be a candidate for election to the vacancy. The judge elected at the special election shall be elected to a term as provided by subsection (e) of this section.

(c) The election of judges shall be by a ballot separate from the party contests for other offices. The candidates for election as judge shall be nominated by nominating papers signed by at least one hundred qualified electors of the election district and filed with the secretary of state at least thirty days before the date of the election. The candidates for each judicial office shall be placed in alphabetical order without reference to party affiliation or any individual designation. If no candidate for the office receives a
majority, a second election shall be held at least five weeks
from the date of the first election, as the legislature provides.

(d) All judges serving on the date of adoption of
this constitution shall continue in office for the term to
which elected and shall serve through December 31st of the last
year of their term or, if the last year of their term is not in
the even-numbered year of a general judicial election, then
through December 31st of the year next succeeding. The election
for the next term in the office will be held in a general
judicial election of the year the term expires, as provided
above.

(e) A judge chosen at a special election to fill
a vacancy shall be elected to a full term in the office which
commences on January 1st of the year following the next general
judicial election. He shall also serve an interim term com-
mencing with his qualifying to serve as judge after the special
election until the full term commences.

(non-partisan elections for Orleans Parish School Board)

Comment: The above proposal is a major change in at
least three respects: (a) it provides for a non-partisan
election of judges; (b) it provides that all judges elected to
vacancies shall serve a full (rather than an unexpired) term,
as well as for the interim between the special election and
the full term; and (c) it reverts to the pre-1966 method of
selected district judges by special election by the people,
rather than a gubernatorial appointment. Since in each instance
the judge elected at the special election will serve the interim
between it and the full term, no provision is made for appoint-
ment of judges when a year or less of the term remains.

The term of court of appeals judges ends in odd-
numbered years, but the election for the office is at the
congressional election of the year preceding. This leads to
an anomalous situation where a sitting judge serves on a
year past his defeat and the newly elected judge cannot
take office for the year.

Ideally, the detail in providing for non-partisan
elections should be omitted from the constitution. Perhaps
a simple provision that judges shall be chosen by separate
non-partisan ballot at the time of the regular congressional
election, as the legislature may provide, should suffice.
Perhaps by two-thirds schedule legislation (if the Co-
ordinating Committee recommends this general approach) we
should remove this detail from the constitution. On the
other hand, perhaps we want to specify a simple nominating
petition (only one hundred voters) procedure, to prevent the
possibility, for instance, that in the future five thousand
voters might be required, unless the candidate is an incumbent.

Section 31. Judges: retirement

(a) The legislature shall provide a retirement system
for judges of courts established or authorized by this constitu-
tion.

(b) No judge, either in office or retired, at the time of
the adoption of this constitution, shall have diminished any
retirement or service rights he had under the previous constitution;
or shall the benefits to which widows thereof were entitled be
reduced. For purposes of this subsection, "judge" includes any
judicial administrator or widow entitled to judicial retirement
benefits at the time of adoption of this constitution.

(c) A judge of a court of record who is found by two
competent physicians selected by a majority of the supreme court
to be physically or mentally incapacitated to perform his duties
shall be retired at two-thirds pay.

(d) A judge shall retire upon reaching the age of
seventy years. In such event, he may not receive as retirement
benefits less than the proportion of his pay which the number
of years served on a court established by this constitution
bears to twenty.

(a) The provisions of this section do not apply to
justices of the peace.

Source: Article VII, Sections 8, 12.1.
Project: Article VI, Section 13.

Comment: The provisions are self-explanatory,
except possibly the reference to the judicial administrator
of the supreme court. In 1966, Section 12.1 was added to
the constitution and provided that judicial administrators
were entitled to the retirement benefits as in the cases of
judges. This was to attract to the post, despite the rela-
tively low salary, the high type of man needed for the position.
Mr. Robert LeCoyne served under this provision (alone of
previous administrators), and upon his death his widow is
drawing retirement benefits. The only other judicial admin-
istrator to whom this provision applies is the present one,
Mr. Eugene Marret.

It is recommended that mandatory retirement of dis-
abled judges be retained, to avoid the spectacle of the dis-
abled judge who hangs on and on from financial necessity.
At present, a majority of the judges of a multi-judge court
may retire. The above places the authority in the supreme court
in these cases as well as (as now) in all other cases. Perhaps this
provision should give the Judiciary Commission the duty of
considering retirement of judges who apply for it on a
voluntary basis (if they have it already on an involuntary basis),
rather than the supreme court.

The retirement for age is reduced from 75 to 70.
Perhaps it should be 65. The present provision providing
minimum retirement benefits for mandatory retirement is re-
tained, for the rare case when the people elect an older man
as judge and he does not have the minimum service required
for benefits (e.g., the present legislative retirement
system for judges contemplates no vested retirement benefits
until after 12 years of service. The present constitutional
system does not normally confer benefits until either 20 or
23 years, depending on age.)

Section 32. Judges: practice of law

Supreme court, court of appeal, and district judges
shall not practice law.

Source: Article VII, Section 3.
Project: Article VI, Section 8.

Comment: In line with existing practice only judges
of the categories mentioned are prohibited from practicing
law. Some of the judges of the statutory courts are likewise
so prohibited, but some (e.g., city judges) are not. It
therefore seemed preferable in the case of the statutory
courts to leave this matter to be determined by legislation or court
rule.

Omitted from the source articles is the provision that
no function other than judicial shall be attached to any court
of record or a judge thereof. This provision was traditionally designed to protect the judges from having imposed on them other governmental duties (inspection of the jails, etc.) in modern times, its usefulness is questionable. Furthermore, what are "judicial" duties is a matter of interpretation (e.g., is administration of the Law Library of Louisiana by the supreme court "judicial"?), and the possibilities for trouble are greater than the possibilities for safeguard.

PART G. THE JUDICIARY COMMISSION

[Changes in style and drafting may be necessary. We are just incorporating present provision of Louisiana Constitution Article 14, Section 4 (1968), with change where shown, as recommended by Chief Justice Sanders.]

Section 33. Judiciary Commission; membership; terms

(a) The Judiciary Commission shall consist of (1) one court of appeal judge and three judges of courts of record other than the supreme court, each of whom shall be district court judge, all selected by the supreme court; (2) the members of the Louisiana State Bar Association who have practiced law in this state for at least ten years, appointed by the board of governors of the Louisiana State Bar Association, each of whom shall be a justice or judge of any court, either as retired, or as an elected or appointed official; and by the Judicial Council a list of not more than five attorneys, not to be a member of the Louisiana State Bar Association, nor an elected or appointed official but who have been in the practice of law for at least ten years;

(b) Members of the commission shall serve for terms of four years, provided, however, that no member of the commission who has served a four-year term shall be eligible to serve himself;

(c) Membership on the commission shall terminate: (1) when a judge serves to be a member of the court from which he is retired; (2) when a member appointed by the board of registration of the Louisiana State Bar Association becomes a justice or a judge on an elected or appointed official of the supreme court, or is a member of the supreme court; (3) when a member is appointed by the Judicial Council becomes a member of the Louisiana State Bar Association, or an elected or appointed official;

(d) If there is a vacancy on the commission for any reason, a vacancy shall be appointed for a four-year term by the appointing authority for the period for which the vacancy occurred.

Section 34. Judiciary Commission; grounds for removal or involuntary retirement

(a) A justice or judge shall be removed from office as impartially as possible from all other judges, to be a member of the commission or to retain the office of justice or judge, or if the justice or judge has been in the practice of law for at least ten years, retired, or as a member of the commission, for the purpose of retirement, if there is a sitting judge or retired judge of the supreme court who shall be removed on grounds of misconduct or incapacity.

(b) A justice or judge may be removed from the office of justice or judge, or if the justice or judge has been in the practice of law for at least ten years, retired, or as a member of the commission, for the purpose of retirement, if there is a sitting judge or retired judge of the supreme court who shall be removed on grounds of misconduct or incapacity.

(c) If there is a vacancy on the commission for any reason, a vacancy shall be appointed for a four-year term by the appointing authority for the period for which the vacancy occurred.

Section 35. Judiciary Commission; investigation; hearings; suspension; recommendation to supreme court; rules

(a) A justice or judge may be removed from office as impartially as possible from all other judges of any court, either as retired, or as a member of the commission, for the purpose of retirement, if there is a sitting justice or retired justice who shall be removed on grounds of misconduct or incapacity.

(b) A justice or judge may be removed from the office of justice or judge, or if the justice or judge has been in the practice of law for at least ten years, retired, or as a member of the commission, for the purpose of retirement, if there is a sitting justice or retired justice who shall be removed on grounds of misconduct or incapacity.

(c) If there is a vacancy on the commission for any reason, a vacancy shall be appointed for a four-year term by the appointing authority for the period for which the vacancy occurred.

Section 36. Judiciary Commission; justices and judges; removal or involuntary retirement

(a) When the
PART II. Regulation of Practice

Section 55. Establishment, combination, activity, general, election and
announcements
These shall be a Department of Justice consisting of an attorney
general, a first assistant attorney general, a second assistant attorney
general, and other necessary secretaries and office force. The attorney
general shall be elected by a majority of the qualified voters of the
state for an

In the event any laws providing their election and appointment, they, as a part
shall stand null and void on the state for an

In the event any laws providing their election and appointment, they, as a part
shall stand null and void on the state for an

PART II. Distinct and Separate

Section 56. Establishment of office, election, re-election
These shall be a district attorney for each judicial district in the state

In the event any laws providing their election and appointment, they, as a part
shall stand null and void on the state for an

PART III. Municipalities

Section 57. Establishment of office, election, re-election

In the event any laws providing their election and appointment, they, as a part
shall stand null and void on the state for an

PART IV. Bureaucratic

Section 58. Establishment of office, election, re-election

In the event any laws providing their election and appointment, they, as a part
shall stand null and void on the state for an

PART V. Bureaucratic

Section 59. Establishment of office, election, re-election

In the event any laws providing their election and appointment, they, as a part
shall stand null and void on the state for an

[Staff Notes No. 16]

11. The authority to appoint personnel for the purposes stated above shall be transferred to the Governor.
### 118 Judges (District)

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### Notes

Staff Memo No. 13 is omitted. It reproduces Staff Memo No. 4, supra.

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The following are some examples of taxes collected by sheriffs in Louisiana:

- Abbotsville harbor and terminal district
- Acreage tax on forest and cultivated lands
- Avoyelles parish port commission
- Columbia parish port commission
- Concordia parish port commission
- Grant parish port commission duties
- Greater Lafayette port commission taxes
- Jonesville port, harbor and terminal district, settlement of taxes
- Louisiana-Tangipahoa parishes port commission
- Madison parish port commission
- Morgan City harbor and terminal district
- Navigation improvements, special taxes
- Plaquemines parish port authority
- Pointe Coupee port, harbor and terminal district
- Red River waterway district
- St. Bernard port, harbor and terminal district
- Terrebonne parish port commission tax
- Telephone port commission
- Vinton harbor and terminal district
- West Calcasieu port, harbor and terminal district
NOTES
The remainder of Staff Memo No. 18 is omitted. It reproduces La. R.S. 33:2721 and Interstate Tax Bureau v. Conway 156 So. 463 (1934).

NOTES
Staff Memo No. 19 is omitted. It reproduces La. R.S. 40:1386-1388 in re: State Police.

STATE PROVISIONS FOR DISCIPLINE OF JUDGES:

Commission Plans by Constitution
1. Alaska
2. Arizona
3. California
4. Colorado
5. Florida
6. Idaho
7. Illinois
8. Indiana
9. Louisiana
10. Maryland
11. Michigan
12. Missouri
13. Nebraska
14. New Mexico
15. Ohio
16. Oregon
17. Pennsylvania
18. Tennessee
19. Texas
20. Utah
21. Virginia
22. Puerto Rico

Judiciary Plans by Constitution
1. Delaware
2. New Jersey
3. New York
4. Oklahoma

Commission Plans awaiting Constitutional Approval
1. Iowa
2. Nevada

Commission Plans used by Local Governments
1. Kansas City, Missouri
2. City & County of Denver, Colorado
3. Dade County (Miami, Florida)

NOTES
The remainder of Staff Memo No. 20 is omitted. It reproduces statutory and constitutional provisions from the states listed.

CC/73 Research Staff
Committee on the Judiciary
June 6, 1973
Staff Memorandum No. 21

To: Members of the Committee on the Judiciary
From: Lee Margrave
Re: Article IV, Section 16

This article covers four areas, each will be discussed in turn.

1. "The Legislature may authorize the creation of express trusts for any purpose, including but not limited to private trusts, trusts for the benefit of employees, trusts for educational, charitable, or religious purposes, and mixed trusts for any combination of purposes."

b. If the prohibition on trusts was worded as in 2.c. or 2.d. below, this provision would be unnecessary since the exception to the prohibition would recognize the power of the legislature to act.

c. If the prohibition is to be kept, it could be shortened by omitting the kind of trusts allowed, and more general language used. It could be provided:

THE LEGISLATURE MAY AUTHORIZE THE CREATION OF TRUSTS FOR ANY PURPOSE.

2. "Substitutions not in trust are and remain prohibited; but trusts may contain substitutions to the extent authorized by the Legislature."

a. Substitutions are prohibited by Civil Code Article 1520 and would remain so even if this sentence is omitted, subject to the laws which allow creation of trusts, just as the constitutional prohibition is subject to those exceptions for trusts.

b. A question arises as to the necessity for this prohibition on substitutions when the exceptions allowed are so wide that the provision ceases to have much effect.

c. It could be provided, if the sentence is to be kept:

SUBSTITUTIONS ARE PROHIBITED, EXCEPT IN TRUSTS AS PROVIDED BY LAW.

d. To the same effect:

THE LEGISLATURE MAY AUTHORIZE THE CREATION OF TRUSTS FOR ANY PURPOSE AND ALLOW SUBSTITUTIONS IN TRUST ONLY; OTHERWISE, SUBSTITUTIONS ARE PROHIBITED.

3. "No law shall be passed abolishing forced heirship; but the legislature may be placed in trust to the extent authorized by the Legislature."

a. One can take the position that "abolishing" means complete termination, and that the legislature can change the law of forced heirship (the forced portion, the heirs who are forced, the grounds for disinheritance) so long as it is not totally abolished.

Additional support for this construction comes from Succ. of Earhart, 220 La. 817, 77 So.2d 695 (1955), a case where heirs objected to their late father being burdened by its being placed in trust. Art. 15, sec. 16, at that time contained the provision against abolishing forced heirship and authorized trusts without mentioning that those trusts could impinge on the legitimate. Still, the court held the trust valid against the attack that this was "abolishing" forced heirship. The court said:

"To construe the provisions of this article of the Constitution otherwise would be tantamount to accusing them of folly. The words, "No law shall be passed abolishing forced heirship", mean exactly what they say; in other words, that forced heirship cannot be done away with wholly, wiped out or destroyed. This provision does not prohibit the legislature from regulating or restricting the rights of forced heirs."
CONSTITUTION, BUT THE GROUNDS FOR DIS-
INHERITANCE OF FORCED HEIRS MAY BE CHARGED
BY LAW AND THE LEGITIME PLACED IN TRUST AS
PROVIDED BY LAW.

4. "Children lawfully adopted shall become forced heirs
to the same extent as if born to the adopter and shall retain
their rights as heirs of their blood relatives, but their blood
relatives shall have their rights of inheritance from these
children terminated."

a. To make it clear that adopted children are forced
heirs, it is probably necessary to so provide in the constitution.
It could be provided:

AN ADOPTED CHILD IS A FORCED HEIR TO THE SAME
EXTENT AS IF BORN TO THE ADOPTER.

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4. (continued)

b. It may be illogical to provide that the adopted
child retains rights of inheritance from blood relatives. In
all other respects, the adopted child is treated as the true
child of the adopting parents, and is considered a part of
that family. The laws relating to support, parental authority,
right of enjoyment, etc., apply as to natural children. But to
allow the child to retain the inheritance rights from blood
relatives seems to inject an element that is inconsistent with
this treatment as a real member of the new family. It can lead
to a search for parentage by an adopted child, an activity
which can be inconsistent with the policy of having the adopted
child become a true part of his new family.

Even if the constitutional provision retaining inheritance
rights from the blood relatives were omitted, the legislature
could provide that effect by statute. Omission of the provision
from the constitution would give the legislature more flexibility.

A practical problem can arise in that the adopted child's
original birth certificate with the listing of his real parents
is sealed when he is adopted and a new certificate issued. It
is often difficult to have access to those sealed documents.
(Le. R.S. 40:202 provides for sealing the original birth certi-
ficate of the child to "be opened only by order of a court of
record.") The tendency of some adopting parents to withhold
from the child the identity of his true parents—and in many
cases they do not know at all—may create difficulties.

An adopted child may have a right he does not know of at the time
of the birth relative's death—when succession proceedings are
had—but may learn later and assert his right, creating
instabilities, specially in title to immovable property.

c. If the provision is to be retained, it could be
in this form, added to (a) above:

AND RETAIN HIS RIGHTS AS HEIR OF HIS BLOOD
RELATIVES.

d. With respect to specifying that the blood relatives
lose their rights of inheritance, this could be done by statute.

e. If that provision is to be kept, it could be added:

BUT HIS BLOOD RELATIVES LOSE THEIR RIGHTS OF
INHERITANCE FROM THE ADOPTED CHILD.

[Staff Memo No. 22]

June 5, 1973

STAFF MEMORANDUM

TO: Members of the Committee on the Judiciary

RE: Draft of a provision for retirement benefits

As instructed by the committee, the staff has prepared
a draft proposal dealing with a retirement system for judges.
It is attached.

1. Grandfather Clause:

Judges, and the judicial administrator, in office
at the time of the adoption of the constitution are protected
in that they can choose to remain under the present retirement
system provided in the 1921 Constitution. The benefits under
that system cannot be diminished, but the judges do have the
right to elect to join either of the other two systems pro-
vided for in the proposal.

2. Legislative System:

The proposal mandates the legislature to enact a
new retirement system for judges, and provides that judges
taking office after the adoption of that statute by the legis-
lature must enter that legislative system. Judges in office
at the time the legislature adopts such a system have the
option of joining the new system or of retaining the rights
under the system they may be in at the time.

3. Interim System:

The remaining problem is to provide for judges who
would take office after the adoption of the constitution but
before the legislative system is enacted.

The first alternative (Subsection D, Alternative One)
would handle the interim problem by providing the judges
taking office at that time would have the same retirement benefits
that are presently provided in the 1921 Constitution. This
is as was provided in tentative draft proposal Section 21.

The second alternative (Subsection D, Alternative Two)
would establish an entirely new retirement system that would
be mandatory for judges taking office after adoption of the
constitution and before the legislature establishes a new
retirement system. In addition, judges in office at the time
of the adoption of the constitution would have the option
to join this plan if they so chose. The benefits of this
interim plan are the same as suggested by the draft submitted
by Judge Cole. Judges of all courts except mayors and justices
of the peace would be included in this system.

The interim plan requires contribution by the judges
of six percent of their salary to be paid to the authorities
paying their salaries. Also, it appears that this interim
plan is not necessarily an actuarial sound funded retirement
system; it would be more correct to say that this six per-
cent contribution is a fee or charge which the judge must
pay to be able to collect the benefits provided.

met with Judge Luther Cole and discussed the condensed draft
which met with his approval. He offered to assist the committee
in any way concerning judicial retirement.

If this second alternative were adopted, there would be
three different retirement systems possible in the immediate
future: the one provided by the 1921 Constitution, the interim
system established by the new constitution, and the new
system to be established by the legislature. Eventually, the 1921
constitutional plan would be phased out since it covers only
judges in office at the time of the adoption of the constitu-
tion. The new constitutional system would eventually be phased
out since it would apply to judges taking office after
the legislature has enacted a new judicial retirement system.
Eventually, the new legislatively-created retirement system
would survive.

2

Article , Section . Retirement of Judges

A. A judge shall not remain in office beyond his seven-
tieth birthday.

B. A judge or judicial administrator in office or retired
at the time of the adoption of this constitution, shall not
have diminished any retirement benefits or judicial service
rights provided under the previous constitution or laws; nor
shall the benefits to which a surviving spouse thereof was
entitled be reduced.

C. The legislature shall provide a retirement system
for judges which shall apply to a judge taking office after
the effective date of the statute enacting the system, and
which a judge in office at the time of its adoption may elect
to join.

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D. (ALTERNATIVE ONE) Until the legislature enacts the retirement system authorized in subsection C, a judge taking office after the adoption of this constitution or his spouse shall receive the same retirement benefits available to judges under the previous constitution and laws.

D. (ALTERNATIVE TWO) Until the legislature enacts the retirement system authorized in subsection C, a judge taking office after the adoption of this constitution and a judge in office who so elects within ninety days of the adoption of this constitution by notifying the secretary of state, shall be entitled to the following retirement benefits:

1. This subsection applies to a judge of a court authorized by this constitution, except mayors and justices of the peace.

2. A judge with sixteen years of judicial service may retire; a judge with twelve years of judicial service is eligible for retirement benefits at the age of sixty. On retirement, a judge shall receive annually as retirement benefits that portion of his annual average compensation for his three highest years which the number of years served bears to twenty-five; but not more than seventy-five percent.

3. A judge who is physically or mentally incapacitated to perform his duties, as determined by the supreme court upon the advice of two physicians appointed by the court, shall be retired. He shall receive as annual retirement benefits one-third of his annual salary, or that portion of his average annual salary for the three highest years which the number of years served bears to twenty-five, whichever is greater.

4. Upon the death of a judge, in office or retired, the surviving spouse, until remarriage, shall be entitled to one-third of his annual salary as judge prior to death or retirement, or one-half the retirement benefit he was receiving or entitled to receive at the time of death, whichever is greater. If the judge is not survived by a spouse, or if the spouse dies, his unmarried children shall be entitled to the benefits provided in this subsection until the age of twenty-one.

5. Benefits provided herein shall be paid from the same sources as was his compensation as judge. The legislature and the political subdivisions shall provided for payment of these benefits.

6. To receive the benefits provided in this subsection, the judge shall contribute a total of six percent of his salary to the paying authorities.

NOTES
Staff Memo No. 22-A is omitted. It reproduces Public Affairs Research Council, Convention Commentary Number 5: The Judiciary.

NOTES
Staff Memo No. 22A-1 is omitted. It compiles statutory provisions relative to the compensation of judges in Louisiana.

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June 5, 1973

STAFF MEMORANDUM [No. 23]
TO: Members of the Judiciary Committee
RE: Continuation of Courts and Creation of Parish Courts

Pursuant to the committee's request, the following materials concerning continuation of courts with restraints on change while allowing creation of parish courts with fewer constraints are submitted. At the risk of making a complex situation even more complex, the following are included:

Table of Contents

I. Orleans Parish

A- continues existing courts and officers subject to change by a majority vote of the legislature and of the people of the parish.

II. Other Parishes

B- continues existing courts, subject to change by majority vote of the legislature.

C- continues existing courts, subject to change by two-thirds vote of the legislature.

D- creation of new courts

E- creation of existing judicial districts, subject to change by a majority vote of the legislature and of the people of the area involved.

III. Courts of Limited Jurisdiction

F- no proposal. note that refers to D

G- creation of parish courts by vote of the legislature

H- creation of parish courts by vote of the legislature and approval of the parish governing authority

I- Drew-Lardry proposal

J- additional provisions on jurisdiction of parish courts

Not all those proposals are mutually exclusive. In Part II of this outline, B and C are contradictory, but D and E could be adopted with either. In Part III, F, G, and H are contradictory, but I could be added to either of them.

Other permutations are possible, of course, but they are not mentioned here for fear of confusing the issue.

Once the policy choices are made with respect to these questions, it is likely that some condensation of the proposals can be made.
I. Orleans

(A) Section ___. Orleans Parish Courts, Continuation, Change

Section ___. The following courts in Orleans Parish are continued subject to abolition, merger, or realignment by a majority vote of the elected members of each house of the legislature and by approval of the voters of Orleans Parish:

- Civil District Court
- Criminal District Court
- First City Court
- Second City Court
- Juvenile Court
- Municipal Court
- Traffic Court

Also continued in Orleans Parish, subject to change by the same procedure, are the offices of:

- District attorney
- Clerk of the civil district court
- Clerk of the criminal district court
- Civil sheriff
- Criminal sheriff
- Constable of the First City Court
- Clerk of the First City Court
- Register of Conveyances
- Recorder of Mortgages and Coroner,

all of which shall be elected for four-year terms.

II. Parishes Other Than Orleans

(B) Section ___. Courts, Continuation, Change; Orleans Parish Excepted

Section ___. The following, except in Orleans Parish, are continued, subject to abolition, merger, or realignment by law:

- the judicial districts
- the district courts
- the family court
- the juvenile courts
- the city courts
- the parish courts

(C) Section ___. Courts, Continuation, Change; Orleans Parish Excepted

Section ___. The following, except in Orleans Parish, are continued, subject to abolition, merger, or realignment by two-thirds vote of the elected members of each house of the legislature:

- the judicial districts
- the district courts
- the family court
- the juvenile courts
- the city courts
- the parish courts

(D) Section ___. New Courts

Section ___. The legislature by the same vote may create courts.

(E) Section ___. Judicial Districts, Continuation, Change

Section ___. The judicial districts are continued, subject to abolition, merger, or realignment by majority vote of the elected members of each house of the legislature and by approval of the voters of the parish or parishes concerned.

III. Courts of Limited Jurisdiction

(F) Make no special provision for parish courts but provide as in alternative (D) for the creation of courts by the legislature.

(G) Section ___. Parish Courts

Section ___. The legislature may create parish courts of limited jurisdiction and provide for their organization and jurisdiction. A judge of a parish court shall be elected, shall possess the qualifications of a district judge, and shall not practice law.

(H) Section ___. Parish Courts

Section ___. The legislature, with the consent of the governing authority of the parish, may create parish courts of limited jurisdiction and provide for their organization and jurisdiction. A judge of a parish court shall be elected, shall possess the qualifications of a district judge, and shall not practice law.

(I) Section ___. Parish Courts

Section ___. The legislature may, with the consent of the governing authority of the parish, create in that parish a court of limited jurisdiction. A judge of a parish court shall be elected, shall possess the qualifications of a district judge, and shall not practice law. The court shall exercise exclusive jurisdiction over neglected and delinquent juveniles, and the legislature shall prescribe the number of judges, their tenure, compensation, and the time and manner of their election.

(J) Provision which may be added to (F), (G), or (H):

The legislature shall provide for the jurisdiction of such courts, but limited in criminal matters to misdemeanors and in civil matters:

1. as provided by law
2. to uniform statewide limits provided by law
3. to uniform limits for particular classes of parishes based on population or other criteria
4. to a particular dollar amount
5. to an amount set by the legislature upon the recommendation of the supreme court
CONTINUATION OF COURTS AND CREATION
OF PARISH COURTS

POSSIBLE ALTERNATIVES

ACTION TO BE DONE

1. Abolish or merge the Orleans district courts
2. Abolish or merge the judicial districts
3. Abolish or merge district courts
4. Abolish or merge the family court of East Baton Rouge
5. Abolish or merge juvenile courts
6. Abolish or merge Orleans City Courts
7. Abolish or merge other city courts
8. Abolish or merge Orleans Municipal Courts
9. Abolish or merge Orleans Traffic Court
10. Abolish or merge Jefferson Parish Courts
11. Abolish or merge mayors' courts
12. Abolish or merge justices of the peace courts
13. Abolish or merge Orleans Parish officers (Article VII, §89)
14. Create parish courts
15. Create other new courts

POSSIBLE MEANS OF ACCOMPLISHING

A. Simple majority vote of the legislature
B. Majority of the elected members of each house
C. Two-thirds vote of the elected members of each house

AND/OR

X. Approval of the voters of the area concerned
Y. Approval of the governing authority of the area concerned.
ARTICLE ______. THE JUDICIARY DEPARTMENT

GENERAL

PART A. JUDICIAL POWER IN GENERAL

Section 1. Judicial power

The judicial power shall be vested in a supreme court, courts of appeal, district courts, and such other courts as this constitution may authorize.

Section 2. Needful write, orders and process

A judge may issue all needful write, orders and process in aid of the jurisdiction of his court. Exercises of this authority by a justice of the supreme court or a judge of the court of appeal, is subject to review by the whole court.

PART B. THE SUPREME COURT

Section 3. Supreme court; membership; terms

The supreme court shall be composed of seven justices, four of whom must concur to render judgment. The term of a justice shall be fourteen years.

Section 4. Supreme court; districts

The state shall be divided into at least six supreme court districts, with at least one justice elected from each. The present districts, and the number of justices assigned to each, are retained, subject to change by two-thirds vote of the legislature.

Section 5. Supreme court; supervisory, original, and appellate jurisdiction; rule-making power; assignment of judges

(A) The supreme court has control of, and general supervisory jurisdiction over all inferior courts. It may promulgate procedural and administrative rules not in conflict with law. It may assign, a sitting or retired judge to another court, provided the consent of the court of a sitting judge be obtained.

(B) It has exclusive original jurisdiction of disciplinary proceedings involving members of the bar.

(C) In civil cases, its jurisdiction extends to both the law and the facts except as otherwise provided in this constitution. In criminal matters, its appellate jurisdiction extends to questions of law only. The legislature, however, may provide for a directed verdict of acquittal in criminal cases.

(D) The following cases shall be appealable to the supreme court:

(1) A case in which a state law has been declared unconstitutional;

(2) A criminal case in which the penalty of death or imprisonment at hard labor may be imposed, or in which a fine exceeding five hundred dollars or imprisonment exceeding six months has been actually imposed.

(E) If a case is appeal properly to the supreme court on any issue, the supreme court has appellate jurisdiction over all other issues involved in the case.

Section 6. Supreme court; the chief justice

(A) When a vacancy in the office of chief justice occurs, the justices by a majority vote, shall elect one of their members to the office for a five-year term.

(B) The chief justice shall be chief administrative officer of the judicial system of the state, subject to rules adopted by the court.

Section 7. Supreme court; judicial administrator, clerk and staff

The supreme court shall have authority to select a judicial administrator and its clerks and other personnel and to prescribe their duties.

PART C. THE COURTS OF APPEAL

Section 8. Courts of appeal; panels; number necessary to decision; term

The state shall be divided into at least four circuits, with one court of appeal in each circuit. Each court shall sit in panels of at least three judges selected according to rules adopted by the court. A majority of the judges sitting in a case must concur to render judgment. The term of a court of appeal judge shall be twelve years.

Section 9. Courts of appeal; circuits and districts

Each circuit shall be divided into at least three districts, with at least one judge elected from each. One or more judges may be elected at large from within the circuit. The present circuits and districts, and the number of judges as elected in each circuit, are retained, subject to change by two-thirds vote of the legislature.

Section 10. Courts of appeal; appellate and supervisory jurisdiction

(A) A court of appeal has appellate jurisdiction of all civil cases decided within its circuit, except those appealable to the supreme court and except as otherwise provided in this constitution. It also has appellate jurisdiction of all matters appealed from the family and juvenile courts, except criminal prosecutions of persons other than juveniles. It has supervisory jurisdiction over all cases in which an appeal would lie to that court.

(B) Its appellate jurisdiction extends to both the law and the facts, except where limited to questions of law by this constitution or, in the case of review of administrative agency determinations, by law.

Section 11. Courts of appeal; certifications to supreme court of questions of law; determination

A court of appeal may certify to the supreme court any question of law before it, whereupon the supreme court may give its binding instruction, or consider and decide the case upon the whole record.
Section 12. Courts of appeal; chief judge; duties

When a vacancy in the office of chief judge occurs, a majority of the judges of the circuit shall elect one of their number to the office for a five-year term. He shall be administrator of the court, subject to rules adopted by the court.

Section 13. Courts of appeal; clerks and staff

Each court of appeal shall have authority to select its clerk and other personnel and prescribe their duties.

PART D. THE DISTRICT COURTS

Section 14. District courts; judicial districts

The state shall be divided into judicial districts, each composed of one or more parishes and served by one or more district judges.

Section 15. Jurisdiction changes; terms

(A) District courts, the judicial districts, and the number of judges elected to each as provided for at the time of the adoption of this constitution are retained. Parish, city, municipal, traffic, family, and juvenile courts existing at the time of the adoption of this constitution are retained. The legislature, with the concurrence of a majority of the electors in each parish or portion thereof affected, may create or abolish courts of original jurisdiction, and may by the same procedure conspire, realign, or separate courts of original jurisdiction.

Mayor's courts and justices of the peace as existing at the time of the adoption of this constitution are retained, subject to the power of the legislature to alter or abolish them.

(B) The term of a district judge shall be six years, provided that a judge elected in a judicial district composed of only one parish having a population of more than 300,000 according to the latest decennial census before his election shall serve a twelve-year term. This provision shall not be construed to lengthen the term for which any judge has been elected.

Section 16. District courts; original jurisdiction

The district courts shall have original jurisdiction in all civil and criminal matters, unless otherwise provided in this constitution or by law. They shall have exclusive original jurisdiction in all cases involving the title to immovable property; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or a successor, as a party defendant, regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

Section 1. Judicial power

Section 1. The judicial power shall be vested in a supreme court, courts of appeal, district courts, and such other courts as this constitution may authorize.

Section 2. Needful writs, orders and process

Section 2. A judge may issue all needful writs, orders and process in aid of the jurisdiction of his court. Exercise of this authority by a justice of the supreme court or a judge of the court of appeal, is subject to review by the whole court.

Section 3. Supreme court; membership; terms

Section 1. The supreme court shall be composed of seven judges, four of whom must concur to render judgment. The term of a judge shall be fourteen years.

Section 4. Supreme court; districts

Section 4. The state shall be divided into at least six supreme court districts, with at least one judge elected from each. The present districts, and the number of judges assigned to each, are retained, subject to change by a two-thirds vote of the elected members of each house of the legislature.

Section 5. Supreme court; supervisory, original, and appellate jurisdiction; rule-making power; assignment of judges

Section 5(A). The supreme court has control of, and general supervisory jurisdiction over all inferior courts. It may promulgate procedural and administrative rules not in conflict with law. It may assign a sitting or retired judge to another court.

(B) It has exclusive original jurisdiction of disciplinary proceedings involving members of the bar.

(C) In civil cases, its jurisdiction extends to both the law and the facts except as otherwise provided in this constitution. In criminal matters, its appellate jurisdiction extends to questions of law only. The legislature, however, may provide for a directed verdict of acquittal in criminal cases.

(D) The following cases shall be appealable to the supreme court:

(1) A case in which a state law has been declared unconstitutional;

(2) A criminal case in which the penalty of death or imprisonment at hard labor may be
imposed, or in which a fine exceeding five
hundred dollars or imprisonment exceeding six
months has been actually imposed.

(E) If a case is appealed properly to the supreme
court on any issue, the supreme court has appellate juris-
diction over all other issues involved in the case.

Section 6. Supreme court: the chief justice

Section 6(A). When a vacancy in the office of chief
justice occurs, the judges of the supreme court, by a
majority vote, shall elect one of their members to the
office for a five-year term.

(B) The chief justice shall be chief administrative
officer of the judicial system of the state, subject to
rules adopted by the court.

Section 7. Supreme court: judicial administrator, clerk and
staff

Section 7. The supreme court shall have authority
to select a judicial administrator and its clerks and
other personnel to prescribe their duties.

Section 8. Courts of appeal: panels; number necessary to
decision; term

Section 8. The state shall be divided into at least
four circuits, with one court of appeal in each circuit.
Each court shall sit in panels of at least three judges
selected according to rules adopted by the court. A
majority of the judges sitting in a case must concur to
render judgment. The term of a court of appeal judge shall
be twelve years.

Section 9. Courts of appeal: circuits and districts

Section 9. Each circuit shall be divided into at
least three districts, with at least one judge elected
from each. One or more judges may be elected at large
from within the circuit. The present circuits and dis-
tricts, and the number of judges as elected in each circuit,
are retained, subject to change by a two-thirds vote of
the elected members in each house of the legislature.

Section 10. Courts of appeal: appellate and supervisory
jurisdiction

Section 10(A). A court of appeal has appellate juris-
diction of all civil cases decided within its circuit,
except those appealable to the supreme court and except
as otherwise provided in this constitution. It also has
appellate jurisdiction of all matters appealed from the
family and juvenile courts, except criminal prosecutions
of persons other than juveniles. It has supervisory juris-
diction over all cases in which an appeal would lie to
that court.

(B) Its appellate jurisdiction extends to both the
law and the facts, except where limited to questions of
law by this constitution or, in the case of review of
administrative agency terminations, by law.

Section 11. Court of appeal: certification to term of
judges of law; reorganization

Section 11. A court of appeal may certify to the
supreme court any question of law before it, whereupon
the supreme court may give its binding instruction, or
consider and decide the case upon the whole record.

Section 12. Courts of appeal: chief judge, duties

Section 12. When a vacancy in the office of chief
judge occurs, a majority of the judges of the circuit
shall elect one of their number to the office for a five-
year term. He shall be administrator of the court, sub-
ject to rules adopted by the court.

Section 13. Courts of appeal: clerks and staff

Section 13. Each court of appeal shall have authority
to select its clerk and other personnel and prescribe
their duties.

Section 14. District courts: judicial districts

Section 14. The state shall be divided into judicial
districts, each composed of one or more parishes and
served by one or more district judges.

Section 15. District courts: changes; terms

Section 15(A). District courts, the judicial districts,
and the number of judges elected to each as provided for
at the time of the adoption of this constitution are retained.
Parish, city, municipal, traffic, family, and juvenile
courts existing at the time of the adoption of this consti-
tution are retained. The legislature by a majority vote
of the elected members of each house, with the concurrence
of a majority of the voters voting at an election called
for that purpose in each district, parish or portion
thereof affected, may create or abolish courts of original
jurisdiction, and may by the same procedure consolidate,
realign, or separate courts of original jurisdiction,
subject to the limitations in Section 16 of this Article.

(B) The term of a district judge shall be six year,
provided that a judge elected as a judicial district judge
of only one parish having a population of more than 100,000
according to the latest decennial census before his elec-
tion shall serve a twelve-year term. This provision shall
not be construed to lengthen the term for which any judge
has been elected.

Section 16. District courts; original jurisdiction

Section 16. The district courts shall have original
jurisdiction in all civil and criminal matters, unless
otherwise provided in this constitution or by law. They shall have exclusive original jurisdiction in all cases involving the title to immovable property; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or a succession, as a party defendant, regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

Section 17. District courts; chief judge
Section 17. Each multi-judge district court may elect from its members a chief judge who shall exercise such administrative functions as prescribed by rule of court.

Section 18. Juvenile court: jurisdiction
Section 18. The jurisdiction of juvenile courts shall be as provided by law.

Section 19. Judges: term of office or compensation may not be decreased
Section 19. The term of office or compensation of a judge shall not be decreased during the term for which he is elected.

Section 20. Judges: election; vacancy in office
Section 20(A). The election of judges shall be held at the regular congressional election.

(B) A newly created judgeship or a vacancy in the office of any judge shall be filled by a special election which shall be held by the governor, and held within six months of the day the vacancy occurs or the judgeship is created, except when the vacancy occurs in the last six months of an existing term. Until the vacancy is filled, the supreme court shall appoint a person meeting the qualifications for judge to the office, to serve at its pleasure, who shall be ineligible to be a candidate for election to the vacancy.

Section 20(B) and (B) Alternative: Judges shall be elected. Vacancies and newly created judgeships shall be filled by the supreme court, to serve until the position is filled by election. The appointee of the supreme court shall be ineligible to be a candidate for the vacancy.

(C) All judges serving on the date of adoption of this constitution shall continue in office for the term to which elected and shall serve through December thirty-first of the last year of their term or, if the last year of their term is not in the even-numbered year of a general judicial election, then through December thirty-first of the year next succeeding. The election for the next term in the office will be held in a general judicial election of the year the term expires, as provided above.

Section 21. Judges: retirement
Section 21(A). The legislature shall provide a retire-ment system for judges of courts provided for by this constitution. Until such time as the legislature provides a retirement system for judges, any judge taking office after the adoption of this constitution shall be afforded the same retirement benefits as judges holding office prior to the adoption of this constitution.

(B) No judge or judicial administrator, either in office or retired, at the time of the adoption of this constitution, shall have diminished any retirement or judicial service rights he had under the previous constitution; nor shall the benefits to which a surviving spouse thereof was entitled be reduced.

(C) A judge of a court of record who is found by two competent physicians selected by a majority of the supreme court to be physically or mentally incapacitated to perform his duties shall be retired at two-thirds pay, or any greater sum to which he would be legally entitled to by law.

(D) A judge shall retire upon reaching the age of seventy years.

(E) The provisions of this section do not apply to justices of the peace.

Section 22. Judges: practice of law prohibited
Section 22. A judge of the supreme court, court of appeal, or district court shall not practice law.

[Staff Memo No 26]

THIRD PRELIMINARY DRAFT
BASED ON NOMINATING VOTES OF THE COMMITTEE ON THE JUDICIARY

ARTICLE 1. THE JUDICIARY DEPARTMENT

Section 1. Judicial Power
Section 1. The judicial power shall be vested in a supreme court, courts of appeal, district courts, and such other courts as this constitution may authorize.

Section 2. Needful Writs, Orders and Process
Section 2. A judge may issue all needful writs, orders and process in aid of the jurisdiction of his court. Exercise of this authority by a judge of the supreme court or court of appeal is subject to review by the whole court.

Section 3. Supreme Court; Membership; Terms
Section 3. The supreme court shall be composed of seven judges, four of whom must concur to render judgment. The term of a judge of the supreme court shall be fourteen years.

Section 4. Supreme Court; Districts
Section 4. The state shall be divided into at least six supreme court districts, with at least one judge elected from each. The present districts and the number of judges assigned to each are retained, subject to change by a two-thirds vote of the elected members of each house of the legislature.

Section 5. Supreme Court; Supervisory, Original, and Appellate Jurisdiction; Rule-Making Power; Assignment of Judges

Section 5. (A) The supreme court has control of and general supervisory jurisdiction over all inferior courts. It may promulgate procedural and administrative rules not in conflict with law. It may assign a sitting or retired judge to another court.

(B) The supreme court has exclusive original jurisdiction of disciplinary proceedings involving members of the bar.

(C) In civil cases, the supreme court’s jurisdiction extends to both law and the facts except as otherwise provided in this constitution. In criminal matters, its appellate jurisdiction extends to questions of law only. The legislature, however, may provide for a directed verdict of acquittal in criminal cases.

(D) The following cases shall be appealable to the supreme court:

(1) A case in which a state law has been declared unconstitutional;

(2) A criminal case in which the penalty of death or imprisonment at hard labor may be imposed, or in which a fine exceeding five hundred dollars or imprisonment exceeding six months has been actually imposed.

(E) If a case is appealed properly to the supreme court on any issue, the supreme court has appellate jurisdiction over all other issues involved in the case.

Section 6. Supreme Court: the Chief Justice

Section 6. (A) When a vacancy in the office of chief justice occurs, the judges of the supreme court, by a majority vote shall elect one of their members to the office for a five-year term.

(B) The chief justice shall be chief administrative officer of the judicial system of the state, subject to rules adopted by the court.

Section 7. Supreme Court: Judicial Administrator, Clerk and Staff

Section 7. The supreme court shall have authority to select a judicial administrator, its clerks, and other personnel, and prescribe their duties.

Section 8. Courts of Appeal: Panels; Number Necessary to Decision; Term

Section 8. The state shall be divided into at least four circuits, with one court of appeal in each circuit.

Each court shall sit in panels of at least three judges selected according to rules adopted by the court. A majority of the judges sitting in a case must concur to render judgment. The term of a court of appeal judge shall be twelve years.

Section 9. Courts of Appeal: Circuits and Districts

Section 9. Each circuit shall be divided into at least three districts, with at least one judge elected from each. One or more judges may be elected at large from within the circuit. The present circuits and districts and the number of judges as elected in each circuit are retained, subject to change by a two-thirds vote of the elected members in each house of the legislature.

Section 10. Courts of Appeal: Appellate and Supervisory Jurisdiction

Section 10. (A) Except in those cases appealable to the supreme court and as otherwise provided in this constitution, a court of appeal has appellate jurisdiction of all civil cases decided within its circuit. It has appellate jurisdiction of all matters appealed from the family and juvenile courts, except criminal prosecutions of persons other than juveniles. It has supervisory jurisdiction over all cases in which an appeal would lie to that court.

(B) Except where limited to questions of law by this constitution or, as provided by law in the case of review of administrative agency determinations, its appellate jurisdiction extends to both the law and the facts.

Section 11. Courts of Appeal: Certifications to Supreme Court of Questions of Law; Determination

Section 11. A court of appeal may certify to the supreme court any question of law before it, whereupon the supreme court may give its binding instruction, or consider and decide the case upon the whole record.

Section 12. Courts of Appeal: Chief Justice; Duties

Section 12. When a vacancy in the office of chief justice occurs, a majority of the judges of the circuit shall elect one of their number to the office for a five-year term, who shall administer the court, subject to rules adopted by the court.

Section 13. Courts of Appeal: Clerks and Staff

Section 13. Each court of appeal shall have authority to select its clerk and other personnel and prescribe their duties.

Section 14. District Courts: Judicial Districts

Section 14. The state shall be divided into judicial districts, each composed of one or more parishes and served by one or more district judges.
Section 15. District Courts: Changes; Term

Section 15. (A) The district courts, the judicial districts, and the number of judges elected to each as provided for at the time of the adoption of this constitution are retained. Parish, city, municipal, traffic, family, and juvenile courts existing at the time of the adoption of this constitution are retained. The legislature by a majority vote of the elected members of each house, with the concurrence of a majority of the electors voting at an election called for that purpose in each district, parish or portion thereof affected, may create, abolish, consolidate, realign, or separate courts of original jurisdiction subject to the limitations in Section 19 of this Article.

(B) The term of a district judge shall be six years; however, a judge elected in a judicial district composed of only one parish having a population greater than 300,000 according to the latest decennial census before his election shall serve a twelve-year term. This provision shall not be construed to lengthen the term for which any judge has been elected.

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Section 16. District Courts: Original Jurisdiction

Section 16. Unless otherwise provided in this constitution or by law, a district court shall have original jurisdiction in all civil and criminal matters. It shall have exclusive original jurisdiction in all cases involving the title to immovable property; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or a succession, as a party defendant, regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

Section 17. District Courts: Chief Judge

Section 17. Each multi-judge district court may elect from its members a chief judge who shall exercise such administrative functions as prescribed by rule of court.

Section 18. Juvenile Courts: Jurisdiction

Section 18. The jurisdiction of juvenile courts shall be as provided by law.

Section 19. Judges: Term of Office or Compensation May Not Be Decreased

Section 19. The term of office or compensation of a judge shall not be decreased during the term for which he is elected.

Section 20. Judges: Election; Vacancy in Office

Section 20. (A) The election of judges shall be held at the regular congressional election.

(B) A newly created judgeship or a vacancy in the office of any judge shall be filled by a special election which shall be called by the governor, and held within six months of the day the vacancy occurs or the judgeship is created, except when the vacancy occurs in the last six months of an existing term. Until the vacancy is filled, the supreme court shall appoint a person meeting the qualifications for judge to the office, to serve at its pleasure, who shall be ineligible to be a candidate for election to the judgeship.

Section 20 (A) and (B) Alternative: Judges shall be elected. Vacancies and newly created judgeships shall be filled by the supreme court, to serve until the position is filled by election. The appointee of the supreme court shall be ineligible to be a candidate for the judgeship.

(C) All judges serving on the date of adoption of this constitution shall continue in office for the term to which elected and shall serve through December thirty-first of the last year of their term or, if the last year of their term is not in the even-numbered year of a general judicial election, then through December thirty-first of the year next succeeding. The election for the next term in the office will be held in a general judicial election of the year the term expires, as provided above.

Section 21. Judges: Retirements

Section 21. (A) The legislature shall provide a retirement system for judges of courts provided for by this constitution. Until such time as the legislature provides a retirement system for judges, any judge taking office after the adoption of this constitution shall be afforded the same retirement benefits as judges holding office prior to the adoption of this constitution.

(B) No judge or judicial administrator, either in office or retired, at the time of the adoption of this constitution, shall have diminished any retirement or judicial service rights he had under the previous constitution; nor shall the benefits to which a surviving spouse thereof was entitled be reduced.

(C) A judge of a court of record who is found by two competent physicians selected by a majority of the supreme court to be physically or mentally incapacitated to perform his duties shall be retired at two-thirds pay, or any greater sum to which he would be legally entitled to by law.

(D) A judge shall retire upon reaching the age of seventy years.

(E) The provisions of this section do not apply to justices of the peace.

Section 22. Judges: Qualifications; Practice of Law, Prohibited

Section 22. A judge of the supreme court, court of appeal, or district court shall have been admitted to the practice of law for at least five years prior to his election, shall have resided in the respective circuit or district for at least two years immediately preceding election, and shall not practice law.
Section 23. Judiciary Commission; Membership; Terms; Vacancy; Grounds for Removal; Powers

Section 23. (A) The Judiciary Commission shall consist of one court of appeal judge and two district court judges selected by the supreme court; three attorneys admitted to the practice of law for at least ten years who are not judges, active or retired, nor public officials, selected by the Louisiana Conference of Court of Appeal Judges' Association or its successor; and three citizens, not lawyers, judges, active or retired, nor public officials, appointed by the Louisiana District Judges' Association or its successor.

(B) A member of the commission shall serve a four-year term and shall not be eligible to succeed himself.

(C) A member's term shall terminate when he loses the status causing his appointment or when any event occurs which would have made him ineligible for appointment.

(D) When a vacancy occurs, a successor shall be appointed for a four-year term by the appointing authority for the position for which the vacancy occurred.

(E) On recommendation of the Judiciary Commission, the supreme court may censure, suspend with or without salary, remove from office or retire involuntarily a judge for willful misconduct relating to his official duty, willful and persistent failure to perform his duty, persistent and public conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or conduct while in office which would constitute a felony, or conviction of a felony. On recommendation of the Judiciary Commission, the supreme court may disqualify a judge from exercising any judicial function, without loss of salary, during the pendency of the proceedings in the supreme court. On recommendation of the Judiciary Commission, the supreme court may retire involuntarily a judge for disability that seriously interferes with the performance of his duties and that is, or is likely to become, of a permanent character. The supreme court shall make rules implementing this section and providing for confidentiality and privilege of proceedings.

Section 24. Department of Justice; Composition; Attorney General; Election and Assistants

Section 24. There shall be a department of justice consisting of an attorney general, a first and second attorney general, and other necessary assistants and office staff. The attorney general shall be elected for a term of four years at the state general election, and the assistants shall be appointed by the attorney general to serve at his pleasure.

Section 25. Attorney General; Qualifications; Powers and Duties; Vacancy

Section 25. The attorney general and the first and second assistants shall have resided in this state and been admitted to the practice of law for at least five years preceding their selection. The attorney general shall attend to, and have charge of all legal matters in which the state has an interest, or to which the state is a party, with power
or imprisonment at hard labor may be imposed, or in which a fine exceeding five hundred dollars or imprisonment exceeding six months has been actually imposed.

2. If a case is appealed properly to the supreme court, any issue, the supreme court has appellate jurisdiction over all other issues involved in the case.

Section 6. Supreme Court; the Chief Justice

Section 6. (A) When a vacancy in the office of chief justice occurs, the judges of the supreme court, by a majority vote of the justices, shall elect one of their number to the office for a five-year term.

(b) The chief justice shall be chief administrative officer of the judicial system of the state, subject to rules adopted by the court.

Section 7. Supreme Court; Justices, Administrator, Clerk and Staff

Section 7. The supreme court shall have authority to appoint a justice, administrator, its clerk, and other personnel, and prescribe their duties.

Section 8. Courts of Appeals, Barriers, Number Necessary to Sustain

Section 8. The state shall be divided into at least four circuits, with one court of appeal in each circuit.

Each court shall be in session at least three months as amended according to rules adopted by the court. A majority of the judges sitting in a court shall continue in office after the term of a judge appointed to that court by the governor on the recommendation of the judicial council.

Section 9. Courts of Appeal; Jurisdiction, Appeals

Section 9. Thereupon, portions of the state may be divided into at least three districts. At least one judge shall be elected from each district. The number of judges elected shall be equal to the number of courts in the state as fixed by the constitution, and the governor shall appoint by a majority vote of the entire council to each court in the state.

Section 10. In Court of Appeals; Appellate Jurisdiction

Section 10. The legislature shall provide for appointment of the supreme court judge, and that supreme court judge, and that supreme court judge, shall be elected by the people of the state as provided in the constitution, and shall hold office for a term of six years, subject to recall by referendum. They shall hear and determine all cases and appeals in the supreme court to which they are assigned by the supreme court.

Section 11. Constitution and Jurisdiction

Section 11. Constitution and Jurisdiction of District Courts

Section 11. The supreme court shall have original jurisdiction.

Section 12. District Court; Jurisdiction

Section 12. Right to appeal.

Section 13. Municipal corporations.

Section 14. Court of Appeals.

Section 15. Constitution.

Section 15. Court of Appeals.

Section 16. Constitution.

Section 17. Constitution.

Section 18. Constitution.

Section 19. Constitution.
original jurisdiction in all cases involving the title to immovable property; the right to office or other public position: civil or political rights; probate and succession matters; the state, a political corporation, or a succession; as a party defendant, regardless of the amount in dispute; and the appointment of receivers or liquidators to corporations or partnerships.

Section 17. District Courts; Chief Judge

Section 17. Each multi-judge district court may elect from its members a chief judge who shall exercise such administrative functions as prescribed by rule of court.

Section 18. Juvenile Courts; Jurisdiction

Section 18. The jurisdiction of juvenile courts shall be as provided by law.

Section 19. Judges; Term of Office or Compensation May Not Be Decreased

Section 19. The term of office or compensation of a judge shall not be decreased during the term for which he is elected.

Section 20. Judges; Election; Vacancy in Office

Section 20. (A) The election of judges shall be held at the regular congressional election.

(B) A newly created judgeship or a vacancy in the office of any judge shall be filled by a special election which shall be called by the governor, and held within six months of the day the vacancy occurs or the judgeship is created, except when the vacancy occurs in the last six months of an existing term. Until the vacancy is filled, the supreme court shall appoint a person meeting the qualifications for judge to the office, to serve at its pleasure, who shall be ineligible to be a candidate for the judgeship.

Section 20 (A) and (B) Alternative: Judges shall be elected. Vacancies and newly created judgeships shall be filled by the supreme court, to serve until the position is filled by election. The appointee of the supreme court shall be ineligible to be a candidate for the judgeship.

(C) All judges serving on the date of adoption of this constitution shall continue in office for the term to which elected and shall serve through December thirty-first of the last year of their term or, if the last year of their term is not in the even-numbered year of a general judicial election, then through December thirty-first of the year next succeeding. The election for the next term in the office will be held in a general judicial election of the year the term expires, as provided above.

Section 21. Judges; Retirement

Section 21. (A) The legislature shall provide a retirement system for judges of courts provided for by this constitution. Until such time as the legislature provides a retirement system for judges, any judge taking office after the adoption of this constitution shall be afforded the same retirement benefits as judges holding office prior to the adoption of this constitution.

(B) No judge or judicial administrator, either in office or retired, at the time of the adoption of this constitution, shall have diminished any retirement or judicial service rights he had under the previous constitution; nor shall the benefits to which a surviving spouse thereof was entitled be reduced.

(C) A judge of a court of record who is found by two competent physicians selected by a majority of the supreme court to be physically or mentally incapacitated to perform his duties shall be retired at two-thirds pay, or any greater sum to which he would be legally entitled to by law.

(D) A judge shall retire upon reaching the age of seventy years.

(E) The provisions of this section do not apply to justices of the peace.

Section 22. Judges; Qualifications; Practice of Law, Prohibited

Section 22. A judge of the supreme court, court of appeal, or district court shall have been admitted to the practice of law for at least five years prior to his election, shall have resided in the respective circuit or district for at least two years immediately preceding election, and shall not practice law.

Section 23. Judiciary Commission; Membership; Terms; Vacancy; Grounds for Removal; Powers

Section 23. (A) The Judiciary Commission shall consist of one court of appeal judge and two district court judges selected by the supreme court; three attorneys admitted to the practice of law for at least ten years who are not judges, active or retired, nor public officials, selected by the Louisiana Conference of Court of Appeal Judges’ Association or its successor; and three citizens, not lawyers, judges, active or retired, nor public officials, appointed by the Louisiana District Judges’ Association or its successor.

(B) A member of the commission shall serve a four-year term and shall not be eligible to succeed himself.

(C) A member’s term shall terminate when he loses the status causing his appointment or when any event occurs which would have made him ineligible for appointment.

(D) When a vacancy occurs, a successor shall be appointed for a four-year term by the appointing authority for the position for which the vacancy occurred.

(E) On recommendation of the Judiciary Commission, the supreme court may censure, suspend with or without salary, remove from office or retire involuntarily a judge for willful misconduct relating to his official duty, willful and
persistent failure to perform his duty, persistent and public conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or conduct while in office which would constitute a felony, or conviction of a felony. On recommendation of the Judiciary Commission, the supreme court may disqualify a judge from exercising any judicial function, without loss of salary, during the pendency of the proceedings in the supreme court. On recommendation of the Judiciary Commission, the supreme court may retire involuntarily a judge for disability that seriously interferes with the performance of his duties and that is, or is likely to become, of a permanent character. The supreme court shall make rules implementing this section and providing for confidentiality and privilege of proceedings.

Section 24. Department of Justice; Composition; Attorney General; Election and Assistants

Section 24. There shall be a department of justice consisting of an attorney general, a first and second attorney general, and other necessary assistants and staff. The attorney general shall be elected for a term of four years at the state general election, and the assistants shall be appointed by the attorney general to serve at his pleasure.

Section 25. Attorney General; Qualifications; Powers and Duties; Vacancy

Section 25. The attorney general and the first and second assistants shall have resided in this state and been admitted to the practice of law for at least five years preceding their selection. The attorney general shall attend to, and have charge of all legal matters in which the state has an interest, or to which the state is a party, with power

and authority to institute and prosecute or to intervene in any and all suits or other proceedings, civil or criminal, as shall be necessary for the assertion or protection of the rights and interest of the state.

In case of a vacancy in the office of attorney general, the first assistant attorney general shall perform the duties of the attorney general until his successor is elected and qualified.

Section 26. Sheriff; Duties; Tax Collector; Exception

Section 26. (A) In each parish, a sheriff shall be elected for a term of four years. He shall be the chief law enforcement officer in the parish and shall execute court orders and process. He shall be the collector of state and parish ad valorem taxes and such other taxes and licenses as provided by law.

(B) Notwithstanding subsection A, in a parish with a civil sheriff and a criminal sheriff, the two offices shall exist until filled by a majority of the elected members of each house of the legislature and a majority of the electors in the parish, and they shall exercise such duties as may be prescribed by the legislature.

Section 27. District Attorney; Election; Qualifications; Assistants

Section 27. In each judicial district a district attorney shall be elected by the qualified electors of the district for a term of six years. He shall have been admitted to the practice of law in the state for at least five years prior to his election and shall have resided in the district for the two years immediately preceding election. A district attorney may select his assistants and other personnel and prescribe their duties.

Section 28. Defense of Criminal Prosecution; Removal

Section 28. No district attorney or assistant district attorney shall appear, plead or in any way defend, or assist in defending any criminal prosecution or charge. A violation shall be a cause for removal.

Section 29. Clerks; Election; Powers and Duties; Deputies; Exception; Office Hours

Section 29. (A) In each parish, a clerk of the district court shall be elected by the qualified electors of the parish for a term of four years. He shall be ex officio notary public and parish recorder of conveyances, mortgages, and other acts and shall have such other duties and powers as may be prescribed by law. The clerk may appoint deputies with such duties and powers as may be prescribed by law and he may appoint, with the approval of the district judges, minute clerks with such duties and powers as may be prescribed by law.

(B) Notwithstanding subsection (A), in each parish with a criminal and a civil district court, the office of clerk of court shall remain until filled by a majority of the elected members of each house of the legislature and approval in a referendum in the parish, and they shall exercise such duties as may be prescribed by the legislature.

(C) The legislature shall establish statewide uniform office hours for all clerks of district courts.

Section 30. Coroner; Election; Term; Qualifications; Duties

Section 30. In each parish, a coroner shall be elected for a term of four years with such qualifications and duties as may be prescribed by law.

Section 31. Vacancies

Section 31. Until filled by election as provided by law, when a vacancy occurs in the following offices, the duties of the office shall be assumed by: in the case of sheriff, the chief criminal deputy; district attorney, the first assistant; clerk of a district court, the chief deputy: coroner, the chief deputy. If there is no such person to assume the duties at the time of the vacancy, the governing authority or authorities of the parish or parishes concerned shall appoint a qualified person to assume the duties of the office until filled by election.
Section 32. Reduction of Salaries, Benefits Prohibited

Section 32. The attorney general, a district attorney, a sheriff, or a clerk of the district court shall have neither his salary nor retirement benefits diminished during his term of office.

Section 33. Jurors; Qualifications; Selection

Section 33. A citizen of the state who has reached majority is eligible to serve as a juror. The supreme court by rule shall provide for the selection of jurors.

Section 34. Grand Jury

Section 34. There shall be a grand jury in each parish whose duties, qualifications, and responsibilities shall be provided by law. The secrecy of the proceedings, including the identity of the witnesses appearing, shall be provided by law.

NOTES
Staff Memo No. 28 is omitted. It reproduces in its entirety an American Bar Association Study entitled Louisiana's Courts of Limited Jurisdiction.

Staff Memo No. 29

March 8, 1973

TO: Members of the Committee on the Judiciary
FROM: Research Staff

Illinois, in 1964 and again in 1970, moved to a unified court system featuring one court of general jurisdiction. Separate specialized courts and courts of limited jurisdiction were abolished, with original jurisdiction over all cases vested in the circuit court.

An interesting feature of the 1964 revision was to create different classes of judges in the circuit court—circuit judges, associate judges, and magistrates. Circuit judges had full powers, associate judges were similar but did not have rule-making power and could not be selected chief judge, and magistrates were limited to trying the more minor cases. (See Appendix B) The 1970 revision retained circuit judges and associate judges, but abolished the magistrates. (Appendix B)

Under the unified system, circuit courts can be organized in various ways to meet the needs of various communities. The organization of the complex circuit court of Cook County is shown in Appendix C.

Also attached (Appendix D) are the constitutional provisions relating to the judiciary adopted in 1970 which allowed creation of this unified system.

NOTES
Appendices to Staff Memo No. 29 are omitted. They reproduce provisions of Illinois law cited in the body of the memo.

NOTES
R.S. Lowe article cited in cover letter is found at 316-323 [March, 1973].
George Pugh and I spent two hours Tuesday discussing the first 10 articles of the preliminary provisions for a Judiciary article. The substance of his comments is outlined below. He and I will meet again shortly to discuss the remaining articles in the preliminary draft.

Section 2. It might be better to word this section to recognize that the power to issue all needful writs and orders is primarily a power of the court and not so much a power of the judge. He would have the article state that courts have this power, and then explain that one judge of a multi-member court can exercise this power subject to review by the whole court. This is a primary change in emphasis, and not one of major substance.

Section 3. It could well be left to the legislature to determine the length of the term of Supreme Court judges, as well as that of all judges. It should be provided, of course, that a judge's term cannot be shortened during the time the judge is serving that term.

Section 4. This section ought to be worded to make it quite clear that the approval of the Governor is also needed on the act that would change the districts and the number of judges assigned to them. It might also provide more flexibility to provide that approval of two-thirds of the members voting is all that is required, rather than two-thirds of the total membership of each house.

Section 5. It might be more diplomatic to refer to "lower courts," rather than "inferior courts." Less connotations of courts making law might result if it were provided that the Supreme Court can "establish" rather than "promulgate" rules. As a stylistic change, it could be provided that the rules be "not inconsistent with law," rather than "not in conflict with law."
IV. Miscellaneous Committee Documents and Correspondence

NOTES

The following documents are found in the files of the Judiciary Committee designated "Judicial Retirement."

May 25, 1973

Attached is a retirement proposal drafted by Judge Luther Cole of the Nineteenth Judicial District Court as requested by the Supreme Judicial Committee which met on May 17, 1973.

Also attached is a list of District Judges by seniority which reflects that 91 of 118 judges have gone on the bench since 1965.

Section ___. Retirement

(a) The provisions of this section shall apply to judges of courts of record provided for by this constitution.

(b) Every judge shall retire upon reaching the age of 70 years. He shall receive that portion of his average compensation which the number of years served bears to 21, whichever is greater, after incapacity shall be deemed to be in society established by the Secretary of State signed by two competent physicians selected by a majority of the Supreme Court.

(c) In no event shall any judge retire under the provisions of this constitution until he has been eligible for six years or more of service. For purposes of computing retirement benefits hereunder, "average compensation" shall be the average annual earned compensation for any three years of service during which said earned compensation was the highest.

(d) The retirement pay of a judge shall be received from the same sources as was his compensation while on the bench and cannot be less than the amount for which he was entitled at the time of retirement. To that extent, the Legislature and all political subdivisions and public authorities which contribute to the salary of any judge, shall make adequate provisions for the pay of judges retired, and of the persons for widows or children as hereinafter provided, in the same manner they do for judges in active service.

(e) Upon the death of any judge, or of any retired judge, his surviving spouse shall be entitled to receive as a pension an amount equivalent to one-third of the salary such judge was receiving prior to death or retirement, or an amount equivalent to one-half of the retirement pay which such judge was entitled to receive or was receiving prior to his death, whichever is greater. The pension shall continue only so long as said spouse shall remain married. Should an active or retired judge die without leaving a surviving spouse, his survivorship spouse die or remarry, any child or children under the age of 21 of such judge shall be entitled to benefits equivalent to those provided hereunder.

(f) The Legislature is authorized to provide retirement benefits for judges of courts of record established by this constitution, subject only to compliance with the requirements that such benefits shall retire upon reaching the age of 70 years and shall be retired if physically or mentally incapacitated. However, member-
6-17-69  Israel M. Augustine  Orl.Crim. "F"  55  62
6-30-69  Penrose St. Amant  23rd "C"  57  64
7-6-69  John Sidney Covington  19th "A"  58  65
7-10-69  Edward R. Emptol  18th "C"  58  66
8-1-69  Robert M. Fleming  16th "O"  59  67
9-4-69  Elvon E. Ponder  19th "B"  60  68
9-15-69  Gordon Leigh Bynum  24th "O"  61  69
9-18-69  Edward H. Mosier  33rd  62  70
1-31-70  David T. Caldwell  2nd "B"  63  71
4-7-70  John P. Fann  1st "D"  64  72
7-9-70  George C. Connolly, Jr.  Orl.Civ."D"  65  73
7-16-70  Cleveland J. Marcel, Sr.  23rd "C"  66  74
9-11-70  Crower L. Cavington  21st "A"  67  75
10-8-70  Thomas W. "Tom" Tanner  22nd "O"  68  76
10-9-70  Gordon E. Casserly  21st "B"  69  77
10-9-70  Gerald P. Fedoroff  Orl.Civ."E"  70  78
10-16-70  Douglas J. Rehrbach  15th "E"  71  79
12-29-70  Louis N. Podgot, Jr.  26th "C"  72  80
1-4-71  Henry J. Roberts, Jr.  Orl.Civ."F"  73  81
1-14-71  Herbert G. Curtis, Jr.  24th "C"  74  82
1-4-71  Louis G. Godonier, Jr.  24th "A"  75  83
2-15-71  John C. Morris, Jr.  5th "B"  76  84
2-19-71  Fred Pudictor, Jr.  4th "A"  77  85
6-11-71  Henry Yelverton  14th "A"  78  86
9-22-71  Benjamin F. Berry  5th "A"  79  87
11-29-71  Percie J. Marone  29th "C"  80  88
1-17-72  Jerome M. Wernberg  Orl.Crim."C"  81  89
1-3-72  Eugene W. McGhee  19th "O"  82  90
1-10-72  James E. Dennis  4th "D"  83  91
1-17-72  Daniel W. LeBlanc  19th "H"  84  92
1-24-72  Lunar Polk  9th "C"  85  93
2-2-72  H. Garland Foy  7th "A"  86  94
2-14-72  Steve Alford  19th "A"  87  95
3-4-72  John S. Pickett, Jr.  11th "B"  88  96
5-20-72  Charles R. Ward  Orl.Crim."A"  89  97
6-1-72  Jules L. Davidson, Jr.  9th "C"  90  98
9-4-72  Robert E. Johnson  16th "B"  91  99
9-25-72  Daniel J. Moree  18th "B"  92  100
10-6-72  James E. Clark  1st "B"  93  101
10-16-72  Thomas C. Wicker  24th "H"  94  102
10-20-72  Jean J. Gallary  27th "C"  95  103
10-24-72  W. Peyton Cunningham  10th "D"  96  104
11-3-72  Allen H. Babineaux  15th "F"  97  105
11-8-72  Stuart S. Kay  30th "B"  98  106
12-8-72  Wallace C. Lebrun  24th "I"  99  107
12-8-72  Edwin R. Hughes  26th "C"  100  108
12-8-72  Martin L. Laird, III  9th "B"  101  109
12-11-72  Edward Donald Mosely  19th "M"  102  110
12-15-72  Preston H. Huff  35th "C"  103  111
12-15-72  Thomas J. Nalak  29th "A"  104  112
12-18-72  Bernard L. Knoblock  17th "B"  105  113
12-21-72  Leonio G. Hightower  41th "B"  106  114
12-22-72  Warren Hood  14th "O"  107  115
12-29-72  Percie J. Marone, Jr.  3rd "C"  109  117
Vacancy Vice Marcus  Orl.Civ."I"  110  118

* Prior service City or Municipal Courts.

(Continued -- See next page)
A special actuarial study was requested by the Louisiana District Judges Association primarily to compare the current benefits provided by the Louisiana Constitution with the benefits provided for legislators by the Louisiana State Employees' Retirement System. This report presents the results of an actuarial valuation of both systems prepared as of January 1, 1973 using as a base the returns of various questionnaires obtained from active and retired members of the Louisiana District Judges Association, and in some cases from the survivors of decedents.

This report gives a brief summary of the benefit and contribution provisions of both systems as they were interpreted for the purpose of the valuation. This is followed by a cost analysis of years' service for new entrants and prior service for current members. The report then provides some subjective observations and recommendations and finally concludes with a description of work in progress for transfer from the Constitutional System to the Louisiana State Employees' Retirement System.

Summary of Benefit and Contribution Provisions

A summary of the main benefit and contribution provisions provided for Judges in the Louisiana Constitution is outlined in Exhibit A attached hereto. A similar summary for the main benefit and contribution provisions provided for legislators by the Louisiana State Employees' Retirement System is outlined in Exhibit B attached hereto.

Summary of Funding Cost for Prior and Future Service

The actuarial cost and liability calculations, and related figures, follow from proper mathematical formulae built around actuarial assumptions. These assumptions are only as good as they reflect the true levels of future contingent events. The better set of actuarial assumptions is formed from the concepts of reasonableness and conservatism. The set of actuarial assumptions deemed appropriate for the calculation of actuarial costs and liabilities in this actuarial study are detailed in Exhibit 7 of the Appendix to this report.

Figures presented herein are further based upon an average increase in annual salary of two and one-half percent. Data and costs were also developed based upon zero and five percent annual increases in salary and are summarized in the Appendix; these show striking differences according to rate of salary progression.

Based upon the aforementioned assumptions, and specifically the choice of a 2% salary progression scale the following funding data was calculated:

(1) Ignoring all current judges and taking into consideration only new persons becoming judges in the future it was determined that:

(a) 25% of compensation is needed to actuarially fund the benefits provided for judges by the Louisiana Constitution,

(b) 18% of compensation is needed to actuarially fund the benefits, provided for legislators by the Louisiana State Employees' Retirement System.
(2) Taking into consideration a closed group of persons consisting of only the current judges and allowing for both prior and future earned service it was determined that:

(a) 50% of future compensation is needed to actuarially fund the benefits provided for judges by the Louisiana Constitution.

(b) 45% of future compensation is needed to actuarially fund the benefits provided by the Louisiana State Employees' Retirement System.

(3) The cost to fund the accrued prior service liability for all the current judges if they were to transfer to the Louisiana State Employees' Retirement System was calculated to be as follows:

(a) On a single sum payment basis:
   
   $12,700,000.00 to fund the state government portion thereof
   
   $3,000,000.00 to fund the local government portion thereof

(b) On a thirty year pay out basis:
   
   $790,000.00 per year to fund the state government portion thereof
   
   $180,000.00 per year to fund the local government portion thereof

Note: It should be pointed out that the funding figures shown in the item (5) are appropriate only if all the judges should transfer from the Constitutional system to the Louisiana State Employees' Retirement System. If only 50% of the current judges were to transfer from the Constitutional system to the Louisiana State Employees' Retirement System the funding cost would be cut by at least half. Prior service for the purposes of this report was constructed to consist of prior service in the present position, other court (only courts referred to in the Constitutional retirement provisions), state legislature, state service (allowed by Louisiana State Employees' Retirement System), active, military, district attorney and assistant district attorney.

In terms of actuarial comparison of present values (See Unit 15, Appendix), for judges the Constitutional plan has a value in excess of the value of the Louisiana State Employees' Retirement System plan (legislative version) even after taking into account the differences in entry ages. Also this would be true even if one were to take into account, say a 10% increase post-retirement because of the cost-of-living provisions under Louisiana State Employees' Retirement System which would be made available to judges retiring from that system. Moreover, if one recognizes that the Constitutional plan is noncontributory its value from the personal economic viewpoint of a judge is further enhanced.

This is not to say, however, that one plan will be uniformly better than the other, especially considering the varying individual circumstance to be found in the judiciary. One matter to be considered is the trend, clearly drawn from history, that the Louisiana State Employees' Retirement System is a dynamic system which frequently is amended to keep it current, whereas the Constitutional plan tends to remain in static condition. Provided no "anti-selection" develops (or is permitted to develop) resulting in economic peril to either of the systems created solely out of the exercise of an option there could be reasonable rules under which an individual might select for himself the most suitable benefit system.

-3-

Louisiana, Consulting Attorney

Basis of Transfer from the Constitutional Retirement System to the Louisiana State Employees' Retirement System

The following methods of transfer are suggested for consideration:

(A) The local and state government would pay the cost to fund the prior service accrued liability for those judges that transfer via a single lump sum payment. The state government portion being $12,700,000.00 and the local government portion being $3,000,000.00 if all current active judges transfer.

(B) The same as (A) except that the local and state government would finance the cost to fund the prior service liabilities via equal annual amortization payments over a thirty year period in lieu of a single lump sum payment. The state government annual payment being $790,000.00 and the local government annual payment being $180,000.00 if all current active judges transfer.

(C) A current judge would be allowed to transfer without any concurrent funding of prior service. An equitable formula would be developed whereby at time of retirement the local government, state government and the Louisiana State Employees' Retirement System would each pay an appropriate share of each monthly retirement benefit.

-4-
If the local and state government do not make provisions for the funding of prior service the judge would still be allowed to transfer and he could personally purchase any prior service allowed by the Louisiana State Employees' Retirement System.

It should be noted that if a judge transfer from the Constitutional system to the Louisiana State Employees' Retirement System under any of the aforementioned methods it is assumed that he will be required to contribute 10% of his salary to the Louisiana State Employees' Retirement System and the state and local governments will contribute 20% of said salaries to the Louisiana State Employees' Retirement System.

Summary of Benefits Provided by Louisiana Constitution for Certain Judges

<table>
<thead>
<tr>
<th>Type of Benefit</th>
<th>Years of Service</th>
<th>Age</th>
<th>Requirement</th>
<th>Annual Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service</td>
<td>20 or more</td>
<td>75</td>
<td>Yes</td>
<td>Full Pay</td>
</tr>
<tr>
<td>Retirement</td>
<td>Less than 20</td>
<td>75</td>
<td>(a) No</td>
<td>Years of Service Divided by 20 times Full Pay, Full Pay</td>
</tr>
<tr>
<td>Benefit</td>
<td>20 or more</td>
<td>70</td>
<td>No</td>
<td>Years of Service Divided by 20 times Full Pay, Two-Thirds of Full Pay</td>
</tr>
<tr>
<td>Disability</td>
<td>20 or more</td>
<td>Any</td>
<td>No</td>
<td>Full Pay</td>
</tr>
<tr>
<td>Retirement</td>
<td>Less than 20</td>
<td>Any</td>
<td>No</td>
<td>Years of Service Divided by 20 times Full Pay but not less than Two-Thirds Full Pay</td>
</tr>
</tbody>
</table>

Survivor Benefit for Active or Retired Member
(a) Pay extends during 20 years of service is obtained or until his attained age 80 whichever shall occur first.
(b) Applies to appellate judges only.
(c) Benefit ceases if spouse is remarried.

Contributions: By Judges - None
By Government - No prior funding. Appropriations are made annually for the current retirees.

Summary of Benefits Provided by Louisiana State Employees' Retirement System

<table>
<thead>
<tr>
<th>Type of Benefit</th>
<th>Years of Creditable Service</th>
<th>Age</th>
<th>Requirement</th>
<th>Annual Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service</td>
<td>30 or more</td>
<td>Any</td>
<td>(c) One-third of Salary or one-half of Retirement Pay Entitled to at Time of Death, whichever is greater.</td>
<td></td>
</tr>
<tr>
<td>Retirement</td>
<td>25 or more</td>
<td>Any</td>
<td>No</td>
<td>Compensation times Years of Creditable Service plus $300.00</td>
</tr>
<tr>
<td>Disability</td>
<td>10 or more</td>
<td>Any</td>
<td>Yes</td>
<td>Same as for service retirement</td>
</tr>
<tr>
<td>Surviving Spouse Without Children</td>
<td>5 or more</td>
<td>Any</td>
<td>Yes</td>
<td>75% of Average Annual Compensation but not less than $300.00</td>
</tr>
<tr>
<td>Surviving Spouse With Children</td>
<td>20 or more</td>
<td>Any</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

Notes: The following correspondence is found in the files of the Judiciary Committee designated "Invitations to Speakers."

Memorandum

TO: Members of the Judiciary Committee of the Louisiana Constitutional Convention

FROM: Eugene J. Murrel, Justice Administrator

Attached is a copy of a letter from Justice Winslow Christian, Director of the National Center for State Courts, whom Judge Dennis had asked me to invite as an expert to appear before your Committee. Some members of your Committee had previously asked for information about whether the court reporter should be under the control of the
clerk of court or the judge, whether the pre-arraignment and post-arraignment functions of the sheriff should be separated, and whether criminal courts should be special courts. His letter addresses itself to these three areas.

Mr. Eugene J. Marret
Judicial Administrator
Supreme Court of Louisiana
New Orleans, Louisiana 70112

Dear Mr. Marret:

Thank you for your letter of February 27. I am pleased to accept your invitation to testify before the Judiciary Committee of the Constitutional Convention. March 16 would be preferred; I should plan to arrive Baton Rouge at 10:38 a.m. on Delta flight 705.

I shall respond here to your question about the administration of the court reporting function. The control of the court reporter is crucial to the efficient operation of a court. Coordination and direction of the record production process is the most vital factor. The type of cases and number of appeals from the court will also be important. However, court reporters should not be under the sole authority of either the elected clerk of court or the judge. When controlled by an elected clerk of court, the court itself surrenders its authority to someone whose primary interests may not be speedy and efficient administration of justice. Placing the reporter "under the authority and sole control" of the judge in a multi-judge court does not promote efficient record production either. Our new publication, "Administration of Court Reporting in the State Courts," points out that distribution of reporters to judges on an on-to-one basis can result in imbalance and inefficiency in record production. As the enclosed copy of the report indicates, the best solution is to place the reporters under the authority and control of an administrator who is answerable to the courts, but who can distribute the assignments to assure maximum efficiency and production.

I am not aware of any experience concerning the separation of the pre-arraignment and post-arraignment functions of the sheriff. I should like to talk with you about the background of the question before attempting to respond.

Finally, as to specialized courts, the consensus among people who have studied the problem seems to be that it is inadvisable to maintain permanent specialized criminal divisions of courts. Every such division inhibits efficient employment of resources; separate criminal courts also tend to suffer from relative lack of attention from the bar and from community leadership. Whereas, a unified court, giving high priority of attention to its criminal responsibilities, can more readily obtain the resources it needs. I should like to discuss this situation with you before assigning your inquiry for staff work.

Sincerely yours,

Winifred Christian

NOTES

The following letters are found in the files of the Judiciary Committee marked "Correspondence to Members."

J. Burton Willis

Mr. C. B. Forgetston, Jr.
Senior Research Assistant
Louisiana Constitutional Convention of 1973
Post Office Box 17740-A
Baton Rouge, Louisiana 70803

Dear C. B.:

I have received numerous letters from "red, white and blue" judges all over the state, all of whom agree with the thesis of my remarks regarding the tenure of our District Judges. Additionally, I have conversed, either in-person or on the telephone, with a number of them, including some Appellate Judges, and all have voiced to me their personal and empathetic concurrence with my argument that equal judges should have equal terms. Furthermore, many Delegates have not only voiced their concurrence to me, but also have indicated that all judges should be equal.

I took and take this to mean that the imbalance we left in our judiciary article, prompted by the unwritten and implied one-term, will find our judiciary very surprised at the finished product to be proposed to the people.

The letter of one of these District Judges which portrays most lucidly the feelings on the matter is that of Judge Edwards of Marksville of July 18, 1973, of which a reply (even though it gave me a superlative accolade) is enclosed. Because I have his authority to disseminate its reply to the members of the Committee on the judiciary, I ask that you supply a copy herewith and thereof to all members of the Committee at your earliest convenience, so that they can contemplate my grave admonition and premonition I hereby transmit, even though it is at the great risk of being dubbed unable to convey communications and conversations.

You have my best wishes and the assurance that I am

Sincerely,

J. Burton Willis

J. B. Willis

Enclosure

Twelfth Judicial District

Mr. J. Burton Willis

Attorney At Law
422 South Main Street
St. Martinville, Louisiana

Dear Sir:

I have been wanting to write to you for some time, since your talk to the Committee on the Judiciary (Constitutional Convention) on June 16, 1973, concerning the tenure of judges.

Your thoughts, your language and choice of words were beautiful. I agree with your thoughts and sentiments wholeheartedly. I can see no reason in law, logic or fact, to have a separate system or different tenure for New Orleans judges.
I must congratulate you on your position. I do not know how far the opponents to a different dual system will go. But such absurd provisions, for a new constitution and in a new constitution, to govern our state for years to come, will make its approval by the electorate a difficult job.

Thanks for your thoughts and sentiments; and again, my congratulations!

Cordially yours,

EARL EDWARDS

---

J. BURTON WILLIS

September 25, 1973

Mr. C. B. Forgotston, Jr.
Senior Research Assistant
Louisiana Constitutional Convention of 1973
Post Office Box 17740-A
Baton Rouge, Louisiana 70803

Dear Mr. Forgotston, Jr.

At the next meeting of the committee on the Judiciary, I wish you would bring to my attention the enclosed letter from Mr. C. B. Burton, of Shreveport, which explains itself, so that I can bring its intentions to the attention of the Committee.

Thanking you and with good wishes, I am

Sincerely yours,

J. B. WILLIS

cc: Honorable Frank W. Summers, II
Assistant District Attorney
Parish Courthouse
Abbeville, Louisiana 70510

---

Honorable J. Burton Willis
Independence Hall
Whitehouse Inn
Baton Rouge, Louisiana

Dear Mr. Burton:

Long time since I've seen you and I need your help. I hear you have influence in the convention for propositions that are meritorious. I am a member of the Judiciary Commission of Louisiana and have a special interest in that area of the draft constitution.

A very serious defect in the new draft is: The discretionary authority of the Louisiana Supreme Court to bar a judge who has been removed from running again for judge has been deleted.

Perhaps arguments can be made that the electorate should have the right to re-elect sheriffs who have been removed, however, it seems to me the courts occupy a different position in our community. Who could have any confidence in a judge who had been removed from office for bribery.

Should you think the Louisiana Supreme Court should have discretionary authority, as it now has, to bar a judge when removed from serving further, please do what you can.

With best regards,

Cleveland C. Burton

---

Mr. Burton Willis
Attorney at Law
St. Martinville, Louisiana

Re: Possible constitutional amendment dividing Fifteenth Judicial District

Dear Mr. Willis:

As a followup of our telephone conversation of June 25, 1973, I wish at this time to make
request of you that I be kept informed of any proposed constitutional amendment that would have the effect of dividing the Fifteenth Judicial District, presently composed of Lafayete, Acadia and Vermilion Parishes, into two or more judicial districts.

FRANK W. SUMMERS, II
ASSISTANT DISTRICT ATTORNEY

NOTES
The following correspondence is found in the Judiciary Committee files marked "Correspondence Vol. I."

Supreme Court
STATE OF LOUISIANA
New Orleans
October 17, 1973

Mr. Camille F. Gravel, Jr.
611 Murray Street
Alexandria, Louisiana 71301

Dear Camille:

I wish to call to your attention a matter of utmost importance to me and my family and to the widow and children of my predecessor, Mr. Robert E. Lecorese al of whom enume retirement rights and benefits under the present Constitution which apparently have been unintentionally stripped by the Constitutional Convention.

Article 7, Section 12.1 of the present Constitution provides:

"The office of Judicial Administrator is hereby created as a constitutional office, and the Supreme Court shall have the power, under such general rules and regulations as it may adopt, to provide for his appointment, salary, to prescribe his duties, and to promulgate all necessary rules and regulations in connection therewith. The Judicial Administrator shall be entitled to all emoluments and benefits applicable by law to district judges and shall be subject to the same retirement provisions."

The Judiciary Committee proposal introduced into the Convention provided:

Mr. Camille F. Gravel, Jr.

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"A judge or judicial administrator (emphasis added) in office or retired at the time of the adoption of this constitution, shall not have diminished any retirement benefits or judicial service rights, including the right to remain in office, as judge, during his present term, provided under the previous constitution or laws, nor shall the benefits to which his surviving spouse thereof was entitled be reduced."

(See Section 23A(i) of the Judiciary Committee's proposal.)

Your amendment and the Keen amendment subsequently adopted as Section 23A(i) of Article V (Judicial Branch) omitted the words "or judicial administrator", thus removing the protection to retirement rights and benefits presently held by me and my family and the widow and children of my predecessor. I am certain that the omission was an oversight, as the focus of attention in debate was on the large issue of whether a new contributory retirement system for judges should be in the Constitution at all.

Justice Rabe has suggested that I recall to your minds the fact that, immediately after the vote on the issue, he approached you and Chairman Henry to call the oversight to your attention and that you both responded that this oversight could be corrected in the proposed schedule which will supplement and implement the main Constitution.

I therefore wish by this letter to request that you and Speaker Henry take the necessary steps at the appropriate time to restore and protect the retirement benefits which the office of judicial administrator has under the present Constitution. By copy of this letter I am also requesting the support and assistance of Mr. Keen, Mrs. Ruth Miller, and the entire Judiciary Committee.

Although this matter may seem unimportant when viewed against the background of a hoped-for new Constitution for all the people of Louisiana, nevertheless it is a matter of great moment to me and my family and to the widow and children of my predecessor.

I wish to thank you and Speaker-Chairman Henry and all the above named persons for your support and understanding.

Very truly yours,

Eugene J. Murret

cc: Mr. E. L. "Robby" Henry
Mr. R. Gordon Keen, Jr.
Justice Albert Tate, Jr.

MILLING BENSON WOODWARD HILLYER & PIERSON
ATTORNEYS AT LAW
814 BAINS BUILDING
NEW ORLEANS 70130
ELEONORE MILLING
TELEPHONE: NO. 2312

July 16, 1973

Judge James Dennis
Chairman, Judiciary Committee
Constitutional Convention
Committee Room 1 - State Capitol
Baton Rouge, Louisiana

Dear Judge Dennis:

I would like to present to the above committee, through you as Chairman, my view, which is obviously shared by the vast majority of the New Orleans Bar, that:

1. The Civil District and Criminal District Courts should not be combined into one court at this time, because of the great number of problems that this would entail, most of which have been adequately explained and thoroughly discussed before your Committee; and

2. The term of such judges should be for a period of 12 years rather than 6 years, for the reason that, as Judge Schott so forcefully explained to the Louisiana State Bar Association, the costs of conducting a campaign in a large community such as New Orleans, where the voters can only be reached through T.V. and other media, is so excessive that it becomes prohibitive for one other than a wealthy man or one who does not wish to become beholden to special interest groups, to run for office. Frequently in recent years and even more frequently in the future, opposition has and will occur and the costs will be even greater than they have been. This not only affects the quality of justice but affects the image of the judiciary with the public, which is not constructive.

Very truly yours,

M. Truman Woodward, Jr.

cc: Judge Henry J. Roberts, Jr.

JEFFERSON PARISH
LOUISIANA

FROM: Judge Cyril J. Greeland, Judge Douglas A. Allen and Judge John J. Molaison.
Incidentally, the same consideration may be given to the district court judges. In the sense that they would have authority to select their own clerks and other personnel.

June 28, 1973

TO: The Judiciary Committee of the Louisiana Constitutional Convention

Gentlemen:

While it was our sincere desire to address individual letters, time required that we state our thoughts known to you by this manner.

As you will recall, when we appeared before the Judiciary Committee on Friday, March 23, 1973, in Baton Rouge, Members of the Committee suggested, among other things, two matters: (1) that the Trial De Novo be abolished, and (2) that we be authorized to appoint our own personnel.

We just recently received a proposal from Eugene Murray, our Judicial Administrator, and with the above thought in mind, we would like to propose, for your consideration, Amendments attending to the two subjects discussed above.

Enclosed herewith, you will find an Amendment to Section 19 and Section 20.

Thanking you for your kind consideration, we remain,

Very truly yours,

[Signature]

CVIL J. MACAULAY, Judge, Division "A"

JOHN J. WILSON, Judge, Division "B"

SECOND PARISH COURT

Section 19. (A) Parish, city, municipal, traffic, family, and juvenile courts existing at the time of the adoption of this Constitution are retained. The legislature, by a majority vote of the elected members of each house, and with approval in a referendum in each district, parish, or section, affected may abolish, or merge trial courts of limited or specialized jurisdiction subject to the limitations in Sections 16 and 23 of this Article.

Section 19. (B) The judges shall have the authority to select their clerks and other personnel, including Minute Clerks and Bailiffs, and to establish a traffic violations bureau, and to prescribe the duties for all their personnel.

Section 19. (C) On any appeal, trials De Novo are abolished and prohibited.

Section 20. Parish Courts

Section 20. (A) Notwithstanding the provisions of Section 15 and 19 to the contrary, the legislature may, by a majority vote of the elected members of each house, and with approval in a referendum in the parish affected, establish in that parish, a parish court. Other courts of limited or specialized jurisdiction in the parish may be simultaneously abolished.

Section 20. (B) The jurisdiction of parish courts shall be uniform throughout the state and such courts shall be limited to the trial of misdemeanors, and of civil matters not exceeding the value or sum of three thousand five hundred dollars, exclusive of interest and costs. A judge of said court shall be elected for a term of six years.

Section 20. (C) The judges shall have the authority to select their clerks and other personnel, including Minute Clerks and Bailiffs, and to establish a traffic violations bureau, and to prescribe the duties for all their personnel.

Section 20. (D) On any appeal, trials De Novo are abolished and prohibited.

As you can see, under the proposed amendment, this authority would be granted to the judges of the parish courts, city courts, municipal courts, traffic courts, family courts and juvenile courts.

Mr. Ashton L. Stewart
Attorney at Law
Union Federal Building
Baton Rouge, Louisiana 70801

Dear Mr. Stewart:

Thank you for your letter of May 28th, as well as your comments thereon. I appreciate this letter from you and will take the liberty of transmitting it to the Chairman of the Judiciary Committee of the Constitutional Convention, Judge Dennis.

Sincerely,

J. Cleveland Frugé

Judge

JCF

May 28, 1973

[Signature]

JUDGE J. CLEVELAND FRUGÉ

COUNTY ATTORNEY

LAVON AND STEWART

UNION FEDERAL BUILDING

Baton Rouge, Louisiana 70801

Judge J. Cleveland Frugé

Court of Appeal, Third Circuit

P. O. Box 3000

Lake Charles, Louisiana 70601

Dear Judge:

I read with much interest the newspaper report of your views given to the Judiciary Committee of the Constitutional Convention. I heartily agree that the key to a successful constitution is the legislature. The time that it takes to serve as a legislator is almost prohibitive except to the very rich. A legislator should be paid extremely well as a fundamental first step. Times have changed from a citizen doing his share of civic work by serving for sixty days every two years.

Additionally, if I had been successful as a candidate for the convention, I would have sought membership on the committee to draft the legislative article, and would have worked for not only good pay, but for short term from small districts, even if such meant creating more districts. The restrictions on the legislature in the constitution should be removed. The legislature also should not be limited as to the length and time of its meetings.

The most important improvement of the judiciary would be to provide that no person could be excluded from jury service except for cause. The voir dire by the judge would also help.

Best regards,

Very truly yours,

ALS/hbh

Judge J. Cleveland Frugé

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Section 3: The Department of Justice shall direct all legal matters in which the state has an interest. It may institute and prosecute or intervene in any suit or other proceeding it may deem necessary for the protection of the state, its agencies, or its citizens. The department of justice shall supervise the district attorneys and shall perform the other duties imposed by law.

Source: The provisions in this proposal are largely taken from Projct Article VI, Sections 34 - 36.

Comment: Provides for an elected attorney general, two appointed assistant attorneys general, and a department of justice.

TO: ALL MEMBERS OF THE COMMITTEE ON THE JUDICIARY, CC 73

The Fourth Circuit Judges Association is an organization whose members are judges of a court of record within the territorial bounds of the Fourth Circuit Court of Appeals. We have met on numerous occasions and our recommendations on the retirement provisions for the judiciary are enclosed.

Also find a partial copy of your "Fourth Preliminary Draft" of Article VII of the Constitution which we have reviewed and amended through Section 19. Article 20, Election of Judges; Vacancy in Office, and Article 21, Judiciary Commission, we find controversial, and we shall submit our views thereon in the near future. The balance of this "draft" is acceptable, except for the retirement section which is referred to above.

Very truly yours,

[Signatures]

Article ________, Section ________. Retirement of Judges

A. A judge shall not remain in office beyond his seventieth birthday.

B. A judge or judicial administrator in office or retired at the time of the adoption of this constitution, shall not have diminished any retirement benefits or judicial service rights provided under the previous constitution or laws; nor shall the benefits to which a surviving spouse thereof was entitled be reduced.
C. The legislature shall provide a retirement system for judges which shall apply to a judge taking office after the effective date of the statute enacting the system, and which a judge in office at the time of its adoption may elect to join.

D. Until the legislature enacts the retirement system authorized in subsection C, a judge taking office after the adoption of this constitution and a judge in office who so elects within ninety days of the adoption of this constitution by notifying the secretary of state, shall be entitled to the following retirement benefits:

1. This subsection applies to a judge of a court authorized by this constitution, except mayors and justices of the peace.

2. A judge with sixteen years of judicial service may retire at any age; a judge with twelve years of judicial service may retire with benefits commencing at the age of sixty. On retirement, a judge shall receive annually as retirement benefits that portion of his annual average compensation for his three highest years which the number of years served bears to twenty-five.

3. Any judge who is or becomes physically or mentally incapacitated to perform his duties shall be retired, and he shall be paid as in the case of voluntary retirement at the age of 60 years, irrespective of his age at retirement, but in no event less than two-thirds of his pay. His incapacity shall be made to appear by a certificate which shall be filed with the Governor and Secretary of State. In the case of a judge of the Supreme Court, the Courts of Appeal, District Courts of 3 or more judges, City Courts of 3 or more judges, Juvenile Courts and Family Courts of 3 or more judges, this certificate shall be executed by a majority of the other members of the court of which he is a member. In all other cases, this certificate of incapacity shall be signed by 2 competent physicians and approved by a majority of the Supreme Court.

4. Upon the death of a judge, in office or retired, the surviving spouse, until remarriage, shall be entitled to two-thirds of his annual salary as judge prior to death or retirement, or one-half the retirement benefit he was receiving or entitled to receive at the time of death, whichever is greater. If the judge is not survived by a spouse, or if the spouse dies, his unmarried children shall be entitled to the benefits provided in this subsection until the age of twenty-one.

5. Benefits provided herein shall be paid from the same sources as was his compensation as judge. The legislature and the political subdivisions shall provide for payment of these benefits.

6. To receive the benefits provided in this subsection, the judge shall contribute a total of six percent of his salary to the paying authorities.

NOTES
The following correspondence is found in the Judiciary Committee files marked "Correspondence Vol. II"

Louisiana State Bar Association

July 26, 1973

Judge James L. Dennis
Chairman, Judiciary Committee
Constitutional Convention 1973
300 St. John Street
Monroe, Louisiana 71201

Dear Judge Dennis:

The House of Delegates of the Louisiana Bar Association ordered a ballot sent to the members of our Association to determine whether they were in favor of the election of judges or of a merit plan of selection.

Pursuant to such resolution, the vote was tabulated, both as to the judicial district from which it was cast and as to the preference of the voter with respect to the appellate courts and the trial courts.

I am, accordingly, enclosing herewith a photocopy of this tabulation. You will notice that the total vote was in favor of merit selection in both the appellate and trial courts, but that the margin of victory for the merit selection was substantially larger in the case of the appellate courts.

Very significant, however, is that in the case of the trial courts there was a material variation in the result. You will notice that the merit plan carried by a very substantial majority in Orleans Parish and by a relatively small majority in the First District (Caddo, the 14th District (Cameron and Calcasieu), and the 29th District (St. John and St. Charles). On the other hand, in the other parishes, the vote ranged from even in the 12th (Avoyelles), close in some parishes and very substantial majorities in favor of election in others.

With respect to the vote as to appellate courts, you will note that in ten districts (including an overwhelming favorable vote in Orleans), the merit plan won, there were two districts in which the vote was tied, and the margin of victory for the election was not nearly as great as it had been with respect to the trial court ballots.

Judge James L. Dennis
-2-
July 26, 1973
While it may not be my province to comment, it seems to me that this is an outstanding indication that with such tremendous divergence of opinion the question should be left to the electorate on a local option basis, for it would hardly seem fair to impose upon some community with a strong feeling that their judiciary should be selected by one method, the requirement that it be done by another and different method. Just because the total vote was in favor of merit selection does not mean that this procedure should be imposed upon the people in those districts who voted overwhelmingly against it. By the same token, the people in the districts who voted overwhelmingly for merit selection should be subject to the will of a minority simply because a majority number of districts with a smaller population were in favor of the elective process. This result, of course, is my personal view and not that of the Association.

Yours truly,
W. Truman Woodward, Jr.

cc: Mr. Kent Breard
Mr. Don R. Miller
Mr. Dudley D. Flanders
Mr. Thomas B. Collins, Jr.
Judge James L. Dennis, Baton Rouge, La.
Mr. Curtis R. Melfontaine

LUSIANA STATE BAR ASSOCIATION
POLL ON MERIT PLAN OR ELECTION OF JUDGES
JULY, 1973

JUDICIAL DISTRICT  Election  TOTAL COURTS  APPELLATE COURTS

1st  96  106  3  201  80  116  3  197
2nd  9  4  1  14  7  6  1  14
3rd  9  3  2  12  7  5  3  12
4th  47  34  2  83  39  42  2  83
5th  11  7  1  20  8  13  1  18
6th  11  5  1  16  11  5  1  16
7th  12  3  1  15  9  5  1  14
8th  5  2  1  7  4  2  1  6
9th  35  32  2  69  31  37  2  70
10th  19  3  2  22  16  8  2  22
11th  3  1  1  12  11  1  1  20
12th  7  7  1  15  11  4  2  14
13th  12  12  1  25  15  10  1  15
14th  60  66  1  127  53  72  1  124
15th  75  62  2  139  67  69  2  138
16th  78  75  2  153  63  62  2  153
17th  27  41  1  31  25  6  2  29
18th  12  12  1  25  11  7  1  18
19th  181  132  3  315  165  148  3  315
20th  11  8  1  19  9  3  1  12
21st  31  11  2  44  31  11  2  44
22nd  28  17  2  47  26  10  2  44
23rd  16  4  2  20  12  8  2  20
24th  87  64  4  155  73  73  4  151
25th  19  4  1  24  18  5  1  23
26th  22  11  1  32  20  12  2  32
27th  26  5  1  32  19  6  1  31
28th  8  1  1  10  7  1  1  9
29th  6  9  1  15  6  9  1  15
30th  8  5  1  13  6  7  1  13
31st  11  6  1  18  12  5  1  18
32nd  22  10  3  32  20  13  3  33
33rd  10  2  0  12  7  5  0  12
Orleans  382  359  21  1162  316  816  21  1151

*Balots on which member voted both election and merits.

Out of State and ballots on which no district was indicated.

Note: 6,533 ballots were mailed. 5,384 valid returns were received or approximately 417.66. Additionally 41 void ballots were received bringing total return to 9,338.

The Judiciary Commission of Louisiana

TO THE CHAIRMAN AND MEMBERS OF THE JUDICIARY COMMITTEE
OF THE LOUISIANA CONSTITUTIONAL CONVENTION:

The Judiciary Commission of Louisiana has carefully considered Section 27 of the Committee's proposal relative to the structure and authority of the Judiciary Commission. The Commission suggests the following changes in the proposed Section 27:

Paragraph (A) on membership: The Committee proposal calls for nine (9) members on the Commission, consisting of three (3) judges, three (3) attorneys, and three (3) citizens. The Judiciary Commission feels that increasing the membership from seven (7) members to nine (9) members would not be of any positive benefit to the work of the Commission. This would possibly result in a lessening of the responsibility of the individual members and would increase the number of situations in which the members would find difficulty in reaching agreement, all of which would delay and hinder the work of the Commission. The Commission feels that the aims and desires of this Judiciary Committee could be satisfied by retaining the present seven-member Commission as follows: three (3) judges (instead of 4 judges as at present), two (2) attorneys (same as at present), and two (2) citizens (instead of 1 as at present). The Commission feels that the appointment of the members should remain as it presently is, that is, the judges members should be selected by the Supreme Court; the attorney members should be selected by the Bar Association; and the citizen members should be selected by the Judicial Council.

Paragraph (E): The Commission recommends that the words "or conduct while in office which would constitute a felony," as contained in the Committee proposal, should be deleted. The Committee was asked by the District Judges' Association to make this representation. The Commission agrees that the language should be deleted for the reason that it is unnecessary; any judge who engages in conduct while in office which would constitute a felony could certainly be proceeded against by the Commission under other language in the same paragraph wherein the words "willful misconduct relating to this official duty" (including off-duty misconduct in violation of law; see the Hagerty decision) is used.

Present Paragraph (D) contains the following provision: "An order of removal or involuntary retirement by the supreme court may provide for the disqualification of the justice or judge from holding judicial office in this state thereafter, either permanently or for a specified period." The Commission recommends that this provision be retained by this Committee. The Supreme Court should be given the discretion to invoke this disqualification in serious cases where the public good requires it, the public, particularly the public from parts of the state other than the area from which the particular judge comes, is not likely to understand how a judge who is removed from office for receiving bribes to fix cases, for example, could be allowed to run again for the office.

Paragraph (F) provides: "Action against a judge under this section shall not preclude disciplinary action against him with respect to his license to practice law." This Committee's proposal has deleted that provision. The Judicary Commission recommends that the provision be restored. Without that paragraph in the new Constitution, we would probably revert to the law as it was under the jurisprudence as set forth in In Re Jones, 232 La. 729, 12 So. 2d 795, and In Re Cigalla, 202 La. 736, 12 So. 2d 708 and before the Commission was created. These opinions held even though a judge misbehaves, to the point of being removed from the bench by the Supreme Court, no action could be maintained to revoke his license to practice law because of the then constitutional limitation on punishment for improper acts of judges. At that time the Constitution only provided for removal from the bench.

To revert to the old position would be very disadvantageous. Perhaps the following example will illustrate the point.

Suppose charges are brought and the Supreme Court convicts a judge for accepting a bribe and removes him from the bench. Under the old rule he could immediately go back to the practice of law, without fear of an action on his license by the Committee on Professional Responsibility.
RESOLUTION

WHEREAS, the Judiciary Committee of the Constitutional Convention of 1973 adopted a resolution that:

A. The Supreme Court shall elect a Chief Justice by a majority vote and;

B. The Chief Justice shall be chief administrative officer of the judicial system of the State, subject to rules adopted by the Court.

WHEREAS, after discussion on the subject matter, BE IT RESOLVED that the Louisiana Clerks of Court Association is unanimously in favor of retaining the present provisions of Article VII, Section 7 of the Constitution of the State of Louisiana in reference to the vacancy of the Chief Justice and to the powers thereof and that the above proposed resolution be rejected by the Judiciary Committee.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to each member of the Judiciary Committee of the Constitutional Convention.

Adopted: May 28, 1973 at a meeting of the Louisiana Clerks of Court Association duly called.

Judge James L. Dennis
Ouachita Parish Court House
Monroe, Louisiana 71201

Dear Jim:

I am enclosing herewith some information I received which I think should be forwarded to you as Chairman of the Committee on Judiciary.

With best personal regards, I am

Very truly yours,

E. L. Henry

National Center for State Courts

725 Madison Place N.W.
Washington, DC 20005

June 11, 1973

Honorable E. L. Henry
Speaker of the House
State Capitol
Baton Rouge, Louisiana 70804

Dear Mr. Speaker:

During my recent appearance before the Judiciary
Sincerely yours,

Winlow Christian

Committee of the Constitutional Convention some members expressed interest in getting out of money bail in criminal cases. This can be done if a new procedure can be substituted, providing for conditioned releases, or for detention without bail in cases where the public safety so requires.

Attached is a memorandum which proposes such a procedure. The proposal differs from the "preventive detention" provisions now in force in the District of Columbia in particular, most notably in that the text includes a speedy trial provision designed to guard against abuse of the detention procedure.

I hope that this proposal will be useful to the Convention. If I can be of further assistance please let me know.

Winlow Christian

National Center for State Courts

725 Madison Place N.W.
Washington, D.C. 20005
(202) 639-2588

June 11, 1973

MEMORANDUM

To: Chairman, Constitutional Convention of Louisiana

From: Winlow Christian

Re: Louisiana Constitutional Amendment Abolishing Money Bail

Below is presented a copy of the present provision of the Louisiana Constitution concerning release pending trial and pending appeal, a proposed amended text of that section, and a sentence by sentence explanation of the proposed text. Wherever possible, the language and the form of the current section have been retained. All deletions and revisions of old language are noted in the analysis of the proposed section.

-2-

LOUISIANA CONSTITUTION

Article I, Section 12

Current Section:

"Section 12. Excessive bail or fines, cruel and unusual punishment, offenses not bailable."  

1. Section 12. Excessive bail shall be required, or excessive times  
2. imposed, or cruel and unusual punishment inflicted. All persons shall  
3. be bailable by sufficient surety, except the following:  
4. Persons charged with a capital offense, where the proof is evident or the presump-  
5. tion great. Persons convicted of felonies, provided that where a minimum  
6. sentence of less than fifteen years is actually imposed; bail  
7. shall be allowed pending appeal until final judgment,"  

Proposed Section:

"Section 12. Excessive fines, cruel and unusual punishments, release pending trial and pending appeal, offenses for which release prohibited.

1. Section 12. Excessive fines shall not be imposed, nor cruel and  
2. unusual punishment inflicted. All persons shall be eligible for release  
3. prior to judgment, except persons charged with a capital offense where  
4. the proof is evident or the presumption great. The legislature may pro-  
5. vide procedures for the detention of a person accused of a felony upon  
6. a judicial determination that the person will, if not detained, probably  
7. fail to appear for further proceedings or probably commit a felony while  
8. at large. If detention is ordered, the accused shall be entitled to be  
9. brought to trial within thirty days after commencement of detention or  
10. to secure dismissal, with prejudice, of the charges under which pre-  

Judgment detention was ordered. Release may be allowed pending  
appeal, after conviction of a criminal offense where a minimum sentence  
of less than five years imprisonment is actually imposed. Release,  
provided in this section, shall be conditioned on the following:

1. As provided in this section, shall be conditioned on the following:
2. The defendant may not be released, and the following conditions shall apply:  
3. No release shall be made if the defendant has previously been convicted of a  
4. capital offense or a felony. The defendant shall be required to post an  
5. amount of bond sufficient to ensure his appearance at the trial. The  
6. defendant shall be required to post an amount of bond sufficient to ensure  
7. his appearance at the trial. The bond shall be in the amount of two  
8. times the amount of the criminal fine imposed. The defendant shall be  
9. required to appear at the trial, and, if convicted, to serve the sentence  
10. imposed, unless the court determines that the defendant is unlikely to  
11. fail to appear for further proceedings or probably commit a felony  
12. while at large. If conviction is ordered, the accused shall be entitled to  
13. be brought to trial within thirty days after commencement of detention or  
14. to secure dismissal, with prejudice, of the charges under which pre-  

Analysis of the Proposed Section:

Excessive fines shall not be imposed, nor cruel and unusual punishment inflicted." (proposed, Lines 1-4.) This sentence is identical to the first sentence of the current section (current, Lines 1-2) except that the reference to bail has been deleted, to be elaborated upon in the subsequent sentence.

The current section addresses two clearly separate topics: (1) Excessive fines or cruel and unusual punishment and (2) release pending trial and pending appeal. Under the proposed section these two subjects are dealt with separately: the first sentence deals with punishment, and the remaining sentences all concern release.

"All persons shall be eligible for release prior to judgment, except persons charged with a capital offense where the proof is evident or the presumption great." (proposed, Lines 1-2.) The previous proposed sentence did not provide that all persons were to be "released," but rather that all persons, except for those charged with a capital offense, were to be "eligible for release." The proposed sentence immediately above gives the legislature the authority to set procedures to decide who shall actually be released or detained, but limits that authority to the provision of procedures for the detention of two specific groups: (1) those persons accused of a felony for whom it is judicially determined that they will probably fail to appear for further proceedings and (2) those persons accused of a felony for whom it is judicially determined that they will probably commit a felony while at large.

While the term "felony" in line 5 may not, by present definition, adequately define those persons requiring detention, the Legislature, by reclassification of offenses, may better approximate the specific group of offenses which detention appears appropriate. The term "felony" is useful in providing some minimal restriction on the class of persons for which a judicial determination concerning detention will be made.

"If detention is ordered, the accused shall be entitled to be brought to trial within thirty days after commencement of detention or to secure dismissal, with prejudice, of the charges under which pre-judgment detention was ordered." (proposed, Lines 13-15.) This provision for a speedy trial of all persons charged with a capital offense is required to be included in this provision for failure, by perhaps, the most effective safeguard against abuse of the detention provision. A sanction of dismissal "with prejudice" is provided for failure to bring the defendant to trial within the thirty day limit; a provision allowing the prosecution to refile after such a dismissal would seriously undermine the effectiveness of the entire provision.

The use of the phrase "shall be entitled" (proposed, Line 8) allows the defendant to waive the speedy trial requirement, but assures that it will be available if required.

"Release may be allowed pending appeal, after conviction of a criminal offense where a minimum sentence of less than five years imprisonment is actually imposed." (proposed, Lines 11-13.) This provision for release after trial is taken from the last sentence of the current provision (current, Lines 5-7), but with the following changes: "persons convicted of felonies" has been changed to "persons convicted of a criminal offense" so as to make clear that persons convicted of misdemeanors are also eligible for release; the phrase "at hard labor" (current, Line 6) has been deleted as an unnecessary modifier; and the sentence structure has been changed to make it grammatically correct.

"Release, as provided in this Section, shall be conditioned on the following conditions:  
1. As provided in this Section, shall be conditioned on the following conditions:  
2. The defendant may not be released, and the following conditions shall apply:  
3. No release shall be made if the defendant has previously been convicted of a  
4. capital offense or a felony. The defendant shall be required to post an  
5. amount of bond sufficient to ensure his appearance at the trial. The  
6. defendant shall be required to post an amount of bond sufficient to ensure  
7. his appearance at the trial. The bond shall be in the amount of two  
8. times the amount of the criminal fine imposed. The defendant shall be  
9. required to appear at the trial, and, if convicted, to serve the sentence  
10. imposed, unless the court determines that the defendant is unlikely to  
11. fail to appear for further proceedings or probably commit a felony  
12. while at large. If conviction is ordered, the accused shall be entitled to  
13. be brought to trial within thirty days after commencement of detention or  
14. to secure dismissal, with prejudice, of the charges under which pre-  

The most important clause of this sentence provides that "release shall be conditioned . . . on any . . . reasonable condition . . . imposed by the Legislature." This allows the legislature the freedom to set a release system as they choose, not limited to release on bail as the current section may require. The term "reasonable" condition has been included as the midst of limitations on the Legislature.
Honorable James Dennis
Judge
Ouachita Parish Courthouse
Monroe, Louisiana 71201

Dear Judge Dennis:

Please pardon the inexcusable delay in getting this to you. I was of the opinion that it had gone out, but it has not. At the annual convention of the Louisiana District Attorneys' Association held in New Orleans in March, the district attorneys and assistants voted unanimously in favor of your committee, the Judiciary, write the articles dealing with district attorney functions. It was the thinking of the group that the district attorney is a judicial officer. He performs judicial functions in that wide discretion is vested in the district attorney to decide who should be prosecuted and who should not, when, where, etc. The district attorney is charged under the Constitution and under the statutes with being not wholly on the side of the State, but always on the side of the people, protecting the innocent as well as prosecuting the guilty. This is indeed an entirely different function from an advocate whose obligations and responsibilities are completely different.

While the district attorneys do perform in the executive field by representing police juries, school boards, etc., these are collateral duties and should not govern where in the Constitution the district attorney should go.

I trust that you will convey these thoughts to your entire committee.

With kindest regards. I am

Very truly yours,

Edwin O. Ware
District Attorney

April 11, 1973

EXCERPT FROM THE MINUTES
OF THE ANNUAL MEETING
OF THE FOURTH JUDICIAL DISTRICT BAR ASSOCIATION
HELD MARCH 8, 1973

Upon motion duly made by Allen Coon and seconded by J. Buchanan Lee, the following resolution was unanimously adopted:

WHEREAS, the Fourth Judicial District Bar Association, composed of attorneys practicing law in the Parishes of Morehouse and Ouachita, held its annual meeting on March 8, 1973, at the Highland Park Country Club in West Monroe, Louisiana; and

WHEREAS, discussion ensued with respect to maintaining the integrity of the district as it presently exists,

NOW, THEREFORE, BE IT RESOLVED, that the Fourth Judicial District Bar Association goes on record as opposing the alteration or splitting of the Fourth Judicial District presently composed of the Parishes of Morehouse and Ouachita.

CERTIFICATE

I, John C. Blackman, Secretary-Treasurer of the Fourth Judicial District Bar Association, do hereby certify the above and foregoing to be a true and correct copy of a resolution of this Association adopted at its annual meeting held on March 8, 1973, at the Highland Park Country Club in West Monroe, Louisiana; that the same is in full force and effect and has not been revoked, modified or amended.

WITNESS MY HAND, this 8th day of March, 1973.