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MCCAIN V. GRANT PARISH POLICE JURY: JUDICIAL USE OF THE INHERENT POWERS DOCTRINE TO COMPEL ADEQUATE JUDICIAL FUNDING**

Introduction

No arm of government can operate effectively without adequate funding, and budgetary battles are among the most hard-fought of all political struggles. One branch of government, the judiciary, has no part in the appropriation process, leaving it particularly susceptible to insufficient funding. The inherent powers doctrine has been used by the judiciary to redress this weakness and to compel necessary funding for efficient operation. Some states have already adopted this concept,¹ which has its origin in the notion of separation of powers. The separation of powers doctrine requires that each branch be able to effectively assert its distinct powers. A judicial flexing of muscle is dependent upon adequate financing.

[T]he separation of powers doctrine, properly understood, imposes upon the judicial branch not merely a *negative* duty not to interfere with the executive or legislative branches, but a *positive* responsibility to perform its own job efficiently. This positive aspect of separation of powers imposes on courts af-

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** Subsequent to the completion of this note, the Louisiana Supreme Court, in *State In The Interest of Johnson* (No. 85-ck-0582, Sept. 10, 1985) acknowledged the existence of an inherent judicial power, ostensibly for purposes of indigent representation. The Department of Health and Human Resources had initiated proceedings in the Family Court of East Baton Rouge Parish to declare a child abandoned, and an attorney was appointed by the court to represent the indigent parent of the child. A dispute arose over who was to pay the attorney's fees. The supreme court held that the "power to furnish counsel for indigents necessarily includes the power, when reasonably necessary for effective representation, to issue an order requiring the state, its appropriate subdivision, department, or agency, to provide for the payment of counsel fees and necessary expenses." This reasonableness standard is remarkably similar to the test as enunciated in *McCain*, although surprisingly, *McCain* was not cited by the court as authority for its decision. *Johnson* is therefore an example of explicit approval by the Louisiana Supreme Court of the application of the inherent powers doctrine, although it may be argued that the holding in *Johnson* is limited to the particular fact situation presented. Nonetheless, the close analogy to the proper test for imposition of the inherent powers doctrine between this case and *McCain* indicates judicial recognition of this doctrine and at least one concrete example of a factual situation where use of this doctrine is appropriate to cover necessary expenses in the operation of a court.

1. See generally, Annot., 59 A.L.R.3d 569 (1974) and cases cited therein.

firmative obligations to assert and fully exercise their powers, to operate efficiently by modern standards, to protect their independent status, and to fend off legislative or executive attempts to encroach upon judicial prerogatives. From that responsibility arises an inherent power of courts to require that they be reasonably financed.²

Louisiana has taken a step towards joining the ranks of her sister states, most noticeably in *McCain v. Grant Parish Police Jury*.³ This note will explore the rationale behind the third circuit's opinion in *McCain* and will examine the implications of this decision for the financial plight of other constitutionally created bodies.

McCain v. Grant Parish Policy Jury

In *McCain*, the Louisiana Third Circuit Court of Appeal held that a district court has the inherent power to compel the Police Jury of the parish in which it sits to appropriate the reasonably necessary expenses for its own operation.⁴

On February 4, 1982, the district court judge submitted to the Police Jury a proposed budget of \$11,400 covering four items: telephone services, equipment maintenance, office supplies, and reference materials. The Police Jury budgeted \$2500. By June, the court's past due bills alone exceeded the original allocation.⁵ On June 3, the judge wrote to the Police Jury explaining the expenses and enclosed the past due bills for disposition. Four days later, having received no response from the Police Jury, he filed suit against the Police Jury seeking writs of mandamus requiring the payment of past due bills and reformation of the budget. The trial court granted judgment in favor of the judge and "ordered the Police Jury to immediately pay the reasonable expenses of the district court which were then past due and to reform its budget to provide the amounts specified in Judge McCain's [original] proposed budget."⁶

The court of appeal, after finding that the issue of whether the judicial branch possesses the inherent power to compel necessary appropriations was *res nova* in Louisiana, reviewed the basic concepts of separation of powers in the Louisiana Constitution and looked to the jurisprudence of other states for guidance.⁷ Actually, the Louisiana

2. J. Carrigan, *Inherent Powers of the Courts* 1-2 (1973) (emphasis added).

3. 440 So. 2d 1369 (La. App. 3d Cir. 1983).

4. *Id.* at 1372.

5. *Id.* at 1370. "Telephone (2 months), \$418.63; Pitney Bowes (postage meter rental and postage costs), \$848.13; Price Office Supply (bookcases for Judge's office), \$688; West Publishing Company (Louisiana Revised Statutes and Civil Code updates), \$351; Lanier Business Products (courtroom recording equipment), \$549.95."

6. *Id.* at 1371.

7. For a sampling of the common law, see Annot., 59 A.L.R.3d, *supra* note 1. A particularly well-known case is that of *Commonwealth ex rel Carroll v. Tate*, 442 Pa. 45, 274 A. 2d 193, cert. denied, 402 U.S. 974, 91 S. Ct. 1665 (1971).

Second Circuit Court of Appeal had faced a similar plea for recognition of the judicial inherent powers doctrine in *Lyons v. Bossier Parish Police Jury*.⁸ In *Lyons*, the judge of the City Court of Bossier City sought to compel the Bossier Parish Police Jury to pay its pro rata portion of the amount necessary to increase the monthly salaries of the clerks and deputy clerks of the court. The court granted relief but declined to apply the doctrine of inherent powers. Instead, the second circuit panel relied on a statutory provision mandating certain salary levels for clerks⁹ and held that “[f]ailure to pay the clerk the minimum amount set forth in the statute is a breach of a ministerial duty for which mandamus will lie to compel performance of that duty.”¹⁰ The court recognized that mandamus is an extraordinary remedy under the Louisiana Code of Civil Procedure and, interpreting the language of the article strictly,¹¹ decided that although “the judiciary undoubtedly has inherent power to compel other branches of government to perform certain acts in exceptional circumstances,”¹² inherent powers alone could not justify imposition of the writ of mandamus in this case. The second circuit was correct in refusing to recognize the inherent powers doctrine as a justification for imposition of the writ. Since a statute mandated the funding, any discussion of inherent powers would have been irrelevant.

The third circuit did not so decline in *McCain*:

Clearly, the courts of this state are established by our constitution, as is the legislative branch, and have a right to exist. If the legislative branch (Police Jury), being the only branch of government with the ability to generate operating funds, refuses to provide the necessary money for the operation of the courts, the courts have only one avenue of relief available; i.e., a suit to force the fulfillment of a ministerial duty, mandamus.¹³

The court anchored its decision in the principle of separation of powers.¹⁴ Although the court chose the correct theoretical basis for the inherent powers doctrine, it failed to reconcile the inconsistency of applying the doctrine to branches of government which are not, strictly speaking, co-equal. As the court noted,¹⁵ article II, section 1 of the Louisiana Con-

8. 262 So. 2d 838 (La. App. 2d Cir. 1972).

9. La. R.S. 13:1888 (1983).

10. 262 So. 2d at 840.

11. La. Code Civ. P. art. 3863.

12. 262 So. 2d at 840.

13. 262 So. 2d at 1373.

14. *Id.* at 1371. “The Thirty-Fifth Judicial District Court . . . was created pursuant to Article V of the Louisiana Constitution. As such, it stands on an independent and equal footing with the Grant Parish Police Jury.”

15. *Id.*

stitution divides the exercise of power of government into the legislative, executive, and judicial branches. Article V, section 1 vests the judicial power in a supreme court, courts of appeal, district courts, and other courts authorized by the article. Thus, a district court is an arm of state government. A police jury, however, is not an arm of state government. Instead, it is an arm of parish government, created by the state legislature. Therefore, the district court and the police jury are not equal branches of the parish government. A further anomaly exists. If a separation of powers discussion hinges upon the existence of three distinct, co-equal branches of government, each prohibited from exercising power belonging to either of the other two, then the court cannot justify imposition of the inherent powers doctrine (theoretically dependent upon separation of powers), since on a parish level two of the local branches of government, the executive and legislative, are combined into one governmental unit, a police jury. The court could have avoided these problems by grounding its inherent powers analysis upon a theory of "right to life" rather than in separation of powers. As the court pointed out, the right of the district court to exist "cannot be, and has not been questioned."¹⁶ Since existence depends upon adequate funding, no further justification is needed and the court may now simply exploit the police jury's susceptibility to a judicial directive compelling funding.

While there are several constitutional articles designed to safeguard the fiscal authority of the state legislature to appropriate state funds,¹⁷ the protection afforded by these provisions does not inure to the benefit of a local police jury. This may well explain why the suit in *McCain* was brought against the Police Jury and not against the Louisiana legislature.¹⁸ Ironically, the only specific constitutional protection afforded local governmental units against outside interference with their appropriation power is directed against the legislature and not against the district court.¹⁹ The battle between police jury and district court is

16. *Id.*

17. La. Const. art III, § 16; La. Const. art VII, § 10(A); La. Code Civ. P. art. 3862.

18. Inherent powers lawsuits may be more successful at the local rather than the state level—that is, courts may win a higher proportion of suits against local authorities, and the suits will have a more persuasive effect on local budget officials. This may be a question of power. It may be more difficult for a court to issue a writ of mandamus against a co-partner—a state legislature or state executive official. C. Baar, *Separate but Subservient—Court Budgeting in the American States* 148 (1975).

19. La. Const. art VI, § 14 provides:

No law requiring increased expenditures for wages, hours, working conditions, pension and retirement benefits, vacation, or sick leave benefits of political subdivision employees . . . shall become effective until approved by ordinance enacted by the governing authority of the affected political subdivision or until the legislature appropriates funds for the purpose to the affected political subdivision and only to the extent and amount that such funds are provided.

not between equals. The law, and the advantage which accompanies the power to interpret the law, rests with the court. Regardless of which theoretical justification for use of the inherent powers doctrine is used, (whether it be separation of powers or a "right to life" approach), several arguments can be made against the use of this funding device.

One criticism of inherent powers is that use of the doctrine is inherently biased. The threshold question, whether the court is being funded at a level sufficient to allow it to perform its constitutionally mandated functions, has already been judicially determined by the mere fact that the judge decided to bring the suit. Furthermore, although the judge trying such a case would not be from the same district court as that which filed the suit, presumably any trial judge would be sympathetic to a brother court's financial plight. Finally, although the test for triggering the mandamus remedy is couched in terms of "reasonably necessary" expenses,²⁰ a problem lies in the unbiased application of the test itself in that another district judge is quite likely to give the test a broad construction.

The very doctrine that forms the basis of the inherent power of the courts also creates the disturbing problem of how a police jury is to check abuse of the doctrine by adducing evidence in its defense in an inherent powers suits. Since a police jury has no expertise in the determination of "reasonably necessary" expenses for the operation of a district court, it would have to depend upon the expert testimony of other, probably unsympathetic, judges for its rebuttal. Again, such a situation places the court at a distinct advantage. Furthermore, the doctrine should not limit scrutiny to the necessity of the expenditures in question. Rather, review should be expanded to consider the reasonableness of the expenditures in light of the court's possible fiscal irresponsibility in depleting monies available from other sources such as the Judicial Expense Fund.

Judge Domengeaux, in his *McCain* concurrence, hints at another criticism: the tension between inherent powers and the prohibition against deficit spending. "We express no opinion as to any exigency which might place a police jury into a deficit situation by paying such district court expenses. Such a contingency would entail possible conflicting constitutional provisions which we obviously do not consider here."²¹ In a hypothetical situation in which the police jury would deliberately underfund the court and budget all of the remaining money, a court would then have to re-adjust much of the parish budget, deciding which expenditures in other departments were necessary. Obviously, a court is simply not equipped to perform the political function of re-writing a budget, traditionally a legislative duty.

Not only are police juries underprotected from judicial budgetary intervention, they are also subject to the perils of small budget variability.

20. 440 So. 2d at 1372.

21. *Id.* at 1373 (Domengeaux, J., concurring).

For example, suppose that the district court held an unusually expensive capital trial which required the court to petition the police jury for additional funds. On a state level, the chances are higher that such a contingency would be counterbalanced by a surplus in another department or agency. But the size of a police jury budget precludes much hope of such an occurrence, thereby increasing the chances a judicial raid on the police jury's budget would cause severe budgetary hardship.

These criticisms of the inherent powers doctrine point to the danger of losing the distinction between the judicial and political process. Use of a judicial mechanism to increase political power would decrease intergovernmental harmony. Just because a court has lost a political budget fight does not mean that a judicial solution should be imposed. Availability of an easy judicial remedy may decrease the possibility of a political solution, at least on the local level, by removing much of the incentive for the judiciary to seek a political accommodation with the police jury. On the other hand, availability of judicial recourse may prompt the legislature to specify statutorily, exactly what the police jury must furnish the courts. In any case, unless the limited availability of the inherent powers doctrine is made clear, *McCain's* "spirit of mutual cooperation" will remain no more than empty rhetoric.

The inherent powers doctrine, theoretically difficult to enforce on a state level because of the legislature's constitutional protection against interference with its exclusive appropriation power, may nonetheless be an effective tool for the judiciary on a local level. Its necessity can be premised upon the judiciary's exclusion from the appropriation process.

[T]he judiciary is the only one of the three branches of government that has no role in the governmental budget process. It cannot, like a legislature, appropriate public money. It cannot, like a governor, veto an appropriation of public money. It does have a specialized, unwritten, and limited inherent power to appropriate funds for itself by judicial decree. Courts may go to court, and courts have gone to court, to secure orders requiring the expenditure of public money reasonably necessary for the effective operation of the judicial branch of government.²²

In fact, acknowledgement of the inherent powers doctrine may encourage adequate funding through the political process alone. If a police jury knew that a judicial solution would likely be imposed if a court were inadequately funded, then presumably it would forgo the inevitable and accept the court's own determination of its necessary level of funding.

Furthermore, the inherent powers doctrine is intended to be limited in scope. The third circuit tempered its holding in *McCain* by adopting a

22. C. Baar, *supra* note 18, at 143.

common theme in the relevant jurisprudence, namely: "although the power which exists in the courts is inherent, it is not unlimited; rather it extends to expenses which are reasonably necessary to the functioning and administration of the court and must be exercised in the spirit of mutual cooperation among the various branches of government."²³ This language indicates that the burden of proving the necessity of the expenditures in question lies with the judiciary. Judge McCain sustained his burden of proving that the expenses incurred were reasonable and necessary by relying heavily upon testimony from two other district court judges.²⁴ The Police Jury, on the other hand, did not avail itself of its opportunity to rebut plaintiff's testimony, choosing instead to do nothing.

Regardless of the doctrine's problems, two other courts have been quick to follow the lead of *McCain*. In *City Court of Breaux Bridge v. Town of Breaux Bridge*,²⁵ another third circuit panel applied the reasoning in *McCain* to justify the use of mandamus by the city court to force the governing authority of the town "to pay all reasonable unpaid expenses for the operation of the City Court of Breaux Bridge."²⁶ *McCain's* doctrine has even been applied in another kind of suit. *State v. Lembcke*²⁷ involved an appeal in a criminal case that was remanded for failure to individualize sentencing.²⁸

In an apparent defense of his actions, the trial judge stated that he did not have the staff to supervise any alternative to a jail sentence. Any shortcomings in the staffing of a court to the extent that a court is not staffed at a reasonably necessary level to perform its constitutional duty can be cured *by the court*.²⁹

This language may indicate the ease with which the inherent powers weapon will be incorporated into the judicial armory. Recognition of the power is one thing, but the implicit encouragement in *Lembcke* to seek relief by this method will do little to foster intergovernmental harmony.

Assuming complete judicial acceptance of the inherent powers doctrine, is there any room for expansion to afford protection for other consti-

23. 440 So. 2d at 1372.

24. Id. at 1373.

25. 440 So. 2d 1374 (La. App. 3d Cir. 1983), cert. denied, 444 So. 2d 1219 (La. 1984).

26. Id. at 1376-77, detailing the expenses "to include, although not by way of limitation, expenses for postage and mailing, printing of necessary forms, telephone costs, and upkeep and maintenance of the law library of the City Court of Breaux Bridge and other reasonable operating expenses germane to the operation of that court."

27. 444 So. 2d 353 (La. App. 1st Cir. 1983).

28. The trial judge had sentenced Lembcke to an automatic 10-day jail term in violation of Article 894.1 of the Louisiana Code of Criminal Procedure.

29. Id. at 354 (emphasis added). The court cited *McCain* as authority for this statement.

tutional bodies? Pennsylvania's Justice Jones' concurrence in *Commonwealth ex rel. Carroll v. Tate*,³⁰ relied upon as authority in *McCain*, forsook the possible repercussions that recognition of the inherent powers concept may produce.

If this Court holds that funds must be afforded the Judiciary if "reasonably necessary," could a future majority, while stressing the fundamental co-equality of all three branches of government, logically deny this same standard to the Executive branch of government (the Legislative branch already controlling the purse?)³¹

Louisiana courts have not yet directly addressed the issue of whether inherent powers is exclusively a remedy for insufficient judicial funding. But the recent decision of the first circuit in *Freeman v. Treen*³² suggests that just such a determination will eventually be required of a Louisiana court.

In *Freeman*, the Lieutenant Governor persuaded the Senate Finance Committee to increase the salaries continuing item in the budget for his office by \$133,637. The Governor vetoed the entire item. The Lieutenant Governor sued to have the veto declared to be and permanently enjoined as unconstitutional, alleging that without a specific and irrevocable appropriation of funds for salaries, "he is without sufficient funds to perform his constitutional functions as Lieutenant Governor."³³ Nevertheless, *Freeman* testified that he had continued to perform his duties, mainly through a reduction of his staff and use of a fund transfer system that allowed him to funnel money from his operating budget to provide for his staff's salary needs. The court found that these facts did not prove that the Lieutenant Governor was without sufficient funds to carry out his constitutional duties nor did they prove the abolition of his office by an unconstitutionally exercised veto.³⁴

Freeman cited the case of *Board of Elementary & Secondary Education v. Nix*³⁵ to buttress his contention that *Treen's* veto "deprived him of any means by which to retain the staff of his own choosing, with resulting irreparable harm."³⁶ Indeed, an examination of the lan-

30. 442 Pa. 45, 274 A.2d 193, cert. denied, 402 U.S. 974, 91 S. Ct. 1665 (1971).

31. Id. at 58, 274 A.2d at 204.

32. 442 So. 2d 757 (La. App. 1st Cir. 1983).

33. Id. at 761.

34. Id. at 762.

35. 347 So. 2d 147 (La. 1977).

36. 442 So. 2d at 762. The court's interpretation of the holding in *Nix* is as follows:

In *Nix*, the Louisiana Supreme Court held unconstitutional the repeal of a certain statute which had allowed the Board of Elementary and Secondary Education to employ and fix the salaries of staff 'necessary' to assist the board in administering its affairs. The court said the repeal had the effect of requiring the board to rely upon staff services and personnel selected and employed by the Superintendent of Education, and therefore unconstitutionally infringed upon the board's constitutionally conferred policy-making functions. Id., n.5.

guage in *Nix* uncovers several statements by the Louisiana Supreme Court that, at first glance, seem to strengthen Freeman's position. The most powerful of these was the statement that "[t]he legislature cannot deprive a constitutional agency of its ability to perform its constitutional function by depriving it of the means to do so."³⁷ However, the court chose to temper the impact of this declaration by adding:

[W]e [do not] mean to imply that the board may unilaterally determine what employees are necessary for its performance of its constitutional function. The legislature, of course, itself has a constitutional power to pass upon requests of state agencies for funding of requested staff, as well as to make appropriation for them or refuse to do so.³⁸

The Louisiana Constitution contains a number of provisions that seem to restrict the usual legislative discretion over the budget and instead mandate funding at some minimum level necessary for implementation of the intent of the particular article. The articles cover appropriations in at least four instances: counsel for indigents,³⁹ establishment of a minimum program of education,⁴⁰ operation of the state boards of education⁴¹ and civil service commissions.⁴² But as Professor Lee Hargrave, coordinator of legal research of the Louisiana Constitutional Convention of 1973, notes, these provisions are hortatory and without binding effect.

The Louisiana Constitution contains a number of mandates to the legislature even though it was known by the delegates that such provisions are not self-enforcing and that no mechanism exists to force the legislature to comply with a mandate. Often, such mandates resulted when proponents of some policy were unable to garner the votes necessary to adopt an enforceable rule; they compromised on a mandate which they saw as a psychological aid for their position or which might be of political aid to their view in the future. Such was the background of the provision, "The legislature shall provide for a uniform system for securing and compensating qualified counsel for indigents." The provision has no practical effect, as the supreme court has recognized, in terms of judicial enforcement without legislation.⁴³

The weakness of these so-called mandates lies in the constitu-

37. 347 So. 2d at 155.

38. *Id.* at 156.

39. La. Const. art. I, § 13.

40. La. Const. art. VIII, § 11.

41. *Id.*

42. La. Const. art. X, § 13.

43. Hargrave, *The Work of the Louisiana Appellate Courts for the 1976-77 Term—Louisiana Constitutional Law*, 38 La. L. Rev. 438, 441-42 (1978) (footnotes omitted).

tional rule that there can be no expenditure of state funds without a legislative appropriation. Although the constitution may say that appropriations shall be made, it also leaves the power to do so in the hands of the legislature. Abuse of legislative discretion to dictate exactly "how much is enough" leads to a possible consideration of the inherent powers doctrine but, without enforceable constitutional or statutory language, the chances of a successful breach of the legislature's powers of the purse are nonexistent.

Arguably, bodies which the constitution creates but for which it does not, by its terms, mandate funding, more closely fit the judicial inherent powers mold. "Inherent judicial powers derive not from legislative grant or specific constitutional provision, but from the fact that it is a court which has been created, and to be a court requires certain incidental powers in the nature of things,"⁴⁴ among them the right to compel adequate funding. The key to the distinction between these bodies and those for which funding is mandated is the justification for imposition of the writs of mandamus compelling the expenditure of funds. In a true inherent powers scheme, one does not look for constitutional language mandating funding because none exists. The power is inherent because there is no governing constitutional provision regarding funding. Use of the inherent powers doctrine under these limited circumstances by other constitutionally created bodies is free from the threat of bias. The forum court would retain the detachment and objectivity difficult to guarantee under *McCain*. Additionally, because the arbiter of the proceedings is not also one of the participants, the rest of the *McCain* criticism loses much of its support in logic.

Nonetheless, the court in *Freeman* chose to concentrate only on the procedural question of whether injunctive relief should be granted:

Serious constitutional questions are raised by this controversy: What is the precise amount of money which must be appropriated to the Lieutenant Governor in order to provide him with the practical and effective means for fulfilling his constitutional duties? What is the minimum number of staff employees that a Lieutenant Governor must have to carry out those duties? When may the Governor validly exercise his veto power over such appropriations without disabling the Office of Lieutenant Governor? To the extent these questions are justiciable, they are better answered in ordinary proceedings after a full trial on the merits.⁴⁵

Yet the court addressed these same issues by implication when it refused to grant the permanent injunction because the test of whether *Freeman's*

44. J. Carrigan, *supra* note 2, at 2.

45. 442 So. 2d at 764.

office was “without sufficient operating funds to perform his constitutional functions”⁴⁶ is in fact no different from the “reasonably necessary” standard of review as articulated in *McCain*. Both tests focus on whether there is sufficient funding to guarantee effective and efficient operation as measured by constitutional mandate.

The factual circumstances in *McCain* distinguish it from *Freeman*. The *McCain* court was successful because two factors mitigated in its favor. The first was that the suit was directed against a non co-equal branch of government, thus making it easier to enforce the court’s will. Secondly, the district court’s jurisdictional grant⁴⁷ provides a much better argument for the necessity of adequate funding than the Lieutenant Governor’s paltry grant of constitutionally delineated power.⁴⁸

Conclusion

Does the *McCain* decision mean that the inherent powers doctrine is available to all? Probably not. Such an extraordinary remedy should not be given broad approval without some specific indication from the Louisiana Supreme Court. The very doctrine that spawns the existence of inherent powers also dictates its limited use. Remember that only the judicial branch is excluded by design from the checks and balances of the appropriation process. By virtue of this design, the judiciary should be able to avail itself of the doctrine under carefully articulated circumstances due to the ever present threat of bias and political manipulation of a judicial remedy. Any extension of the doctrine to cover other constitutionally created bodies should be undertaken with extreme caution. The warning is clear. Although the power to compel funding exists, it is not absolute, “rather it extends to expenses which are reasonably necessary . . . and must be exercised in the spirit of mutual cooperation among the various branches of government.”⁴⁹ Furthermore, unless the granting of power to constitutionally created bodies is held to be unaffected by legislative discretion; specific enough to support the need for additional funding; and strong enough to override the legislature’s power of the purse, any application of the inherent powers doctrine will probably be limited to the facts as presented in *McCain*.

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46. Id. at 761.

47. La. Const. art. V, § 16.

48. La. Const. art. IV, § 6.

49. 440 So. 2d at 1372.

