A NEW CONSTITUTION
FOR LOUISIANA'S PEOPLE

A SUMMARY
Seminar for Constitutional Convention Delegates and Academic Humanists

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Sponsors:
League of Women Voters of Louisiana
Louisiana Committee for the Humanities
"Few people realize how essential it is to keep up with the Constitutional Convention while it is in process. It will be too late to do this when its work is done.

"And there will be but one 'shot' at the document that the Convention produces at the polls."

— The Honorable Wade O. Martin, Jr., Louisiana Secretary of State, in welcome to Seminar participants

INDEX

What is the Humanities Program?
Signa Dodge .................................................. 3

The Humanities: What Are They? How Have They Molded Concepts of Democratic Self-Government?
Dr. Robert Leflar ............................................. 4

Constitutional Government and Confrontation Politics
Judge Ernest Morial .......................................... 6
Reverend Kenneth E. Paul ................................... 8

What Does My Particular Group (French, Black, Anglo-Saxon) Hope for from A New Constitution?
U. S. Representative John Breaux .................................. 10
Dean George Netterville ...................................... 11
Dr. Gene F. Tarver .............................................. 11

Panel Discussion ............................................. 12

A Model State Constitution: Its Basic Structure, and How Humanistic Insights Will Help It Fulfill Its Primary Purpose
Professor Rubin G. Cohn ...................................... 13
Dean Cecil Morgan ........................................... 19

Drafting a State Constitution — A Humanistic Approach
H. Vernon Eney ............................................... 16

What Has Happened Since 1921?
Dr. Mark T. Carleton ......................................... 21

Arkansas Constitutional Convention
Dr. Leflar ....................................................... 23

Pitfalls Along the Way
Professor Cohn, Mr. Eney .................................... 24

Questions ......................................................... 25

Quotable Quotes
As Taken from Discussion Group Recorders' Notes ...... 26

About the Speakers ........................................... 29
“What is our concept of equality, and how does that relate to our attitudes toward race or toward who should support public education?”

“What happened to Greece when it cut down all its forests? How did that affect its foreign policy, given that it had obliterated an important and essential natural resource? How does that relate to the natural gas crisis in Louisiana?”

“What about our urban crisis? In a country which is close to 80 per cent urban, we are turning away from the problem in droves. What makes cities exciting and efficient places to live in other cultures? Why can’t we have good cities?”

**WHAT IS THE HUMANITIES PROGRAM?**

Signa Dodge

We — the National Endowment for the Humanities — are an independent agency under the executive branch of the Federal government, almost entirely funded through Congressional appropriations. We began in 1965 — not very long ago.

After the so-called “Sputnik crisis” in the 60’s, we made a commitment as a nation to all-out support of education in the sciences. There came to be, however, a feeling that this all-out emphasis on science — important as it was — was reinforcing in our American thought the notion that problems like poverty, inequality, crime, and all the rest could be solved by turning to “experts” in science and technology. When we looked for input into the decision-making about where to locate a freeway, for example, we consulted engineers and economists.

Where, we began to ask, was consideration of the human values which would certainly be affected by such decisions. In addition, and this may have frightened the Congress even more, was the realization that something had happened to the nature of the dialogue on public policy issues in this country. Discussion of issues erupted in the most tragic and wasteful fashion — in disruptive clashes throughout the land.

These were two primary considerations which led the Congress to establish the National Endowment for the Humanities; they charged this new and very tiny agency with “increasing the understanding and use of the humanities broadly.” Specialists in history, philosophy, comparative religion, ethics, languages, the classics, and other fields of the humanities these days are on campuses — the only place they’ve been able to find jobs to “do their thing.” So we first set out to increase support for the humanities in and through educational institutions. Here is a brief account of how the Endowment is set up and what it does.

It has four major divisions:

I. **Education Division** — which offers support to educational institutions and for new curricula approaches in the humanities. An example is a curriculum change at MIT which requires engineering students to consider, in history and philosophy courses, the value implications of the freeway networks, buildings, and so on that they will be designing in the future. This support is given through institutional grants.

II. **Research and Publications Division** — provides a standard kind of competitive program of support for scholars to allow them to do research, go out on archaeological “digs,” study and publish; the idea is to help increase the resources of the humanities. One such research project is a massive translation of 19th century Vietnamese literature into English; to our knowledge, no such study had been initiated, and yet our national policies have been intimately involved with the lives of these people for so long.

III. **Fellowship Program** — to grant fellowships and stipends to individuals to help them be better teachers of the humanities — providing time for enrichment of their personal or reference resources.

These three divisions of the Endowment all deal with formal, institutional education.

IV. **Public Division** — the largest single division; in it, of which I am a part and of which the Louisiana Committee for the Humanities is also a part, we are concerned with responding
directly to our mandate "to increase the understanding and use of the humanities broadly." We encourage public understanding by sponsoring nationally disseminated film and TV shows, funding interpretive educational museum exhibitions, travelling "road shows" where humanists present humanities programs in small-to-medium sized communities on such subjects as "Justice: Trial & Error" and "The Generation Gap: Cain and Abel to Hippie and Dad."

What we are trying to encourage in the State-Based program is a pooling of resources between humanists and citizens' groups to encourage deep and serious discussion of public policy issues. The humanist offers a valuable fund of knowledge from a life-long study of the human condition as it has resulted in institutions like legal systems, educational systems — institutions in our society which reflect our values. The citizen contributes the real public policy concerns — education, welfare, taxation policies. We want to encourage a dialogue which includes explicit consideration of the values which underlie decisions we all must make on such issues.

This hasn't been the habitual way we have been looking at public decision-making in this country. It happens by accident from time to time, but we as a nation have gotten into the habit of wanting to solve problems — and solve them now. We are action-oriented. I think the reason for failure of so many action or problem-solving programs of the 1960's is that the problems weren't really understood before solutions were imposed upon them. This is a program in "problem-understanding," using hitherto underused resources of the humanities to help us back off from pressing policy concerns to ask clear questions, so that as we travel toward decisions about solving problems, we will have taken into account lessons of the past— its mistakes and triumphs — the human values inherent in alternatives for action.

A year and a half ago we asked some distinguished Louisianians to aid us in this effort, to tailor the Humanities program in Louisiana to concerns and realities of this state. They accepted the challenge, added to their numbers, and have encouraged a wide variety of programs like this one throughout the state.

The League of Women Voters represents a belief which is at the basis of the State-Based Humanities Program — that ability to exercise our prerogatives as citizens is not simply our ability to vote, but also depends on access to adequate information upon which to base our vote.

We welcome, as I hope you do, this opportunity for an infusion of an appraisal of human values into deliberations on policy issues which will have far-reaching consequences for the character of government in your state.

THE HUMANITIES: WHAT ARE THEY?
HOW HAVE THEY MOLDED CONCEPTS OF DEMOCRATIC SELF-GOVERNMENT?

Dr. Robert Leflar

The humanities center on the life of man as this has to do with the life of the mind. A well-known reference work describes the humanities as " ... a group of educational disciplines distinguished in content and method from the physical and biological sciences, and if less decisively, from the social sciences. They include languages, literature, fine arts appreciation, philosophy, and history. They center attention on the life of man ... and deal with him on the human level." Matthew Arnold put it thus: "Science is apt to concern itself with the steady accumulation of knowledge, whereas the humanities should bring some accession of wisdom, cultivation of intellect, imagination and sensibility."

The idea is too often expressed that all troubles that beset our society today are caused by departure from the good old ways that prevailed in the good old days. We have the tendency to forget that in those good old days in America we lived a simpler life in a simpler social structure. To many, these were times when moral standards were clear and accepted, when punishment was swift and sure (for those who got caught), when we respected our "solid citizens," when women and blacks and college students "knew their place," when employees gave "an honest day's work for an honest day's pay" (perhaps $1.00), when private charity cared for the starving and jobless, when there were not so many people crowded together in cities as there are today, when ecology took care of itself.

But let us for a moment compare the old standards with those coming into acceptance today. Were Victorian standards as to the place of women in society and in the home really sounder than the
newer standards toward which we are moving today? Was our treatment of blacks and other racial minorities, including the Indians, morally better than what we are trying to do today? Were the typically swift and procedurally simple criminal trials as fair and as respectful of the sacred guarantees in the Bill of Rights as are today's troubled criminal trials? Were college students whose extra-curricular interests a half-century ago were limited to fraternity affairs, girls, and whatever else, doing a better job of preparing themselves for responsibilities of adult citizenship than are today's who concern themselves with current political and social issues? Were laboring men and women better off before collective bargaining? Is it clear that private charity did a better job of satisfying society's moral obligations to unfortunate and inept members of our human family? Certainly we will not solve these problems by pretending that they do not exist, nor by dealing with them as we did in 1910, which would be by doing nothing about them.

You will notice that I have not praised the increase in crime, nor the current use of narcotic drugs. I don't enjoy paying higher taxes, though I do enjoy the improved income and better consumer goods upon which I pay the higher taxes. Not everything is better today; we have new problems, and bigger ones. I do insist that new problems call for new answers; old answers are not necessarily the right answers for new problems. And we may quite properly be demanding some new answers for some of the old problems which the old answers have failed to solve.

Our reply to those who mourn for the "good old days" and who fear that, as in Rome, our break away from old law and the simple old customs heralds the demise of the Republic, must be that this is not what caused the fall of Rome, nor is it what threatens America today. The Fall of Rome, if I read history aright, arose from failure of its rulers to plan for and meet new challenges and new dangers of new times and new conditions that came upon them whether they liked it or not. Rome fell because it did not adjust. So did the old empire of China and the Russia of the Czars. So have governments and kingdoms by the thousands, throughout the time of man.

Change is inevitable. All of us know that. Our problem is to recognize it, to adjust to it wisely, and also to know when superficial differences do not constitute real change but call only for modified methods of dealing with old problems. That has been the task of law and of government from their beginning, and it is our task today when real change is moving in upon us more rapidly than ever.

We tend to talk mostly about the need for bringing the law into line with current economic and social mores. But even more important is fairness, which in most instances means a decent consideration of the human interests involved. The legal systems of the Soviets and Fascists have efficiency, but by our standards they take little or no account of the individual human being as a personality, nor of what we call the humanities — what makes for freedom and happiness and opportunity for development in the individual. We are not willing to accept for our society the order that prevails in a prison, or even in an army camp. That would not be good order for a free people, because it would not give maximum opportunity for development of intelligent and creative human personality which is the outstanding virtue of our humanistic democratic society.

In our system of law, assurances of elemental fairness are best typified by the Bill of Rights in our Constitution. It is easy to read the Bill of Rights and enumerate its guarantees, some of them less significant today than they were in 1790, some more. The sets of guarantees in some state constitutions are a little broader, in some a little narrower. The Federal Constitution also contains some limitations on state invasions of civil rights, such as the prohibitions against slavery or denial of the right to vote for reasons of race or color, and against denying to any person the equal protection of the laws.

A standard point of view in totalitarian lands appears in a semi-official statement from the Soviet: "Man should have no rights that place him in opposition to the community." That is not just a sentence; it is a way of life that is designed to limit the right to speak, to print, to worship, to think. The truly significant difference between our system of law and life and that of a totalitarian regime is in the protection of civil human rights, or the absence of that protection. These are the rights which permit a human being to be an individual, not just a creature of the state; to speak his mind, to live his own life because it is worth living and not just because his life will somehow serve the changing interests of a superior entity called "the State."

There may be room in the minds of some for difference of opinion as to how important a system of private property is to the preservation of human individuality, but there is no room at all for difference of opinion as to whether the right to think for one's self, to speak, write, worship and vote according to one's own conscience, without fear of punishment or reprisal, is essential to a democratic society. That makes the difference between robots and men. Any attack upon that right is a totalitarian attack, because it strikes at the truly central feature of a free society; it makes no difference whether the at-
tack comes from the right or the left, from within or without, nor at whom it is aimed.

The principal reason why the guarantees of human rights contained in our constitution have stood up as well as they have in America is because we have fought constantly to preserve them. They have not preserved themselves, simply from being written into the basic document. Time and time again in our history, evil men in office—or merely heedless or unwise men—have sought to break over the margin of these guarantees, sometimes for reasons which they thought were good, more often for reasons purely selfish.

I have tried to emphasize two main objectives for improving the law. Most important is that it be fair; which is a short and perhaps overly simple way of saying that the law should be so designed in its substance as to protect reasonably the bona fide interests of human beings, both as individuals and in the mass. A prime essential to fairness is efficiency in administering the law. All the good law we can imagine, on the books, is no law at all unless it is effectively and efficiently administered.

The second main objective that I dwell upon is the law’s and government’s responsibility for the well-being of its citizens—its family. In a family, none should starve, or be left in sickness unattended. The wayward should be corrected and disciplined and taught to mend their ways. All should be educated, so they can be useful in society and live happier lives as individuals. They should be trained to have a decent respect, even love, for each other. This is the practical application of the humanities within the family. The state and its citizens are a large family, and it is in that aspect that the humanities are most significant. A good society calls for education, for culture, for serious concern with the arts and literature, with the history of our society and all its elements, and comparison with the histories of other societies—not just political and military history but also sociological history. It calls, further, not only for an understanding of the economic and social history of the society, but of the current economics and sociology of the society, both for the purpose of knowing what it is and how it can be improved. That is of special importance where delegates to a Constitutional Convention are involved.

Art and literature, history, sociology and economics, law and philosophy all depend upon human understanding, and human understanding is achieved by education. Education in a modern society such as ours must have its main thrust in our schools and universities. But education is not limited to the schools. It comes when we sit by the fireside reading at night, when we visit museums and libraries, when we delve into archives to rediscover forgotten facts.

We agree that religion is not a part of the state’s function, but free and private access to religion in all its varieties is an obligation of the state to all its citizens. In a substantial sense, the state’s relation to religion should be typical of its relation to the humanities generally. It is not for the state to tell us what music we should listen to, what philosophy we should accept, what art we should appreciate, what interpretations of history we should believe, or what culture we should concern ourselves with. It is the state’s obligation to give us the opportunity to discover these values for ourselves; making it realistically possible for us to take such an interest in the function of our educational institutions. They are the means by which civilization is maintained and carried forward. And civilization is what the humanities are all about.

In the fullest sense, what we have been talking about today is the function of government—the state—with reference to human civilization. I hope there are none among you who will deny that government has a function in connection with the preservation and furtherance of human civilization—in Louisiana, as in every other civilized state.

CONSTITUTIONAL GOVERNMENT AND CONFRONTATION POLITICS:
A HUMANISTIC EVALUATION OF WHAT THEY SAY TO EACH OTHER

Judge Ernest Morial

It's my belief that Louisiana is facing one of the most serious periods in its history; I'm sure most of you here are aware of the problems, but many of Louisiana's citizens aren't. We're aware of disruptions—of a widespread dissatisfaction with the way of life in Louisiana and in America—at least among students and the black and the poor.
Dissatisfaction is really much more widespread than that, however. It affects the white poor, too, and even the white middle class and extends right on through the fabric of our national life. Underlying all of this dissatisfaction is the sense that we’ve lost control of our lives — you and I.

Most of us don’t think our opinions make any difference in the way things are run, that the whole system and structure of government has grown too large and too complex for us to affect. This is what the political scientists mean when they talk about “alienation.” The man who’s alienated from his government no longer “buys” the civics book theory of how government works.

Back in the days of the town meeting, people could feel that what they had to say as citizens meant something about the way the government was run. Today, unless you have access to TV or radio or the newspapers, most of what you have to say goes unnoticed — sometimes what you do say is inaccurately reported. In most of what we do — where we live and where we work — we’re surrounded by strangers.

It’s awfully hard to become involved with a society that’s too complex to understand; in the age of nuclear physics and electronic miracles, we can’t hope to understand most of what is going on around us. Without understanding, we can’t hope to control this environment, so here again, we’ve lost control of our lives. This adds to helplessness, hopelessness and despair.

Nowhere is the individual citizen more helpless, more confused than in his attempts to cope with the huge bureaucracies that have grown up in Louisiana society. If elected officials seem unresponsive at times, bureaucracy is even more so. At least elected officials have to face public approval or disfavor every so often. Most personnel in the bureaucracy are appointed. Many could care less about the way you or I think they are doing their jobs. Nowhere is governmental unresponsiveness more acute.

Bureaucracies acquire a life of their own once they’ve been established. This is a fact of life we should keep in mind every time that there’s a call for some new structure to be created. Bureaucracies have a built-in survival instinct which makes them next to impossible to dismantle. Bureaucracies go on growing, regardless of performance. Complete reorganization must be the essential first step of any new constitution. You can’t expect to achieve new priorities by working through the same old inadequate bureaucracies. What must we do to bring real changes in the administration of government? We must build new structures to replace the tired-out ones. It’s a monumental job. This job has begun — not too soon, but not too late.

I think I know the way many of you feel — the way I sometimes do — powerless to change it all, but at the same time outraged at the fact that we’ve lost control of our lives. Well, working alone we probably are powerless. The day of the isolated individual is just about gone. Power is something you build with people, organized for effectiveness. Power is a product of group effort.

It just doesn’t work when you leave politics to politicians alone. What that type of “hands off” attitude means to some of them is “business as usual” — and business as usual has been the situation too long in Louisiana. What’s been brought with state government in large part is improper influence over public officials that big campaign contributors have often exercised. That’s one reason why the average citizen isn’t heard by his government. These are the people the government listens to. Things have gotten so bad that a candidate has to sell his soul in order to get money to run a successful campaign. The kind of money that buys power and influence can only be overcome by hundreds of people willing to work together. We’ve had too much of politicians who use their offices for personal gain. What we need are more “professional public servants,” honest guys who still believe in that old saying that “A public office is a public trust.”

The only way to combat money and power and influence is to create money and power and influence of your own. It takes lots of people, concerned about the future, deeply concerned for the kind of state Louisiana will be. It’s going to take leadership to give that movement direction and purpose. You can change things here in the State. You should organize our people to aid you in reorganizing our government to bring things back to the human scale. You must make government more responsive to the wishes of the people it serves.

Perhaps most important, you can find genuine solutions to Louisiana’s problems. I think we’ve heard “The Last Hurrah” for the old politics of fear and hatred that blamed all of our problems on a scapegoat but offered no substantive answers. Some politicians have been using that scapegoat theory for years to control the electorate. This approach involves blaming all of Louisiana’s problems on one group or “scapegoat.” It’s a technique that Adolph Hitler used in Germany against the Jewish population. Well, here in Louisiana, race has always been the horrible monster these demagogues used to scare people. Race hatred was the device they used to capture public office, which they then proceeded to use for selfish personal gain. It appears that this day is over.
There's only one problem with this easy formula for change — the fact that so many people have already become disillusioned. Their efforts to bring about meaningful change have been frustrated too many times by the present political structure. Many of you are angry, too, about the kind of political exploitation that has played on the worst instincts of our people, that has shown us scapegoats instead of genuine solutions to our problems. It's time to end the supremacy of selfish political hustlers once and for all. If there really is a "New Politics" in America, this is the year for it to be heard in Louisiana.

People is what the new government of the Seventies must be about; individual citizens can be given a meaningful role in the decision-making process. We hear a lot of talk these days about "participatory democracy." That's a redundancy if ever I've heard one. Democracy is supposed to be participatory. That's what it's all about. What we've got to do is to make democracy workable, instead of inventing new phrases to describe it. The first step must be to return power to the people through reorganization of bureaucratic and governmental structures. The exercise of power gives people a sense of shared purpose. It's that sense of direction — of purpose — that has been lacking.

We have genuine cause for alarm in America. But this does not mean that there must also be despair. Every crisis is a combination of both risk and possibility. Change necessarily means both threat of failure and prospect of success. The Chinese language captures this thought very well. It's written representation of the word "crisis" is a combination of the symbols for "danger" and "opportunity." That is the nature of the crisis we are facing; this is a moment of great potential for change. Risk and possibility, danger and opportunity — the outcome of this crisis rests in your hands and mine.

CONSTITUTIONAL GOVERNMENT AND CONFRONTATION POLITICS:
A HUMANISTIC EVALUATION OF WHAT THEY SAY TO EACH OTHER

The Very Reverend Kenneth W. Paul

Confrontation, the process whereby one faces boldly the structures of government to bring about change for justice and freedom, is of the fabric of the American governmental system. It is more evident in periods of rapid social and technological change. The Constitution of the United States and of each individual state is authenticated by its intention and capacity to free men for creative confrontation that produces justice and freedom rather than to suppress creative thought and action or oppress and control.

Some would argue that America is a "sick society." I see rather the historical dilemma of all political systems, namely: the problem of the non-violent transfer of power. The fact of today is that we are not a society of upper and middle class gentlemen nor a community of intellectuals who control the institutions of government. We are rather a society of various social groups resorting to the political tool of confrontation to press the political community to action.

This has often, since the early 60's, taken the form of demonstrations, often viewed as the political tool of only a few dissident factions, such as students and blacks. Actually, various middle-class groups as well as "respectable" professionals have been involved in confrontation politics. Teachers have picketed schools. Doctors, nurses and others in the medical profession have demonstrated against the recent war. Clergymen, to the dismay of the faithful, have been engaged in confrontation since the days of Jonathan Edwards in the 1700's. Even staffs of law enforcement agencies have not refrained from demonstrating.

How do I, as a humanist, respond?

The most urgent and frightening fact in our world is the terrible divisiveness setting men against men: rival nationalities, opposing philosophies, competing economic systems, and fierce racial tensions. An old order is vanishing and a new order is struggling to be born. In this fierce contest, all mankind is swept along. We in America share this common world problem.

In our travail toward unity, nothing can take the place of face to face meeting. It is tragically easy to treat other people as "things" and to forget that all mankind desires, needs, hopes, and fears the same things. The meeting of others is a creative experience! Amid all the tensions and divisions of our world, to meet and know and listen to your brothers of other races and groups is a necessity.

In Christian thought, government is a structure appointed by God for the common good. Its function and responsibility is to care for the outer order and framework of our common life. We, all, need to be protected. We need the orderly and impartial administration of justice.
The law is a minister of God for good if it is reasonable law. It makes civilized life possible, and enables us to live together in peace. It restrains our selfishness and wildness, and, while it cannot change our hearts, it does provide the indispensible outer framework of our unity. But we need to be reminded of the evils of anarchy. Anarchy, the absence of law, is a greater evil than tyranny, and leads to tyranny. Anarchy is the absence of order; tyranny is an order of sorts. Any man who seeks to undermine the rule of impartial justice is inviting disaster for the nation. It is only for the gravest and clearest principles of conscience that one may contemplate civil disobedience. And because all order is at stake, such disobedience can only be justified when it is based on a higher ethical principle than the law represents. Never is it right when the disobedience is the expression of a lower ethical standard than the law would enforce.

The judgment of God is upon all our divisions and conflicts, and is the response of a just God to the offenses of mankind against his loving will. It is God himself seeing our sins, and acting in history to accomplish His will in spite of our sins. You will find the judgments of God reported in your daily newspaper, in the events of history, in the clash and contradiction of rival ambitions and fears, in the hatred and suspicion we earn when we fail to deal justly with those with whom we share this narrow world.

The American racial problem is discussed the world over. Much of the good will which our nation once enjoyed has been lost, for not practicing what we preach, and for not being ready to grant to others opportunity and equality we cherish for ourselves.

The divisions of this world — national, class, and racial — always are accompanied by deep emotion. Emotion, as we can observe in many American cities, that is deeply divisive. If we build on emotion, the end is conflict. We need to give a larger place to the liberating quality of reason. Of course we share with the rest of God's creation the emotional drives of life: fear, rage, and hunger. But part of what the Bible means when it speaks of our being made in God's image is that we can reason. There is only one way for free men to overcome conflict, and that is by talking together in reasonable self-control, and thus finding a way which will lead to peace. Persons who believe in the God who is the source of all truth ought to be the first to claim this privilege. Therefore, we ought to keep our voice down, our arguments impersonal, and to ask everyone that discussion be carried on by all without any note of superiority or servility. We need perspective on our problems.

Biblically considered, disorders must be seen as a judgment. And what is inner judgment? In part, the maturing of an inner contradiction. At this moment the contradiction is clear, the haunted tragedy of American history: the contradiction of a nation in which immigrants are absorbed into full citizenship — but blacks are not; it is the contradiction that proclaims all men are created equal but blacks are in slavery or ghettos. This contradiction matured into a great Civil War; it has again matured into flaming cities.

Our travail as a nation is not meaningless. We can respond in three possible ways:

* We can return to “life as usual,” failing to recognize that it is “life as usual” which has brought us to where we are.

* We can become a police-state. If hostile groups arm against each other, if angry extremists grow in power on each side. If white resistance continues to create black despair, alienation and hatred, which in turn creates white reaction, then a police-state could become a necessity to prevent slaughter in the streets. People who know that there is reason why America should escape the tragedy of history should avoid wishful thinking.

* We can turn the power of every institution in the land, beginning with the Church, toward removing the dread contradiction, toward growing up into the Constitution, toward the changing of our ways. Change is a law of life; and if we have not the capacity to change, we are on the road to revolution. The massiveness of the effort required can be seen when we remember that it is in the nature of institutions to change so very slowly.

Americans, who are prone to believe that all problems can be solved by money, must be told bluntly that money alone will not buy us peace. It is a necessary symbol of our concern in Church and State; but it can also, unless accompanied by change of inner attitude, deceive us into believing that we have changed when we really have not. The stability of a nation can no more be built solely on dollars than can the stability of a family. Indeed, money without mutual respect and affection, without deep ties of the spirit, will leave any people hostile, bitter, and alienated.

Christian teaching holds that civic authority is given by God to provide order in human society, and that just human law is a reflection of divine law which man did not devise. Yet it must be recognized that laws exist which deny these eternal and immutable laws. Thus the Church recognized the rights of any to urge repeal of unjust laws by all lawful means, including participation in “peaceful”
demonstrations. When means of legal recourse have been exhausted, the Church recognized the right of all persons, for reasons of informed conscience, to disobey such laws, so long as they:

Accept the legal penalty for their action.
Carry out their protest in a non-violent manner.
Exercise severe restraint in using this privilege, because of the danger of lawlessness attendant thereon.

Before participating in such actions, they should seek the will of God in prayer and counsel.

The responsibility of confrontation in politics is not only to say what should be done, but to support those working for these changes. "God has matched us," said one of our members in speaking with reference to this constitutional convention, "with a great opportunity."

WHAT DOES MY PARTICULAR GROUP (FRENCH, BLACK, ANGLO-SAXON) HOPE FOR FROM A NEW CONSTITUTION?

U. S. Representative John Breaux

Facetiously, I would say that my first personal priority is to include a provision that would require everyone to learn how to pronounce French names!

 Seriously, the subject for this panel discussion is almost undemocratic. — The constitution should not be for any particular group, but for all groups. The main consideration should be,

"What can we live with not only now, but twenty or fifty, or even two-hundred years from now?"

Delegates and citizens alike should think along these lines.

From the point of view of a Louisiana citizen of French descent, I do say that this provision, included in our present document, does not belong:

"General exercises in public schools shall be in the English language."

This should not be in a constitution in the first place, and is an obstruction to French programs in some areas.

In order to find out what French people in my Congressional district are thinking, I took a poll, this survey went mostly to people of French descent, who represented all walks of life in the 7th District. Participants were asked to rate in the order of importance to them, several selected issues which could be proposed for Convention consideration. These were:

* Education — defining of education mechanism and financing.
* A statement of powers and limitations for the office of Governor
* Providing for the role of French language in Louisiana

Among the various issues to select from, respondents indicated clearly that education is one of the most important considerations for the Convention. In this area, highest importance was attached to considering whether the superintendent should be elected or appointed; it should be noted that respondents were not asked what opinion they held on this issue — only the importance they felt should be attached to it.

And rated as of least importance as far as the constitution was concerned, respondents rated the specifying in the constitution of how the processes of education in Louisiana should be carried out.

Provision for a role for French language was regarded as of least importance. Participants felt that any ethnic consideration could be provided for in the Bill of Rights.

Those who said that provision for French was of some importance were then given a second set of priorities to likewise be evaluated as they saw their relative importance, and which could be a proper subject for consideration by delegates:

* Consider guaranteeing rights of French people to continue their culture.
* Provision for French to be acceptable as an official language in Louisiana.
* Whether an organization like CODAFIL should be established in the constitution as an official agency of the state.
* Whether delegates should prohibit use of public funds for the benefit of any special cultural or ethnic group.
A majority of those answering this second set of questions felt that the study of a second language should be required of all Louisiana children, and should be included in a new constitution.

In summary, 20 per cent of all these French people polled felt that constitutional consideration of French tradition and culture was of no importance. The message came through unmistakably that these French people want to be treated as is any other group, and not set apart. Maybe this will be the last time that we must consider special groups as such in this state. We all live together in this state, and we must all progress together.

Dean George Netterville

In general, this Convention is faced with two overriding concerns:

Getting a new constitution that will work.

Getting one that Louisiana will accept.

I feel that you delegates will accomplish these tasks.

Where equality of citizens before the law is concerned, there have been four movements in Western Civilization that have been aimed at obtaining a just society. These are:

* Development of the “King’s law” in the middle ages.
* Growth of representative democracy, with the participation by citizens in the decision-making processes of government.
* Recognition of social and economic rights during the 20th century.
* Acceptance of “collective rights” (such as the right to a healthful environment), a recent development.

Our expectations for justice now — in the 1970s — indicate that our present system is not doing exactly what we think it should. Delegates should look at our present constitution to see how it may be improved. You should seriously consider whether or not it would be worth your time to take a close look at the administration of justice in Louisiana all the way from the top to the bottom. If you will look at the people in the penal institutions, we’re the people who are getting caught. You may be paying for it, but we are the ones serving sentences.

It is difficult for the poor, and this includes most blacks, to participate in politics; in fact, as a practical reality, such participation is limited to individuals who own their own businesses or are in some way fairly independent financially. Some ways to make possible the participation of people not in such a position are:

Consider making legislative posts annual, salaried jobs.

Public office ought to be lifted to the level of service given to military service — someone serving as a legislator would be able to resume his former position when his term is over.

The new constitution should include a clear statement on equality of opportunity for all, regardless of race, religion, sex, as concerns hiring practices, housing, education. Though these things are now provided for in many ways, there should be such a positive statement in the constitution as a pledge of good faith. If this Constitutional Convention does not make a clear statement ending discrimination according to race, sex, etc., all of us will know that you really don’t mean what you say — that you talk about it but you won’t write it down.

There should be provision for environmental protection. Everyone has the right to breathe fresh air. A new constitution should make clear to those who want to engage in business for a profit that they must do business within the confines of good environmental practices.

Delegates should consider a measure forcing the legislature to reapportion itself at set intervals — perhaps even to a provision to cut off funds for all state operations if it should fail to do so.

Blacks are interested in all aspects of life in Louisiana — from administration of justice to control of economic life — whether or not it has racial overtones. Blacks want to be consulted on all issues, since they, as people, are interested in all. Blacks are now visible in Louisiana’s political life; WE WANT TO WORK WITH ALL FOR A BETTER STATE.

Dr. Gene F. Tarver

I agree with Dean Netterville’s observations on the judicial system, and am encouraged with the findings from the survey taken by Congressman Breaux which show persons of French descent more
concerned with government and educational problems than preserving their language and their culture in the new constitution. The constitution you draft will, if adopted, serve as the "supreme law of the state." It will be a constitution for all the people. I hope you share my belief that class or group distinctions, whether social, economic, or political should not be reflected in the document you prepare in the months ahead.

I believe the real, critical issue facing the delegates to this convention is the extent to which they will be willing to place trust in, and grant increased authority to the legislative arm of government. Much of state constitutional history in the nineteenth and into the present century relates to the curtailment of legislative power. Each of Louisiana's ten constitutional conventions has carved away a portion of the legislature's power. Certainly, limited authority leads to limited responsibility. The decade of the 1960's marked a historic turning-point for state legislatures after a century of decline. Through reapportionment and active legislative modernization efforts in many states there seems to be a renewal of vitality of state legislatures. State legislators today seem to be more issue-oriented, more dedicated in the pursuit of answers and solutions to problems they perceive than their predecessors.

Improvements are needed in the environment in which legislators work, and some of these require constitutional change. The Louisiana Legislature needs more time to do its work. In 1970 the legislature considered more bills, in less time, than any other state legislature. Only three other states limit a regular session to 30 calendar days or less — as we do for our fiscal sessions. The recent defeat of the proposed amendment providing for annual 60-day general sessions was due, in part, to the negative orientation so many voters now exhibit toward any proposed constitutional amendment. Delegates will also be considering retention of the present system of election of legislators by single-member district, or creation of some multi-member districts; with the single-member district the legislator is more visible and accessible to his constituents, and minorities have a better chance for representation.

The issue of dedicated revenues is also an important one. The range of dedicated revenue in the states is from a low of four percent in Rhode Island to a high of 90 per cent in Alabama. Louisiana is just behind Alabama with approximately 87 per cent of its revenues "earmarked." Opportunities for assigning new priorities and making adjustments in spending are carefully circumscribed under this system, and our legislators and governor should not be limited as much as they are at present.

Public expectations regarding the governor usually far exceed authority actually given him in the administration of state affairs. There are at present too many limits on his authority to enable him to achieve coordination within the bureaucracy and in the budgetary process. Louisiana exceeds almost every other state in the number of officials with statewide jurisdiction that are popularly elected. This "balkanization" of the executive branch is detrimental to effective administration.

The governor is first a political leader, and secondly an administrator; but governors have increasingly become aware of the need for improvement in the administrative area. Collectively, we find an average of 85 agencies in the states; Louisiana has three times that number. Ideally, no agency or board should have constitutional sanction; practically, we very likely should have a few. Blacks and other minorities should have representation on such agencies as the Civil Service Commission and educational control boards.

Convention delegates should show greater trust in local government. We need stronger local governments as well as stronger states. And we should remember that the more government does, the easier it is to infringe on civil rights.

The 1970's will be a decade of immense challenge to the states, and will see much more stress on state responsibilities and initiative.

QUESTIONS:

"More and more people are voting, becoming aware of government, and making demands upon it as consumers of government services; are we going too far in these demands? How can we realize these demands without destroying our ability to govern ourselves?"

Netterville — This is a problem of governments all over the world. Governments react to the issues of the moment, and demands build up over a period of time. We might consider some sort of properly-funded organization that can make in-depth studies of public policy issues. Americans do not like the idea of planning, but lack of planning has brought us certain kinds of crises; if we don't do a little planning, we'll be in real trouble.
Tarver — I am not certain that a commission or planning committee would be needed under the constitution. As far as state politics is concerned, planning emanates from the governor’s office. If you have a far-sighted and visionary individual here, you can communicate and move in needed directions.

“What elected offices might be abolished?”

Morial — Louisiana has nine officials forming the executive branch, where most states have five. This should be a consideration in reorganization and consolidation proposals. But I would caution the Convention to consider very carefully whether and which to abolish. Perhaps a federal-type cabinet government is not yet right for a state still so politically-oriented as Louisiana. Some change in mandates for elected officials is a possibility.

Cohn — How a state’s judicial system is organized — how judges are selected, and courts established — involves the essence of humanistic concerns. We cannot disassociate effects of the judicial system from the basic human rights involved. The concept of restructuring the legislative branch to enable all to aspire to serve contains a very real concern for human values. Details in this transcend mere particulars.

“Should the Convention try to write an ideal document, or a consensus-type conglomerate document?”

Morial — That is a judgment value this convention will have to make — To write a document without compromising principles. It will have to write a document that will move toward curing past defects, and will be well-received by the people. We must, in the constitution, give sufficient latitude to elected officials, who are accountable to the electorate. Government by consensus is dangerous — you are going to be faced with many special interest groups.

Only three statewide offices have any qualification requirements — those of governor, lieutenant governor, and attorney-general.

If there are too few elected officials, this is not taking government to the people. We must strike a balance between idealism and practicality.

We delegates have to keep in mind what the people want, and forget our idealism; the people in my district are wary of having open-end legislative sessions.

People saying that they have little interest in seeing French given constitutional status are not saying that they think our French tradition is unimportant.

“‘I think the panel topic is inappropriate.’ (Delegate comment)

This has been drawn out by the discussion. We have discovered that we are all “one people”.

There are some people who have encouraged groups to vie against one another in Louisiana. Do we want to give a meaningful mandate to abolish these differences?

A MODEL STATE CONSTITUTION: ITS BASIC STRUCTURES, AND HOW HUMANISTIC INSIGHTS WILL HELP IT FULFILL ITS PRIMARY PURPOSE — SERVING LOUISIANA’S PEOPLE

Professor Rubin G. Cohn

In “Human Law and Human Justice,” Professor Julius Stone traces the origin, growth and evolution of all theories of law and justice which have obsessed philosophers throughout the centuries. Noting the trend from principles of free will and liberty, in which the role of the state was subservient to the will of the individual, to current acceptance of the principle of a more dominant and pervading governmental involvement in human concerns, he says:

“Shift to a stress on ‘social’ concerns was inspired basically by changing conditions of industrial society and the problems they raised. Society posed for Bentham and Kant, 18th century philosophers, the question — How shall we justify the grant to each man of that maximum sphere of freedom from legal control which is being claimed? Society less than a century later
was posing another question — How shall we justify limitations on the freedom of individuals which we find ourselves compelled to impose? Half a century later still, this question tends to recede behind still another — On what principles should we grant power (and control the powers we feel compelled to grant) to public officials over the freedom of individuals?"

The propositions fairly reek with humanistic implications. It is perhaps easy to conjure up from this statement the inference that concern for values which involve the essence of the human spirit, which elevate and animate human aspirations and ideals, is of relatively recent origin as we move from a laissez-faire society to a paternalistic government. A moment’s reflection will dispel that notion. The Bill of Rights of the Louisiana Constitution, and its counterparts in all other states, has its origins in the Magna Carta. There is surely no doubt that the bill of rights, a categorical absolute in any state constitution, is the very imbodiment of humanistic principles and insights in such fundamental areas as freedom of speech, press, assembly, religion and religious conscience, and in those rights which seek to protect the criminally accused against abuse of the awesome power of the State.

The canon that statutes be equitably construed to avoid absurd or harsh consequences derived from literal reading goes at least as far back as Aristotle and found expression in the Hebrew Code. A statute in Bologna, that whoever drew blood in the streets should be severely punished, was held as a matter of equity not to apply to a physician who opened a vein in the street to save life. Civil law has examples; one frequently cited is that a person cannot acquire the estate of a benefactor whom he has murdered.

The Louisiana Convention will face concrete proposals which will test humanistic principles to the core — often with bitterness and tension. Involved are considerations of theology, morals, ethics, philosophy and jurisprudence upon which rational lines of thought can come to different conclusions; persuasive differences of opinion do exist and cannot be finally resolved without dissent. Involved also are more pragmatic considerations of popular fears and prejudices which in emotionally-charged circumstances may well overwhelm reason and make equilibrium and accommodation extremely difficult. Let me be specific.

The decision of the United States Supreme Court on the legality of restrictive state laws on abortion is an example of an attempt to accommodate extreme positions. The issue literally explodes with humanistic concerns and unresolved issues. The decision has a little of something for everyone but not everything for any interested group. The Supreme Court decision forecloses the Louisiana Convention from adopting any constitutional principle in conflict. You have in all probability been saved the agony of bitter debate involving conflicting humanistic values. But there will undoubtedly be efforts to challenge this decision.

Related to this is the sensitive and volatile issue of capital punishment. Again, the United States Supreme Court has recently judged state laws imposing the death penalty unconstitutional as cruel and unusual punishment. The decision, however, goes not to the question of state power but to administration and application of that power in the criminal proceedings of the state. Thus it is assumed that a mandated death penalty for defined serious offenses, eliminating elements of too large a discretion on the part of court or jury, is constitutionally permissible. Indeed several states have enacted such laws. Illinois proposed an amendment abolishing capital punishment which was submitted to the electorate separately from the main constitution document and was overwhelmingly rejected. Whether the mood of Louisiana people is the same is something I cannot gauge. The issue as far as Convention power is concerned is qualitatively different from the abortion issue. The Supreme Court opinion clearly leaves to any state the power to abolish the death penalty, and there will surely be those who will so propose. They will urge that life, even of a heinous murderer, is sacred; that the state no less than the individual should be precluded from taking life; that to take life is an act of vengeance, without regard to circumstances, and that it is morally objectionable for the state to indulge its collective passion for retribution. These are some aspects of the problem that humanists will seek to explore. It should also be noted that if capital punishment is constitutionally permitted, not all the moral and ethical problems are thus eliminated. The categorizing of specific crimes which justify application of the death penalty is an issue itself intensely ambiguous.

The Illinois Constitution of 1970 introduced a provision new to it but carried in the constitutions of a number of other states:

"Subject only to the police power, the right of the individual to keep and bear arms shall not be infringed."

Initially the right was expressed in unqualified terms, no reference being made to a reserved police power. The provision in original and amended form provoked bitter controversy. Some state constitutions, such as Louisiana’s, seem to speak in terms of a collective right similar to federal provisions. Others seem to grant the right to the individual. Many state constitutions are wholly silent. Although
this right now enshrined in the Illinois Constitution is subject to the state's police power, there is considerable uncertainty as to the extent of those powers to infringe this newly-defined right. It is one thing to leave to legislative judgment policy controls over use, possession and sale of firearms; it may be quite another to constitutionalize the individual's right to keep and bear arms, subject to some undefined reserved legislative power. The issue takes on urgency in light of the increase in crimes of violence involving handguns and rifles. At what point in the balancing of individual and public rights should this critical issue be resolved, and in what manner? Is it essential to constitutionalize my right to purchase and keep a handgun? Are there greater interests adversely affected by the grant of this right? Should not the legislature, the responsible people's representative, be left unhindered by ambiguous constitutional restraints upon its power?

Let us move away from the criminal area. One of the most cherished and fundamental rights of Americans is freedom of the press. Until a few months ago news reporters believed themselves protected by the First Amendment of the federal constitution, reiterated in state constitutions, against efforts by government to force them to disclose sources of information. Our Supreme Court has now held that in grand jury proceedings (inferentially in judicial and legislative investigations as well) the First Amendment does not grant the right of withholding information sources. Has this right so precious to a free society been eroded by the decision? The news media believe so, as do many others concerned with fundamental liberties. There is a demand for legislative enactment of "shield" laws, which are intended to provide immunity of newsmen from contempt citations or other sanctions for refusal to disclose their sources. Differences exist as to whether such shield laws should establish an absolute privilege, or a more limited, qualified privilege. The basic issue is much more profound, since legislative grants of immunity concede the granted legislative power to withhold the privilege or repeal or modify it once granted. If the decision in question poses substantial threat to maintenance of a free society, the deeper question is whether the immunity or privilege be expressed in the state constitution.

It must be realized that federal decisions do not declare a ban on exercise of state power in this area — they hold simply that state laws or judicial decisions imposing a sanction for withholding information are not precluded by the 1st and 14th amendments to the federal constitution. If the people wish to withhold this power from state government, they may do so by constitutional amendment. This is one basic reason why a state bill of rights, though basically a restatement of rights protected by the federal constitution, is necessary in the state charter — to impose limitations upon exercise of state power which go beyond the protection of the federal constitution.

Another issue concerns the right of trial by jury, particularly in criminal cases. Although some inroads, constitutional and legislative, have been made on the right to a jury of 12, it has been thought by most legal scholars that a unanimous verdict by such a jury in criminal cases, except for minor offenses, was a principle beyond legislative power of impairment. The Supreme Court has now decided, however, that verdicts in state criminal cases need not be unanimous. One of the decisions involves the present Louisiana Constitutional provision. The federal decision does not bind the states — they may still require a unanimous verdict for conviction. The issue is whether the state's interest in combating crime outweighs the individual's right to the historical unanimous verdict of guilty before he may be punished. That issue is fraught with a number of legal and humanistic implications. Should this matter be left to legislative judgment or is it of such transcendent importance that its resolution be written into the constitution? Although the people of Louisiana have resolved constitutionally both issues of juries of less than 12 and non-unanimous verdicts for most criminal convictions, there may well be those who would ask for a reassessment of your present constitutional provisions. It is always an interesting speculation why different states — different electorates, but basically the same people facing the same moral and ethical decisions — arrive at different conclusions concerning fundamental issues.

Illinois amended its Bill of Rights to include the right of privacy and the right to be secure against interceptions of communications by eavesdropping or otherwise in the section dealing with protections against unreasonable searches and seizures. This is a critical area of growing concern.

I would be remiss if I did not call attention to several Illinois provisions which break new ground in expression of humanistic insights in a state constitution. Undoubtedly this Convention will face the same issues. I have noted that constitutional prescriptions of individual rights and liberties traditionally deal with limitations upon government and have nothing to do with private conduct which impairs those rights. For example, a teacher in a public educational institution who has tenure may not be discharged for criticizing the school administration — that is for exercising his rights of freedom of speech — whereas a private educational institution is under no such constraint. The new Illinois Constitution establishes rights against private individuals for certain types of conduct deemed so inimical to the public welfare as to justify constitutional expression and protection. It is now provided that all persons shall have the right to be free from discrimination on the basis of race, color, creed, national ancestry, and sex in the hiring and promotion practices of any employer or in the sale or rental of