The Need For Constitutional Revision In Louisiana

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The present Louisiana Constitution completed the twenty-sixth year of its existence on the 1st of July, 1947. It is Louisiana's tenth constitution in a period of 135 years. It has already survived almost twice as long as the average of its predecessors. Only the Constitution of 1812 has thus far been of longer life. That this survival has not been without change, however, is attested by the fact that 219 amendments have been considered necessary to keep the state abreast of the times. The recent action of the state legislature in its mandate to the Louisiana State Law Institute to prepare a draft for a new constitution is an indication that further amendment is not considered sufficient and that an eleventh constitution is in the offing.2

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1. The constitutions are those of 1812, 1845, 1852, 1861, 1864, 1868, 1879, 1898, 1918, 1921. There is some doubt as to the Constitution of 1861. Most authorities regard it simply as an amendment of the Constitution of 1862. Yet the "amendment" was never submitted to the people. See Long, Huey Pierce, Compilations of the Constitutions of the State of Louisiana (1930) 722: The convention called to secede from the Union adopted the constitution of the Confederate states and, "the phraseology of the constitution of 1852 was changed so as to substitute Confederate States for the United States." Shepard's Louisiana Citations (1 ed. 1918) fails to list the 1861 constitution. See Constitutions of the State of Louisiana (Dart's ed. 1932) 536: In March, 1861, the state convention which passed the ordinance of secession in December, 1860, "amended the State constitution of 1852 by inserting the words 'Confederate States' in place of 'United States' with a few other unimportant changes." Jameson, The Constitutional Convention (3 ed. 1878) 241, refers to the convention of 1861 as a "secession convention." See also Le Blanc v. City of New Orleans, 188 La. 257, 70 So. 217 (1915). See, however, Powell, Louisiana's Early Constitutions (1947) The Projet of a Constitution for the State of Louisiana, Expose de Motifs, Louisiana State Law Institute 27-84.

It may be well at this point to appraise critically the 1921 Constitution and to determine the principal objections to which it has given rise. The principal criticisms of the document fall into three categories: first, the difficulties the Constitution imposes upon any attempt to determine the governmental structure and policy of the state; second, the defects in governmental structure and policy which it represents; and third, the abuse of the amending process. It may be well to consider them in this order, even though this may not be the order of their importance. Certainly criticisms of the structure and functioning of government are more important than questions of style and draftsmanship. Yet the most common complaints against the Constitution do concern the length and the difficulties it affords to anyone trying to understand its meaning.

I. THE DETERMINATION OF STRUCTURE AND POLICY

The functions of a constitution include the establishment of a framework of government and the statement of basic governmental policy. No constitution gives a full description of the government it represents and none can be understood without reference to actual practice, and in this country to judicial review. Yet the layman can read and grasp the general notions that underlie the Federal Constitution even if he does not understand the full implications of the commerce clause and due process of law. A layman who starts out to study the Louisiana Constitution, however, is confronted with a Herculean task. He faces the longest constitution of the forty-eight states. The document will trip, entangle, infuriate and then exhaust him. The difficulties presented to the inquiring citizen include the vast detail, the dispersion of subject matter, confusing terminology, inconsistencies, errors, references to other legal documents, informal amending procedures, duplication of material, contradictions and omissions.

It should be emphasized in connection with these technical problems that they are to a large extent removed by the judiciary when a case concerning them comes before the courts. The courts are compelled to remedy these difficulties by common sense ruling.

Nor is it maintained that any of these have produced pronounced injustices. There is no evidence that they have. Many of the examples taken singly would even appear to offend only the most literal of critics. It should be borne in mind, however, that for each defect referred to, the Constitution contains many additional examples and it is their accumulation that appears to justify revision.

The plethora of detail. One of the most important of these difficulties is that of extricating the fundamental policy of the Constitution from the mass of detail presented. If the citizen is interested in revenue, finance and taxation, for example, he will have to digest approximately thirteen and one-half pages to find that the Constitution itself levies a one cent tax on motor fuel and that the proceeds are dedicated to three different purposes. These pages abound in such phrases as “All volatile gas-generating liquids having a flash point below 110 degrees F., commonly used to propel motor vehicles or motors.”

Similarly, in order to be able to understand the executive branch, the reader must wade through twenty-five pages of detailed provisions on the highway system, thirteen pages on education. The student of local government is confronted with over twenty-eight pages in one article on the government of Orleans alone, baffling with extensive detail about the Vieux Carre Commission, Sewerage and Water Board, public improvement bonds, paving certificates, the Public Belt Railroad, et cetera.

The dispersion of subject matter throughout the Constitution. Even if the citizen can see the forest in spite of the trees in each particular article of the Constitution, he is merely beginning the search for the fundamental law. It will appear to the reader that the provisions on any particular field of public law are scattered almost diabolically throughout the document. A part of this difficulty is inherent, of course, in all constitution making. It would be impossible to secure airtight compartments in so basic a document. Each branch of government is defined not only in its own articles but also in terms of the powers of and restrictions upon the other branches. The criticism of the Louisiana Constitution, how-

4. Article VI-A. Indicative of such detail are technical definitions of gasoline, tractor fuel, requirements for reports of dealers, and penalties for delinquent taxpayers.

5. See Art. XIV, §§ 20-82. See also Art. VIII, § 1(e) where the details concerning the procedure for registering obscure the suffrage qualifications.
ever, is that it represents so aggravated a case of dispersion. Article X, for example, is the general article on revenue and taxation. Yet Article XIV on parochial and municipal affairs contains a provision regarding the gasoline tax. Article XIX covers prescription of taxes; Article VI-A levies a one cent motor fuel tax; Article XII on public education provides ad valorem taxes; Article VI, on administrative offices and boards, provides for gasoline, auto license, and kerosene taxes. The scattered provisions on the executive are even more extensive. The effect of this dispersion is to require a combing of the entire Constitution for an understanding of any of the functions or units of government.

Confusing terminology. At every stage of the process of attempting to understand the Constitution, the reader is hampered by the absence of clear and precise terminology. This is exemplified in the field of special elections for local bond issues or taxes. These are in practice voted upon by the qualified voters who are property taxpayers; yet the suffrage requirement is stated in various sections of the Constitution as "resident property taxpayers," "public tax payers," "property tax-payers," "qualified property taxpayers," "duly qualified tax payers," and "the tax-paying voters." The six requirements, if interpreted literally, would not be identical.

8. Art. XII, §§ 14, 17.
10. The executive branch is concerned in almost every article. For examples see: Art. III, §§ 26, 27, 30, 31, 82, 84, 85, 89; all of Arts. V and VI and a large part of VI-A; Art. VII, §§ 55, 56, 57; Art. VIII, § 14; nearly all of Art. IX; Art. X, §§ 2, 12; Art. XII; Art. XIV, §§ 14, 15, 21; all of Art. XVII; nearly all of Art. XIX; and all of Art. XX. See Arts. VIII, VII, and XIV, for elections. With regard to local government, the scattered provisions among others are: Art. VI, § 19; Art. X, §§ 5, 8, 10, 13, 17, 19 (this last provision expired in 1925 but remains in the constitution); Art. XII, § 15; Arts. XIV, XV, XVI, XVI-A.
11. The frequency with which the phrases "subject to the provisions of this constitution" and "unless otherwise provided" occur in a recognition of this problem.
15. Art. XIV, § 14k.
17. Art. XIV, § 14m.
18. For discrepancies as to the vote required for deciding such questions compare Art. X, § 10, and Art. XVI, § 2, with Art. XIV, §§ 8(b), 14(p) and 19. See also Art. XIV, § 88, where authorization must be by a majority vote of the property taxpayers of the entire parish or any ward who are qualified to vote with no reference to any amount of property. The terms used for electors include "electors" (Art. VIII, § 10), "qualified voters" (Art. VIII, § 8), "registered voters" (Art. VIII, § 4).
The reference to the same office by two titles is equally confusing. Although Article VI, Section 26, abolishes the office of Supervisor of Public Accounts, the office in Sections 3 and 5 of Article VI-A is still referred to as the Supervisor of Public Accounts. There is a similar confusion regarding the Board of Liquidation of the State Debt. The membership of this board has also been changed, but the original membership still remains in the Constitution.

It is not unusual to find references to material supposedly contained in the document but omitted. For example, the governor and lieutenant governor are to be selected by popular election at the time and place of voting for representatives and by those qualified to elect representatives, yet nowhere in the Constitution is there a specific provision for the election of representatives or the requirement for voting in such election, but only the general provision for the election of legislators, the time of the general state election and the general suffrage provisions.

A more serious confusion results from the looseness of the use of such words as "shall," "must," "is directed to." Careful drafting could do much to distinguish clearly between the discretionary powers and the mandatory duties of the legislature. Yet in the pres-

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19. Art. III, § 28, also mentions this office. Although abolished, it is listed in twenty-four places in the index of the Constitution.

20. The "Board of Liquidation of the State Debt" is referred to in Art. IV, §§ 1(a), 2(a), 12, 12(a); Art. XXIII, § 1; Art. XVIII, § 8(a) and (b). The "Board of Liquidation" is referred to in Art. XVIII, § 6. The "State Board of Liquidation" is referred to in Art. XVIII, § 6 and Art. X, § 11. The "Board of Liquidation of the State Debt of the State of Louisiana" is referred to in Art. VI, § 24.1; the "Board of Liquidation of the State Debt of Louisiana" is referred to in Art. VI, § 22(d). See Appendix I of Part I.

21. Art. IV, § 1(a), amended in 1944 lists as members the governor, or his executive counsel, lieutenant governor, speaker of the house of representatives, chairman of the house appropriations committee, chairman of the senate finance committee, auditor, and treasurer. Art. IV, § 2(a), as amended in 1942 lists as members the governor, lieutenant governor, speaker of the house of representatives, attorney general, secretary of state, auditor, and treasurer. Art. X, § 11, as amended in 1982, lists the membership of the "State Board of Liquidation" as the following: the governor, lieutenant governor, attorney general, secretary of state, state auditor, state treasurer, and speaker of the house of representatives.

22. The Constitution provides that the district attorney be elected at the same time and for the same term as is provided for the district judges, then that district judges be elected at such time as is "prescribed by law," Art. VII, § 38; Art. VII, § 58. Also Art. VII, § 61 provides that "the said assistant district attorneys shall possess the qualifications hereinabove provided for, and shall be clothed with all the powers of district attorneys under the Constitution and laws of the State." There are no qualifications "hereinabove provided for" for assistant district attorneys although there are for district attorneys.

23. The lack of uniformity in terminology is reflected in the spelling employed in the constitution. "Taxpayers" for example is spelled in three different ways in the document: "taxpayers" (Art. X, § 10), "tax-payers" (Art. XIV, § 14(p)), and "tax payers" (Art. XIV, § 19). In the last mentioned subsection the word is spelled both "taxpayers" and "tax payers."
ent Constitution the absence of consistent terminology has made this impossible. For example, the Constitution provides that the legislature “must and shall provide” ten million dollars per annum for the State Public School Fund, yet it makes special provision for the fund until the legislature does as directed.24

Sometimes the sentence structure of the Constitution presents serious pitfalls to the reader. Article XIV, Section 33, for example, authorizes bonds for the erection and maintenance of industrial plants. It reads “the Police Jury of any Parish may, as the governing authority of the Parish or any Police Jury Ward thereof, when authorized by a majority vote of the property taxpayers of the entire Parish or any Police Jury Ward, who are qualified to vote under the Constitution and laws of this State, incur debt and issue negotiable bonds for the payment thereof.” Interpreted literally it would suggest that the police jury could exercise the powers granted in the

24. Art. XII, § 14. The courts have on occasion interpreted the “shall” in the constitution as directive rather than as mandatory. In City of Shreveport v. Dale, 149 La. 459, 99 So. 408 (1921), and State v. Harris, 47 La. Ann. 886, 17 So. 129 (1896), the “court indicated its opinion” that Art. III, § 7, providing for the style of the laws was directive rather than mandatory. Section 7 of Article III reads, “The style of the laws of this State shall be: ‘Be it enacted by the Legislature of Louisiana . . . .’” The legislature has similarly used its own discretion in interpreting “shall,” “must,” “is directed to.” Consider for example the provision of Art. III, § 2, “the Legislature shall, and it is hereby directed to, apportion the representation among the several parishes and representative districts on the basis of total population” after each United States census. The legislature has not reapportioned although there have been two censuses since the adoption of the 1921 Constitution. This raises the question as to the effectiveness of constitutional mandates to the legislature that cannot be enforced.

The usual form for legislative mandates in the Constitution is “the Legislature shall.” This form is found in Arts. III, §§ 3, 18, 19; V, §§ 2, 20; VI, §§ 11, 12, 18, 19, 21, 22(a); VII, §§ 8, 13, 16, 17, 19, 37, 38, 41, 45, 55, 59, 73, 81; VIII, §§ 4, 5, 12, 15, 17; X, §§ 18, 21; XII, §§ 4, 8, 10, 14, 18, 23; XIII, §§ 1, 5, 6; XIV, §§ 8, 9, 14(m), 16(a), 18, 21; XV, § 2; XVII, §§ 1, 4; XVIII, §§ 1, 4, 8; XIX, § 8; XXI, § 1.

Another frequent form used is to direct that something “shall be” done. The matter in question is something that only the legislature has authority to do. This is used in Arts. III, §§ 17, 24, 26, 27, 28, 35, 39; IV, §§ 9, 10; V, § 15; VI, §§ 18, 15, 22(a); VII, §§ 28, 62, 59; IX, § 2; X, §§ 1, 4(9a), 4(9b), 11; XII, §§ 9, 17; XVI, § 1; XVIII, §§ 2, 5; XIX, § 17.

Other forms used include:

“the Legislature shall, and it is hereby directed to , apportion,” Art. III, § 2.

Revenue bills “shall originate,” Art. III, § 22.

“Every law enacted by the Legislature shall embrace but one object . . . .”, Art. III, § 16.

The legislature “shall enact laws necessary to carry these provisions into effect,” Art. III, § 28; or “to secure fairness” in elections; Art. VIII, § 4.

“It shall be the duty of the Legislature,” Art. III, § 36.

“laws to be hereafter passed,” Art. VI, § 7.

“The Legislature is hereby directed,” Art. VI, § 14.

“the Legislature must and shall provide,” Art. XII, § 14.

“the Legislature . . . . is required to,” Art. XXII, § 1.
section for the whole parish with the approval only of a majority of
the taxpayers of "any Police Jury Ward."

Inconsistencies. If the examples just referred to cause confusion
from the failure to use a consistent terminology, another practice of
the Constitution produces similar confusion. Specific authorizations,
mandates and prohibitions are written into the Constitution with no
regard for the general implications involved. A well drafted consti-
tution would represent a careful consideration of this problem. Con-
sider, for example, the fact that the legislature is directed to make
appropriations for the salaries of the judges of the courts of appeal
but is not directed to make appropriations for the judges of the
supreme court. The legislature is directed to "make appropriations
for the clerical and other expenses" of the offices of auditor, trea-
surer, secretary of state, register of land office, commissioner of agri-
culture and immigration, commissioner of conservation, but is not
similarly directed with regard to the attorney general's office, state
board of education, or the other constitutional and statutory offices
of the state.

The specific authorization in the Constitution that the state
treasurer may succeed himself suggests by implication that the
other constitutional officers cannot succeed themselves. With
regard to special bond and tax elections, in only two of a dozen cases
does the Constitution require that the taxpayers voting at the election
have been assessed for property in the year previous in the unit af-

28. Similarly, Art. VIII, § 8, provides that on questions submitted to tax-
payers as such the qualifications for voting shall be those of age, residence and
registration as prescribed by the constitution without regard to sex. Does this
imply there shall be a regard for sex in other types of elections?

Consider also the following:
Art. VI, § 22(c), states: "Except as otherwise provided in this amendment
or until otherwise provided by Constitutional Amendment, no debt shall be
created or certificates of indebtedness or bonds issued, . . . "

Art. XI, § 2, contains a third paragraph which if not unnecessary is inco-
sistent with the general rule employed in the Constitution. It prohibits officers
of the state from violating the rights and privileges declared in this section. It
is not necessary for the Constitution to expressly prohibit officers from violating
its principles.

Art. VII, § 38, is unique in that it provides that district judges shall be
elected by "a plurality of the qualified voters of their respective districts" while
all other officers whose elections are provided for by the Constitution are elected
by "the qualified electors."

There is an interesting inconsistency between the qualifications for the offices
of justice of the peace and constable; the former are required to be able to
read and write the English language correctly, whereas, the latter have only to
be able to read and write the English language. Art. VII, §§ 47 and 49.
or "as shown by the last assessment made prior to the submission of the proposition." Is one to infer that in the other elections some other procedure may be authorized?

Errors. Many sections of the Constitution can be explained only on the basis of error. Although the judiciary may here also remedy the mistakes by interpretation of intent, the difficulty remains for the reader. There are, for example, two sections 14(a) of Article XIV, and subsequent sections refer to 14(a) without specifying which is intended.

Article VII contains ninety-seven sections on the state court system. Section 71 on the parish coroner reads “provided, this article shall not apply to any parish in which there is no regularly licensed physician, who will accept the office.” Interpreted as written this would mean that the parish without a licensed physician as coroner would ipso facto be removed from the judicial system of the state, surely a heavy penalty to pay for such a misfortune. Article VIII contains most of the provisions regarding the qualifications for voting and holding office and for the conduct of elections. A stipulation of Section 13 of this article is “that this article shall not apply to superintendents of public schools.” If this were interpreted as written the superintendents of public schools would be free agents as far as suffrage and elections are concerned.

31. This may have occurred because the legislature assumed that one would be defeated when the amendments were submitted to the people at the same general election. It does not add to the clarity of the document, however.

The following sections contain references to Section 14(a) of Article XIV:

a. The first paragraph of Section 14(g) grants certain authority to "any political subdivision specified in Section 14(a) of this Article as amended."

b. The second paragraph of Section 14(g) authorizes such political subdivisions to secure payment of refunding bonds by levying of special ad valorem taxes "as provided in Section 14(a) of this Article."

c. Section 14(f) contains a reference to Section 14(g) above, as does Section 14(k-1).

d. The following sections have references to Section 14 of Article XIV which would naturally include Section 14(a): Art. XIV, §§ 6, 14(d-1), 14(m), 14(o), and 14(p).

La. Act 888 of 1946, amending Art. VIII, § 6. The Carville amendment is so worded as to allow all inmates of Carville to register and vote, regardless of mental, moral, or physical qualifications.

La. Act 266 of 1926 and La. Act 204 of 1928, both proposed to add a new Section 25 to Article VI. The secretary of state adopted Dart's numbering, and Act 266 was numbered 25.1.

La. Act 62 of 1932, La. Act 189 of 1932 and La. Act 148 of 1932 all proposed to add a Section 81 to Article XIV. Here again, the secretary of state adopted Dart's numbering, and Act 62 is now Section 81.2, while Act 148 is Section 81.1. In the 1946 election two Sections 8 to Article XVIII were added, one by La. Act 414 of 1946, another by La. Act 410 of 1946. These are still so numbered in the amendments as printed by authority of the secretary of state.
Occasionally the Constitution produces such remarkable sentences as "the legislature... may, by general law and within the limitations and conditions *therein* contained, authorize fire protection districts..." The legislature is thus limited by its own law.

It appears that one section of the Constitution has been omitted by mistake. Section 27 of Article XIV originally authorized the City of New Orleans to borrow five million dollars, to be expended on the Public Belt Railroad system for the purchase of equipment, land and supplies and to meet operating expenses. The first amendment to this section, by Act 45 of 1938, authorized the city to borrow an additional two million dollars for refunding purposes, to meet payments on maturing bonds. The second amendment, by Act 391 of 1940, allowed the city to borrow another half-million dollars by bonds and notes for the same purpose. Each amending statute specified that it was to amend "Section 27 of Article XIV of the Constitution of Louisiana, by *adding* thereto" the new provisions. The 1942 compilation of the Constitution did not add the amendments to the original text; it omitted entirely the original passages and those included in the amendment of 1938, and used only the provisions of the 1940 act. There is no authority, therefore, on the face of the official compilation, for the City of New Orleans' indebtedness of seven million dollars.

References to other legal documents. Frequent complaint is made that the Constitution of 1921 is too long. Yet its 242 printed pages give no real indication of actual length. The Constitution includes by reference sections of previous state constitutions and laws, federal statutes, municipal ordinances, and resolutions and contracts of boards. The present Constitution gives some degree of constitutional status to 179 of these documents. If the Constitution actually included all of them, it would be more than three times its present size. The statutes and provisions of previous constitutions alone

32. Art. XIV, § 14 (d-l).
33. *Louisiana State Law Institute, Constitutional Problems No. 48, Index to Statutes and Other Legal Material Referred to in the Constitution of 1921, Central Research Staff, Constitution Revision Project* (July, 1947).

There are two references to federal acts, seven references to early Louisiana constitutions, four references to contracts of the Board of Commissioners of the Port of New Orleans, three references to New Orleans city ordinances and one reference each to a Shreveport council resolution and a resolution of the Board of Liquidation of the State Debt. *Louisiana State Law Institute, Constitutional Problems No. 43, Materials for the Consideration of the General Committee at*
amount to 354 pages of material. In order to understand the Constitution, knowledge of these may be essential. Consider Article XIV, Section 23.1, which authorizes a two mill tax for sewerage, water and drainage in New Orleans. The use and expenditure of the proceeds of the tax are to be governed by the provisions of Act 6 of the Extra Session of 1899 "and all laws" amendatory thereof. This act has been amended by Acts 85 of 1902, 111 of 1902, 69 of 1904, 38 of 1910, 189 of 1924, 229 of 1936, 230 of 1936, 140 of 1940, 101 of 1942, 15 of 1944.

Another type of reference to statutes establishes a form of constitutional abbreviation. The state and city civil service laws, for example, are embodied in the Constitution by reference. The maximum rates of the income tax are even fixed by reference to House Bill 339 of the regular session of the year 1934.

The July 17 Meeting, Central Research Staff, Constitution Revision Project (July, 1947) 11.

"Federal statutes." Illustrations:

"Sections of previous constitutions." Illustrations:

"Resolutions and contracts of boards." Illustrations:
Art. VI, § 16, refers to the following contracts of the Board of Commissioners of the Port of New Orleans:
1) with Board of Levee Commissioners of Orleans Levee District, June 29, 1918.
2) with City of New Orleans, August 16, 1918.
3) with Board of Levee Commissioners of Orleans Levee District, February 26, 1919.
4) with Board of Levee Commissioners of Orleans Levee District, November 14, 1919. Art. IV, § 12(a), refers to a resolution of Board of Liquidation of State Debt of March 13, 1940.

"Municipal ordinances." Illustrations:

34. Louisiana State Law Institute, Legal Material Referred to in the Constitution, Series I-16, Central Research Staff, Constitution Revision Project (1947).
35. Louisiana State Law Institute, Constitutional Problems No. 48, op. cit. supra note 33.
37. Art. X, § 1. This became La. Act 21 of 1934. A particularly involved example of this problem is found in Art. XIV, § 24. One section of an act embodied in the Constitution by reference is here changed by an amendment to the Constitution. La. Act 4 of 1916 was ratified in Art. XIV, § 24. Section 8 of said act was amended and the amended version of this section is printed in full in the Constitution. This may imply that subsequent legislation could amend all sections of this act except Section 8.
If the inclusion by reference of other legal materials makes it difficult to understand the Constitution, the manner in which they are included increases the difficulty. An illuminating example of this is to be found in Article XIV, Section 24.4:

"... There shall be applied in payment of the principal and interest of the bonds issued under this amendment, unless and until by Constitutional authority same shall be devoted to other purposes, all that surplus in each year, up to the year 1942, of the Public Improvement Funds, as established by Act No. 6 of the Legislature of Louisiana of the year 1899, which shall accrue and be payable to the Sewerage and Water Board of New Orleans under and in accordance with paragraph (b) of Section 8 of Act No. 4 of 1916 (Section 24 of Article XIV of the Constitution of Louisiana), as amended by Act No. 182 of the Legislature of Louisiana for the year 1924, adopted as an amendment to the Constitution of Louisiana at the General Election held November 4, 1924; being that surplus, or amount, remaining in each year in said Public Improvement Fund and consisting of the proceeds of the one-half of the surplus of the one per cent. debt tax, levied under Act No. 110 of the Legislature of Louisiana for the year 1890, and the two mill special tax, levied under said Act No. 6 of 1899, after providing or paying, in each year, the interest on the Public Improvements Bonds, authorized by Act No. 19 of the Legislature of Louisiana for the year 1906 as amended by Act 116 of 1908; provided, however, that nothing herein contained shall authorize said two mills special tax to be levied after January 1, 1942; and provided, further, that nothing herein contained shall affect the levy of said one per cent. debt tax in accordance with existing laws."

Informal amending procedures. Probably as a result of the vast detail in the Constitution, the practice has developed of providing constitutional sanction for changes made other than by formal amendment. No provision has been made for indicating in any official draft of the Constitution the changes so effected. It is difficult for the reader to know, therefore, with regard to these provisions the extent to which the printed Constitution supplied by the secretary of state is authoritative.

The legislature enjoys authority to change much of the subject matter in the Constitution. The authority to consolidate all related executive and administrative offices, boards, or commissions whether
created by the Constitution or not would enable the legislature to change twenty-three provisions of the Constitution. The legislature's authority to change, by a two-thirds vote, all public salaries would enable it to effect changes in twenty-six sections of the Constitution. Its authority to rearrange judicial districts, and by a two-thirds vote change the number of judges, as well as all the provisions covering the criminal courts of New Orleans, would involve fourteen sections of the Constitution. Twenty-eight sections of the Constitution exist only until the legislature provides otherwise.

The inclusion of so many references to statutes in the Constitution raises an interesting question regarding constitutional change. To what extent can the legislature by amending such statutes actually change the Constitution? Act 6 of the Extra Session of 1899 has already been mentioned. This act is referred to in four sections of the Constitution. Two additional sections refer to it "and all amendments thereto." The legislature by amending or repealing this act could perhaps alter the constitutional provision involved. Reference to federal acts similarly would give Congress the authority to that extent to change the state constitution.

In at least one instance the provisions of the Constitution can be changed by the governor. With regard to the State Advisory Board of the Louisiana Highway Commission, for example, the Constitution lists the names of the members. In case of death or resignation the governor is to appoint their successors with the approval of the board.

There is no procedure, as pointed out above, whereby the changes made other than by formal amendment are to be reflected in the printed Constitution. The secretary of state, it appears, sometimes makes the changes, but generally does not. The salaries of most

38. Art. III, § 82.
39. Louisiana State Law Institute, Constitutional Problems No. 43, op. cit. supra note 83, at 12.
40. Art. III, § 84; Louisiana State Law Institute, Constitutional Problems No. 43, op. cit. supra note 83, at 14.
41. Id. at 16, Art. VII, §§ 34, 87.
42. Louisiana State Law Institute, Constitutional Problems No. 43, op. cit. supra note 83, at 17-18.
43. Id. at 1-10. See note 87.
45. Art. VI, § 22(e).

Section 22(e) was added to Article VI by a constitutional amendment submitted to the people in pursuance of Act 8 of 1930. The state advisory board was thereby created, composed of eight elected officials, and eleven specifically named members who were to serve during good behavior. The governor was
administrative officers, for example, have been changed by statute and no longer correspond with those fixed in the Constitution.\(^46\)

**Duplication of material.** Once the Constitution has granted a general authority to perform a certain function, any additional specific provision for such a function represents a form of duplication. It is necessary only in the event there is some doubt as to the extent of the general authorization. In spite of the fact that the Constitution authorizes the legislature, for example, to pass laws to carry into effect proposed constitutional amendments that become operative upon the ratification of the amendments, the Constitution contains many provisions validating and ratifying such legislative action.\(^47\)

Similarly, with the general legislative authority to tax, there are many additional provisions authorizing the legislature to levy specific taxes in spite of the fact that the Constitution provides that “the power of taxation is vested in the Legislature.”\(^48\)

The Constitution is also characterized by actual duplication and repetition. Article I, Section 4, provides “nor shall any preference ever be given to, nor any discrimination made against, any church, sect or creed of religion, or any form of religious faith or worship.” This appears to include the legislative prohibition in Article IV, Section 8, that “no preference shall ever be given to, nor any discrimination made against, any church, sect or creed of religion, or authorized to fill the vacancies occurring in the non-elected group, subject to approval by the majority of the remainder of the board.

The amendment proposed by Act 2 of 1934 changed the roster of members to read as it presently does in the constitution.

Two places are indicated by blanks, although in 1934 Charles H. Hamilton and J. D. O'Keefe of New Orleans are listed as serving in those vacancies by the secretary of state in his report for 1934. The 1947 roster of state officials indicates that only three of those whose names appear in our present constitution by virtue of the 1934 amendment are still members of the board. Thus it is assumed that the governor has exercised his constitutional authority to fill vacancies which occur in the board membership.

\(^46\) Art. V, § 5, provides for the governor's annual salary as $7,500. His actual salary is $12,000. The secretary of state in the 1942 edition of the Constitution has indicated by a footnote that the salaries of judges of the courts of appeal were raised from six thousand to eight thousand dollars by La. Act 2 of 1928. (E. S.). Art. VII, § 19.

\(^47\) Art. XXI, § 2. An example is Art. VIII, § 7(f): “Any legislation adopted at the Regular Session of the Legislature of 1940, based upon this proposed amendment relative to the installation of and balloting by use of voting machines shall be validated and ratified by the adoption of this amendment.” Other legislation validated and ratified by the constitution is found in Arts. VI, § 22(g); X, § 1; XIV, §§ 14(f), 15(b), 30.2, 31; and XVIII, § 8.

\(^48\) Additional provisions authorizing the legislature to levy specific taxes:

**Gasoline Taxes**

General authority to levy—Art. XIV, § 24.1

Mandatory Provisions:
any form of religious faith or worship." The result of duplication
is further to lengthen and complicate the Constitution.

Contradictions. The Constitution contains many provisions that
appear to be contradictory. Section 32 of Article III, for example,
grants the legislature authority to consolidate all executive and ad-
ministrative offices whether created in the Constitution or other-
wise, while Section 1 of Article V prohibits the consolidation of cer-
tain constitutional offices. Article X, Section 4, provides that "the
following property, and no other, shall be exempt from taxation"
and then proceeds to list the exemptions. Yet Article XIV, Section
22A, authorizes the City of New Orleans to exempt property in the
Vieux Carre, and other provisions in the Constitution grant certain
property exemptions.

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Kerosene Tax
General authority to levy—Art. VI, § 22(a)

Gasoline Tax
General authority to levy—Art. VI, § 22(a)

Ad Valorem Property Tax
Mandatory Provisions:
1½ mills—Art. XII, § 17
1¾ mills—Art. XVIII, § 8(a)
2½ mills—Art. XII, § 14

General authority to levy:
½ mill—Art. XVI, § 1

Inheritance Tax
General authority to levy—Art. X, § 7

Severance Tax
General authority to levy—Art. X, § 21

Vehicle License Taxes
1) on autos for private use—Mandatory—Art. VI, § 22(a)
2) on passenger motor vehicles for transporting teachers or pupils—
General authority to levy—Art. VI, § 22(a)
3) on all other vehicles—General authority to levy—Art. VI, § 22(a)

49. For duplication as to procedure in issuing paving certificates for the City
of New Orleans see Art. XIV, § 24.

Art. VII, § 48, expressly prohibits the justice of the peace from exercising
jurisdiction over subject matter over which the district courts have already been
given exclusive jurisdiction: succession or probate matters, or when the state,
parish or municipality or other political corporation, or succession is a party
defendant, Art. VII, § 35.

Other exemptions found in Constitution:
Omissions. In spite of its vast detail the Constitution omits the general statements of policy that enable the reader to understand the nature of Louisiana government. He can, for example, comb the scores of provisions on local government without finding the policy of the state defined in the sense that the following provision from the new Missouri Constitution defines state local relations:

"The general assembly shall provide by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the powers of each class shall be defined by general laws so that all such municipal

Art. VI, § 16: All bonds issued by Board of Commissioners of City of New Orleans shall have the same exemption from taxation, "as was granted by Article 321 of the Constitution of 1913 to the bonds therein authorized."

Art. VI, § 16:2: Board of Commissioners of Port of New Orleans authorized to create and organize industrial districts and to exempt lands and improvements of the industries located therein from state, municipal and parochial taxation for a period not exceeding ten years, but in no case shall this exemption on any lands or improvements extend beyond 1960.

Art. X, § 19: "The governing authorities of any municipality having over forty thousand inhabitants may exempt from municipal taxes until December 31, 1925, four thousand dollars of the value of all dwelling houses built after the adoption of this constitution and actually occupied by the owner."

Art. X, § 22: "Any municipality and any parish, respectively, may exempt a new industry or industries hereafter established therein, or an addition hereafter established to any industry or industries already existing therein, from the payment of any or all general municipal, and any or all general parochial taxes and any or all special taxes levied by such municipality or by such parish . . . provided, submitted to, and approved by majority of taxpayers. The maximum period for the exemption is ten years.

Art. XIV, § 28: City of New Orleans empowered through Public Belt Railroad Commission to build a bridge over Mississippi River and such bridge approaches and appurtenances, and lands, and other things required in the construction or maintenance thereof, shall be exempt from every form of taxation. Art. XIV, § 31.3: Any right of use granted pursuant to this section to any railroad company or companies by City of New Orleans through the Public Belt Railroad Commission shall be exempt from every form of taxation.

The following bonds are exempt from taxation:

Art. XII, § 16: Orleans Parish School Board bonds, negotiable notes, etc. exempt from taxation of every kind.

Art. XIV, § 24.6: City of New Orleans bonds for sewerage lines, etc. exempt from all taxation for state, parish, municipal, or other local purposes.

Art. XIV, § 24.17: Bonds issued by Board of Liquidation of City Debt of New Orleans are exempt from state, parish, municipal, or other local taxes.

Art. XIV, § 27: Bonds issued by City of New Orleans for Public Belt railroad exempt from all taxation for state, parish, municipal, or other local purposes.

Art. XIV, § 28: Public Belt Bridge Fund Bonds issued by City of New Orleans exempt from state, parish, municipal, or other local taxes.

Art. XIV, § 31.3: Bonds issued pursuant to this section are exempt from all state, parish, municipal, or other local taxation.

Art. XIV, § 33: Bonds issued pursuant to these sections are exempt from Art. XIV, § 7(1) taxation.

corporations of the same class shall possess the same powers and be subject to the same restrictions. The general assembly shall also make provisions, by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations.\textsuperscript{52}

The general policy of the state toward its municipalities must be inferred from individual provisions scattered from one end of the Constitution to the other.

If the persevering citizen manages to understand the Louisiana Constitution, this must be in spite of the obstacles discussed above: plethora of detail, dispersion of subject matter, confusing terminology, inconsistencies, errors, references to other legal documents, informal amending procedures, duplication of material, contradictions and omissions.

The conclusion is almost inevitable that a constitution with as much detail as that contained in the present Louisiana Constitution can hardly escape these technical difficulties. They can best be avoided; therefore, by restricting the constitution to the statement of fundamental structure and policy.

\section*{II. \textsc{The Defects of Structure and Policy}}

Once he has overcome the maze of difficulties discussed in the preceding section, the citizen is prepared to consider substantive problems of governmental structure and policy.\textsuperscript{1} If he believes in

\begin{quote}
\textsuperscript{52} Art. VI, § 15, Missouri Constitution.
\end{quote}

1. For background on Louisiana government, see Carleton, The Reorganization and Consolidation of State Administration in Louisiana, Baton Rouge, Bureau of Government Research, Louisiana State University Press (1937); Carleton, Local Government and Administration in Louisiana (1938); Powell, A Primer on Government in Louisiana, Bureau of Educational Materials, Statistics and Research, Louisiana State University (1946).

Constitutional problems not considered in this article but on which bulletins have been prepared:

Louisiana State Law Institute, Constitutional Problems:

No. 1, Permanent Registration, Central Research Staff, Constitution Revision Project (February, 1947).


No. 17, Dummy Candidates, Central Research Staff, Constitution Revision Project (April, 1947).

No. 20, Federal Suffrage Cases, Central Research Staff, Constitution Revision Project (April, 1947).

No. 6, Bill of Rights, Central Research Staff, Constitution Revision Project (August, 1947).

No. 29, The Right to Work, Central Research Staff, Constitution Revision
government operated with a maximum of effectiveness yet responsible to the electorate, he will find ample cause for constitutional revision. Even though he realizes that no constitution is of itself able to produce good government, he is apt to feel that there is little justification for a constitution that makes good government as difficult as it is in Louisiana. It will be the purpose of this section merely to outline some of the principal criticisms of the 1921 Constitution and to present some alternative procedures suggested by the experience of other states and by authorities in the field of state government.

The legislature. The improvement of the legislative process is the crucial element in any program of constitutional revision. A brief constitution will be possible only if a mass of material now provided for by the Constitution is left to the legislature. The people will only be willing to do this, it is assumed, if the legislature is made more responsible and effective than it is at present. The most important indictment of the present Constitution is that it discourages the development of a responsible effective legislative body.

The basic feature of the legislature is its representative nature. To keep the Louisiana legislature representative of the people of this state, the Constitution provides a system of apportionment, directing the legislature after each federal census to reapportion the representatives according to changes in population. From the adoption of the Constitution of 1921 to the present time there has been no reapportionment, with the result that serious discrepancies have developed. One representative at the present time may represent 7,203

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2: A general discussion of the problem of legislatures may be found in the following: Luce, Legislative Procedure (1922); Luce, Legislative Assemblies (1924); Luce, Legislative Principles (1930); Luce, Legislative Problems (1935); Buck, Modernising Our State Legislatures, American Academy of Political and Social Science (1936); New York State Constitutional Convention Committee, Problems Relating to Legislative Organisation and Powers (1938); Walker, Law Making in the United States (1934); Smith, Legislative Way of Life (1940); Chamberlain, Legislative Processes, National and State (1941); Willoughby, Principles of Legislative Organization and Administration (1934); Louisiana State Law Institute, Constitutional Problems, No. 10, The Legislature, Central Research Staff, Constitution Revision Projet (March, 1947).

3. La. Const., Art. III, § 2: "The Legislature shall, and it is hereby directed to, apportion the representation among the several parishes and representative districts on the basis of total population shown by such census. A representative number shall be fixed, and each parish and representative district shall have as many representatives as such representative number is contained in the total number of the inhabitants of such parish or representative district, and one additional representative for every fraction exceeding one-half the representative number."
inhabitants or he may represent 50,427. Thus has representation been kept "equal and uniform." The discrepancies between senatorial representation vary from one senator for 19,598 inhabitants to one senator for 93,036.

The practice of making reapportionment the responsibility of the legislature is generally accepted among the states and is the procedure embodied in the United States Constitution. The difficulty of securing compliance from the legislature, however, has led some states to adopt such other methods as automatic population classification, the initiative or provision for a board or single official to reapportion. In those states where reapportionment is the responsibility of a single official or of a board, interested citizens would presumably have recourse to a court order, in the event of a failure to reapportion.

A second feature of a legislative body is deliberative. It must be not only representative of the people of the state if it is to perform its function effectively, but it must be composed of able citizens with

4. See Appendix I of Part II.
5. Ibid.
8. The legislature is the only apportioning agency in Alabama, Colorado, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, Wyoming and New York. In New York, apportionment is subject to review by the courts. Maine uses an automatic population classification set up in the constitution. Washington reapportions by the legislature or by initiative. A board of apportionment is used in Arkansas, Ohio, and Missouri. In Maryland, the governor reapportions the House, but there is no provision for the Senate. It is the duty of the legislature in California and South Dakota, but if it fails, a board is to reapportion—6 Council of State Governments, The Book of the States (1945-46) 118.
9. The Arkansas Constitutional Amendment Number 28, which created the board of apportionment, gave original jurisdiction (to be exercised on application of any citizen and taxpayer) to the supreme court "to compel by mandamus or otherwise the Board to perform its duties" or "to revise any arbitrary action of or abuse of discretion by the Board in making any such apportionment."
See in this connection Louisiana State Law Institute, Constitutional Problems No. 12: Apportionment, Central Research Staff, Constitution Revision Project (October, 1947).
sufficient time for the extremely specialized business of lawmaking and with adequate technical aids to make intelligent decisions possible. The present Constitution conceives of law making as a part-time job. The regular sessions are limited to sixty days every two years and the legislators are paid on this basis. It is unrealistic to expect intelligent and informed consideration of intricate and complicated problems through such a part-time approach. How can the citizens of the state even expect a legislator to put the welfare of the state first when, in order to live, he must have other employment and thus be subject to other obligations during the major portion of his time? Under these circumstances not only can the legislators give but little time to state problems; to a large extent they are apt to be one-term members. Because the prestige is not sufficient to counteract the inadequate compensation, the turnover is high, and after each election a large percentage of the members will be completely new to the business of law making. There are few technical aids to compensate for these deficiencies. The Constitution provides for a legislative bureau, but its activities are generally confined to a consideration of construction, duplication, and constitutionality of proposed laws.

Other states have recognized the dividends which result from strengthening rather than weakening their legislatures. Nebraska, for example, has blazed a trail by abolishing its bicameral legislature and establishing a unicameral assembly. The proponents of this reform argue that the two houses of the state legislature, in contrast to the United States Congress, represent the same constituents, that the bicameral set up serves more as a means of evading responsibility than as a check of one house upon the other, that the members of a single house legislature can be paid more, that the prestige of being a legislator under such circumstances is greater, and that therefore better men are attracted to the position. After ten years the unicameral legislature is an accepted feature of Nebraska government.

13. For a discussion of the unicameral legislature, see Louisiana State Law Institute, Constitutional Problems, No. 18, The Legislature—Bicameralism vs. Unicameralism, Central Research Staff, Constitution Revision Project (1947); Johnson, Unicameral Legislature (1938); Unicameral Legislatures (Aly ed. 1937); Senning, One-House Legislature (1937); Dobbins, Nebraska's One House Legislature (1941) 30 Nat. Munic. Rev. 511-514; Rousse, Bicameralism vs. Unicameralism (1937); Walch, Complete Handbook on Unicameral Legislatures (1937); Buehler, Unicameral Legislatures (1937).
Although no other state has gone as far as Nebraska, many have adopted other measures for strengthening the legislative process. Six states provide for an annual rather than a biennial session. Twenty-four states provide no limit to the length of the session. Only two states provide for a shorter session than that of Louisiana.

The most important technical service afforded state legislatures has come to be the legislative council. This institution which originated in Kansas in 1933 is now in operation in nineteen states. Although its organization and functions vary from state to state, the essentials are well defined. Its purpose is to assist the legislature in compiling factual information on subjects proposed for legislative action. As such, between legislative sessions, it conducts investigations, holds hearings, undertakes research. When the legislature reconvenes, it will thus have at its disposition the facts required for

14. These states are Massachusetts, New Jersey, New York, Rhode Island, California, and South Carolina.

15. The following states have no limit on the length of regular sessions: California, Colorado, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, and Wisconsin. Of these states, North Carolina and Texas limit the legislature in special session. In addition to the other states which place no limit on regular sessions, Connecticut, Georgia, Kentucky, Minnesota, Montana, New Mexico, North Dakota, South Dakota, Washington, West Virginia, and Wyoming place no limit on special sessions. The Council of State Governments, Our State Legislatures, Report of the Committee on Legislative Processes and Procedures (1946) 20.

16. The states limiting the session to sixty days are Alabama, Arkansas, Florida, Idaho, Kentucky, Louisiana, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah, Virginia, Washington, and West Virginia. Only two states limit their legislatures to a shorter session: they are Wyoming (forty days) and Oregon (fifty days). In some instances the limit is not placed on the number of days but the number of days for which the legislators shall be paid. Arizona, Rhode Island, and Delaware use this method. It is almost as effective as a time limit. Ibid.


18. The nineteen states now having legislative councils are: Kansas (1933), Kentucky (1936), Virginia (1936), Nebraska (1937), Connecticut (1937), Illinois (1937), Pennsylvania (1937), Maine (1938), Maryland (1939), California (1944), Missouri (1943), Alabama (1943), Colorado (1945), Indiana (1945), North Dakota (1946), Arkansas (1947), Minnesota (1947), Utah (1947), and Washington (1947).
an intelligent decision.\textsuperscript{19} The Council generally consists of representatives from both houses and a permanent research staff.\textsuperscript{20}

\textit{Revenue, finance, and taxation.} The Louisiana legislature is further crippled in the exercise of the important powers of taxation and appropriation.\textsuperscript{21} When one considers the provisions of the Constitu-

19. Some of the subjects, for example, investigated by the Illinois council include:

- Current Illinois Highway Problems.
- The Veto Power in Illinois with Special Relation to Adjournment of the Legislature.
- The Stability of the State.
- Pensions for Policemen and Firemen.
- Collecting Delinquent Property Taxes.
- State Regulation of Firearms.

20. Kentucky also has five representatives from the executive branch. In Utah the governor appoints one non-legislative member.

21. Listed below are some of the most helpful references in the field of state revenue, finance, and taxation.

\textbf{TEXTBOOKS ON PUBLIC FINANCE}

Buehler, Public Finance (1940); Groves, Financing Government (1939); Hunter, and Allen, Principles of Public Finance (1940); Jensen, Property Taxation in the United States (1931); Macdonald, American State Government and Administration (1946) chs. 17, 18, and 19; Shults, American Public Finance (1946). See also Sen. Doc. No. 69, Federal, State and Local Government Relations, 78th Cong., 1st Sess. (1943).

\textbf{SPECIFIC PROBLEMS}

\textbf{TAXATION}

Fordham and Lob, Some Plain Talk About the Louisiana General Property Tax (1942) \textit{4 Louisiana Law Review} 469; Fordham and Hunter, Some Observations on the Louisiana Property Tax Collection System (1947) \textit{7 Louisiana Law Review} 459; Hudson, Louisiana Tax Problems (1947) \textit{10 Louisiana Municipal Review} No. 3; Louisiana Revenue Code Commission, Preliminary Report, April 10, 1946. This is a clear, well organized and readable report analyzing the Louisiana tax structure in detail, pointing out the advantages and disadvantages of each tax. The Revenue Code Commission has done another study on natural gas taxation. See also the pamphlets issued periodically by this commission explaining in simple language the defects of the present tax system.

State Times articles of September 16 and 25, 1947, on the Louisiana Tax Structure, which quote from the Revenue Code Commission.

\textbf{INDEBTEDNESS}


\textbf{FINANCIAL ADMINISTRATION}

Louisiana State Law Institute, Constitutional Problems, No. 15, State Revenues: A Comparative Study; Constitutional Problems, No. 19, State Expenditures; Constitutional Problems, No. 31, Constitutional Fiscal Officers of
tion on revenue, finance, and taxation, it appears impossible to work out a comprehensive and flexible plan for matching expenditures with revenues. The Constitution deals with the legislature in this respect as though it were still dominated by carpetbaggers and scalawags. The effectiveness of such a policy is indicated by the fact that only two states in 1946 (New York and California) had a higher gross debt than Louisiana.\footnote{22}

The taxation provisions are illuminating. The Constitution gives the legislature the general authority to tax with one hand and takes it away with the other.\footnote{23} The legislature is authorized to levy certain specific taxes, for example, with no limitation as to amount.\footnote{24} It is authorized to levy other specific taxes at fixed rates or with maximum rates provided by the Constitution.\footnote{25} It is \textit{directed} to levy other taxes with the rate provided by the Constitution.\footnote{26} One tax is levied by the Constitution itself.\footnote{27} A similar variation is demonstrated with the 48 States: Central Research Staff, Constitution Revision Project (April & May, 1947).

\begin{itemize}
\item \textit{The power of taxation shall be vested in the Legislature.}\footnote{24}
\item \textit{The legislature has the authority to levy the following taxes with no limitation as to amount:}
\begin{itemize}
\item gasoline tax—Art. XIV, § 24.1
\item kerosene tax—Art. VI, § 22 (a)
\item tax on all other explosives—Art. VI, § 22 (a)
\item occupational license tax—Art. X, § 8
\item severance tax (except sulphur, on which a rate is fixed)—Art. X, § 21
\item tax on passenger motor vehicles for transporting teachers or pupils—Art. VI, § 22 (a)
\item tax on all other vehicles using the public roads (other than autos for private use, on which a rate is fixed)—Art. VI, § 22 (a)
\end{itemize}
\item \textit{Taxes which the legislature has the general authority to levy at fixed rates or within maximum rates provided by the Constitution:}
\begin{itemize}
\item 1/2 mill ad valorem tax for the maintenance and repair of levees—Art. XVI, § 1
\item income tax—rates not to exceed schedule of House Bill No. 889 of Regular Session of Legislature for 1944—Art. X, § 1
\item inheritance tax—rates not to exceed 3% as to ascendants, descend-ants of surviving spouse, 10% as to collateral heirs, and 15% as to others—Art. X, § 7
\item severance tax on sulphur—rate fixed at $1.03 per long ton of 2240 pounds—Art. X, § 21
\end{itemize}
\item \textit{Taxes which the legislature is directed to levy with rate specified:}
\begin{itemize}
\item gasoline taxes:
\begin{itemize}
\item 1¢ tax—Art. VI, § 22 (a)
\item 4¢ tax—Art. VI, § 22 (a)
\end{itemize}
\item ad valorem taxes:
\begin{itemize}
\item 1/2 mill—Art. XII, § 17
\item 3/4 mill—Art. XVIII, § 3 (a)
\item 2 1/2 mill—Art. XII, § 16
\item Bank tax—Art. X, § 9
\end{itemize}
\item Vehicle license tax on automobiles for private use—Art. VI, § 22 (a)
\item 1¢ gasoline tax—Art. VI-A
\end{itemize}
\end{itemize}
regard to the policy of exemptions from taxation. Six of the constitutional taxes make no provision for exemption. The legislature is specifically authorized to make "reasonable" exemptions in the case of two taxes, while the Constitution itself specifies the exemptions for four taxes.

Even the collection of certain taxes is provided for by the Constitution. Approximately ten pages are devoted to the purely administrative details of collecting the one cent motor fuel tax and approximately three pages to the collection of the ad valorem tax. As to the others the legislature is given considerable discretion.

The constitutional provisions for borrowing have also been the subject of criticism. The 1921 Constitution made no provision whereby the legislature might borrow as a means of financing long term improvements. There is a general acceptance of the fact that certain

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28. **Taxes with no provision for exemption:**
   - gasoline taxes (excluding the 1¢ tax levied by Constitution in Art. VI-A which does provide for exemptions)—Art. VI, § 22 (a)
   - kerosene tax—Art. VI, § 22 (a)
   - tax on all other explosives—Art. VI, § 22 (a)
   - severance tax—Art. X, § 21
   - bank tax—Art. X, § 9
   - vehicle license taxes—Art. VI, § 22 (a)

29. **Reasonable exemptions allowed:**
   - Income tax—Art. X, § 1
   - inheritance tax—Art. X, § 7

30. **Constitution specifies exemptions for:**
   - ad valorem tax—Art. X, § 4
   - occupational license tax—Art. X, § 8
   - inheritance tax—Art. X, § 7 (although the Constitution provides that "exemptions to a reasonable amount may be allowed" it also provides that "donations and legacies to charitable, religious or educational institutions located within the state shall be exempt.

1¢ gasoline tax (levied by the Constitution in self-operative amendment)—Art. VI-A

31. 1¢ gasoline tax—(See Appendix IV to Part III)—Art. VI-A
   - ad valorem tax—Art. X, §§ 11, 12, 13, 14, 15, 16, 18, 20.

32. **Constitutional taxes not specifying detailed procedures for collection:**
   - gasoline taxes—Art. VI, § 22 (a)
   - kerosene tax—Art. VI, § 22 (a)
   - tax on all other explosives—Art. VI, § 22 (a)
   - occupational license tax—Art. X, § 8
   - bank tax—Art. X, § 9
   - income tax—Art. X, § 1
   - inheritance tax—Art. X, § 7
   - vehicle license taxes—Art. VI, § 22 (a)

33. The general provision against borrowing as found originally in the 1921 Constitution is found in the first paragraph of Art. IV, § 2. An authorization to fund levee taxes is found in Art. XVI, § 8.

The Constitution has been amended since then to authorize borrowing for the following purposes:
state activities should be financed by borrowing. If the construction of a state-wide highway system had to be paid for in the year of its completion, the tax burden of that year would represent an oppressive burden on the taxpayer. The result of the constitutional restriction against borrowing in Louisiana has been merely to add bond authorizations to the Constitution in the form of amendments.

A majority of the states take a more realistic attitude toward the necessity of borrowing. Thirteen vest the power exclusively in the legislature, and seventeen authorize borrowing when approved by a popular referendum. An authority in the field of public finance suggests an overall debt limitation equal to twice the average revenue receipt of the state for the five years immediately preceding, one-half of which could be authorized by the legislature alone, the other half with the approval of a popular referendum only. Other experts suggest that no limitation other than the approval by the voters in a popular referendum is apt to be successful. States have generally been successful in finding means of circumventing arbitrary constitutional debt limitations.

The severest restrictions placed upon the Louisiana legislature in this field concern the appropriation power. The power to decide how a state's revenues are to be spent represents the essential control of the representative body over the bureaucracy. In Louisiana, the legislature has this power only to a limited degree. The Revenue

Art. IV, § 12—for certain enumerated public improvements.
Art. X, § 11—in case of overflow, general conflagration, general destruction of crops, or other public calamity.
Art. IV, § 1 (a)—Board of Liquidation of the State Debt borrows for budget deficits between sessions of the legislature.
Plus the specific bond issues included in the Constitution. (See infra, note 40, Part III).

34. "When is it legitimate for a government to borrow? The answers are not very different from those which might be made to a similar question concerning the propriety of individual borrowing. It is legitimate for an individual to buy durable goods on the installment plan. One cannot be charged with imprudence for buying a washing machine with a down payment and a promise to pay the remainder from month to month or year to year. Of course, it is true that the cost of the machine is very much increased as a result of this method of financing. It would be thought unsound for him to arrange payments for a longer period than the machine is expected to give service. Probably the habit of installment buying is conducive to freer and less carefully considered expenditures than cash payment. These same considerations are involved when a government contemplates paying for a new school house or city hall." Groves, op. cit. supra note 21, at 671, 672.

35. See infra note 40, Part III.
36. Ratchford, op. cit. supra note 21, at 483.
37. Id. at 595. This is Professor Ratchford's recommendation.
Code Commission, appointed by the legislature in 1944 to investigate the state's fiscal system, has pointed out with concern that only about one-quarter of the state's revenues are subject to free legislative appropriation. The curtailment of the appropriation power takes the form of specific dedications which are written into the Constitution.

Constitutional dedications indicate the same abundant variety as the document illustrates in other fields. The Constitution requires the legislature to make thirteen appropriations without specifying the source of revenue. This type of dedication therefore still allows some discretion to the legislature. Such is not the case with the fourteen dedications that earmark a certain source of revenue for specific political subdivisions or public bodies. More complicated dedications exist, however, in the creation of the special fund to which several specific taxes are dedicated. There are three of these special funds in the Constitution. The most extreme limitation on the

See, however, Graves, American State Government (1941) 531-532.
39. Preliminary Report of the Revenue Code Commission, op. cit. supra note 21, at 12. Included in this figure apparently are statutory and constitutional revenue dedications. More than one-half of Louisiana's revenues in 1946, however, were dedicated by the Constitution. Louisiana State Law Institute, Constitutional Problems, No. 82, Louisiana Revenues By Source and Dedication, Fiscal Year 1946-1946, Central Research Staff, Constitution Revision Project (May, 1947).
40. These thirteen required appropriations without specified source of revenue are found in the following:
   with amount specified—Art. XIV, § 21
   Art. XII, § 14
   Art. XII, § 9
   Art. XVIII, § 4
   Art. VII, § 19
   Art. XXIII
   without amount specified—Art. V, § 20
   Art. VII, § 18
   Art. VII, § 17
   Art. VII, § 16
   Art. XII, § 23 (2)
   Art. XXII, § 1, Par. 10
41. These fourteen are to be found in the following:
   Art. VI-A, § 5 (3)
   Art. XII, § 14 (2)
   Art. XII, § 14 (2)
   Art. X, § 21 (2)
   Art. XI, § 9
   Art. X, § 21 (2)
   Art. X, § 1
   Art. XI, § 1
   Art. IV, § 2
   Art. VI, § 22 (g)
   Art. XVIII, § 3
   Art. IV, § 2 (b)
   Art. VI-A, § 12
42. State School Fund—Art. XII, § 14.
   General Highway Fund—Art. VI, § 22 (a).
   Louisiana State University and Agricultural and Mechanical College
The legislature's power is represented by the one cent motor fuel tax. The Constitution provides that the proceeds from this tax, after a specified amount is withheld for the expense of collection, are to be deposited with the treasurer to the account of three separate state agencies, and it authorizes them to withdraw funds apparently without the requirement of an appropriation act.

The principal arguments for and against dedicated revenues can be summarized briefly. Those who favor the system argue that the legislature is not to be trusted and that important state activities such as education, for example, should not be subject to the caprice of the legislature, that administrative planning requires the certainty of a minimum revenue each year, that the people will support additional taxes if they know the purposes for which the proceeds will be used, and finally that certain tax sources should be used only for specified purposes.

The arguments against dedicated revenues are based upon the necessity of placing upon the legislature the responsibility of working out a sound system of finances for the state. It is argued that if an expenditure is justified by public policy, the legislature will grant the necessary revenues. Critics claim that dedications encourage extravagance, that they require costly bookkeeping, that they prevent long range fiscal planning and the necessary legislative supervision of administrative activity.

Twenty-seven other states, however, practice some form of con-

Fund—Art. XII, § 17 (The property tax relief fund does not fall within this classification since the Constitution does not specify the revenue source. See infra note 182.)
43. Art. VI-A.
44. Art. VI-A, § 5.
46. The Revenue Code Commission of the Louisiana Legislature, in its preliminary report on the state's tax structure, came to this conclusion:

"As a result of the long continued and expanded system of tax dedication, the Legislature, who are the periodically elected representatives of the people, have a voice in the allocation of only about $25,000,000 (25%) of the total tax revenues of the state. The democratic process of entrusting to the elected representatives of the people the power to authorize periodically the expenditure of all public funds has been largely abandoned . . . . The 'dedication' method in this state has far outgrown all reasonable bounds." Revenue Code Commission, Preliminary Report, op. cit. supra note 21, at 12.
stitutional tax dedication. 47 Eighteen states dedicate either the gasoline or motor vehicle license tax. 48 Nine states dedicate poll and per capita taxes and six dedicate the ad valorem property tax. 49 Only six states dedicate more than two taxes. 50 The largest number of taxes dedicated by any state other than Louisiana is four. 51 It may safely be said that in no other state has the process of constitutional dedication gone as far as it has in Louisiana where, in addition to dedications for bonded indebtedness, six taxes are dedicated, one of these to three distinct purposes. 52

The provision for checking upon the legality of state expenditures is also subject to improvement. The Constitution of 1921 provided for a popularly elected auditor, 53 but made almost no provision for his duties. 54 To the extent that any check is made upon the legality of the expenditures of the state of Louisiana (over $100,000,000 a year undertaking), it is performed by the supervisor of public funds, an officer appointed by the governor and responsible to him. 55 Many authorities in the field of state finance contend that the official who performs the audit function should be independent of the governor and responsible to the legislature on the theory that

47. Louisiana State Law Institute, Constitutional Problems, No. 42, Dedicated Revenues--A Comparative Study, Central Research Staff, Constitution Revision Project (July, 1947) 20. (Since the compilation of this Bulletin, 5 additional states have been found to dedicate taxes, bringing the total from 23 to 28).

48. Ibid. (Since the compilation of this Bulletin, 7 additional states have been found to dedicate gasoline and motor vehicle taxes, bringing the total from 11 to 18).

49. Ibid. at 20.

50. Ibid. (Since the compilation of this Bulletin, 1 additional state has been found to dedicate more than 2 taxes, bringing the total from 5 to 6. The figures for poll and per capita and ad valorem dedications remain the same.)

51. Missouri and Alabama dedicate 4 taxes. Id. at 5, 13. (Since the compilation of this Bulletin, Missouri has been found to dedicate the gasoline tax, bringing the total from 3 to 4.)

52. Louisiana's dedicated taxes:
   gasoline tax (44—Art. VI, § 22 (a); 14—Art. VI, § 22 (a);
   18—Art. VI-A). Note that the 16 gasoline tax in Art.
   VI-A is dedicated to 3 different purposes.
   motor vehicle licenses—Art. VI, § 22 (a)
   ad valorem taxes (2½ mills—Art. XII, § 14; ½ mill—Art. XII, § 17;
   7½ mill—Art. XVIII, § 8)
   severance tax—Art. X, § 21
   bank tax—Art. X, § 9
   excise license tax on insurance companies—Art. XII, § 17.
   For list of dedications for bonded indebtedness, see infra note 40, Part III.


54. Ibid. Auditor has authority to 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.

he should be independent of the office which he is investigating.\textsuperscript{56}

The executive. The constitution discourages the development of an effective and responsible executive branch in much the same way as it weakens the legislature. Although the governor is generally considered responsible for a poor administration, the extent of his control of the executive branch is less than is generally assumed. In the first place, seven of the state administrative officials are not responsible to him at all, but are popularly elected: the auditor, treasurer, secretary of state, commissioner of agriculture and immigration, attorney general, state superintendent of education, and the register of the land office.\textsuperscript{57} Only one other state provides in its constitution for the popular election of more of its administrative officials.\textsuperscript{58}

The governor's ability to direct the administrative organization of the state is limited by a second factor: the unwieldy size of the executive branch. A recent survey has indicated that there are over one hundred thirty separate departments, boards, commissions, agencies and offices of the state of Louisiana.\textsuperscript{59} Over thirty-five of them are established in the Constitution itself.\textsuperscript{60} Here again Louisi-

\textsuperscript{56} "It is generally recognized that the auditor should be permitted a considerable degree of independence and that he should not be dependent for tenure or salary on the governor or other administrative officers whose records he must examine. After all, an audit of executive accounts by someone politically subservient to the chief executive would smack too strongly of self-audit. Nearly all the states have attempted to solve the problem of securing adequate independence for the auditor by providing that he shall be popularly chosen." Macdonald, op. cit. supra note 21, at 222.

\textsuperscript{57} Art. V, § 18; Art. VII, § 55; Art. XII, § 5. For a general discussion on problems relating to the executive see the following: Lipson, The American Governor: From Figurehead to Leader (1938); Macdonald, op. cit. supra note 21; Graves, op. cit. supra note 38; Benson and Litchfield, The State Administrative Board in Michigan (1938); 8 New York State Constitutional Convention Committee, Problems Relating to Executive Administration and Powers (1938); Weber, Organized Efforts for the Improvement of Methods of Administration in the United States (1919); White, Introduction to the Study of Public Administration (rev. ed. 1939); White, Trends in Public Administration (1939); Williams, Principles of Public Administration (1927); Thomas, Administrative Reorganization of State Government, Bureau of Public Administration (1939); Porter, State Administration (1938); Pfiffner, Public Administration (1935); Louisiana State Law Institute, Constitutional Problems, No. 9, The Executive—Public Health Administration in State Constitutions, No. 18, The Executive—Charts on Administrative Organization, Central Research Staff, Constitution Revision Project (March, 1947).


\textsuperscript{59} Louisiana State Law Institute, Constitutional Problems, No. 53, The Executive—Survey of Separate State Administrative Agencies in Louisiana, Central Research Staff, Constitution Revision Project (October, 1947).

\textsuperscript{60} See Louisiana State Law Institute, Constitutional Problems, No. 18, op. cit. supra note 57, at 1.
ana establishes a record. No other state gives constitutional status to so many administrative agencies as does Louisiana. The Constitution, although it authorizes the legislature to reorganize the administrative branch, places no limitation on the number of agencies which the legislature may provide. The tendency of the legislature has been to create new agencies for new functions rather than to fit the new function into the existing framework of the executive branch. The new Missouri Constitution limits the number of administrative agencies, departments and boards to twenty. Any new agency created must be placed under one of the twenty departments.

The Constitution also encourages irresponsibility in the governor because of certain technical limitations. The governor, for example, cannot succeed himself. If he cannot be held responsible at the polls at the end of his first term, why should he attempt to provide a model administration? If he plans to run four years later, he can depend upon the poor memory of the electorate to forget anything but exceptional scandals. Only seventeen states provide any limitation on the ability of a governor to succeed himself. The purpose of the restriction is to discourage dictatorship, but there is little indication that the states with such a restriction have been any better protected than those who trust the voters to remove the would-be dictators by ballot.

Another disadvantage under which the governor operates concerns his date of election. He is elected in April, the legislature meets in May. It is at this legislative session that his prestige is

64. Art. V, § 3.
66. General state election is held "every four years on the Tuesday next following the third Monday in April." Art. VIII, § 9. First primary is held on the third Tuesday in January in the year of the general election. La. Act 46 of 1940, La. Act 243 of 1946 [Dart's Stats. (1939) § 2682-24]. The second primary is held five weeks after the first primary, unless this date falls on Mardi Gras, in which event it is held six weeks after the first primary.
greatest, but in the short time available the incoming governor has neither the time nor the information to translate his campaign pledges into a legislative program. In another two years at the second session of the legislature, both the prestige and the interest of the governor are apt to have declined.

The Constitution discourages a conscientious public-spirited governor. It encourages the lazy or ineffectual governor. It affords no real protection against the arbitrary governor. Once elected, the governor can be removed by impeachment. The impeachment of the present Constitution follows the model of the Federal Constitution and characterizes the procedure in the other forty-seven states. It is one which has been accepted uncritically from generation to generation in spite of the experience that it has not produced any sense of responsibility in the governors.

No constitution can of itself produce a governor who will be an efficient administrative chief and a conscientious public leader. Recognizing human nature as it is, however, and the facts of political life, a constitution can be drawn that will encourage rather than discourage an efficient conscientious administration.

The judiciary. The two principal criticisms of the judiciary under the 1921 Constitution concern the administration of the court system and the method of selecting the judges.

68. The Constitution also authorizes the legislature to provide for the recall of any state official in Art. IX, § 9. See La. Act 121 of 1921 (E. S.) §§ 2, 11 [Dart's Stats. (1939) §§ 7688, 7697] for recall of the governor. This has apparently never been employed.

69. Impeachment charges are brought by the House of Representatives and are tried by the Senate—Art. IX, § 2. See also Louisiana State Law Institute, Constitutional Problems, No. 51, Impeachment of the Governor in the Forty-eight States, Central Research Staff, Constitution Revision Projet (October, 1947).


The selection of judges has always been a difficult problem in this country because of the conflict between the desire for popular responsibility on the one hand and the need for an impartial administration of justice on the other. Louisiana itself has experimented with both popular election and appointment. At the present time there are five distinct methods used by American states in selecting their judiciary. This is perhaps an indication that neither election nor appointment by the governor has been considered completely satisfactory. The arguments for and against each practice are well known. Advocates of an appointive judiciary contend that elected
judges become entangled in politics, that they become responsible not to the electorate but to a political machine, and that the “best men” will not run for public office. Advocates of popular election contend that only by popular election can judges be kept responsible to the people. They contend that a man independent of the people becomes a despot in his own sphere. Recognizing that experience has indicated that there is some validity to both points of view, Missouri and California have attempted to combine election and appointment so as to secure the advantages of both with the disadvantages of neither.

The Missouri Constitution provides for appointment by the governor to fill any vacancy in the courts covered by the plan. The appointment must be made from a list of three names submitted to the governor by a non-partisan judicial commission. The constitution provides for one judicial commission for the supreme court and the courts of appeals known as the Appellate Judicial Commission, and a Circuit Judicial Commission for each judicial circuit. The appellate commission is composed of seven members including the chief justice of the supreme court, one member elected by the members of the bar residing in each court of appeals district, and one citizen not a member of the bar and appointed by the governor to represent each district. Each Circuit Judicial Commission consists of five members, including the presiding judge of appeals of the district in which the circuit court is situated, two members elected by the

2. Arguments against retention of the elective system and in favor of the adoption of the appointive system.
   a. Demands of the bar for judges of higher caliber cannot be realized through the elective system.
   b. In the last resort in our party government system, the nomination of judges is left to the party organization.
   c. In the elective method responsibility for the selection of candidates cannot be fixed in any one individual.
   d. The elected judge might feel compelled to repay party machines by distributing public patronage among party workers.
   e. It is claimed that for a judge to be renominated he must stay in politics.
   f. Partisan feeling in elections may submerge other considerations of the candidate's merit in the elective system.
   g. Persons of requisite ability frequently refuse to enter political contests.
   h. Though the electorate might be willing to select a candidate for his merits, in thickly populated areas few of the voters know the candidates personally and therefore an objective ascertainment of his qualities by the many is impossible.

Louisiana State Law Institute, Constitutional Problems, No. 16, The Judiciary—Selection of Judges, Central Research Staff, Constitution Revision Project (April, 1947).

members of the bar in the circuit and two lay members appointed by the governor. The members of the commission, except the chairman, are not eligible for any other public office and receive compensation only for travel and other expenses incurred in the discharge of their official duties.76

After the governor has made an appointment from the three names submitted by the appropriate commission, the selectee holds office for a term ending on the December 31 following the general election after he has been in office for twelve months. At this time the judge must, if he seeks to remain in office, file a declaration of his intent. His name is then submitted at the next general election to the voters within the geographical jurisdiction of his court on a separate judicial ballot without party designation reading:

“Shall Judge .................................................................
(Here the name of the judge shall be inserted)

of the .................................................................
(Here the title of the Court shall be inserted)

Court be retained in office? Yes No.”
(Scratch One)

If a majority of those voting vote against his remaining in office, his successor is chosen by the governor on the recommendation of the judicial commission. If the vote is in favor of the judge, he then serves another term, at the end of which he must again be approved by the voters.77

The California plan represents a variation on that employed in Missouri. In the former state, there is only one commission consisting of the attorney general, the chief justice of the supreme court, the presiding justice of the district court of appeal of the district in which a justice of a district court of appeal or a judge of a superior court is to serve. A majority of this commission must confirm the governor’s nomination though the governor is unrestricted as to his nomination. The governor’s nominee when approved by the commission must then be approved by the voters concerned at the next general election.78

76. Id. at § 29(d).
77. Id. at § 29(c) (1).
78. Calif. Const. (1879) Art. VI, § 26. The form of the ballot is:

For .................................................................
(Title of Office)

Shall ................................................................. Yes
(Name)

be elected to the office for the term expiring No
January .................................................................
(Year)
Both plans have been in operation for some years. The Missouri plan dates from 1940 and the California plan from 1934. The arguments advanced in behalf of the combination of appointment and election which characterize both plans are that the courts are removed from politics and judges freed from political considerations, that the judges therefore can spend more time on judicial business, that the non-partisan commission results in the nomination of higher caliber judges, and that popular election still insures popular responsibility. 79

Opponents of these plans object to the amount of influence given the non-partisan commission and the power which would be vested in the governor.

The efficiency of the courts. Even if judges could be so selected that they were as indefatigable and efficient as they were impartial, the judicial organization of the state would still require improvement to achieve a speedy administration of justice. 80 To the extent that the Constitution tends to freeze court organization and jurisdiction in its 1921 state, it makes difficult the constant adjustment to changed conditions which an effective court system would require. 81 The legislature, however, is given authority to effect certain changes in judicial administration and the supreme court must assume a certain responsibility to see that justice is effectively dispensed on lower echelons. 82 One of the most important obstacles in the way of any more efficient operation of the courts, however, appears to be the absence of sufficient factual information as to the operation of the various courts of the state.

In 1923, Ohio inaugurated the use of a judicial council for this very purpose, realizing that the court system could best be improved if the courts and the legislature had available factual studies as to congestion, delays, and miscarriages of justice. Today at least thirty-two states have adopted the device of the judicial council in some


81. See Appendices III and IV of Part II.

82. Art. VII, §§ 2, 10, 11, 12, 26, 80.
The councils are continuing bodies conducting systematized studies for the improvement of unsatisfactory conditions in the courts. Their decisions are merely advisory. Their membership is generally composed of judges, lawyers, and legislators, and, in some instances, laymen. The effectiveness of these councils has been determined to a large extent by the appropriation provided by the legislature. The studies of the California council, it is claimed, resulted in the passage of sixty legislative enactments in eleven years. The essence of the council's function is based on the recognition that "the improvement of the administration of justice is a continuous process."

Local government. A discussion of the problems of local government under the Constitution should consider somewhat separately New Orleans, other municipalities, parishes, and special districts, since the Constitution treats these independently. Certain fundamental criticisms, however, emerge from the plethora of provisions concerning the organization of these local government units. Limitations of space also require that only the most important issues arising in the general field of local government be mentioned. These issues include "political" interference by the state legislature in local government affairs, the discouragement of local initiative, the lack of adequate financial support, the treatment of New Orleans in a special category, and the operation of homestead tax exemption.

Protection from the legislature. Municipalities, in particular, throughout the country have been the subject of adverse legislation

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83. See Louisiana State Law Institute, Constitutional Problems, No. 6, The Judicial Council, Central Research Staff, Constitution Revision Project (March, 1947) 7.
84. Ibid.
85. Helpful material on local government problems include:

motivated by political considerations. For this reason most state constitutions prohibit the legislature from passing special or local laws. The requirement of general law was believed to permit the legislature to provide for the legitimate formulation of state policy without permitting it to single out an individual city for reprisals.

The cities of Louisiana enjoy no such protection. The Constitution restricts the legislature in this field only for the municipalities of less than 2,500 in spite of the fact that the larger cities have always been the most vulnerable targets of special legislation. For the fifty-four municipalities in Louisiana of over 2,500 even the constitutional protection of requiring previous publication of proposed local legislation is not applicable.

Discouragement of local initiative. Although it appears that the legislature has only occasionally abused its control of municipalities, the present arrangement does discourage local initiative and it does absorb valuable time from the legislative session. If a municipal government wishes to perform any function not specifically provided in its charter, the necessity is assumed of requesting special legislative permission. The municipalities of the state now want greater freedom to deal with their local problems purely on the local level.

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86. Macdonald, op. cit. supra note 85, at 66.
87. Id. at 62-69; Binney, Restrictions upon Local and Special Legislation in State Constitutions (1894); 1 Dillon, Commentaries on the Law of Municipal Corporations (5 ed. 1911) cs. IV-V.
Ohio was the first state to prohibit special legislation. In 1851 it adopted a new constitution which provided that "the general assembly shall pass no special act conferring corporate powers." Ohio Const., Art. XIII, § 1. The Constitution of Michigan declares that "The Legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question." Mich. Const., Art. V, § 8.
88. See, however, Macdonald, op. cit. supra note 85, at 69-72, for the evasion of the prohibition by the employment of the classification device.
89. Art. IV, § 4, of the Louisiana Constitution of 1921 prohibits the passage of local or special laws creating corporations, or amending, renewing, extending or explaining charters. This protection, however, extends only to municipalities of less than 2,500 inhabitants. See New Orleans Item series, What's Wrong With Home Rule In Louisiana, op. cit. supra note 85.
91. See, however, Carleton, Local Government and Administration in Louisiana, op. cit. supra note 1, at 107. See New Orleans Item series, op. cit. supra note 85.
92. Of the total enactments by the 1946 session of the Louisiana legislature, approximately 15% appear to be local or special in nature with respect to the subject under consideration.
93. For the views expressed at a meeting of the Louisiana Municipal Association, see articles appearing in The State Times, May 29, 1947, and in The Times-Picayune, May 30, 1947. That body expressed the following recommendations: "1. Give the cities to the people and let them operate, subject to the
The claim is made with great justification that the local people know their own needs best and that on the local level the settlement of such problems will be based more on need and less on political consideration. Advocates of greater independence from legislative interference and greater latitude for local initiative suggest home rule as the answer.\textsuperscript{94}

Home rule refers to a local government plan originating in Missouri in 1876 that has exercised a pronounced effect upon state-local relations in over half of the states.\textsuperscript{95} The essence of home rule is that municipalities are allowed to draw up, adopt and modify their own charters.\textsuperscript{98} The advantages claimed are that it allows latitude for local initiative, that it permits the adoption of a charter suited to the problems of a particular locality, and that it removes from the legislature the necessity of spending time on problems that are local in nature. The Louisiana Constitution requires the legislature to provide optional plans for parish government,\textsuperscript{97} and the legislature has provided optional plans for municipal government.\textsuperscript{88}

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\textsuperscript{94} General reference on home rule includes: Hodes, The Number One Municipal Law Problem (1941); McGoldrick, Law and Practice of Municipal Home Rule (1916-1930) (1933); New York State Constitutional Convention Committee, Problems Relating to Home Rule and Local Government (1938); McBain, Law and Practice of Municipal Home Rule (1876-1918) (1918); Barclay, The Movement for Municipal Home Rule in St. Louis (1943) 18 University of Missouri Studies, No. 3; Pontius, State Supervision of Local Government, Its Development in Massachusetts (1942).

\textsuperscript{95} Seventeen state constitutions grant localities the right of adopting charters of their own choosing. They are Arizona, California, Colorado, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Oklahoma, Oregon, Texas, Utah, Washington, West Virginia, and Wisconsin. Two states—Georgia and Idaho—have limited home rule provisions. Two states—Pennsylvania and Nevada—permit the legislature to authorize home rule. In addition Macdonald, op. cit. supra note 85, at 82, states that at least six states have home rule by legislative grant.

\textsuperscript{96} Kneier, op. cit. supra note 85, at 85, defines home rule as "... in a broad sense, the right of self-government. In actual practice, however, it means the power given to cities to make and change their own charters and to govern themselves in accordance therewith."

\textsuperscript{97} La. Const. of 1921, Art. XIV, § 3.

\textsuperscript{98} Louisiana Act 136 of 1898. The mayor alderman plan. Also La. Act 13 of 1934 (3 E. S.) for commission form of government. It should be noted that this was not optional for Baton Rouge and Alexandria, See § 5 of this act. The Commission-Manager Plan is provided for in La. Act 160 of 1918.
Home rule, however, differs from the optional charter plan for local government; with the optional plan the variety of charters is limited, and charter amendments still generally require approval by the legislature.

Twenty-five states at the present time grant localities, to some degree, the right of drawing up their own charters. The principal difficulty experienced appears to be the enumeration of the functions which the municipalities are to be allowed to exercise. If the constitutional provision granting home rule, for example, merely authorizes the charter to provide for matters of purely local concern, then the courts must decide with regard to each function whether it is purely local in concern or not. The fact that courts have taken a narrow view of the powers of local government has greatly weakened this type of home rule provision. In an attempt to remedy this, several constitutions have contained a specific enumeration of the powers which the home rule charter might include.

Judicial decisions unfavorable to home rule have reflected the actual difficulty of determining from year to year any hard and fast rule for the problems that are local in nature and those which can only be handled adequately on a larger area. In Louisiana, drainage, for example, has been handled on a local level but an attempt is now being made to develop a statewide drainage program. A home


100. Macdonald, op. cit. supra note 85, at 78-80; Louisiana State Law Institute, Constitutional Problems No. 41, op. cit. supra note 99.

101. See New York State Constitutional Convention Committee study in Louisiana State Law Institute, Constitutional Problems No. 21, op. cit. supra note 99.

102. Ibid. The Louisiana Supreme Court, after citing many common law authorities, has said, “All fair and reasonable doubts concerning the existence of a power are to be resolved against a municipal corporation and the power denied.” Montgomery v. City of Lafayette, 154 La. 822, 98 So. 259 (1923).

103. See Louisiana State Law Institute, Constitutional Problems No. 27; Constitutional Provisions for Home Rule, Central Research Staff, Constitution Revision Project, Louisiana State University (April, 1947).

Art. VIII, § 804, of the Model State Constitution anticipates this difficulty by including an illustrative enumeration of the powers which may be exercised by municipalities. Contrast this with the provisions of some constitutions—such as the New York constitution, which provides, “Every city shall have the power to adopt and amend local laws not inconsistent with the constitution and laws of this state.”

rule charter should presumably not enable a municipality to provide its drainage in such a way as to conflict with a statewide program. Home rule appears to be most successful as a means for allowing local treatment of problems on which the state has no effective statewide policy; it might be dangerous however to freeze into a constitution any hard and fast distinction between state and local functions.

The arguments for the application of home rule to parishes have greater cogency with the expansion of the functions of government which the parishes now perform—functions which formerly were performed by municipalities. There is a greater need for flexibility in parish government now than at the time of the adoption of the Constitution of 1921 and home rule might be the means of securing a more intelligent organization of parish government.105

Adequate fiscal structure. Regardless of the discretion permitted the local government unit under its own charter or in accordance with legislative action, unless there is adequate revenue capacity to finance these functions, the local government is powerless.106 The confused provisions of the Louisiana Constitution on the subject of local government finance and taxation have rendered effective adjustment of local revenues and expenditures difficult.107 There seems to be general agreement, however, that a complete reliance upon a portion of the property tax is no longer sufficient for the maintenance of local government.108 The crucial element in any reform and revitalization of local government units is adequate provision for their financial support.

105. Carleton, Local Government and Administration in Louisiana, op. cit. supra note 1, at 98, for a critical discussion of the police jury as a governing body of the parish.

106. For a general discussion of the fiscal problems of local government see Macdonald, op. cit. supra note 85, at 393-410.

107. For a comparative study of Louisiana in this respect with other states see Louisiana State Law Institute, Constitutional Problems No. 38, Constitutional Limitations on Local Government Taxation and Indebtedness; A Comparative Study of 13 States, Central Research Staff, Constitution Revision Project (May, 1947).

Protection to the taxpayer. The only justification for many of the detailed provisions on local government in the Constitution is the protection afforded the property taxpayer, who bears the brunt of the cost. Taking the restriction on local taxes unit by unit and purpose by purpose it may appear that some protection is afforded. However, the astonishing requirement that the bonded debt not exceed ten per cent of the value of the assessed property of the subdivision for each of a long list of purposes leaves the door open to excessive taxation. If any real protection is desired a general overall debt and tax limitation should be considered.

New Orleans. At the time the 1921 Constitution was adopted, New Orleans was the only metropolitan area in the state and as such there was probably some justification for the separate treatment accorded it by the convention. It should be pointed out, however, that the Constitution of Georgia contains only two references to Atlanta, both in connection with the judiciary. The distribution of population in the state at the present time should justify a reconsideration of the constitutional provisions for the government of the

109. For a general statement of the problem see: Chatters and Hillhouse, Local Government Debt Administration (1939); Hillhouse and Welch, Tax Limits Appraised, Public Administration Service (1937); New York State Conference of Mayors, Another Way to Municipal Chaos: Tax Limitation (1930); Lebenthal, The ABC of Municipal Bonds (1937); King, Public Finance (1938); Groves, op. cit. supra note 106; Kilpatrick, State Supervision of Local Budgeting (1939); Kilpatrick, State Supervision of Local Finance (1941).
110. Louisiana State Law Institute, Constitutional Problems No. 38, op. cit. supra note 107.
111. Art. XIV, § 14 (f).
112.
<table>
<thead>
<tr>
<th>Year</th>
<th>New Orleans Population</th>
<th>Louisiana Population</th>
<th>New Orleans as Percentage of State's Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1930</td>
<td>887,219</td>
<td>1,178,509</td>
<td>75%</td>
</tr>
<tr>
<td>1940</td>
<td>458,762</td>
<td>2,101,593</td>
<td>21%</td>
</tr>
</tbody>
</table>
large urban areas of the state. Might not the same general provisions apply to such population centers as Shreveport, Baton Rouge, Alexandria and Lake Charles?

New Orleans or Orleans Parish is specifically excepted from seventeen provisions of the Constitution. The concern indicated in the Constitution for New Orleans as a separate problem includes such diverse affairs as railroad passenger stations, public belt railroad, zoological garden, paving certificates, all in labyrinthian detail. It is illuminating to note the number of provisions on Orleans that have been carried over from the Constitutions of 1913 and 1898. The extent to which these provisions could be covered by statute may be controversial but an attempt could be made in a new constitution to establish the government of New Orleans by brief and general provisions which would afford some indication as to how that metropolitan area is governed.

The problem of homestead tax exemption. Homestead tax exemptions, as now set forth in the Constitution, involve implications of concern both to those interested in an effective arrangement of local government and an intelligent tax system. Homestead tax exemption in Louisiana has two aspects, first, the exemption of homesteads from taxation and second, the provision for refunds to the governmental units thus deprived of tax revenues.

The exemption of homesteads from taxation is not unique with

115. Arts. III, § 2; VII, § 25; VII, § 46; VII, § 52; VII, § 54; VII, § 65; (two exceptions) VII, § 66; VII, § 70; VII, § 71; VII, § 10; XII, § 12; XIV, § 8; XIV, § 9; XIV, § 11; XIV, § 12; XIV, § 14 (n).
116. Art. XIV, § 81.3.
120. Constitution of the State of Louisiana (Dart ed. 1932)—Table of Louisiana Constitutions, pp. IX-XIV.
121. The following books and periodicals are recommended as an introduction to the general problem: Melton, L. D., Homestead Tax Exemption (1939) Tax Exemption, Tax Policy League, pp. 188-205; Mohaupt, Exemption of Homesteads from Taxation, Report § 144, Detroit Bureau of Governmental Research (1937); A series of articles in American City, as follows (v. 51, p. 103; v. 52, p. 87; and v. 60, p. 91. These tend to be extremely critical of the policy.); A series of articles in the Journal of Land and Public Utilities Economics (v. 11, p. 266; v. 13, p. 130; v. 15, p. 307; and v. 13, p. 343); Relative to the policy in particular states see Arant, Homestead Tax Exemption in Mississippi (1938) 11 Miss. L. J. 107; Satterfield, Mississippi Provides Tax Free Homes (1939) 28 Nat. Munic. Rev. 365; Crosser, Iowa Tries Homestead Tax Exemption (1939) 28 Nat. Munic. Rev. 200; Homestead Tax Relief (1937) 29 Iowa L. Rev. 67; Louisiana Revenue Code Commission, op. cit. supra note 21, at 77-82; Boonstra, Tax Exemption on Rural Homesteads in Louisiana, Department of Agricultural Economics, Louisiana State University, May, 1940.
Louisiana. Beginning with Texas in 1932, a movement arose as a response to the depression to protect the humble citizen from loss of his homestead. At the present time twelve states grant some form of homestead exemption. All of these confer an exemption from state taxes; three of them grant such property an exemption from all taxes: state, local, special district, and municipal. Louisiana is unique in that homesteads in this state are exempted from state, parish, and special district taxation, but not from all municipal taxation.

The amount of the exemption varies from $500 in Wyoming to the full value in South Dakota. Louisiana's exemption limit of $2,000 appears in line with the average of the other states.

The arguments for a homestead exemption policy are based on certain inequities in state tax systems and on the desirability of encouraging home ownership. It is argued that the owner of small property is forced to pay a disproportionate share of the total tax burden due to the reliance upon the property tax by all units of government, state and local; and further, that some distinction should be made between the home owner and the owner of commercial property, the latter being far more able to pay than the former. The second argument is based on the assumption that a man who owns his own home makes a better citizen than one who does not. Those who oppose the policy question whether any system of exemptions is an intelligent way to remove inequities in the tax structure. They doubt that, at the present time, tax exemption is a factor in encouraging home ownership.

122. Shults, op. cit. supra note 21, at 868. South Dakota in 1919 and Wisconsin in 1923 enacted exemptions on homestead improvements, but these provisions were soon repealed.

123. Alabama, Arkansas, Florida, Georgia, Iowa, Louisiana, Minnesota, Mississippi, Oklahoma, South Dakota, Texas, and Wyoming. For comparison see Commerce Clearing House Tax Systems (10 ed. 1946) 158-164.

124. Florida, Oklahoma and Wyoming. Ibid.

125. See Art. X, § 4 (9).


127. Ibid. By constitutional amendment in 1946 Louisiana granted its veteran homeowners and their widows and orphans a five-year exemption of $5000. This is a temporary feature however, Art. X, § 4 (9).

128. There is no relief afforded the tenant, for example, who is least able of all to pay taxes. Indeed, his rent may even be increased by a shift of the tax burden to rented property. This is not apt to occur in Louisiana, for localities need not raise rates on non-exempt property, their loss of revenue being met by reimbursement from the state property tax relief fund. The tenant in other states, however, is not so fortunate.

129. See Melton, op. cit. supra note 121 for a discussion of the difficulties in measuring factors in home ownership.
The more serious problem arising from homestead exemptions, however, occurs in connection with the provision for refund. Louisiana is unique in that the present Constitution directs the state treasurer to reimburse the "general or special funds of the state and any of its political subdivisions, police juries, boards, commissions or offices and the City of New Orleans, for any sums which may be lost to the state, its general or special funds and any of its political subdivisions, police juries, boards, commissions, offices and the City of New Orleans, occasioned by reason of the homestead tax exemption herein provided for, out of funds which shall be established and provided for by the Legislature in the Property Tax Relief Fund, said reimbursement to be made pro rata out of said Fund."

The legislature has provided that the property tax relief fund consist of the proceeds from the income tax, public utilities tax, and the alcoholic beverage tax. The treasurer is authorized, to the extent that the revenues in the property tax relief fund are sufficient, to reimburse the parish tax collector the full amount of the tax lost through the exemption on the property involved. The special funds to which the statewide property tax is dedicated are also reimbursed from the property tax relief fund.

What are the criticisms of this system of refunds? The most obvious inequity involved in the present arrangement is that it constitutes a glaring discrimination against cities and municipalities. With the exception of New Orleans, only the state, parishes and special districts are eligible for the refund. There seems no valid reason, however, why home ownership should be encouraged in New Orleans and discouraged in Shreveport and Baton Rouge.

Municipalities suffer from the present arrangement in the first place because they are not eligible for refunds though their citizens certainly contribute their share of the taxes from which the fund

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130. Iowa has a preferential treatment fund. It grants homestead exemption from state and local taxes to the assessed value of $2500, contingent upon the amount of sales, use, and income taxes allocated to the homestead credit fund. See Tax Systems, op. cit. supra note 123, at 153.


is derived. When it is considered that the total amount of the property tax relief fund distributed to parishes, special districts, and New Orleans in 1944-45 was $6,747,379.41, some idea of the loss to incorporated municipalities may be gathered.

Municipalities suffer in the second place to the extent that the arrangement tends to keep their assessments low. The parish assessor determines the assessment on property in municipalities. The parish assessor being human and subject to popular election, certainly feels a pressure to keep assessments in the whole parish within the $2,000 limit so that participation in the tax exemption may be as extensive as possible. It is this assessment, however, which the municipal authorities must use as the basis for their tax levies.

The discrimination against municipal organization leads to a second disadvantage of the present system: the fact that it discourages an efficient and responsible organization of local government.

The most efficient and responsible form of government for urban communities is generally considered to be a single organized government. Efficient, responsible administration of an area is difficult if various local units divide among themselves the various municipal functions of light, drainage, water, sewerage, recreation,

134. Indeed, the largest income taxpayers and the greatest consumers of alcoholic beverages and public utilities may be found in urban areas.


136. "The fact is that almost everywhere, the mainstay of municipal finances has been the ad valorem property tax. In Louisiana, by adopting and acquiescing in, if not encouraging, the depressed assessed valuation of real estate within their boundaries, the municipalities are to that extent responsible for their own predicament and could if they would, by effecting a revision of the assessments, go far toward solving their own problem. However, since, under the present law there is a single assessment valuation for both State and local purposes, only a comprehensive revision of the entire assessment situation and procedure will provide a practical and truly effective remedy for this feature of the municipal problem." Louisiana Revenue Code Commission, op. cit. supra note 21, at 15.

137. "These units of local government—towns and townships, boroughs and villages, and the multitude of special districts—were conceived and established to meet the needs of the colonists, and they have never been much changed since that time. The lives of the people, owing to the developments in science and in the useful arts, have changed in almost every conceivable way. Small units, then necessary if government was to be accessible and convenient to citizens, have become, under modern conditions of transportation and communication obstacles to the efficient administration of the public services. Larger units have become a practical necessity; at the same time, there must be a reallocation of the functions of government between the Federal government and the states, as well as between the states and their political subdivisions. Experience has demonstrated that functions that once had to be carried on locally if they were to be performed at all cannot now be efficiently administered in such restricted areas. It is impossible to secure the services of competent, full-time personnel under such conditions." Graves, op. cit. supra note 88, at 778.
streets. With the development of urban areas there is a natural tendency to pass from the special district stage to the unified municipal government. In this manner, the citizens have a better chance of preventing waste, duplication, and overlapping of services. The present homestead exemption policy tends to encourage the creation of additional special districts and thus to discourage the incorporation of urban areas. Consider Jefferson Parish, for example, a metropolitan area carrying on the functions of street paving and lighting, garbage disposal, drainage, sewerage. On all parish wide and special district taxes the homestead owners are eligible for exemptions, which means that the property tax relief fund pays a considerable portion of the bill for the governmental functions of the area. Were Jefferson parish incorporated as a separate municipality, the homestead exemption would be lost. Jefferson Parish is now governed by a police jury and twenty-three special districts.

In addition to the discrimination against municipalities and the discouragement of a logical and efficient system of local government, other objections have been raised to the refund policy. The variations represented in the refunds as between parishes and as between areas within a single parish are open to criticism.

138. For a tabulation of the various special districts in Louisiana, see Louisiana State Law Institute, Constitutional Problems No. 33, Tabulation of Special Tax Districts in Louisiana, Central Research Staff, Constitution Revision Project (May, 1947).

139. The Louisiana Revenue Code Commission comments (op. cit. supra note 21, at 80): "The charge is that when a suburban area has been sufficiently populated to have need for governmental services of a type usually considered municipal services, instead of incorporating it within a municipality, the residents of the suburb cause the creation of special districts, such as fire protection, street lighting, garbage collection, and sewerage disposal districts. The ad valorem taxes to support these districts fall within the application of the homestead exemption and thus a substantial portion of the cost of these services is paid from the Property Tax Relief Fund. If the area were incorporated in a municipality, these governmental services would be supported by city taxes, to which the homestead exemption does not apply. As one individual put it: 'Why should I favor incorporating the suburb where I live? I am getting all of the city services I want and the State is footing most of the bill.' To permit situations such as this to exist and grow obviously creates discrimination."

140. According to the records of the state bond and tax board there are no less than twenty-three special districts in Jefferson Parish as of August, 1947. See also Appendix V of Part II. This compares with five in Iberia, seven in Red River and seven in Avoyelles.

141. The sanctity of existing homestead exemptions was emphasized by the framers of the recently-adopted East Baton Rouge Charter plan.

142. Illustrative of the variations in benefit received by the various parishes are figures cited in the Report of Louisiana Revenue Code Commission, op. cit. supra note 21, at 78-80. The per capita amount ranges from $0.85 in West Feliciana to $6.15 in Jefferson, while the per homestead amount ranges from $7.98 in Vernon to $50.17 in Orleans. Of course, economic factors such as degree of home ownership, relative amount of industrial and commercial property influence these variations, but we cannot discount the fact that those parishes with high tax rates are receiving disproportionate benefits.
cost to the taxpayer which the administration of the fund involves is also cited. The amount of bookkeeping required to check and reimburse the state and local funds involved is readily apparent. The fact that the tax collectors receive a commission, while an administrative defect not inherent in the refund system, is nevertheless, from the point of view of the taxpayer, open to grave objections.\textsuperscript{143}  

The effect of homestead exemptions on the property requirement for local tax and bond issue elections should also be pointed out.\textsuperscript{144} In local elections for tax and bond issues, the Constitution requires in effect that only registered voters who are property owners be eligible to participate. The purpose of the property requirement is based on the close relationship between local improvements and the tax source for these local improvements. It has been considered a sufficient brake on local spending and indebtedness if the people who were going to pay the tax bill had the power of deciding whether the tax or bond issue be voted or not. It is now possible because of homestead exemption, however, for local taxes to be voted by individuals who will no more have to pay them than other groups in the community who do not have the privilege of voting.\textsuperscript{145} The property holding requirement as a brake on local expenditures to this extent then is ineffective.\textsuperscript{146}  

Proposals for remedying the ills of homestead exemption vary from the complete abolition of the refund to the imposition of some effective limit to its abuse.\textsuperscript{147} In spite of the many disadvantages

\textsuperscript{143} Louisiana Revenue Code Commission, op. cit. supra note 21, at 73.  
\textsuperscript{144} At the 1938 session of the legislature acts were passed permitting property owners to vote only that amount on which they actually paid taxes, thus denying the right to vote the exempt portion of the assessed valuation. But by passing Acts 6 and 7 of the Extraordinary Session of 1940 the legislature effectively repealed the 1938 acts and restored the situation as it had existed prior to that date. Louisiana Code Commission, op. cit. supra note 21, at 82.  
\textsuperscript{145} Comments the Louisiana Revenue Code Commission (id. at 81): \textquote[145]{"For example, we understand that high-pressure salesmen have visited several communities and interested the local citizens in building memorials and monuments of various types, and have in some instances gone so far as to publish newspaper advertisements urging the citizens to vote a bond issue and tax to finance such a project because it will cost them very little, as their homes are largely exempted and most of the money will come from the State Property Tax Relief Fund."}  
\textsuperscript{146} By tabulation of entries in the 1946 Tax Roll of Grant Parish we find an extreme example of the condition which gives rise to this possibility. There are 2423 homesteads which enjoy exemption in Grant; of these, however, only thirty-eight (38) are assessed at more than $2000, which means that fewer than two per cent of the homeowners in that parish are not completely exempt.  
\textsuperscript{147} Another proposal is to have the state withdraw from the ad valorem field completely. The 5.75 mill levy could then be taken over by the parishes to set up their own relief funds. The setting up of property tax relief funds is presently authorized for municipalities by La. Act 388 of 1942. It is believed that
connected with this unique Louisiana arrangement, it has proved of
great financial assistance to harassed local governments. To abolish
it without making some more adequate provision for local govern-
ment finance than now exists would be to seriously endanger the
fiscal status of many local government units in the state.

III. THE URGE TO AMEND

AMENDMENT CONFUSION AND ABUSES

An excellent argument for constitutional revision in Louisiana
could be based exclusively on the amending process. Any document
that requires an average of over sixteen amendments every biennium
would appear in need of fundamental overhauling. The urge to
amend, however, appears to be a fixed part of the Louisiana political
tradition and to be to some extent unrelated to the nature of the

41 parishes could set up the fund within the 5.75 mill limit; the remainder could
not do so, thus creating a real problem in those parishes.

Suggested modifications of the present refund policy include the following:
(1) Placing a limit on the amount to be paid each local government on a per
capita or per homestead or some other basis so as to reduce the present inequity
among the parishes; (2) Placing limits upon the amount to be paid for the
account of any given homestead, thus curbing the tendency of homeowners to
tax votes which they know they will not have to pay; (3) Substituting a per-
centage exemption for a dollar exemption, still with an upper limit, and perhaps
on a graduated basis, so that each homeowner would pay at least a part of the
taxes on his homestead. The Louisiana Revenue Code Commission has suggested
that the state consider withdrawing from the ad valorem tax field altogether.
In an interview with the Chairman of the Revenue Code Commission, the State
Times in an article September 25, 1947, reported:

"Here's how this would affect East Baton Rouge parish:
The parish would gain about $528,980. Last year the state collected
$941,745 in ad valorem taxes from this parish and refunded $412,765 through
the property tax relief fund.

Not all parishes would be as fortunate as East Baton Rouge if this
plan is adopted. In fact 30 would lose money. Jefferson parish as much as
$285,061. Of the 34 parishes which would gain under this plan, Orleans
would show the greatest increase, $865,724.

The parishes which would lose money are those with a large amount of
property assessed at less than $2000.

The effects on other parishes in this area would be as follows: Ascen-
sion, $3969 loss; Assumption, $2161 gain; East Feliciana, $8287 gain; Iber-
ville, $17,382 gain; Livingston, $23,043 loss; Pointe Coupee, $11,061 loss; St.
Helena, $13,917 loss; St. Landry, $88,821 loss; Tangipahoa, $66,354 loss; West
Baton Rouge, $10,062 gain; West Feliciana, $8187 gain."

The movement for state withdrawal from the ad valorem tax field seems
to be spreading. At the present time nineteen states do not levy general
property taxes. Latest to repeal the state ad valorem tax was Arkansas.
(Others: California, Delaware, Florida, Illinois, Iowa, Michigan, New Hamp-
shire, New York, North Carolina, Ohio, Oregon, Oklahoma, Pennsylvania,
Rhode Island, South Carolina, South Dakota, Vermont, and Virginia.) Amer-
ican Municipal Association, 12 Washington Newsletter, No. 17 (June 4, 1947).

1. See Appendix I of Part III, Amendments Proposed and Adopted, 1923 to
1946. See also Louisiana State Law Institute, Constitutional Problems, No. 50,
Amendments to the 1921 Constitution, Central Research Staff, Constitution Re-
fundamental document. Many of the defects of style and structure can be attributed to the amendments that have been added to the Constitution of 1921. If the urge to amend continues, any new constitution, no matter how ideal, may become another omnibus measure within twenty years.

It will be the purpose of this concluding section to review the amending process in Louisiana history, to appraise its effect on the 1921 Constitution, and to present some of the alternatives that have been offered as suggested improvement.

From Louisiana's first constitution of 1812 to that of 1921, two decided trends have been apparent: each constitution has been longer than its predecessor; each of the last five has been more frequently amended. The Constitution of 1812 was the shortest document in the constitutional history of the state and its thirty-three years is still the record age of any Louisiana constitution. This document contained no amending procedure. The Constitutions of 1845, 1852, 1861, and 1864 all contained amending procedures, but no amendments were adopted. The 1845 constitution required approval by two sessions of the legislature and a majority of the qualified electors; the others eliminated the approval of a second session and required a majority of those voting at the election. The first Louisiana constitution to be amended was that of 1868. Thirty-five amendments were proposed and nine adopted, in spite of the requirement that a majority of the votes cast in the election favor the amendment. In the four most recent constitutions, the amending procedure has been further eased to require the approval of only a majority of those voting on the amendments. The average number of amendments per year for those constitutions has increased from slightly less than one for the 1868 document to over eight for the present document.

An examination of amending experience under the 1921 Constitution indicates the serious objections to which this trend has given rise. Two hundred and forty-seven amendments have been submitted to the electorate of Louisiana since the adoption of the 1921 Constitution. Only slightly more than eleven per cent of them have

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2. See Appendix II of Part III, The Amending Process and the Number of Amendments of each Louisiana Constitution.
3. For a comparison of the amending procedures, see Appendix II.
4. See Appendix I of Part III.
been rejected. One was declared unconstitutional by the courts.\(^5\) Two hundred and eighteen have been incorporated in the Constitution. One hundred and thirty-four of these have concerned four articles of the Constitution.\(^6\) Article XIV on parochial and municipal affairs alone has been amended fifty-three times, Article X on revenue and taxation, thirty-five times, Article VI on administrative officers and boards and Article VII on the judiciary twenty-three times each.

Much criticism has been directed against the amending process. It is charged that the amendments are such as to make it impossible for the electorate to cope intelligently with them; they represent a new type of state interference in local affairs; they render the constitution almost unintelligible; they diffuse responsibility; and they represent an extreme form of minority rule.

**The amendments and the voter.** The effectiveness of the amending process depends upon the ability of the voter to understand the change that is being proposed to the basic law of the state. If the voter in Louisiana understands the amendments submitted for his approval at each general election, some distinguished order of merit should be provided for his reward, so difficult is this achievement. The Constitution requires that the secretary of state publish the proposed amendment twice in one newspaper in each parish of the state within thirty to sixty days of the election.\(^7\) When the fact is considered that there are an average of nineteen proposed amendments submitted at each biennial election and that they are printed in small type, the assistance of newspaper publication becomes less impressive. Should the citizen attempt to read the proposed revision, he is apt to encounter a column similar to the following:

"The maximum number of mills of special annual ad valorem maintenance taxes for giving additional support for the current operation of public schools heretofore authorized by Section 10 of Article X of this Constitution, which shall be hereafter allowable shall in no case exceed eight mills and this maximum millage shall be reduced in the proportion that any increase in State

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5. Act 384 of 1940 was held invalid as improperly submitted to the electorate in Graham v. Jones, 199 La. 507, 3 So. (2d) 761 (1941).

6. See Appendix III of Part III, Amendments to the 1921 Constitution by Article.

7. "... and the Secretary of State shall cause the same to be published, in one newspaper in each parish of the State in which a newspaper is published, twice within not less than thirty nor more than sixty days preceding an election for Representative in the Legislature or in Congress." Art. XXI, § 1.
School support, over and above the sum of Six Million Dollars ($6,000,000.00), bears to the aggregate of special school ad valorem taxes levied in all parishes in 1930, which was Six Million Four Hundred Thousand Dollars ($6,400,000.00), that is, the maximum number of mills shall be reduced by one mill for each increase in annual State support amounting to Eight Hundred Thousand Dollars ($800,000.00), or one-eighth of the aggregate of said special taxes in the manner as is illustrated in the following tabulation, which shows the relationship between the maximum number of mills of special taxes allowable for school maintenance and the increase in State support for the common schools, viz: .

Without considerable research on the above citation and an extended comparison of the present with the proposed sections and sufficient technical advice on the intricacies involved, a voter would be unable to decide intelligently upon the issue.

If the official publicity is insufficient to prepare the voter, the statement of the proposition on the ballot is even less helpful. The Constitution requires that when more than one amendment is to be submitted at the same election they are to be presented so as to allow the electorate to vote separately on each amendment. There is the further statement that, "Amendments which have been adopted shall be numbered consecutively, and shall, where possible, refer to the numbers of the articles and sections which have been amended."

The actual practice, apparently, is to place the amendments on the ballot in an arbitrary sequence, there being no discernible relationship between the order on the ballot and the order in which the official acts are published in the newspapers. The newspaper pub-

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9. "Prior to the recent [1944] election, this Bureau assigned two men, highly trained in law and public administration, to the analysis of the proposed amendments. More than two full weeks were required to gain an understanding of these proposals. Minute comparison of the proposed language with the existing language was required and in some instances extended conferences were necessary. This experience is cited as an illustration of the intricacies of the propositions submitted to the public." Bureau of Governmental Research, Let the People Decide, State Problems, No. 6, New Orleans (March 15, 1945) 8.
10. Art. XXI, § 1. "When more than one amendment shall be submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately."

La. Act 884 of 1940 was declared invalid in Graham v. Jones, 198 La. 507, 8 So. (2d) 761 (1941), partly because it was declared to violate the above provision, since it embraced a plurality of objects and purposes.
lication identifies the amendments by act numbers, which numbers are not mentioned on the ballot. The identification of the amendment as it appears on the ballot with its previous official publication is therefore difficult. The difficulty is increased by the fact that there is no consistent policy as to the statement of the amendment on the ballot. A proposed amendment may appear on the ballot “For the proposed amendment to the Section 21 of Article X of the constitution of the state of Louisiana.” In other instances the statement is more complete and includes a reference to the subject matter involved, for example: “For the proposed amendment to Section 51 of Article VII of the Constitution of Louisiana, relative to the jurisdiction and powers of City Courts.” Neither of these procedures gives the voter any idea as to the change contemplated.

12. La. Act 395 of 1938, amending Art. X, § 21. This act read as follows:

“A JOINT RESOLUTION

“Proposing an amendment to Section 21 of Article X of the Constitution of the State of Louisiana, relative to the levying of a severance tax on natural resources severed from the soil or water.

“Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each House concurring, That there shall be submitted to the electors of the State of Louisiana, for their approval or rejection, in the manner provided for by law, a proposition to amend Section 21 of Article X of the Louisiana Constitution so that the same shall thereafter read as follows:” (Then follows the amended Section 21.)

This act fixed the severance tax on sulphur at $1.03 per long ton, and provided that “sulphur in place shall be assessed for ad valorem taxation to the person, firm or corporation having the right to mine or produce the same in the parish where located, at no more than twice the total assessed value of the physical property subject to taxation excluding the assessed value of sulphur above ground, . . .” Since neither the proposition on the ballot nor the title of the act as published in the papers mentioned these facts, the only recourse for the voter would be to compare the amended Section 21 with the previous section. He would also need to be aware that Section 21 was previously amended by La. Act 61 of 1932.

13. This amendment, La. Act 317 of 1944, authorizes the legislature to give the city courts a civil jurisdiction concurrent with the district courts up to $500 or $1,000, depending upon city population, instead of the $300 or $500 to which they were previously limited. The title of this act read: “A Joint Resolution proposing an amendment to Section 61 of Article VII of the Constitution of the State of Louisiana, relative to the jurisdiction and powers of City Courts.” Here, again, the voter must compare the original section, and must be aware that Section 61 had been amended by La. Acts 79 of 1934 and 63 of 1936.

14. La. Act 310 of 1944, Amendment No. 6 on the ballot, proposed a one mill ad valorem tax in the City of New Orleans, to be divided equally between the Firemen’s Pension and Relief Fund of the City of New Orleans and the Pension Fund of the New Orleans Police Department. There was widespread opposition to this special tax in New Orleans, and the amendment was defeated because of the unfavorable vote in that city. The Times-Picayune, in an editorial of October 24, 1944, branded the proposition as “vicious, unfair, and unsound.” The editorial further stated: “It was so stamped when its sponsors insisted that it go on the ballot in language that would force the electorate to vote blindly without the least knowledge of what was proposed . . . [For the proposed amendment to Section 25 of Article XIV of the Constitution of 1921.] the New Orleans crowd insisted on the plan for concealing the meaning of the amendment,
Where a ballot statement has included material designed to inform the voter, such information has on occasion appeared to be more of an inducement for a favorable vote than an objective description of the amendment. Act 3 of the Extra Session of 1930, for example, proposed an amendment authorizing a seventy-five million dollar bond issue. The ballot read, "For the Good Roads Amendment to the Constitution of the State of Louisiana."  

The problem confronting the voter is also illustrated by Act 68 of 1936 granting certain tax exemptions. The ballot read "For the proposed amendment to Section 4 of Article X of the Constitution, granting exemptions from taxation, including exemptions of cattle, livestock, and poultry." The ballot failed to mention the fact that the amendment was also incorporating a new policy in tax exemption for industries.  

The ballot statements are not always misstated or as vague as the examples given above. These do illustrate, however, the abuses to which the amending process is subject from the point of view of intelligent voting.
The amendment as local legislation. In addition to the difficulties confronting the voter who must decide to approve or disapprove the changes requested by the legislature, there are other criticisms of the amending process in Louisiana. One of the foremost of these is that it encourages statewide interference in purely local affairs. Of the total number of amendments adopted, approximately fifty have been purely local in effect. This means that the voters of the whole state have it within their power to determine whether a

of the Constitution of Louisiana, authorising the issuance of an additional Twenty-five Million Dollars ($25,000,000.00) of bonds by the Department of Highways." Act 393 of 1946. In this case the voter needs to be informed about the financial questions involved, in order to decide whether such bond issue is desirable or feasible.

"For the proposed amendment to Section 4 of Article X of the Constitution, granting exemptions from taxation to homesteads." Act 78 of 1934. This is an example of a complicated issue which it would probably be difficult to present fairly on a ballot.

18. Examples of this type of amendment are:

La. Act 322 of 1936, amending Art. X, § 10. "The Police Jury of Caddo Parish shall have the power, without a vote of the property taxpayers, to levy an additional tax not to exceed two (2) mills on the dollar, to be levied annually so long as necessary, not to exceed eight years, on the assessed property in said Parish for the sole purpose of paying Excess Revenue Bonds, described as 'Caddo Parish Highway Improvement Bonds of 1934' now outstanding or heretofore issued."

Act 264 of 1926, amending Art. VII, § 16. Orleans Parish School Tax. As adopted, provided for a 7 mill tax for schools in Orleans Parish, and contained the provision that "No portion of said tax in excess of five and one-fourth (5¼) mills shall be used except for the purpose of purchasing, constructing, repairing and maintaining buildings for public school purposes." In 1928 this was changed to read: "No portion of said tax in excess of one and three-fourths (1½) mills shall be used for the purpose of purchasing, constructing, repairing and maintaining buildings for public school purposes; for the purchase, repairs and renewal of physical equipment; for fuel, light, and power, and for janitor's salaries...."

La. Act 384 of 1938. Added Paragraph Thirteen to Art. VII, § 15. Authorized the legislature to provide for the government of the City of Bogalusa Public Schools by the Bogalusa School Board.


La. Act 260 of 1928. Art. XIV, § 23. As adopted, provided for a two mill tax in New Orleans to maintain double platoon fire and triple platoon police departments and to provide an increase in pay of the officers and men in said departments. The 1928 amendment increased the tax authorized to three mills and provided that "one-half the avails of said tax in excess of two mills shall be used exclusively for the purpose of an increase in the pay of officers and men in the Fire Department of said City, while the other half shall be used exclusively for the purpose of an increase in the pay of officers and men in the Police Department of said City."

La. Act 62 of 1932. Added Art. XIV, § 81.2. Empowered City of Shreveport, without an election or reference to any other provisions of this Constitution
matter of purely local interest will or will not become law. In view of the amount of purely local material in the Constitution which requires frequent amendment this is an important consideration. The voters of the state outside East Baton Rouge Parish could have defeated the city parish charter amendment although it was of concern only to the people in that area. The voters in Baton Rouge, on the other hand, are permitted to vote on the question of allowing Caddo Parish to sell its jail site. The danger of having a measure imposed upon a particular parish or section of the state by the rest of the state or by New Orleans is not a mere possibility. In the 1944 elections an amendment to Article VI gave the legislature power to authorize the parishes to levy a two cent tax for forestry purposes. The vote in parishes other than Orleans would have defeated the proposal, but the large majority by which it was carried in that parish was responsible for adding the amendment to the Constitution. Thus voters of Orleans who would be liable for “little or none” of the forestry tax saw to it that the rest of the state might well have to pay it. A drainage tax amendment concerning primarily rural parishes was similarly voted down in those parishes, to become effective because of the heavy vote in Orleans.

The “country” people have on occasion reciprocated this interest in the welfare of the other fellow. Act 315 of 1944 proposed an amendment to the Constitution authorizing the refunding of certain New Orleans Public Belt Railroad bonds. The voters outside of New Orleans opposed the amendment by some five thousand votes, although only New Orleans was concerned. The amendment was carried, however, due to the large majority in favor of the measure in Orleans.

A classic example of state interference in purely local affairs by constitutional amendment was Act 331 of 1936 postponing the municipal and parochial elections in New Orleans.
Minority rule. The present amending process represents in practice not the ultimate in pure democracy but a type of minority control, open to strenuous objections. The fact that the amendments are voted upon at general elections in itself results in small participation by the voters. The requirement for approval by only a majority of the voters voting upon the amendment permits amendments to be carried by a ridiculously small percentage of the voters of the state. Amendments have become law with the approval of five per cent of the white citizens of voting age in Louisiana. In the November 1944 election, only twenty out of every one hundred white citizens of voting age actually voted on any of the amendments. The number voting on one of the amendments was so small that it could have been carried by one-eighth of the registered voters of the state.

Not only does the amending process represent decisions by a minority, in practice it represents decisions by Orleans Parish. In 1944 the Parish of Orleans, with one-fifth of the population and one-fourth of the registered voters, cast fifty and six-tenths per cent of all amendment votes. The fifty-six rural parishes, with slightly over one-half of both population and registered voters, cast approximately one-fourth of the amendment votes. The seven urban parishes other than Orleans, with twenty-five and two-tenths per cent of the registered voters, cast twenty-three and seven-tenths per cent of the amendment votes. On twelve of the twenty-one amendments proposed in 1944, New Orleans cast more votes than the other sixty-three parishes combined. It is no wonder then that the Orleans voters may impose unpopular measures on rural parishes.

Effect on the constitution. The technical difficulties referred to in Part I of this Article have either been caused by the amending process or made worse by it. Since most amendments add to the Constitution rather than subtract from it, each general election tends to make the Constitution more and more of a hodgepodge. As the mayor, appointed by the governor, in office for six years without an election in New Orleans.

27. Id. at Supplement, The People Who Decide.
28. Ibid.
29. Ibid.
30. See, for example, supra, page 1 et. seq.
31. The Louisiana Constitution contains three separate authorizations for the City of New Orleans to issue street paving certificates, all contained in Art. XIV, § 24. The first mention of paving certificates was added by La. Act 178 of 1924. By this amendment the city is authorized to “issue for street paving purposes certificates on its faith and credit pursuant to legislative authority to
amendments increase the complexity of the Constitution, the added uncertainty as to the meaning of that document acts in itself to produce more amendments, and so the vicious circle goes on.32

Effect on responsible government. The arrangements for informing the voter of the issues at stake are deficient, only a small percentage of the voters even trouble to express their opinions on the ballot, and the continuing stream of amendments makes it even more difficult to understand the basic document being amended. There is one check on the amendments before submission to the people: the requirement that they be approved by two-thirds vote of

an amount not in excess of any special assessments which have been or shall be made for such purposes . . ."

La. Act 205 of 1928 added four paragraphs almost word for word with those added by La. Act 178 of 1924 (above) except that where the first paragraphs use the phrase "street paving purposes" the later addition says "street paving purposes, street widening and straightening, lighting and tree planting," and the second amendment omits mention of the Board of Liquidation, City Debt. Both require the Commission Council to "annually budget and appropriate out of the general revenues . . . a sum not less than Four Hundred Thousand ($400,000.00) Dollars, . . . for the payment of the City's proportion of the cost of pavement of streets and roadways. . . ." Both are self-operative.

La. Act 840 of 1936 added eleven more paragraphs to Section 24, providing that the City of New Orleans "shall not borrow money, issue bonds, notes or other evidences of indebtedness or pledge its credit or anticipate the collection of any of its taxes . . ." except as provided in the amendment. Among its detailed provisions was third authorization for the city to issue "street paving" certificates, without mentioning "street widening and straightening, lighting and tree planting." It makes the same provisions for paying the certificates, and repeals for the third time "So much of Act No. 23 of the General Assembly of the State of Louisiana for the year 1914 as may be inconsistent herewith." Where the first two amendments specified the amount which may be outstanding at any one time, the third stated that they shall not be outstanding "in excess of the amount authorized by existing laws." It states: "Nothing herein contained shall be construed as altering or affecting the provisions of Section 24 of Article XIV of the Constitution of the State of Louisiana, as amended." This amendment, like the first two, is self-operative.

32. A number of amendments have been adopted authorizing the legislature to do that which they probably could have done without the necessity for amendment, or delegating authority which it was probably within the authority of the legislature to delegate without amendment:

La. Act 394 of 1940, adding Art. III, § 44. "The Legislature shall have the power to adopt laws to require manufacturers, pasteurizers, and distributors of milk . . . to furnish bond or security for the payment of amounts to become due producers of milk."

La. Act 387 of 1942, amending Art. IV, § 2. That "From all mineral leases to be granted by the State . . . it is hereby provided that ten per cent (10%) of the royalties received by the State, from such lease or leases shall be placed by the State Treasurer, as received, in a special fund to the credit of the Parish in which the production is had, said fund to be known and referred to as Royalty Road Fund. . . ."

La. Act 141 of 1932, amending Art. XII, § 1. "Separate free public schools shall be maintained for the education of white and colored children between the
both houses of the legislature.\textsuperscript{33} Does not this requirement insure
that before submission to the electorate the proposed amendments
have received the full benefit of analysis, deliberation, and debate
involved in the legislative process? There is some indication that the
mere fact that "the people" are going to vote upon the measure has
operated to absolve the legislature from any feeling of serious respon-
sibility.\textsuperscript{34} An unfortunate example of the legislative process in action
on constitutional amendments occurred in 1944. One would have
authorized parishes and municipalities to create airport zones,\textsuperscript{35}
while the other would have deprived all municipalities and every
parish except Jefferson of this zoning power.\textsuperscript{36} The legislature passed
both by the required two-thirds vote. The situation was brought to
light but no one could be found to assume any responsibility for the
conflict. The legislative bureau claimed that it had warned the
legislature but to no avail.\textsuperscript{37} The Jefferson parish amendment was

\begin{itemize}
\item ages of six and eighteen years; \textit{provided, that children attaining the age of six years after the beginning of any public school term may not enter until the beginning of a subsequent promotion period as fixed in the school. . . ."} (The italicized portions were added by amendment. This section has been further amended by La. Act 820 of 1944, which again changed the age for entrance into the public school.)
\item Art. XXI, § 1.
\item 34. The Times-Picayune commented editorially under the title, "Too Many Amendments," "the Legislature, instead of turning down numerous unwise pro-
\item posals, finds it easier politically to pass the buck to the people." Times-Picayune,
\item New Orleans, November 1, 1944, p. 8.
\item 35. La. Act 321 of 1944, amending Art. XIV, § 29.
\item 36. La. Act 325 of 1944, amending Art. XIV, § 29. "What the electorate is
\item being asked to do, therefore, is to ratify airport zoning in one amendment and
\item then, before leaving the voting booth, wipe out by another amendment all au-
\item thority for any kind of zoning except for Jefferson Parish." Times-Picayune,
\item New Orleans, October 26, 1944, p. 8.
\item 37. "'Freak' in zoning law amendment goes fatherless." Id., October 27, 1944,
p. 1.
\end{itemize}

Legislative bureau warned legislature against passing Amendment No. 21. Their recommendations were ignored. Id., October 26, 1944, p. 1.

"Amendments proposed by the Legislative Bureau to Senate Bill No. 47, by
Mr. Stumpf.

"Amend bill as follows.

"Amendment No. 1—Page 1, Line 2. After 'Article' change '14' to 'XIV'
"Amendment No. 2—Page 1, Line 8. After 'Article' change '14' to 'XIV'
"Amendment No. 3—Page 1, Line 11. After 'Section 29' insert 'The'
"Amendment No. 4—Page 1, Line 22. After 'this' change 'Act' to 'section'
"Amendment No. 5—Page 2, Line 55. After 'zoning' insert a period and
after 'and' change 'said provisions' to 'each elector voting on said proposition'
"Amendment No. 6—Page 2, Line 6. After 'stitution' delete the comma;
before 'shall' delete 'and'; and after 'hereto' delete the comma.

"Note: Section 29, Article XIV, Constitution of 1921 as presently existing
in the Constitution applies to all municipalities of the state. House Bill No. 575,
now pending in the Senate, proposes a Constitutional amendment which affects
all parishes, municipalities or other political subdivisions.' This bill proposes a
Constitutional amendment, the effect of which, if adopted and a majority of the
voters voting at the election provided for in the bill vote in favor of the amend-
ment, will only affect the Police Jury of Jefferson Parish and is therefore con-
defeated only after opposition by the bill's sponsors, by the Old Regulars, and by intensive newspaper publicity. 38

Although it is impossible to ascertain the extent to which this happens in practice, the amending process does make it possible for the legislature to pass responsibility on to the electorate.

THE SOURCE OF THE TROUBLE

If the amending process is subject to the criticisms outlined above, an inquiry into the causes of the "amendment urge" may be justified. Any classification of the two hundred and eighteen amendments adopted as part of the present Constitution must take into account four principal reasons for constitutional change. Some of the amendments have been occasioned apparently in an effort to change a basic policy set forth in the original constitution; some have been occasioned apparently in an effort simply to create an exception to some basic policy in the original document; other amendments can be explained by the desire to bring certain administrative procedures up to date. A fourth type of amendment can only be explained by the attempt to preserve a certain arrangement against subsequent legislative action.

38. "... though its paternity is still in doubt, everyone concerned is asking the voters to defeat No. 21." Time-Picayune, New Orleans, October 29, 1944, p. 15. Old Regular Ward Leaders endorse all but amendment No. 21. Id., November 4, 1944, p. 7.

The twenty-first and last Constitutional Amendment that will appear on your ballot next month was put through the Legislature to give Jefferson Parish the right to establish certain desirable zoning-regulations. In doing this it would also deprive all other parishes of the State, including the city of New Orleans, of the right of zoning themselves which they have enjoyed for many years.

"This ridiculous and disastrous situation was not designed, of course, by the promoters of the measure. It results from careless or incompetent drafting of the legislative act. In the opinion of every competent legal authority who has examined the question the measure would simply repeal all zoning laws in the State except those of Jefferson Parish."—New Orleans Item, New Orleans, October 20, 1944, p. 14.

"There is little excuse for the heightened confusion thus brought about. The legislative bureau, maintained at public expense to call attention to such conflicts in advance, pointedly explained the situation to the law makers. But here, as in the case of the Laundry Bill and other pet measures of a highly controversial nature, the old plea was sounded:

'Pass it on to the people. If it's bad they can kill it, but don't kill it now and deny the people the opportunity to express themselves.'”—Id., October 27, 1944, p. 14.
Basic policy amendments. In view of the large number of amendments it is surprising to note how few of them represent a fundamental change from the 1921 document. The provision that the state superintendent of public schools be popularly elected rather than appointed is an example of such a change.39

Exceptions to basic policy. Far more frequent are those amendments which merely add individual exceptions to the policies of the Constitution. The limitation on the legislature’s authority to incur debt, for example, has resulted in nineteen amendments. These amendments did not change the basic restrictions; they simply au-

39. La. Act 105 of 1922, amending Art. XII, § 5. Other examples of amendments changing basic policy are:

   a. La. Act 220 of 1934 substituted for the poll tax the requirement that the voter sign the poll book in the sheriff’s office during each of the two years prior to the election.
   b. La. Act 874 of 1940 abolished this requirement also.


3. Legislature given authority to borrow for other purposes than the repelling of invasion or suppression of insurrection. Art. IV, § 2.
   a. La. Act 43 of 1928, Art. IV, § 12. Authorized state to donate to the United States lands, properties, etc., for enumerated public purposes (airfields, parks, forest preserves, canals, etc.) and for the purpose of acquiring and improvement of property for such purposes, may incur debt, issue bonds, and levy taxes as otherwise provided in this Constitution.
   b. La. Act 887 of 1938. Added to above list “. . . Use, in connection with the improvement and maintenance of the navigation of natural waterways, the construction and improvement and maintenance of artificial navigable waterways and river and harbor works . . . authorized by any act of Congress . . . or otherwise, and in connection with flood control works . . .”
   c. La. Act 327 of 1944. Art. IV, § 1(a). Board of Liquidation authorized to make interim appropriations and/or loans within specified limits and with consent in writing of majority of both Houses.
   d. La. Act 4 of 1927 (E. S.). Art. X, § 11. Authorized Board of Liquidation to borrow money to make loans to governing authorities of parishes where taxes have been postponed because of public calamity.


8. Repealed provision that senator or representative shall not, during his term or for one year thereafter, be elected or appointed to any civil office of profit in the state which may have been created or the emoluments of which may have been increased, by the legislature during the time he was a member thereof. La. Act 90 of 1936. Art. III, § 12.
authorized particular bond issues.\textsuperscript{40} A similar example regards the policy of exemption of property from taxation. Fifteen amendments have merely added classes of property to the exemption list without changing the policy.\textsuperscript{41}

\textit{Administrative procedure amendments.} Many amendments have been occasioned by the necessity of changing administrative procedures written into the Constitution. Most of the twenty-three amendments to the Judiciary Article have been occasioned by the necessity of adopting judicial administration to suit changing conditions, rather than by any attempt to change the fundamental policy or even make exceptions to fundamental policy.\textsuperscript{42}

\begin{itemize}
\item[40.] The following amendments authorized bond issues:
\begin{enumerate}
\item La. Act 364 of 1942, Art. IV, § 2(a).
\item La. Act 5 of 1930, Art. IV, § 12.
\item La. Act 122 of 1932, Art. IV, § 12.
\item La. Act 283 of 1940, Art. IV, § 12(a).
\item La. Act 219 of 1928, Art. VI, § 22(d).
\item La. Act 3 of 1930 (E. S.), Art. VI, § 22(e).
\item La. Act 66 of 1936, Art. VI, § 22(f).
\item La. Act 71 of 1935, Art. VI, § 22(g).
\item La. Act 69 of 1938, Art. VI, § 22(b).
\item La. Act 377 of 1940, Art. VI, § 22(i).
\item La. Act 893 of 1946, Art. VI, § 22(j).
\item La. Act 179 of 1924, Art. VI, § 24.1.
\item La. Act 186 of 1928, Art. VI, § 25.1.
\item La. Act 176 of 1924, Art. XVIII, § 3(b).
\item La. Act 7 of 1930 (E. S.), Art. XVIII, § 3(b).
\item La. Act 23 of 1926, Art. XVIII, § 6.
\item La. Act 290 of 1940, Art. XVIII, § 6.
\item La. Act 61 of 1936, Art. XVIII, § 7.
\item La. Act 414 of 1946, Art. XVIII, § 8.
\end{enumerate}

\begin{enumerate}
\item La. Act 399 of 1946, Art. VI, § 2.
\end{enumerate}

The following six additional amendments changed the provisions, extended time, etc., of existing exemptions:

\begin{enumerate}
\end{enumerate}

41. The following amendments granted additional tax exemptions:

42. Other examples of amendments changing statutory provisions in the Constitution:

La. Act 73 of 1922, adding Art. VI, § 16.1. Amended 1921 provisions concerning leases of land acquired by the Board of Commissioners of the Port of New Orleans for the Navigation Canal, changing provisions concerning rentals and the necessity for periodic reappraisal.

La. Acts 313 of 1944, 324 of 1944, 390 of 1946, 413 of 1946, amending Article VI-A. These amendments concerned exemptions from the gasoline tax levied in the Constitution by this article. Exemptions from other state gasoline taxes were granted by statute. See, for example, La. Acts 68 and 69 of 1944.

La. Act 245 of 1926, amending Art. XIV, § 21. Increased the amount which
Although there may be some justification for including in the Constitution a general policy as to the pensions for Confederate veterans and their widows, the inclusion of such administrative procedures as the manner of determining those eligible is almost certain to require amendment. In spite of the restricted group to which this constitutional provision applies, three amendments have been required.\textsuperscript{43}

The designation by name in the Constitution of the higher institutions of learning of the state has required two amendments, one to add an institution to the list, one to change the name of an institution.\textsuperscript{44}

the legislature "shall appropriate" for the payment of clerical and other expenses of the office of the State Tax Collector for the City of New Orleans.

La. Act 147 of 1932, amending Art. X, § 11. Extended the period of time allowed for the redemption of property sold for the non-payment of taxes, and changed the penalty.

43. The Constitution of 1921 set up the following qualifications for widows of Confederate veterans receiving pensions:

Art. XVIII, § 2 (b). "Widows of such veterans whose marriages were contracted prior to December 31, 1900, and whose husbands were bona fide residents of the State of Louisiana at the time of their death, and whose income is less than one thousand ($1,000.00) dollars per annum. . . ."

La. Act 176 of 1924 added the following classification of widows who were eligible to receive pensions: "also, widows of Confederate Veterans whose marriages were contracted prior to the year 1870, but whose husbands were not residents of the State of Louisiana at the time of their death, provided such widows are, and have been for twenty years continuously to date of application for a pension, bona fide residents of the State of Louisiana, and whose incomes are less than one thousand ($1,000.00) dollars per annum. . . ." (This act also amended Section 3 to authorize the Board of Liquidation of the State Debt to borrow annually the amount of special tax plus the amount of $800,000.00, and to issue bonds secured by the avails of said tax.)

La. Act 140 of 1928 changed paragraph (b) to read as follows: "Widows of such veterans whose marriages were contracted prior to December 31, 1905, and whose husbands were bona fide residents of the State of Louisiana at the time of their death, and whose incomes are less than one thousand ($1,000.00) dollars per annum. . . . Widows of such veterans whose marriages were contracted subsequent to December 31, 1905, and whose husbands were bona fide residents of the State of Louisiana at the time of their death, and whose incomes are less than one thousand ($1,000.00) dollars per annum, who have not remarried, and who have attained the age of sixty-five years. . . ."

La. Act 7 of 1930 (E. S.) again changed the qualifications for widows: "(b) Widows of Confederate Veterans who served from the date of their enlistment until the close of the late Civil War, or until honorably discharged, whose marriages were contracted prior to December 31, 1905, and who have been bona fide residents of the State of Louisiana for five years next preceding the date of their application for a pension. . . ."

"(c) Widows of Confederate Veterans . . . whose marriages were contracted subsequent to December 31, 1905, who have not remarried and who have attained the age of sixty-five years, and who have been bona fide residents of the State of Louisiana for five years next preceding the date of their application for a pension. . . ." (This act also authorized the Board of Liquidation to incur debt and issue bonds from time to time for the payment of confederate pensions.)

The Constitution demonstrates a cardinal principle of constitutional amendment: the more administrative provisions an article contains the more frequent the amendment of that article is apt to be. This is evident by the amendments to Articles VI, VII and XIV.45

Security amendments. The amendments discussed so far represent those for which the Constitution of 1921 has been to some extent responsible. A new constitution could avoid many of them simply by the omission of administrative detail and by concentrating on the statement of fundamental policy and structure.

A large number of amendments, however, are yet to be accounted for. Article VI-A, added to the Constitution by amendment, provided for a one cent motor fuel tax. Nothing in the Constitution apparently would have prevented the legislature from levying such a tax and appropriating the revenue for the purposes designated in the amendment. It supplied no deficiency of power, established no exception to basic policy; it represented no necessary change in administrative procedures embedded in the 1921 Constitution. It appeared to be an attempt to secure this tax and its dedications against any tampering by subsequent legislatures. Either to provide further protection or to save time, the amendment was made self-operative. In order to make it effective it had to be written, therefore, as a tax law. A comparison of Article VI-A with actual tax legislation is illuminating.46 Forty-eight amendments to the Constitution have been self-operative in nature, designed apparently to go into effect without any necessary enabling legislation, and thus containing the administrative detail which other states provide for by statute.47 Changes

45. See Appendix III.
46. See Appendix IV.
47. The following amendments specify that they shall be self-operative:
which other states effect through their legislatures therefore are accomplished by constitutional amendment in Louisiana. The voter in Louisiana must decide whether one and three-fourths mills of a seven mill tax for Orleans parish schools should be spent only for buildings, maintenance, and equipment, whether the legislature is to be directed to provide a retirement fund for janitors, school bus drivers, custodian and maintenance employees of the public school system, whether children only six years of age at the beginning of the term should be admitted to the schools or whether those who would reach the age of six within four months after the beginning of the term should also be admitted, the number of zones which the Board of Levee Commissioners of the New Orleans Levee District must provide in a lakefront development, whether tax liens should lapse three years from December 31 of the year in which the tax is levied or three years from December 31 of the year in which the taxes are due, whether the tax on sulphur should be $1.03 per long ton or not.

Is There a Remedy?

The abuse of the amending process under the 1921 Constitution suggests of itself certain remedies. Statewide interference in local affairs could be greatly reduced by the inclusion of home rule provisions in any new constitution. Administrative procedures that re-
quire frequent change could be entrusted to the legislature. The caliber of the legislature itself might even be so improved through the devices discussed above that the urge for security amendments would become less prominent with the passage of time.

The amending process could simply be made more difficult.54 It would be unfortunate, however, if a reaction from an amending procedure were to lead to the adoption of one so difficult that any change in the constitution would be virtually impossible to accomplish. States with constitutions that are extremely difficult to amend have experienced serious disadvantages.55

54. One requirement which makes amendment difficult is the approval of more than one legislative session for an amendment to the Constitution before it is submitted to the people. The following State Constitutions contain this requirement:

- Connecticut, Majority of House Representatives; next Assembly, 2/3 each House. (Art. XI)
- Delaware, 2/3 members elected, two successive sessions. (Art. XVI, § 1)
- Indiana, Majority members elected, two successive sessions. (Art. XVI, § 1)
- Iowa, Majority members elected, two successive sessions. (Art. X, § 1)
- Massachusetts, Majority members elected, two successive sessions. (Art. XLVIII, §§ 1-5)
- Nevada, Majority members elected, two successive sessions. (Art. XVI, § 1)
- New Jersey, Majority members elected, two successive sessions. (Art. IX)
- New York, Majority members elected, two successive sessions. (Art. XIX, § 1)
- Pennsylvania, Majority members elected, two successive sessions. (Art. XVIII, § 1)
- Rhode Island, Majority members elected, two successive sessions. (Art. XIII)
- Tennessee, Majority members elected, 2/3 members elected succeeding session. (Art. XI, § 8)
- Vermont, 2/3 vote Senate, majority House, Majority members elected succeeding session. (Ch. 2, 68)
- Virginia, Majority members elected, two successive sessions. (Art. XV, § 196)
- Wisconsin, Majority members elected, two successive sessions. (Art. XII, § 1)


55. Comments on difficult amending procedures in other states:

"In the period of 1844-1934, 92 amendment proposals have passed one or both houses of the New Jersey Legislature. Fifteen amendments (including the horse racing amendment in 1939) have gone to the voters. Though as many as five amendments have been submitted on one occasion, the Constitution has been amended only four times. Obviously, the New Jersey amending process has proved extremely difficult in practice." (Approved by majority of two successive legislatures, and by a majority of voters voting on the amendment at a special election.) George, Amendment and Revision of State Constitutions, The Governor's Committee on Preparatory Research for the New Jersey Constitutional Convention (May, 1947) 6.

"Our constitution provides two methods for its revision: amendment and convention. Since 1870 both of these methods have been tried many times to secure constitutional reform in Tennessee and up to now all efforts have failed. The fact that it is so difficult to change our constitution is probably its most serious weakness. If revision had been made easier other weaknesses could have been corrected from time to time. As it is now written it would take six years before a proposed amendment to the state constitution could become an accom-
The amending process may be devised however to fall between the almost automatic approval characterizing the 1921 Constitution and an unamendable constitution such as that of 1845 which required the approval of a majority of all qualified electors.\(^6\)

A more feasible procedure might be to require a majority of those voting at the election at which the amendment is offered.\(^7\) A restriction might also be placed on the number of amendments proposed at a given election,\(^8\) to which may be added restriction on the frequency of such elections.\(^9\) Certainly no voter can be expected to

\(^6\) The Constitutions of Idaho and Indiana contain provisions requiring amendments to be ratified by a majority of the electors. However, in Idaho, Green v. State Bd. of Canvassers, 5 Idaho 130, 47 Pac. 259 (1896), held that only a majority vote on the question was required, and the Indiana Supreme Court has ruled (In re Todd, 208 Ind. 168, 193 N. W. 865 (1926)) that if more votes are cast for than against an amendment submitted to the voters, it is ratified even though the total vote cast in favor of the amendment is less than a majority of the total number of votes cast at the election at which the amendment was voted on. Graves and Zipin, op. cit. supra note 54, at 74-80.

\(^7\) The following state constitutions require amendments to be ratified by a majority of the electors at the election: Arkansas, Connecticut, Illinois, Minnesota, Mississippi, North Carolina, Oklahoma, Tennessee, and Wyoming. However, in Arkansas, Brickhouse v. Hill, 167 Ark. 513, 268 S. W. 865 (1925) and Combs v. Gray, 170 Ark. 956, 281 S. W. 918 (1926) held that only a majority vote on the question was required. The Connecticut Constitution requires the approval of "a majority of the electors present at [town] meetings." Graves and Zipin op. cit. supra note 54, at 74-80.

\(^8\) The following state constitutions contain provisions limiting the number of amendments to be submitted to the people at any one time:

Arkansas, Maximum of three to be submitted at one election. (Art. XIX, § 22)

Colorado, Amendments to no more than six articles may be proposed at same legislative session. Limitation does not apply to initiative. (Art. XIX, § 2)

Illinois, Same legislative session shall have no power to propose amendments to more than one article. (Art. XIV, § 2)

Kansas, Maximum of three to be submitted at one election. (Art. XIV, § 1)

Kentucky, Maximum of two to be submitted at one election. (§§ 256, 257)

Montana, Maximum of three amendments at one election. (Art. XIX, § 9)


\(^9\) The Illinois Constitution provides that an amendment to the same article
pass intelligently upon thirty-five amendments at a single election.\textsuperscript{60}

It cannot be stressed too strongly, however, that as long as a constitution is replete with detail an easy amending process is an unavoidable evil. The effect of restricting the amending process for a

may not be submitted oftener than once in four years. (Art. XIV, § 2).\textsuperscript{2} The Kentucky Constitution contains a provision that no amendment may be resubmitted oftener than once in five years. (§ 256). The Tennessee Constitution states that the legislature may not propose amendments more often than once in six years. (Art. XI, § 3). In Vermont, since 1910, amendments may be submitted only at ten year intervals. (Ch. II, § 68).

Graves and Zipin, op. cit. supra note 54, at 74-80.

60. In the election of November 3, 1936, 35 amendments appeared on the ballot. The first ten follow:

\begin{itemize}
  \item 1. FOR the proposed amendment to Section 4 of Article X of the Constitution, granting exemptions from taxation including exemption of cattle, livestock, and poultry. AGAINST
  \item 2. FOR the proposed amendment of Article VI of the Louisiana State Constitution, creating the Department of Revenue. AGAINST
  \item 3. FOR the proposed amendment to the present Section 10 of Article VIII of the Constitution of Louisiana, relative to the time of holding parochial and municipal elections in the Parish of Orleans and City of New Orleans. AGAINST
  \item 4. FOR the Good Roads Amendment to the present Section 22 of Article VI of the Constitution of the State of Louisiana. AGAINST
  \item 5. FOR the proposed amendment of paragraph Second of Section 14 of Article XII of the Constitution, relative to furnishing free school books and free school supplies to the school children of the State. AGAINST
  \item 6. FOR Lakeshore Highway Amendment to Section 22 of Article VI of the Louisiana Constitution. AGAINST
  \item 7. FOR the proposed amendment to Article XIX of the Constitution of Louisiana, adding thereto a new Section, to be known as Section 22, making August 30th, birthday of Honorable Huey P Long, deceased, a legal holiday in this State. AGAINST
  \item 8. FOR the proposed amendment to Section 24 of Article XIV of the Constitution of Louisiana, relative to the power of the City of New Orleans to anticipate its taxes. AGAINST
  \item 9. FOR the proposed amendment to the present Section 24.1 of Article XIV of the Constitution of Louisiana providing for the creation of a Special Paving and Permanent Public Improvement Fund for the City of New Orleans. AGAINST
  \item 10. FOR the proposed amendment of Article XVIII of the Constitution relative to mothers' and children's aid and welfare, old age assistance, unemployment compensation, and assistance to the blind. AGAINST
\end{itemize}

Twenty-five other amendments follow. Note that they are not listed on the ballot in the order of the articles and sections of the Constitution which they amend, or in the order of the official acts. The act numbers of the first ten amendments on the ballot are as follows: 68, 69, 831, 66, 89, 71, 140, 340, 341, and 51.
document of this kind would be to saddle the state with procedures that are out of date almost upon adoption. Only with a constitution restricted to fundamental policy and structure can a sensible amending clause be seriously considered.\textsuperscript{61}

\textsuperscript{61} An interesting suggestion made during the 1921 convention regarding a novel amending process was reported by the Times-Picayune: “Division of the Constitution into sections, one to be short and embracing only fundamentals with a provision for amendment in the usual way, the other section to contain legislative provisions, restrictions, etc., to be amended by two-thirds of the Legislature, is the aim of a resolution introduced Wednesday night by E. M. Stafford of New Orleans. The resolution follows:

“‘Whereas, when the question of holding a Constitutional Convention was submitted to the people of the state of Louisiana, it was generally conceded that if the Convention was held a short Constitution would be adopted, and

“‘Whereas, so many important legislative ordinances have met with favor by the members of the Convention, and

“‘Whereas, all these legislative ordinances can be adopted and written into law by dividing the Constitution into two sections, one section to be modeled in the short skeleton style of the United States Constitution and the other section to contain all the directory and permissive provisions: the first section subject to amendment or repeal only by the usual constitutional methods and the second section to be subject to amendment, alteration or repeal by two-thirds vote of the Legislature, therefore be it

“‘Resolved that the style and final revision committee of this Louisiana Constitutional Convention be instructed to divide the Constitution into two sections, one section to contain fundamental ordinances which can only be repealed by Constitutional amendments, and the other section to contain ordinances which can be repealed by a vote of two-thirds of the Legislature.’”

# APPENDIX I OF PART I

## CONFUSING TERMINOLOGY IN THE CONSTITUTION

This is a list of references in the Louisiana Constitution to the Board of Liquidation of the State Debt, showing the order in which they were added. The purpose of this chart is to show in chronological form the variations in manner of referring to this Board.

<table>
<thead>
<tr>
<th>Date Entered Constitution</th>
<th>Constitutional Citation</th>
<th>Manner of Designation</th>
<th>Mentioned in regard to</th>
<th>Composition of the Board</th>
</tr>
</thead>
<tbody>
<tr>
<td>An Ordinance of May 12, 1921 by Const'l Convention</td>
<td>XXIII-1</td>
<td>&quot;Board of Liquidation of the State Debt&quot;</td>
<td>Authorization to negotiate a loan to defray convention expenses</td>
<td>Not Mentioned</td>
</tr>
<tr>
<td>Reference to the Board in this section added by Act 176 of 1924</td>
<td>XVIII-3a &amp; b</td>
<td>&quot;Board of Liquidation of the State Debt&quot;</td>
<td>Authorization to borrow money in anticipation of collections of $% mill tax to pay confederate vets' pensions</td>
<td>Not Mentioned</td>
</tr>
<tr>
<td>Section 24.1 added to Article VI by Act 179 of 1924</td>
<td>VI-24.1</td>
<td>&quot;Board of Liquidation of the State of Louisiana.&quot;</td>
<td>Authorization to fund into bonds avails of automobile license taxes collected</td>
<td>Not Mentioned</td>
</tr>
<tr>
<td>Subsection d added to Article VI, Section 22 by Act 219 of 1928</td>
<td>VI-22-d</td>
<td>&quot;Board of Liquidation of the State Debt of Louisiana.&quot;</td>
<td>Authorization to fund gasoline tax into bonds</td>
<td>Not Mentioned</td>
</tr>
<tr>
<td>Date Entered Constitution</td>
<td>Constitutional Citation</td>
<td>Manner of Designation</td>
<td>Mentioned in regard to</td>
<td>Composition of the Board</td>
</tr>
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</tr>
<tr>
<td>Section 6 added to Article XVIII by Act 28 of 1928</td>
<td>XVIII-6</td>
<td>&quot;State Board of Liquidation&quot; &amp; &quot;Board of Liquidation&quot;</td>
<td>Authorization to borrow in anticipation of Confederation Vets' tax to pay back pensions</td>
<td>Not Mentioned</td>
</tr>
<tr>
<td>References to the Board added by Act 5 of 1930 &amp; Act 122 of 1932</td>
<td>IV-12</td>
<td>&quot;Board of Liquidation of the State Debt&quot;</td>
<td>Authorization to fund into bonds unpledged Surplus of State Bond &amp; Int. Fund for erecting State Capitol bldg.; also to issue bonds from same tax to pay outstanding indebtedness of state to fiscal agents &amp; of L.S.U. &amp; Agri. &amp; Mechanical College</td>
<td>Not Mentioned</td>
</tr>
<tr>
<td>Reference to the Board added to Section 11 of Article X by Act 147 of 1932</td>
<td>X-11</td>
<td>&quot;State Board of Liquidation&quot;</td>
<td>Authorization to lend money to parishes where a public calamity befalls.</td>
<td>Governor, Lieutenant Governor, Attorney General, Secretary of State, State Auditor State Treasurer, Speaker of House of Representatives</td>
</tr>
<tr>
<td>Date Entered Constitution</td>
<td>Constitutional Citation</td>
<td>Manner of Designation</td>
<td>Mentioned in regard to</td>
<td>Composition of the Board</td>
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</tr>
<tr>
<td>Section 7 added to Article XVIII by Act 61 of 1936</td>
<td>XVIII-7-3</td>
<td>&quot;Board of Liquidation of the State Debt&quot;</td>
<td>Authorization to borrow for public welfare purposes</td>
<td>Not Mentioned</td>
</tr>
<tr>
<td>Subsection (a) added to Article IV, Section 12, by Act 383 of 1940</td>
<td>IV-12-a</td>
<td>&quot;Board of Liquidation of the State Debt&quot;</td>
<td>Authorization to issue bonds to pay certain indebtedness</td>
<td>Not Mentioned</td>
</tr>
<tr>
<td>Subsection (a) added to Article IV, Section 2, by Act 364 of 1942</td>
<td>IV-2a</td>
<td>&quot;Board of Liquidation of the State Debt&quot;</td>
<td>Authorization to fund into bonds certain royalties rec'd from mineral leases to provide funds for charitable &amp; correctional institutions</td>
<td>Governor, Lieutenant Governor, Speaker of House of Representatives, Attorney-General, Secretary of State, Auditor, Treasurer</td>
</tr>
<tr>
<td>Section 1-a added to Article IV by Act 327 of 1944</td>
<td>IV-1-a</td>
<td>&quot;Board of Liquidation of the State Debt&quot;</td>
<td>Board created. Its authority &amp; power to borrow money outlined</td>
<td>Governor or his Executive Counsel, Lieutenant Governor, Speaker of House of Representatives, Chairman of House Appropriations Committee, Chairman of Senate Finance Committee, Auditor, Treasurer</td>
</tr>
</tbody>
</table>

Source: Constitution of Louisiana.
APPENDIX I OF PART II APPORTIONMENT

REPRESENTATION ACCORDING TO POPULATION
IN THE HOUSE FOR 1921—1940

<table>
<thead>
<tr>
<th>PARISH</th>
<th>Population per Representative</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>5,000</td>
</tr>
<tr>
<td>Bossier</td>
<td></td>
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<tr>
<td>Caldwell</td>
<td></td>
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<tr>
<td>Cameron</td>
<td></td>
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<tr>
<td>Catahoula</td>
<td></td>
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<tr>
<td>Claiborne</td>
<td></td>
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<tr>
<td>Concordia</td>
<td></td>
</tr>
<tr>
<td>DeSoto</td>
<td></td>
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<tr>
<td>East Carroll</td>
<td></td>
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<tr>
<td>East Feliciana</td>
<td></td>
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<tr>
<td>Evang line</td>
<td></td>
</tr>
<tr>
<td>Franklin</td>
<td></td>
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<tr>
<td>Grant</td>
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<tr>
<td>Iberia</td>
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<tr>
<td>Iberville</td>
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<tr>
<td>Jackson</td>
<td></td>
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<tr>
<td>Jefferson</td>
<td></td>
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<tr>
<td>Jefferson Davis</td>
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<tr>
<td>La Salle</td>
<td></td>
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<tr>
<td>Lincoln</td>
<td></td>
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<tr>
<td>Livingston</td>
<td></td>
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<tr>
<td>Madison</td>
<td></td>
</tr>
<tr>
<td>Morehouse</td>
<td></td>
</tr>
</tbody>
</table>

1940 population. Those ending on left side of thin vertical line indicate over-representation; those ending on right, under-representation.

1920 population. Those ending on left of thick vertical line indicate over-representation; those ending on right, under-representation.
APPENDIX I OF PART II (Cont'd)

REPRESENTATION ACCORDING TO POPULATION IN THE HOUSE FOR 1921—1940

<table>
<thead>
<tr>
<th>PARISH</th>
<th>Population per Representative</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>5,000</td>
</tr>
<tr>
<td>Ouachita</td>
<td></td>
</tr>
<tr>
<td>St. Mary</td>
<td></td>
</tr>
<tr>
<td>Tangipahoa</td>
<td></td>
</tr>
<tr>
<td>Allen</td>
<td></td>
</tr>
<tr>
<td>Ascension</td>
<td></td>
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<tr>
<td>Assumption</td>
<td></td>
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<tr>
<td>Beauregard</td>
<td></td>
</tr>
<tr>
<td>Bienville</td>
<td></td>
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<tr>
<td>Union</td>
<td></td>
</tr>
<tr>
<td>Vermillion</td>
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<tr>
<td>Vernon</td>
<td></td>
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<tr>
<td>Washington</td>
<td></td>
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<tr>
<td>Webster</td>
<td></td>
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<tr>
<td>West Baton Rouge</td>
<td></td>
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<tr>
<td>West Carroll</td>
<td></td>
</tr>
<tr>
<td>West Feliciana</td>
<td></td>
</tr>
<tr>
<td>Winn</td>
<td></td>
</tr>
</tbody>
</table>

1940 population. Those ending on left side of thin vertical line indicate over-representation; those ending on right, under-representation.

1920 population. Those ending on left of thick vertical line indicate over-representation; those ending on right, under-representation.
APPENDIX I OF PART II (Cont’d)

REPRESENTATION ACCORDING TO POPULATION IN THE HOUSE FOR 1921—1940

<table>
<thead>
<tr>
<th>PARISH</th>
<th>Population per Representative</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5,000</td>
</tr>
<tr>
<td>Plaquemines</td>
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</tr>
<tr>
<td>Pointe Coupee</td>
<td></td>
</tr>
<tr>
<td>Red River</td>
<td></td>
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<tr>
<td>Richland</td>
<td></td>
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<tr>
<td>Sabine</td>
<td></td>
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<tr>
<td>St. Bernard</td>
<td></td>
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<tr>
<td>St. Charles</td>
<td></td>
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<tr>
<td>St. Helena</td>
<td></td>
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<tr>
<td>St. James</td>
<td></td>
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<tr>
<td>St. John the Baptist</td>
<td></td>
</tr>
<tr>
<td>St. Martin</td>
<td></td>
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<tr>
<td>St. Tammany</td>
<td></td>
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<tr>
<td>Tensas</td>
<td></td>
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<tr>
<td>Terrebonne</td>
<td></td>
</tr>
<tr>
<td>Orleans</td>
<td></td>
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<tr>
<td>Ward 3</td>
<td></td>
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<tr>
<td>Ward 7</td>
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<tr>
<td>Ward 11</td>
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<tr>
<td>Ward 1</td>
<td></td>
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<tr>
<td>Ward 2</td>
<td></td>
</tr>
<tr>
<td>Ward 4</td>
<td></td>
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</tbody>
</table>

1940 population. Those ending on left side of thin vertical line indicate over-representation; those ending on right, under-representation.

1920 population. Those ending on left of thick vertical line indicate over-representation; those ending on right, under-representation.
APPENDIX I OF PART II (Cont'd)

REPRESENTATION ACCORDING TO POPULATION
IN THE HOUSE FOR 1921—1940

<table>
<thead>
<tr>
<th>PARISH</th>
<th>Population per Representative</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5,000</td>
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<tr>
<td>Orleans</td>
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<tr>
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<td>Ward 6</td>
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<td>Ward 8</td>
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<td>Ward 9</td>
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<td>Ward 10</td>
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<td>Ward 12</td>
<td></td>
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<td>Ward 13</td>
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<td>Ward 14</td>
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<td>Ward 15</td>
<td></td>
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<tr>
<td>Ward 16</td>
<td></td>
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<tr>
<td>Ward 17</td>
<td></td>
</tr>
<tr>
<td>Caddo</td>
<td></td>
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<tr>
<td>Rapides</td>
<td></td>
</tr>
<tr>
<td>St. Landry</td>
<td></td>
</tr>
<tr>
<td>Acadia</td>
<td></td>
</tr>
<tr>
<td>Avoyelles</td>
<td></td>
</tr>
<tr>
<td>Calcasieu</td>
<td></td>
</tr>
<tr>
<td>East Baton Rouge</td>
<td></td>
</tr>
<tr>
<td>Lafayette</td>
<td></td>
</tr>
<tr>
<td>Lafourche</td>
<td></td>
</tr>
<tr>
<td>Natchitoches</td>
<td></td>
</tr>
</tbody>
</table>

1940 population. Those ending on left side of thin vertical line indicate over-representation, those ending on right, under-representation.

1920 population. Those ending on left of thick vertical line indicate over-representation, those ending on right, under-representation.
### Representation According to Population

**In the Senate for 1921–1940**

#### PARISHES IN DISTRICT

<table>
<thead>
<tr>
<th>No.</th>
<th>Wards</th>
<th>Population per Senator</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1, 2 &amp; 15 Orleans</td>
<td>...</td>
</tr>
<tr>
<td>2</td>
<td>3 Orleans</td>
<td>...</td>
</tr>
<tr>
<td>3</td>
<td>4 &amp; 5 Orleans</td>
<td>...</td>
</tr>
<tr>
<td>4</td>
<td>6 &amp; 7 Orleans</td>
<td>...</td>
</tr>
<tr>
<td>5</td>
<td>8 &amp; 9 Orleans</td>
<td>...</td>
</tr>
<tr>
<td>6</td>
<td>10 &amp; 11 Orleans</td>
<td>...</td>
</tr>
<tr>
<td>7</td>
<td>12 &amp; 13 Orleans</td>
<td>...</td>
</tr>
<tr>
<td>8</td>
<td>14, 16 &amp; 17 Orleans</td>
<td>...</td>
</tr>
<tr>
<td>9</td>
<td>St. Bernard &amp; Plaquemines</td>
<td>...</td>
</tr>
<tr>
<td>10</td>
<td>Jefferson, St. Charles, St. John the Baptist</td>
<td>...</td>
</tr>
<tr>
<td>11</td>
<td>St. James &amp; Ascension</td>
<td>...</td>
</tr>
<tr>
<td>12</td>
<td>Terrebonne, Lafourche &amp; Assumption</td>
<td>...</td>
</tr>
<tr>
<td>13</td>
<td>St. Mary &amp; Vermilion</td>
<td>...</td>
</tr>
<tr>
<td>14</td>
<td>Calcasieu, Allen, Jefferson Davis, Beauregard &amp; Cameron</td>
<td>...</td>
</tr>
</tbody>
</table>

1940 population. Those ending on left side of thin vertical line indicate over-representation; those ending on right, under-representation.

1920 population. Those ending on left of thick vertical line indicate over-representation; those ending on right, under-representation.
APPENDIX I OF PART II (Cont'd)

REPRESENTATION ACCORDING TO POPULATION
IN THE SENATE FOR 1921—1940

<table>
<thead>
<tr>
<th>PARISHES IN DISTRICT</th>
<th>Population per Senator</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10,000</td>
</tr>
<tr>
<td>No. 15 St. Martin, Iberia &amp; Lafayette</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 16 St. Landry &amp; Acadia</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 17 Avoyelles &amp; Evangeline</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 18 Pointe Coupee, Iberville &amp; West Baton Rouge</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 19 East Feliciana &amp; West Feliciana</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 20 East Baton Rouge</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 21 St. Helena, Livingston &amp; Tangipahoa</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 22 Washington &amp; St. Tammany</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 23 Rapides</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 24 Natchitoches &amp; Red River</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 25 Caddo &amp; DeSoto</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 26 Webster &amp; Bossier</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 27 Bienville &amp; Claiborne</td>
<td>![Bar Graph]</td>
</tr>
<tr>
<td>No. 28 Union, Lincoln, Morehouse &amp; West Carroll</td>
<td>![Bar Graph]</td>
</tr>
</tbody>
</table>

1940 population. Those ending on left side of thin vertical line indicate over-representation; those ending on right, under-representation.

1920 population. Those ending on left of thick vertical line indicate over-representation; those ending on right, under-representation.
APPENDIX I OF PART II (Cont'd)

REPRESENTATION ACCORDING TO POPULATION IN THE SENATE FOR 1921—1940

<table>
<thead>
<tr>
<th>PARISHES IN DISTRICT</th>
<th>Population per Senator</th>
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</thead>
<tbody>
<tr>
<td></td>
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<td>20,000</td>
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<td>30,000</td>
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<td>70,000</td>
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<td>80,000</td>
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<tr>
<td></td>
<td>90,000</td>
</tr>
<tr>
<td></td>
<td>100,000</td>
</tr>
</tbody>
</table>

| No. 29 Ouachita & Jackson | ![Graph] |
| No. 30 Winn, Caldwell, LaSalle & Grant | ![Graph] |
| No. 31 East Carroll, Madison, Tensas, & Concordia | ![Graph] |
| No. 32 Richland, Franklin & Cataboula | ![Graph] |
| No. 33 Sabine & Vernon | ![Graph] |

1940 population. Those ending on left side of thin vertical line indicate over-representation; those ending on right, under-representation.

1920 population. Those ending on left of thick vertical line indicate over-representation; those ending on right, under-representation.

These graphs are approximations.

APPENDIX II OF PART II

SELECTION OF JUDGES UNDER THE CONSTITUTIONS OF LOUISIANA

Constitution of 1812:
Members of the supreme court were appointed by the executive. The legislature was authorized to create inferior courts and prescribe the mode of appointment of the judges thereof.

Constitution of 1845:
Members of the supreme court and district judges were appointed by the executive. Justices of the peace were elected by the qualified voters of each parish.

Constitution of 1852:
The chief justice of the supreme court was elected at large while the associate justices were elected from each of four supreme court districts. The judges of the inferior courts to be established by the legislature, as well as justices of the peace, were to be elected from their respective districts or parishes.

Constitution of 1864:
The judges of the supreme court and of the inferior courts were appointed by the executive. Justices of the peace were elected.

Constitution of 1868:
Members of the supreme court were appointed by the executive. District and parish judges and justices of the peace were elected.

Constitution of 1879:
Members of the supreme court were appointed by the executive. Judges of the courts of appeal were elected by the two houses of the General Assembly in joint session. District judges, and justices of the peace were elected by the people.

Constitution of 1898:
All judges were elected. In case of a vacancy in the supreme court caused by the death, removal or resignation of any justice, the vacancy was to be filled by the selection by the court, of a justice of one of the courts of appeal from a supreme court district other than that in which the vacancy occurred, said appointment to terminate at the ensuing congressional election. Where a like vacancy occurred in the courts of appeal, the vacancy was filled by executive appointment until a successor was elected at the next congressional election.

Constitution of 1918:
All judges were elected. Vacancies were filled as under the Constitution of 1898.

Constitution of 1921:
All judges are elected. Vacancies on the supreme court from any cause are filled by the appointment of a judge of a court of appeal from a supreme court district other than that in which the vacancy shall occur unless two years or more of an unexpired term remains, in which case a special election is called by the governor to be held within four months after the vacancy occurs. Vacancies in the courts of appeal are filled as under the Constitution of 1918. See also Powell, Constitutional Development of Louisiana. Unpublished manuscript.
APPENDIX III OF PART II

JURISDICTION OF THE COURTS UNDER THE CONSTITUTIONS OF LOUISIANA

Constitution of 1812:

The supreme court was given appellate jurisdiction only, extending to all civil cases where the matter in dispute exceeded the sum of $800. The legislature was given the power to create inferior courts.

Constitution of 1845:

The appellate jurisdiction of the supreme court was extended to include all cases in which the constitutionality or legality of any tax, toll, or impost of any kind was in contest regardless of the amount, as well as to cases where fines, forfeitures and penalties imposed by municipal corporations are involved. The supreme court was also given jurisdiction in criminal cases on questions of law alone whenever the punishment of death or hard labor could have been imposed or where a fine exceeding $800 was actually imposed.

District courts were given original jurisdiction in all civil cases when the amount in dispute exceeded $50 and they were given unlimited jurisdiction in all criminal cases and matters connected with successions.

Justices of the peace had jurisdiction in civil cases but it was never to exceed $100. Their criminal jurisdiction was to be provided for by law and their decisions were to be subject to appeal to the district courts.

Constitution of 1852:

The jurisdiction of the supreme court was unchanged but the legislature was given the power to restrict and limit its jurisdiction in civil cases to questions of law only.

The jurisdiction of the inferior courts was not provided for except that justice of the peace courts were restricted in jurisdiction to civil cases where the amount in dispute did not exceed $100, subject to appeal as provided for by law. Their criminal jurisdiction was to be provided for by law.

Constitution of 1864:

No changes were made in the jurisdictions of the various courts, except that the legislature was deprived of the power to restrict and limit its jurisdiction in civil cases to questions of law only.

Constitution of 1868:

The jurisdiction of the supreme court was changed by increasing the monetary limit to $500.

District courts were established having original jurisdiction in all civil cases where the amount in dispute exceeded $500. Their criminal jurisdiction was unlimited and they were given appellate jurisdiction in civil suits where the amount in dispute exceeded $100. Seven district courts were provided for the Parish of Orleans with the following jurisdiction: The first, exclusive criminal jurisdiction; the second, exclusive probate jurisdiction, the third, exclusive jurisdiction of appeals from justices of the peace; the fourth, fifth, sixth and seventh, exclusive civil jurisdiction except probate, when the sum in contest was above $100.

Parish courts were created having concurrent jurisdiction with justices of the peace in all cases where the amount in controversy exceeded $25 and was less than $100. They were given exclusive original jurisdiction in ordinary suits where the amount in dispute exceeded $100 and was less than $500, subject to appeal
APPENDIX III OF PART II (Cont’d)

to the district courts where the amount in dispute exceeded $100. All successions were to be opened and settled in the parish courts and all suits in which the succession was a party could be brought in either parish or district courts, dependent upon the amount involved. Parish courts were given jurisdiction in all criminal matters where the penalty was not necessarily imprisonment at hard labor or death and where the accused waived trial by jury. There could be no trial by jury in the parish courts and they were given such other jurisdiction as conferred upon them by law. Appeals from the parish courts went directly to the supreme court in probate matters where the amount in dispute exceeded $500.

Justices of the peace had jurisdiction in civil cases where the amount in dispute did not exceed $100 subject to appeal to the parish courts where the amount exceeded $10. Their criminal jurisdiction was to be provided for by law.

Constitution of 1879:
The appellate jurisdiction of the supreme court was changed to extend to cases where the amount in dispute or fund to be distributed, regardless of the amount claimed, exceeded $2,000; to suits for divorce and separation from bed and board; to suits for nullity of marriage; to suits involving the rights of homesteads; to suits for interdiction. It retained its former jurisdiction over suits involving the legality of taxes, tolls, and imposts, and criminal jurisdiction as to questions of law as heretofore limited.

Courts of appeal were established having appellate jurisdiction only extending to all cases, civil or probate, where the matter in dispute or funds to be distributed exceeded $100 and did not exceed $2,000.

District courts had original jurisdiction in all civil matters where the amount in dispute exceeded $50 and unlimited original jurisdiction in all criminal, probate and succession matters and where a succession was a party defendant.

Parish courts were abolished.

The exclusive original jurisdiction of justices of the peace was limited to civil matters where the amount in dispute did not exceed $50. They had concurrent original jurisdiction with the district courts where the amount in dispute exceeded $50 and did not exceed $100. They were to have no jurisdiction in succession or probate matters or where a succession was a defendant. They were to have criminal jurisdiction as committing magistrates and had the powers to bail or discharge in cases not capital or necessarily punishable at hard labor.

Constitution of 1898:
The jurisdiction of the supreme court remained as before except that it was extended to all suits involving alimony; to all matters of adoption, emancipation, legitimacy, and custody of children and to all cases wherein an ordinance of a municipal organization or a law of this state had been declared unconstitutional. Its criminal jurisdiction was extended to questions of law where a fine of $300 or imprisonment exceeding six months was actually imposed. The supreme court was given original jurisdiction as necessary to enable it to determine questions of fact affecting its own jurisdiction in any case pending before it. It was given exclusive original jurisdiction in all matters touching professional misconduct of members of the bar with the power to disbar. The supreme court was given the additional power to require, by certiorari or otherwise, a case to be certified from the courts of appeal for its determination.
APPENDIX III OF PART II (Cont'd)

The jurisdiction of the courts of appeal was unchanged except that the judges thereof were given power to certify questions of law arising out of any case pending before them to the supreme court.

District courts, other than in the Parish of Orleans, were to have original jurisdiction in all civil matters where the amount in dispute exceeded $50, and in all cases where the title to real estate was involved, or to office or other public positions, or civil or political rights, and all other cases where no specific amount was in contest. The district courts had jurisdiction of appeals from justices of the peace in all civil matters, regardless of the amount in dispute, and from all orders requiring a peace bond. Persons sentenced to a fine or imprisonment, by the mayors or recorders, were entitled to an appeal to the district courts of the parish where trial was to be de novo without juries. They had unlimited and exclusive original jurisdiction in all criminal cases except where vested in other courts by the Constitution; in all probate and succession matters, and where a succession was a party defendant; and in all cases where the state, parish, any municipality or other political corporation was a party defendant, regardless of the amount in dispute; and for all proceedings for the appointment of receivers or liquidators to corporations or partnerships; and they had the authority to issue all such writs, process and orders as necessary for the purpose of the jurisdiction conferred upon them.

The jurisdiction of the justices of the peace remained unchanged except that it was extended to include concurrent jurisdiction in suits for the ownership or possession of movable property and suits by landlords for possession of leased premises where the rent did not exceed the jurisdictional amount. Jurisdiction was denied in cases where the state, parishes or municipalities were party defendants or where title to real estate was involved.

Constitution of 1913:

The jurisdiction of the supreme court was unchanged.

The courts of appeal were given appellate jurisdiction only to extend to all cases, civil and probate, of which the Civil District Court for the Parish of Orleans or the district courts throughout the state had exclusive original jurisdiction and of which the supreme court was not given jurisdiction, when the matter in dispute or fund to be distributed did not exceed $2,000. Appeals were to be both upon the law and the facts.

The jurisdiction of the district courts was unchanged.

Juvenile courts were established for the first time. A separate juvenile court was created in the parish of Orleans and each district court outside the Parish of Orleans was designated as a juvenile court for juvenile proceedings. The juvenile courts had jurisdiction, except for capital crimes, of the trial of all children under seventeen years of age who were charged in said courts as neglected or delinquent children, and of all persons charged with contributing to the neglect or delinquency of children under seventeen, or with a violation of any law enacted for the protection of the physical, moral or mental well-being of children, not punishable by death or hard labor. The juvenile courts also had jurisdiction of all cases of desertion or non-support of children by either parent. A procedure was also provided for trial of cases in juvenile courts.

Jurisdiction of justices of the peace was unchanged.
A separate section dealt with jurisdiction of the courts for the Parish and City of Orleans.

*Constitution of 1921:*

The supreme court is given control and general supervision of all inferior courts. Its jurisdiction is unchanged except that its appellate jurisdiction does not extend to suits for damages for personal injuries to or for the death of a person, or for other damages sustained by such person or his heirs or legal representatives, arising out of the same circumstances; nor shall such appellate jurisdiction extend to any suit for compensation under any state or federal workmen’s compensation law, or employer’s liability act. In all civil and probate cases where the supreme court is given appellate jurisdiction, the appeal shall be both upon the law and the facts.

The courts of appeal have appellate jurisdiction only which extends to all cases, civil and probate, of which the Civil District Court for the Parish of Orleans, or the district courts throughout the state, have exclusive original jurisdiction, regardless of the amount involved, or concurrent jurisdiction exceeding $100, and of which the supreme court is not given original jurisdiction.

Jurisdiction of district courts was unchanged except that its appellate jurisdiction did not extend to cases where immovable property was claimed as a homestead.

The legislature was given the power to abolish justice of the peace courts in certain wards and substitute other courts with the jurisdiction now vested in justices of the peace, which was unchanged from those granted under the Constitution of 1913.

Jurisdiction of the juvenile courts was the same except that assault with intent to commit rape, as well as capital crime, was excluded from its jurisdiction. Its jurisdiction is extended to cover all adoption proceedings of children under seventeen years of age.

The legislature may vest in mayors or in other municipal officers, such jurisdiction over the violation of municipal ordinances as may be found necessary. It may also pass laws conferring civil jurisdiction on city courts in cities where the combined population of the city and the wards of the parish where situated is more than ten thousand inhabitants but less than twenty thousand, concurrent with that of the district courts, where the amount in dispute does not exceed $500. In cities of twenty thousand or more, jurisdiction of city courts may extend to cases where the amount in dispute does not exceed $1000.

See also Powell, Alden L., Constitutional Development of Louisiana, Unpublished manuscript.
APPENDIX IV OF PART II

COURT SYSTEMS UNDER THE CONSTITUTIONS OF LOUISIANA

Constitution of 1812:
The judiciary power was vested in a supreme court and inferior courts. The legislature was authorized to establish such inferior courts as may be convenient to the administration of justice.

Constitution of 1845:
The judicial power was vested in a supreme court, in district courts and in justices of the peace.

Constitution of 1852:
The judiciary power was vested in a supreme court, in such inferior courts as the legislature may, from time to time, order and establish, and in justices of the peace.

Constitution of 1864:
The judiciary power was vested in a supreme court, in such inferior courts as the legislature may, from time to time, order and establish and in justices of the peace.

Constitution of 1868:
The judicial power was vested in a supreme court, in district courts, in parish courts, and in justices of the peace.

Constitution of 1879:
The judicial power was vested in a supreme court, in district courts, in justices of the peace, and in special courts for the Parish and City of New Orleans.

Constitution of 1888:
The judicial power of the state was vested in a supreme court, in courts of appeal, in district courts, in justices of the peace, and in special courts for the Parish and City of New Orleans.

Constitution of 1913:
The judicial power of the state was vested in a supreme court, courts of appeal, district courts, justices of the peace, juvenile courts, and special courts for the Parish of Orleans, and City of New Orleans.

Constitution of 1921:
The court system under the present constitution is the same as that provided for under the Constitution of 1913.

See also Powell, Alden L., Constitutional Development of Louisiana. Unpublished manuscript.
Illustrations of Special Tax Districts

1946 Ad Valorem Tax Rates in Selected Parishes: JEFFERSON

<table>
<thead>
<tr>
<th>Regular Tax Levy</th>
<th>Special Bond Levy</th>
</tr>
</thead>
<tbody>
<tr>
<td>5% mills</td>
<td>4½ mills</td>
</tr>
</tbody>
</table>

A. State Levy

B. Parish-wide obligations:

1. School District #1 (8 issues) 4½ mills
2. General Alimony 4 mills
3. School 5 mills
4. School Maintenance 5 mills

Sub-Total: 10½ mills 4½ mills 24 mills

C. Special Districts:

1. Garbage District #1 5½ mills
2. Garbage District #2 7 mills
3. Road District #1 1½ mills
4. Road District #2 ½ mill
5. Sewerage District #1 10 mills
6. E. Jefferson W. W. District #1 6½ mills
7. Jefferson W. W. District #2 4 mills
8. Sixth Jefferson Drainage District 8 mills $3.50 per acre
9. Jefferson & Plaquemines Drainage District #1 3 mills $1.25 per acre
10. Jefferson & Plaquemines Drainage District #1, sub-district #2 .50 per acre
11. Drainage District #2 8 mills .25 per acre
12. Fourth Jefferson Drainage, sub-dist. #1 2 mills
13. Fourth Jefferson Drainage, sub-dist. #2 2 mills
14. Fourth Jefferson Drainage, sub-dist. #3 1 mill
15. Road Lighting District #2 ½ mills
16. Road Lighting District #3 2 mills
17. Road Lighting District #5 5 mills
18. Road Lighting District #6 5 mills
19. Road Lighting District #7 5 mill
20. Road Lighting District #8 5½ mills
21. Road Lighting District #9 2½ mills
D. Incorporated Areas

1. Gretna 7 mills 7 mills
2. Westwego 7 mills 8 mills
3. Kenner 7 mills 7 mills

E. Levee Districts:

1. Pontchartrain (NE of River) 3 mills
2. Lafourche (SW of River) 1 mill

APPENDIX I OF PART III

AMENDMENTS PROPOSED AND ADOPTED

1922-1946

<table>
<thead>
<tr>
<th>Year</th>
<th>Number Proposed</th>
<th>Number Adopted</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 7, 1922</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>November 4, 1924</td>
<td>13</td>
<td>10</td>
</tr>
<tr>
<td>November 2, 1926</td>
<td>14</td>
<td>11</td>
</tr>
<tr>
<td>April 17, 1928</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>November 6, 1928</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>November 4, 1930</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>November 8, 1932</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>November 6, 1934</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>November 3, 1936</td>
<td>35</td>
<td>34</td>
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<tr>
<td>November 8, 1938</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>April 16, 1940</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>November 5, 1940</td>
<td>28</td>
<td>19</td>
</tr>
<tr>
<td>November 8, 1942</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>November 7, 1944</td>
<td>21</td>
<td>19</td>
</tr>
<tr>
<td>November 5, 1946</td>
<td>31</td>
<td>25</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>247</strong></td>
<td><strong>219</strong></td>
</tr>
</tbody>
</table>

Source: Official Statutes of the State of Louisiana.
APPENDIX II OF PART III
AMENDING PROCESS AND NUMBER OF AMENDMENTS OF EACH LOUISIANA CONSTITUTION

<table>
<thead>
<tr>
<th>Date</th>
<th>Amending Process</th>
<th>Length</th>
<th>Proposed</th>
<th>Adopted</th>
<th>Percent</th>
<th>Years</th>
<th>Number Per Year</th>
<th>Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1812</td>
<td>No provision for amendment by popular referendum or by legislature.</td>
<td>8½</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>33</td>
<td>0</td>
<td>VII, 1</td>
</tr>
<tr>
<td>1845</td>
<td>Approved by 3/5 of members elected to each house at one session. Approved by governor. Approved by majority of members elected to each house at next session following the next general election. Approved by <em>majority of qualified electors</em> of state at next general election for representatives in state legislature. No restriction upon number of times of introduction in legislature of a particular amendment. <em>Entered upon journal of both houses with Yeas and Nays thereon.</em> Secretary of State required to publish the amendments 3 months before the next general election preceding the second vote in the legislature, and 3 months before the the popular vote. Publication in one newspaper in French and English in every parish in which a newspaper was published. <em>Separate vote on each amendment proposed.</em></td>
<td>14</td>
<td>13</td>
<td>0</td>
<td>0</td>
<td>7</td>
<td>0</td>
<td>VIII, 140</td>
</tr>
<tr>
<td>1852</td>
<td>Eliminated second legislative vote. Approved by 2/3 of members elected to each house. Approved by <em>majority of voters at the election.</em> Publicity continued as before. Approval of governor no longer required.</td>
<td>14</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>12</td>
<td>0</td>
<td>IX, 141</td>
</tr>
<tr>
<td>1864</td>
<td>Approved by majority of members elected to each house. Special election to be ordered by the legislature within 90 days after adjournment. Period of publication reduced to 30 days. Method and extent of publication left to discretion of the legislature. Approved by majority of voters at election.</td>
<td>15½</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>XII, 147</td>
</tr>
</tbody>
</table>
Date | Amending Process
--- | ---
1868 | Approved by 2/3 vote of members elected to each house. Returned to earlier provision of publication throughout state but eliminated necessity for publication in French. Special election not required, combined with general election for representatives as in previous constitutions. Approved by majority of votes cast at election. (Last constitution to contain this requirement.)

1879 | Introduced during any session. No change in legislative vote. *Read in each house on 3 separate days. Secretary of state to publish the amendments in 2 newspapers in Orleans and in every other parish having a newspaper for 3 months preceding the next election for representatives. *Approved by majority of those voting on amendments. *Becomes part of constitution upon proclamation of governor.

1898 | Period of publicity in state reduced to two months. *Elections could be either election for representatives in legislature or in Congress, legislature to designate which it should be.

1913 | No change in amending process.

1921 | Amendments required to be submitted during the first 30 days of a session. Provisions for publicity revised: secretary of state to cause amendments to be published in one newspaper in each parish in which newspaper is published, twice within not less than 30 or more than 60 days preceding the election for representatives in legislature or in Congress, legislature to designate which. Become effective 20 days after governor’s proclamation of election returns.

*Designates provisions which are still part of the Constitution.

(1) The pages were counted in Dart's Louisiana Constitution (1982).
(2) These columns indicate the number of years the Constitution was in existence, and the average number of amendments adopted per year.

APPENDIX III OF PART III

AMENDMENTS TO THE 1921 CONSTITUTION BY ARTICLE

<table>
<thead>
<tr>
<th>Article</th>
<th>Pages in 1921 Constitution</th>
<th>Number of Amendments Adopted</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Bill of Rights</td>
<td>2 1/4</td>
<td>1</td>
</tr>
<tr>
<td>II. Distribution of Powers</td>
<td>1/4</td>
<td>0</td>
</tr>
<tr>
<td>III. Legislative</td>
<td>8 1/2</td>
<td>10</td>
</tr>
<tr>
<td>IV. Limitations</td>
<td>4 1/2</td>
<td>12</td>
</tr>
<tr>
<td>V. Executive</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>VI. Administrative officers and boards</td>
<td>13 1/2</td>
<td>23</td>
</tr>
<tr>
<td>*VI—A. Gasoline Tax</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>VII. Judiciary Department</td>
<td>33 1/2</td>
<td>23</td>
</tr>
<tr>
<td>VIII. Suffrage and elections</td>
<td>9 1/2</td>
<td>9</td>
</tr>
<tr>
<td>IX. Impeachment</td>
<td>2 1/4</td>
<td>0</td>
</tr>
<tr>
<td>X. Revenue and taxation</td>
<td>2 1/8</td>
<td>35</td>
</tr>
<tr>
<td>XI. Homestead exemptions</td>
<td>1 1/2</td>
<td>2</td>
</tr>
<tr>
<td>XII. Education</td>
<td>6 1/2</td>
<td>19</td>
</tr>
<tr>
<td>XIII. Corporations</td>
<td>1 1/8</td>
<td>0</td>
</tr>
<tr>
<td>XIV. Parochial and municipal affairs</td>
<td>15</td>
<td>53</td>
</tr>
<tr>
<td>XV. Drainage districts</td>
<td>1/2</td>
<td>0</td>
</tr>
<tr>
<td>XVI. Levees</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>*XVI—A. Caernarvon break</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>XVII. Militia</td>
<td>1/2</td>
<td>0</td>
</tr>
<tr>
<td>XVIII. Pensions</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>XIX. General provisions</td>
<td>4 1/8</td>
<td>7</td>
</tr>
<tr>
<td>XX. Penitentiary</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>XXI. Amendment</td>
<td>1</td>
<td>0</td>
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<tr>
<td>XXII. Schedule</td>
<td>3</td>
<td>0</td>
</tr>
</tbody>
</table>

TOTAL AMENDMENTS SINCE 1921: 218

*These Articles were added as amendments to the 1921 Constitution.

Sources: Acts, State of Louisiana.

Constitution of Louisiana

(Added by La. Act 1 of 1930 [E.S.])

Section 1. That in addition to the tax of four cents per gallon levied by Act 6 of the Special Session of the Legislature of Louisiana of the year 1928 under authority of Article VI, Section 22 of the Constitution of Louisiana on gasoline or motor fuel, a tax of one cent per gallon is hereby levied on all gasoline, benzine, naphtha or other motor fuel, as herein defined, when sold, used or consumed in the State of Louisiana for domestic consumption, to be collected as hereinafter set forth.

The term "gasoline, benzine, naphtha or other motor fuel" as defined as meaning all volatile gas-generating liquids having a flash point below 110 degrees F., commonly used to propel motor vehicles or motors.

For the purpose of this Article, the product commonly known as casinghead and absorption gasoline shall be excepted from the operation of the tax levied, when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline or motor fuel. When, however, such casinghead and absorption gasoline is sold for use in motors direct, or sold to those who blend for their own use, the tax of one cent (1¢) per gallon shall be paid. Reports of all such sales shall be furnished to the Supervisor of Public Accounts, with the report required in Section 4 of this Article, and shall show whether the sales were made for blending purposes or for use in motors.

Provided, that an allowance of three percent of the total gallonage received during every calendar month shall be made and deducted by the dealer to cover his
or their losses in handling such motor vehicle fuel and that a refund shall be made to said dealer for the tax paid on all motor vehicle fuel which after such payment shall be lost or destroyed by fire, lightning, flood, tornado, windstorm, explosion or other accidental or providential cause.

Provided further that the said refund shall be paid by the Supervisor of Public Accounts upon proper showing and authentic proof of destruction and shall be paid from the funds in the hands of the Supervisor of Public Accounts, which have been collected under this Article, and which have not been paid by the said Supervisor of Public Accounts to the State Treasurer.

Section 2. The aforesaid tax of one cent per gallon shall be collectible from all persons, firms or corporations or associations of persons, engaged as dealers in the handling, sale or distribution of such products within the State of Louisiana, the method of collection to be as prescribed in Section 4 of this Article. The term “dealer” as used in this Article is defined to mean any person, firm, corporation or association of persons who produces, refines, manufactures, blends or compounds gasoline, benzine, naphtha or other motor fuel for sale to the jobber or consumer, or to the persons, firms or corporations, or associations of persons, who, in turn, sell to the jobber or consumer. The term “dealer” is further defined to mean the person, firm, corporation or association of persons who imports such gasoline, benzine, naphtha or other motor fuel from any other State or foreign country for distribution, sale or use in the State of Louisiana. On all gasoline or motor fuel imported from other States and used by him, the “dealer” as thus defined shall pay the tax on the amount so imported and used, the same as if it had been sold for domestic consumption.
Section 3. All persons, firms, corporations or associations of persons importing such gasoline, benzine, naphtha or other motor fuel from other States shall, within ten days after the close of each calendar month, report to the Supervisor of Public Accounts, on blanks furnished by him, a list of persons, firms, corporations or associations of persons, with their post office addresses, from whom such shipments were received, the dates shipped, the dates received, and the gallonage of each of the classes of such gasoline, benzine, naphtha or other motor fuel received; and such report shall state whether such fuels are to be retailed or used in the State of Louisiana or exported to another State or foreign country. The statements rendered to the Supervisor of Public Accounts shall be supported by affidavits, properly sworn to before an officer of the State empowered to accept affidavits; and in order that the Supervisor of Public Accounts may have additional means of checking the accuracy of such statements, the records, books and other documents of those making them, as well as those of common carriers relative to such shipments are hereby declared to be accessible to the Supervisor of Public Accounts.

Section 4. That every person, firm, corporation or association of persons engaged as a dealer in the handling or distribution of gasoline, benzine, naphtha or other motor fuel for sale, use or consumption within the State shall immediately upon the producing, refining, manufacturing, blending or compounding of any gasoline, benzine, naphtha or other motor fuel pay to the Supervisor of Public Accounts the tax levied herein, which is hereby made due and payable immediately upon said producing, refining, manufacturing, blending or compounding; provided further that any dealer bringing gasoline, benzine, naphtha or other motor fuel into the State of Louisiana for sale, use or consumption therein shall immediately pay to the said Supervisor of
tion therein shall immediately pay to the said Supervisor of Public Accounts the tax levied herein which is hereby made due and payable immediately upon same coming within the boundaries of this State. Said payments shall be made by remitting or paying to the Supervisor of Public Accounts by bank draft, post office or express money order, certified check or cash. Provided further that it shall be the duty of each dealer, within twenty (20) days after the expiration of each monthly period (to be computed from the first day of each month to the last day of each month) to file with the Supervisor of Public Accounts a statement, under oath, on forms prescribed and furnished by him, of the business conducted by such person, firm, corporation or association of persons during the last preceding monthly period, whether the tax has been paid or not, which statement shall show the number of gallons of gasoline, benzine, naphtha or other motor fuel that was sold to persons, firms, corporations or associations of persons within the State, used or consumed by the dealer importing same.

Provided further that any dealer preferring to pay any tax due hereunder at the time that the monthly reports provided for in this Section are filed will be permitted to do so provided that the said dealer shall have previously furnished the Supervisor of Public Accounts a bond guaranteeing the payment of any tax, penalties or costs accrued or accruing under this Article. Said bond having been furnished and accepted, as provided herein, the dealer furnishing same shall be required to pay the tax at the time of making the reports to the Supervisor of Public Accounts, as herein required, only on such gasoline, benzine, naphtha or other motor fuel actually sold, used or consumed in this State, during the period for which said reports are made and in which event the tax herein levied shall become delinquent the day after the date herein fixed for monthly period, whether the tax has been paid or not, which statement shall show the number of gallons of gasoline or motor fuel that was sold to persons, firms, corporations or associations of persons within the State, used or consumed by the dealer importing same.
the filing of said reports. Provided further that the said bond shall be in an amount and of tenor and solvency satisfactory to the said Supervisor of Public Accounts and shall have been accepted by him. Provided further that the said bond shall not exceed in amount the total tax, penalty or costs, of the particular dealer for the last preceding three calendar months, or, if the dealer has had no tax, penalties or costs for the period mentioned, the initial bond shall not exceed the amount of Ten Thousand ($10,000.00) Dollars. Provided further that any dealer who produces, manufactures, blends, compounds or imports into the State of Louisiana, any gasoline, benzine, naphtha or other motor fuel for sale, use or consumption in the State of Louisiana in any amount, the tax on which will be in excess of the amount of bond furnished by the said dealer to the Supervisor of Public Accounts, said dealer is hereby required to immediately furnish additional bond, as provided herein, to the said Supervisor or Public Accounts, to guarantee the payment of the tax which exceeds the amount of the bond previously furnished.

This does not apply to gasoline, benzine, naphtha or other motor fuel on which the tax herein levied has been paid, but in no case shall a dealer sell, use or consume gasoline or motor fuel unless the tax on same, as levied herein, has been paid or said tax has been guaranteed by bond furnished the Supervisor of Public Accounts, as provided herein. Provided further that any bond previously furnished the Supervisor of Public Accounts by any dealer, and accepted by said Supervisor of Public Accounts which later becomes unsatisfactory to him, either as to amount or solvency, or both, the said Supervisor of Public Accounts shall call upon the said dealer to promptly furnish another and/or larger bond, with the same or other sureties satisfactory to the said Supervisor of Public Accounts, as further that the said bond shall be in an amount and of tenor and solvency satisfactory to the said Supervisor of Public Accounts and shall have been accepted by him. Provided further that the said bond shall not exceed in amount the total tax, penalty or costs, of the particular dealer for the last preceding three calendar months, or, if the dealer has had no tax, penalties or costs for the period mentioned, the initial bond shall not exceed the amount of Ten Thousand Dollars ($10,000.00). Provided further that any dealer who produces, manufactures, blends, compounds, or imports into the State of Louisiana, any gasoline or motor fuel for sale, use or consumption in the State of Louisiana in an amount, the tax on which will be in excess of the amount of bond furnished by the said dealer to the Supervisor of Public Accounts, said dealer is hereby required to immediately furnish additional bond, as provided herein, to the said Supervisor of Public Accounts, to guarantee the payment of the tax which exceeds the amount of the bond previously furnished. This does not apply to gasoline or motor fuel on which the tax herein levied has been paid, but in no case shall a dealer sell, use or consume gasoline or motor fuel unless the tax on same, as levied herein, has been paid or said tax has been guaranteed by bond furnished the Supervisor of Public Accounts, as provided herein. Provided further that any bond previously furnished the Supervisor of Public Accounts by any dealer, and accepted by said Supervisor of Public Accounts, which later becomes unsatisfactory to him, either as to amount or solvency, or both, the said Supervisor of Public Accounts shall call upon the said dealer to promptly furnish another and/or larger bond, with the same or other sureties satisfactory to the said Supervisor of Public Accounts, as provided herein, and failing to do so, after five days (5) written notice to the said dealer, shall ipso facto cause all taxes levied under this Act against the said
provided herein, and failing to do so, after five days (5) written notice to the said dealer, shall ipso facto cause all taxes levied under this Article against the said dealer to become delinquent and the Supervisor of Public Accounts shall forthwith proceed to collect the said taxes in the same manner as if no bond had ever been furnished and accepted, without, however, prejudicing or waiving any rights under any bond held by him to guarantee the payment of any tax, penalties or costs under this Act. Provided further that failure to pay any tax, penalties or costs accruing under this Article or failing to furnish bonds as provided in this Article, shall ipso facto cause the said tax, penalties and costs to become delinquent and shall be construed as an attempt to avoid the payment of same which shall be sufficient grounds for attachment of gasoline, benzine, naphtha or other motor fuel wherever the same may be located or found, whether said delinquent taxpayer be a resident or non-resident of this State, and whether said gasoline, benzine, naphtha or other motor fuel is in the possession of said delinquent taxpayer or in the possession of other persons, firms, corporations or associations of persons; provided that it is the intention of this Act to make the gasoline or motor fuel responsible for the payment of this tax together with penalties and costs, and authority to attach is hereby specifically authorized and granted to the said Supervisor of Public Accounts. The procedure prescribed by law shall be followed except that no bond shall be required of the State. Provided further that failure to pay said tax and failure to furnish said bond as provided in this section shall ipso facto, without demand or putting in default, cause said tax, penalties and costs to become immediately delinquent, and the Supervisor of Public Accounts is hereby vested with authority, on motion in a court of competent jurisdiction, to take a rule on the said dealer, to show cause in not less
than two nor more than ten days, exclusive of holidays, after the service thereof, which may be tried out of term and in chambers, and shall always be tried by preference, why said dealer should not be ordered to cease from further pursuit of business as a dealer; and in case said rule is made absolute, the order thereon rendered shall be considered a judgment in favor of the State prohibiting such dealer from the further pursuit of said business until such time as he has paid the said delinquent tax, or until he has furnished said bond, as herein provided, and every violation of the injunction shall be considered as a contempt of court, and punished according to law.

Section 5. The Supervisor of Public Accounts shall, within the first five days of each calendar month after the receipt of such taxes, forward the full amount collected by him, less expenses withheld, during the preceding calendar month, to the Treasurer of the State of Louisiana to be placed to the credit of the following Boards, in the proportions as shown, viz., State Board of Education, ten-twentieths; Board of Commissioners of the Port of New Orleans, nine-twentieths; Board of Commissioners Lake Charles Harbor & Terminal District, one-twentieth; and said Treasurer shall on the first day of each and every month notify in writing said State Board of Education, Board of Commissioners of the Port of New Orleans and Board of Commissioners Lake Charles Harbor & Terminal District, of the total amount received from the Supervisor to be placed to the credit of said boards from the source so specified, all such taxes, when so placed to the credit of said boards, to be used and disposed of by them as follows; the State Board of Education shall use said funds and distribute the same in and for financing public schools in such parishes and wards and school districts thereof as may most equitably equalize revenues for the educable school children from further pursuit of business as a dealer; and in case said rule is made absolute, the order thereon rendered shall be considered a judgment in favor of the State prohibiting such dealer from the further pursuit of said business until such time as he has paid the said delinquent tax, or until he has furnished said bond, as herein provided, and every violation of the injunction shall be considered as a contempt of court, and punished according to law.

Section 5. The Supervisor of Public Accounts shall, within the first five days of each calendar month after the receipt of such taxes from the taxpayer, forward the full amount collected by him during the preceding calendar month to the State Treasurer, to be placed to the credit of the General Highway Fund, created by Section 22 of Article VI of the Constitution; and the State Treasurer shall, on the first day of each and every month, notify in writing the Louisiana Highway Commission of the State of Louisiana, of the total amount received from the Supervisor to be placed to the credit of the General Highway Fund from the source so specified. All such taxes, when so placed to the credit of the General Highway Fund, shall be allotted and disbursed by the said Louisiana Highway Commission for the purpose of the construction and maintenance of the system of State Highways and bridges, and for such other purposes as provided for in paragraph (a), Section 22 of Article VI, of the said Constitution of Louisiana.
of the State—this provision being in recognition that parishes and districts with small assessments are in need of State assistance so as to provide funds for the educables of the public schools thereof; and for the purpose of making said distribution of funds by said board of Education for said public schools most in need of such aid, the said Board is vested with the discretion to make such allocation according to the rules and standards which it prescribes; the Board of Commissioners of the Port of New Orleans and the Board of Commissioners Lake Charles Harbor & Terminal District shall first use the amounts received hereunder to be applied to the payment of principal and/or interest of any bonds heretofore or hereafter issued by said boards which may be due and payable and any amount not needed for the aforesaid purpose shall go into the current revenues of said boards. All such taxes as are placed to the credit of said Board of Commissioners of the Port of New Orleans and said Board of Commissioners Lake Charles Harbor & Terminal District shall be deemed to be revenues of said Boards of Commissioners within the meaning of any statute or provision of this Constitution regulating the management, use and accounting for said revenues or the borrowing of money and the issuance of bonds or other obligations by said Boards of Commissioners to the same extent as if said revenues had been raised by tolls or charges for the use of port facilities under the jurisdiction of the Board of Commissioners of the Port of New Orleans or the Board of Commissioners Lake Charles Harbor & Terminal District. This section shall not be given a construction which will impair the rights of any holder of any bonds heretofore issued by the Board of Commissioners of the Port of New Orleans or the Board of Commissioners Lake Charles Harbor & Terminal District, as restricting the existing right of Legislature of the State of Louisiana to provide such other or additional sources
of revenues as may be necessary for the
payment of the current expenses and
debs of the Board of Commissioners of
the Port of New Orleans or the Board of
Commissioners Lake Charles Harbor &
Terminal District contracted or to be
contracted in the establishment of man-
agement of port facilities. Provided
further that if the amendment to Article
VI, Section 22 of the Constitution of
Louisiana be adopted at the election to
be held in November, 1930, no additional
bonds shall be issued by said port boards
except with the approval of the State
Advisory Board of Louisiana created by
said Amendment.

Section 6. It is the purpose of this Ar-
ticle to centralize the collection of the
tax herein authorized in the hands of
those who originally dispose of gasoline,
benzine, naphtha or other motor fuel for
distribution and consumption within this
State. It is further the purpose of this
Article to require the payment of the tax
on any gasoline, benzine, naphtha, or
other motor fuel to be sold, used or con-
sumed in this State immediately upon
the producing, refining, manufacturing,
blending, compounding or importing of
such gasoline, benzine, naphtha or other
motor fuel unless a bond as provided
herein, is furnished to guarantee the pay-
ment of said tax. In no case shall there
be a duplication of the collection of the
tax herein levied. For the purpose of the
enforcement of this Article and the collec-
tion of the tax levied hereunder, it is
presumed that all gasoline, benzine,
naphtha or other motor fuel produced,
refined, manufactured, blended or com-
pounded in this State, imported into this
State or held in this State, by any dealer,
is to be sold, used or consumed within
this State and is subject to the tax here-
in levied; provided that such presump-
tion shall be prima facie only and sub-
ject to proof furnished to Supervisor of
Public Accounts.

It is not the intention of this Article
to levy a tax on gasoline, benzine, naph-

tha, or other motor fuel produced, refined, manufactured, blended, compounded or imported in this State for export; it is, however, the intention of this Article in order to safeguard the interest of the State and guarantee the collection of the tax herein levied, to require every dealer producing, refining, manufacturing, blending, compounding or importing or holding any gasoline, benzine, naphtha or other motor fuel within this State for any purpose to immediately pay the tax levied herein on gasoline, benzine, naphtha or other motor fuel unless said dealer shall have furnished the Supervisor of Public Accounts a bond guaranteeing the payment of any tax, penalties or costs as herein provided. It is further the intention of this Article to permit the dealer to either immediately pay the tax as herein provided or furnish bond as herein provided, and it shall be the duty of the Supervisor of Public Accounts to accept a bond of any solvent surety company authorized to operate in the State of Louisiana, as herein provided, in lieu of the immediate payment of the tax. Subject, however, to the provisions made in this Article for exporting gasoline or motor fuel beyond the borders of this State and for repayment to the dealer of the tax previously paid on any gasoline or motor fuel which is later exported beyond the borders of this State or which is lost or destroyed as herein described. Provided, that any gasoline or motor fuel sold by a dealer within this State to a jobber therein, which is later exported beyond the borders of this State shall not be liable to the tax named in this Article; and provided further, that such tax having been collected from the jobber by the dealers at the time of the shipment, the jobber may file with the dealer, monthly, a statement showing the quantity exported beyond the borders of this State, properly supported by ocean bills of lading or other authentic evidence, and the dealer shall be authorized to refund the amount of such tax to the jobber and to deduct the amount thereof in making the next monthly returns to the Supervisor of Public Accounts.
be authorized to refund the amount of such tax to the jobber and to deduct the amount thereof in making the next monthly returns to the Supervisor of Public Accounts; provided further that any gasoline, benzine, naphtha or other motor fuel brought into this State in the reservoir provided by the manufacturer of a motor vehicle as the container for fuel used exclusively for propelling said motor vehicle shall not be liable for the tax levied herein, provided further that in no case shall said reservoir have a capacity of more than thirty gallons of gasoline or motor fuel. For the purpose of enforcing the collection of the tax levied by this Act, the Supervisor of Public Accounts is hereby specifically authorized and empowered to examine, at all reasonable hours, the books, records and other documents of all transportation companies, agencies, or firms operating in this State, whether said companies, agencies or firms conduct their business by rail, water or otherwise, in order to determine what dealers, as provided in this Act, are importing or otherwise shipping gasoline or motor fuel which is liable for said tax. In the event said transportation company, agency or firm shall refuse to permit such examination of its books, records and other documents by the Supervisor of Public Accounts as aforesaid, the Supervisor of Public Accounts may proceed by rule, in term time or in chambers, in any court of competent jurisdiction in the parish where such refusal occurred, and require said transportation company, agency or firm to show cause why the Supervisor of Public Accounts should not be permitted to examine its books, records or other documents, and in case said rule be made absolute the same shall be considered a judgment of the court and every violation of said judgment shall be considered as a contempt thereof and punished according to law.
Section 7. The Supervisor of Public Accounts shall have the power to require any person, firm, corporation or association of persons engaged in the handling, sale or distribution of gasoline, benzine, naphtha or other motor fuel as described herein, to furnish any additional information by him deemed to be necessary for the purpose of collecting said tax, and for said purpose shall have the authority to examine the books, records and files of such persons, firms, corporations, or associations of persons, and to that end, shall have the power to examine witnesses, and if any such witnesses shall fail or refuse to appear at the request of the Supervisor of Public Accounts, or refuse access to the books, records or files, said Supervisor of Public Accounts shall certify the facts and the names of the witnesses so failing and refusing to appear, or refusing access to the books or papers, to the District Court having jurisdiction of the party, a copy of which shall be sent to the Governor; and said Court shall thereupon issue a summons to the said party to appear before the said Supervisor or his assistant, at a place designated within the jurisdiction of said Court, on a day to be fixed, to be continued as occasion may require, and give such evidence and open for inspection such books and papers as may be required for the purpose of ascertaining whether or not the return so made is a true and correct return as herein required; and whenever it shall appear to the Supervisor that any such person, firm, corporation or association of persons engaged in the handling, sale or distribution of gasoline or motor fuels, within the meaning of this Article, has unlawfully made an untrue or incorrect return as herein provided, the Supervisor shall correct the return and shall compute the said tax on same and so certify same to his department as being the amount actually due and owing, and the Supervisor shall concurrently notify such person, firm, corporation or association in the event that such person, firm, cor-
of persons of such facts; and in the event that such person, firm, corporation or association shall not within five days after such notification, make a correct return and pay the full amount due, the Supervisor of Public Accounts shall, in the name of the State, without deposit or advance costs, enter suit against such person, firm, corporation or association or persons for the amount due, together with such penalties as are provided in this Article. Such suits shall be by rule to show cause within five days why payments should not be made, and shall be tried by preference and may be tried out of term time and in chambers.

Section 8. That the tax provided for by this Article having become delinquent as provided herein, as a penalty for delinquency, the tax debtor shall be subject to penalties as follows:

Twenty percent (20%) on the amount of the tax and ten percent (10%) attorney's fees on both tax and penalties in all cases wherein an attorney is called on to assist in the collection. As a further penalty, any person, firm, corporation or association of persons who shall import into this State for sale, use or consumption any gasoline, benzine, naphtha or other motor fuel, or shall use or consume, sell, offer for sale, hold in storage for sale, use or consumption within this State any gasoline, benzine, naphtha or other motor fuel without having paid the tax herein levied or furnished a bond guaranteeing the payment of such tax, or who shall fail to make reports to the Supervisor of Public Accounts as herein provided, shall be guilty of a misdemeanor, and upon conviction be fined not to exceed One Thousand Dollars ($1,000.00) or imprisonment not to exceed two years, or both at the discretion of the Court.

Section 9. If any person, firm, corporation or association of persons shall fail to make a report of the sale upon which the tax herein is levied, within the time and in the manner hereinabove pro-
scribed for such report, it shall be the duty of the Supervisor of Public Accounts to examine the books, records and files of such person, firm, corporation or association of persons to ascertain the amount of such sales and compute the tax thereon as provided herein and according to the procedure hereinabove provided where witnesses refuse to testify and access to books and papers is refused; and shall add thereto the cost of such examination.

Section 10. That any person, firm, corporation or association of persons who shall intentionally make false oath to any report required by the provisions of this Article shall be guilty of perjury and be subject to all penalties prescribed for such crime.

It is hereby made the duty of the Supervisor of Public Accounts to collect, supervise and enforce the collection of all taxes that may be due under the provisions of this Article, and to that end the said Supervisor is hereby vested with all of the power and authority conferred by this Article. The Supervisor of Public Accounts shall give bond in favor of the Governor of the State, or his successor in office, in the sum of Ten Thousand ($10,000.00) Dollars conditioned on the faithful performance of the duties imposed on him by this Article. The premium on said bond shall be paid out of the appropriation made for expenses of his office. The bond shall be approved by the Governor, and shall be filed in the office of the State Auditor.

Section 11. The costs assessed against delinquent persons for the examination of their books, records and files by the Supervisor of Public Accounts, as provided in Section 9 of this Article, shall be collected by the Supervisor and remitted to the State Treasurer in the same manner and at the same time that other collections are remitted, and shall be credited to the designated Boards in the proportions hereinbefore established.
The only legal evidence showing payment of the tax herein levied shall be by appropriate form of receipts issued by the Supervisor of Public Accounts similar to that issued by the tax collectors throughout the different parishes, as provided for in the general revenues laws of the State, which receipt shall be signed by the Supervisor of Public Accounts, or by an assistant for him.

Section 12. For the purpose of meeting the expenses necessary for the proper enforcement of this Article, the said Supervisor of Public Accounts shall withhold from the first sums realized on the collection of the tax levied hereunder, a sum not to exceed Twelve Thousand ($12,000.00) Dollars per annum.

Section 13. This Article shall go into effect according to the Constitution, and upon its adoption, shall be self-operative, and no further or other legislation shall be required to make it effective.

Section 14. The tax herein levied shall not apply to sales to the United States Government or any agency or depart-
ment thereof, and when such tax is paid by the said United States Government or any agency or department thereof it shall be refunded by the Supervisor of Public Accounts upon proper showing and authentic proof thereof and shall be paid from the funds in the hands of the said Supervisor of Public Accounts which have been collected under this Article and which have not been paid by the said Supervisor of Public Accounts to the State Treasurer as provided herein.

Section 16. All laws or parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.