

The Thirty-Eighth Biennial Report

of the

LOUISIANA STATE LAW INSTITUTE

to the

Legislature of Louisiana

February 26, 2014

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To the Legislature of Louisiana:

In accordance with Paragraph 6 of Section 4 of Act 166 of the 1938 Regular Session of the Legislature of Louisiana, the Louisiana State Law Institute submits its thirty-eighth biennial report to the Legislature of Louisiana.

I. PURPOSES

The Louisiana State Law Institute was chartered, created, and organized as an official law revision commission, law reform agency, and legal research agency of the State of Louisiana by Acts 1938, No. 166. The general purposes for which it was founded are "to promote and encourage the clarification and simplification of the law of Louisiana and its better adaptation to present social needs; to secure the better administration of justice and to carry on scholarly legal research and scientific legal work." Its legislative charter (Acts 1938, No. 166) and R.S. 24:204(A) prescribe its duties as follows:

R.S. 24:204. General purpose; duties

A. * * * :

1. To consider needed improvements in both substantive and adjective law and to make recommendations concerning the same to the legislature.

2. To examine and study the civil law of Louisiana and the Louisiana jurisprudence and statutes of the state with a view of discovering defects and inequities and of recommending needed reforms.

3. To cooperate with the American Law Institute, the Commissioners for the Promotion of Uniformity of Legislation in the United States, bar associations and other learned societies and bodies by receiving, considering, and making reports on proposed changes in the law recommended by any such body.

4. To receive and consider suggestions from judges, justices, public officials, lawyers, and the public generally as to defects and anachronisms in the law.

5. To recommend from time to time such changes in the law as it deems necessary to modify or eliminate antiquated and inequitable rules of law, and to bring the law of the state, both civil and criminal, into harmony with modern conditions.

6. To render biennial reports to the legislature, and if it deems advisable to accompany its reports with proposed bills to carry out any of its recommendations.

7. To make available translations of civil law materials and commentaries and to provide by studies and other doctrinal writings, materials for the better understanding of the civil law of Louisiana and the philosophy upon which it is based.

8. To recommend the repeal of obsolete articles in the Civil Code and Code of Civil Procedure and to suggest needed amendments, additions, and repeals.

9. To organize and conduct an annual meeting within the state for scholarly discussions of current problems in Louisiana law, bringing together representatives of the legislature, practicing attorneys, members of the bench and bar, and representatives of the law teaching profession.

* * *

II.

**BY-LAWS OF THE
LOUISIANA STATE LAW INSTITUTE**

I. Purposes, Duties, and Organization of the Institute

- A. The purposes and duties of the Institute are those enumerated in R.S. 24:204A.
- B. In order to fulfill efficiently these purposes and perform these duties, the Law Institute is organized into:
 - 1. The General Membership;
 - 2. The Council;
 - 3. The Executive Committee of the Council;
 - 4. Standing Committees;
 - 5. Continuous Revision Advisory Committees; and
 - 6. Special Committees.

II. General Membership of the Institute

- A. There are four classes of members of the Institute: elected, ex-officio, junior and honorary members.
 - 1. The elected members are attorneys, not exceeding 150, who are licensed in the State of Louisiana and have practiced for five years prior to election, elected by the Council for 4 year terms, commencing January 1, 1999.
 - 2. The ex-officio members are:
 - a. All justices of the Supreme Court, all judges of the Courts of Appeal and District Courts of Louisiana, during their terms of office;
 - b. All Article III judges of federal courts located in Louisiana who are Louisiana domiciliaries, during their terms of office;
 - c. All members of the law faculties of Paul M. Hebert Law Center, Loyola University, Tulane University, and Southern University, during their tenures as faculty members;
 - d. All members of the legislature who are attorneys licensed to practice law in Louisiana, during their terms of office;

- e. The Administrative and Non-Administrative officers of the Institute during their terms of office;
 - f. Members of the Council during their terms of membership; and
 - g. The Chairpersons, Reporters and Members of all Standing Committees, Continuous Revision Advisory Committees, and Special Committees during their tenures on these Committees.
- 3. The junior members are three honor graduates from each of the four law schools listed above who are licensed to practice in Louisiana and who are designated by the dean or chancellor of their respective law schools. They shall be elected by the Council for a term of one year.
 - 4. The honorary members are those persons who are elected by the Council as honorary members because they have distinguished themselves as eminent legal scholars or attorneys and have made significant contributions to the advancement of the law.
- B. The Council, upon recommendation of its Membership and Nominating Committee, shall fill vacancies in the elected membership of the Institute by election for the unexpired term of the elected member.
 - C. The elected, ex-officio, junior and honorary members of the Institute shall have such privileges and perform such duties as may be assigned to them by the Council of the Institute.

III. Annual Meeting of the Institute

- A. The President shall determine the time and place of the annual meeting of the Institute.
- B. Thirty days written notice of the time and place of the annual meeting shall be given to all members of the Institute.

IV. Council of the Institute

- A. Function and Duties
 - 1. The Council is the governing body of the Institute and is charged with the responsibility of fulfilling the purposes and duties of the Institute.

B. Membership

1. The membership of the Council consists of those persons enumerated in La. R.S. 24:202A and B.
2. The Council shall invite to its meetings as Observers for a one year term two members of the Young Lawyers Section of the Louisiana State Bar Association, designated annually by the Chairperson of the Young Lawyers Section. Observers are not members of the Council. The Observers shall have the privilege of the floor, but shall not have the right to vote.
3. The terms of office of members of the Council are:
 - a. For members of the judiciary who are ex-officio members, four years commencing from the effective date of their respective appointments as members of the Council;
 - b. For other ex-officio members, during their respective terms of office; and
 - c. For elected members, four years. Elected members shall be eligible for re-election.
4. All members of the Council and all Administrative and Non-Administrative Officers of the Institute shall have the privileges of the floor and the right to vote at all Council meetings.
5. All ex-officio members listed in La. R.S. 24:202A shall have the right to designate a proxy for Council meetings. The proxy shall have all the rights and privileges of the ex-officio member, including the right to vote.
6. The Council, upon recommendation of its Membership and Nominating Committee, shall fill vacancies in the elected membership of the Council by election for the unexpired term of the elected member.
7. The Council, upon recommendation of its Membership and Nominating Committee, shall fill vacancies in the ex-officio membership of the Council caused by the failure of persons or agencies to select, designate, submit, or recommend members of the Council.

C. Meetings

1. Regular and Special meetings of the Council shall be called by the President. A special meeting of the Council must be called by the President upon written request of any ten Council members addressed to the President or to any Vice-President.
2. Ten days written notice of the time and place of all regular and special meetings of the Council and the agenda for the meeting shall be given to all Council members.
3. The Council shall conduct Council business, hear and act upon reports from the Executive Committee, Standing Committees, Continuous Revision Advisory Committees, and Special Committees, make recommendations to the Louisiana Legislature concerning proposed changes in the law, and otherwise make recommendations on all matters submitted to it by the Legislature.
4. The Council shall also conduct elections and otherwise conduct such business that shall be presented to it.
5. The Council may not conduct an election, consider a committee report, make a recommendation to the Legislature, or consider any other item of business, unless it is listed in the written agenda of that Council meeting mailed to members as provided in these By-Laws. Except for elections, the Council may waive this requirement by a two-thirds vote of members present and voting.
6. No business shall be conducted, reports heard, recommendations made, elections conducted, or any other matter acted upon at a Regular or Special meeting of the Council without a quorum of the voting members being present. Fifteen members shall constitute a quorum.
7. The Orders of the Day at each Regular and Special meeting of the Council shall be the items of Council business listed in the written agenda for that Council meeting in the sequence in which they are listed.
8. The current edition of “Robert’s Rules of Order, Newly Revised”, shall regulate the conduct of Council meetings. The President shall appoint a Parliamentarian, whose rulings on points of order shall be binding, except that a vote of at least two-thirds of the members present and voting shall be sufficient to override his ruling, except as otherwise provided in these By-Laws.
9. The annual meeting of the Council for the election of the elected members and Administrative and Non-Administrative Officers of the Institute, the election of the elected members of the Council, and

the election of the elected members of the Executive Committee shall be held between November 1 and December 31 of each year at a time, on a date, and at a place selected by the Executive Committee.

D. Compensation

1. Members of the Council, the director, staff personnel, reporters, and other persons rendering services to the Institute may be reimbursed by the Institute for their expenses incurred in attending meetings of the Council or committees of the Institute. Reimbursements for expenses shall be in accordance with applicable statutes, appropriations, budgetary limitations, and policies pertaining to the legislative branch of government.
2. The Council shall fix and pay reasonable compensation to the Director and staff of the Institute and honoraria to Reporters and other persons who perform services for the Institute, upon recommendation of the Executive Committee of the Council.

V. Executive Committee of the Council

A. Function and Duties

1. There shall be an Executive Committee of the Council, which shall have the power to transact all business of the Institute, except those matters which must be acted upon by the Council, pursuant to these By-Laws or the statute creating the Institute.
2. The Executive Committee may create Standing Committees, Continuous Revision Advisory Committees, and Special Committees, subject to the approval of the Council. Notice of the proposed creation of such a committee must be included in the written agenda of a Council meeting mailed to members.

B. Membership

1. The members of the Executive Committee are the following officers of the Institute and members of the Council:
 - a. The Chairperson;
 - b. The Chairpersons Emeriti;
 - c. The President;
 - d. The Vice-Presidents;
 - e. The Secretary;
 - f. The Treasurer;
 - g. The Director;
 - h. The Chairpersons of the Standing Committees; and
 - i. Three Members of the Council elected annually by the Council. These members shall serve a one year term.

C. Meetings

1. All members of the Executive Committee are voting members of the Committee.
2. No business shall be conducted without a quorum of the members being present. Five members shall constitute a quorum.

VI. Officers of the Institute

- A. The administrative officers of the Institute are a Chairperson, a President, four (4) Vice-Presidents, a Secretary, an Assistant Secretary, a Treasurer, an Assistant Treasurer, and the Director of the Institute.
- B. The non-administrative officers of the Institute are the Chairpersons Emeriti, the Senior Officers, and the Liaison Officers, and the two elected members of the Young Lawyers Section of the Louisiana State Bar Association.
- C. The administrative officers shall be elected by the Council for a one year term commencing on January 1 of each year and shall serve until their successors are elected.
- D. The Chairperson shall participate in the planning and in the supervisory and administrative work of the Institute, and is an ex-officio member of all Committees.
- E. The President is the chief executive officer of the Institute, shall preside at all Council and Institute meetings, shall perform all of the usual and customary duties of that office and all duties assigned to him by these By-Laws or by the Council, and he is an ex-officio member of all Committees. The President may authorize another Council member to act as President Pro Temp in case of his absence or incapacity.
- F. Within thirty days after the annual meeting of the Institute, the President shall appoint the Chairpersons and members of the Standing Committees. The appointments are subject to the approval of the Council. They shall be appointed for a one year term and shall serve until their successors are appointed. The Chairpersons and members of the Standing Committees shall be selected from the membership of the Council.
- G. The President shall appoint, for such terms as he may determine, the Reporters and Chairpersons of all Continuous Revision Advisory Committees and Special Committees, subject to the approval of the Executive Committee, after prior notice to the Council of a vacancy in this position. Notice of appointment of Reporters and Chairpersons of these Committees shall be given to the Council. Reporters and Chairpersons of these Committees serve at the pleasure of the Executive Committee.

- H. The President shall appoint, for such terms as he may determine, the members of all Continuous Revision Advisory Committees and Special Committees, subject to the approval of the Executive Committee and the Reporters and Chairpersons of the respective Committees. Written notice of appointment of committee members shall be given to the Council. Members of these Committees serve at the pleasure of the President.
- I. The Vice-Presidents, in order of seniority, ranking from the dates of their election, shall act in the absence or incapacity of the President if a President Pro Temp has not been authorized by the President.
- J. The Secretary is the custodian of all records of the Institute except the financial records maintained by the Treasurer.
- K. The Assistant Secretary shall act in the absence or incapacity of the Secretary.
- L. The Treasurer is the custodian of all funds and shall maintain all financial records of the Institute. All Institute checks shall be signed by the Treasurer or the Assistant Treasurer and shall be countersigned by the President, Vice-President, the Secretary, Assistant Secretary, or Director. Checks for budgeted expenditures may be drawn only upon the request of the Director. Checks for nonbudgeted expenditures may be drawn only upon presentation of a copy of a resolution of the Executive Committee, certified by the Secretary, authorizing the expenditure.
- M. The Assistant Treasurer shall act in the absence or incapacity of the Treasurer.
- N. The Council may elect as Chairpersons Emeriti those persons who have served as Chairpersons of the Institute.
- O. The Council may elect as Senior Officers attorneys who have served not less than sixteen years in the Louisiana Legislature and not less than four years as members of the Council, members who have served not less than twelve years as members of the Council, members of the Council who are elected to the judiciary after having served not less than eight years as members of the Council, and members of the judiciary who have served not less than eight years as ex-officio members of the Council. The Coordinator of Program and Research, Civil Law Section, and the Secretary, Civil Law Section, are Senior Officers during their terms of office as officers of the Civil Law Section.
- P. The Liaison Officers are the Chairperson of the Law Reform Committee of the Louisiana State Bar Association during his term of office and one additional member of the Louisiana State Bar Association nominated by its President, who shall serve a one year term.

- Q. Chairpersons Emeriti and Senior Officers, as non-administrative officers, shall have the status, rights, and privileges of officers, shall have tenure for life, and shall perform such duties as may be assigned to them by the Council.
- R. The Council may elect as Non-Administrative Officers of the Institute two members of the Young Lawyers Section of the Louisiana State Bar Association from a panel of four submitted by the Young Lawyers Section, each of whom shall have been licensed to practice in Louisiana at least for five years. These members shall serve a term of two years.

VII. Director of the Institute

- A. The Director is charged with the active management of the Institute and shall work under the direction of the President and the Executive Committee, except where Council approval is required.

VIII. Standing Committees

- A. There are several Standing Committees of the Council at the time of the adoption of these By-Laws. Additional Standing Committees may be created by the Executive Committee, subject to the approval of the Council.
- B. The Program and Work Committee shall review the work undertaken by the Institute, propose work to be undertaken by the Institute, and make other recommendations to the Institute concerning its work as circumstances require.
- C. The Membership and Nominating Committee shall nominate and recommend for election by the Council those persons proposed as elected members of the Institute, elected members of the Council, the Administrative Officers and Non-Administrative Officers of the Institute, and other elective officers.
- D. The Coordinating, Semantics, Style and Publications Committee shall review, for coordination of the proposed legislation with other statutory provisions and for semantics and style, all Council recommendations prior to their submission to the Legislature.

IX. Continuous Revision Advisory Committees

- A. Continuous Revision Advisory Committees are charged with the continuous revision of the Louisiana codes and statutes.

- B. Additional Continuous Revision Committees may be created by the Executive Committee, subject to the approval of the Council.
- C. Members of Continuous Revision Advisory Committees need not be members of the Institute or Council members at the time of their appointment.

X. Special Committees

- A. Special Committees may be created by the Executive Committee, subject to the approval of the Council, to study and recommend the enactment, amendment, or repeal of particular legislation or statutes, to respond to Legislative requests for special studies and recommendations, and for other purposes.
- B. Members of Special Committees need not be members of the Institute or Council members at the time of their appointment.

XI. Civil Law Section

A. Function and Duties

- 1. The function of the Civil Law Section is to accomplish the general purposes of the Institute in the field of the civil law in Louisiana. For that purpose, it is charged with the following duties:
 - a. To examine and study the civil law and jurisprudence of Louisiana relating to the civil law and to make recommendations to the Council concerning the needed reforms, including the amendment, revision, enactment or repeal of Civil Code articles and statutes.
 - b. To publish scholarly commentaries on the civil law of Louisiana for the purpose of establishing authoritative civil law doctrine for Louisiana.

B. Membership

- 1. The membership of the Civil Law Section shall consist of those persons appointed by the President, subject to the approval of the Executive Committee.

C. Officers

- 1. The officers of the Civil Law Section are the Coordinator of Program and Research, Civil Law Section, and the Secretary, Civil

Law Section. The President shall appoint those officers subject to the approval of the Executive Committee.

XII. Amendment of By-Laws

- A. Amendments to these By-Laws may be made at any regular or special meeting of the Council by a vote of two-thirds of the members present and voting, upon thirty days written notice given to all Council members, setting forth the subject matter and text of the proposed amendments.

III. OFFICERS

The officers of the Institute are elected annually by the Council. The present officers are:

Robert L. Curry, III	Chair Emeritus
Max Nathan, Jr.	Chair Emeritus
Emmett C. Sole	Chair Emeritus
Thomas M. Bergstedt	Chair Emeritus
Marilyn C. Maloney	Chair Emeritus
Cordell H. Haymon	Chair Emeritus
Charles S. Weems, III	Chair Emeritus
James A. Gray, II	Chair Emeritus
J. David Garrett	Chair
James C. Crigler	President
John David Ziober	Vice-President
Susan G. Talley	Vice-President
Rick J. Norman	Vice-President
L. David Cromwell	Vice-President
William E. Crawford	Director
Jack M. Weiss	Secretary
Joseph W. Mengis	Treasurer
Glenn G. Morris	Assistant Treasurer

IV. COUNCIL AND GENERAL MEMBERSHIP

As provided by R.S. 24:202: “The governing body of the Louisiana State Law Institute shall be a council composed of ex officio members and elected members.” The elected members serve for four years; their terms are staggered so that seven are elected every year. They serve without pay as a service to the State. The present members of the Council are:

*Ex Officio Member

**Elected Member

NEIL C. ABRAMSON*
New Orleans, LA

JEANNE LOUISE CARRIERE**
New Orleans, LA

MARGUERITE (PEGGY) L. ADAMS**
New Orleans, LA

ANDREA B. CARROLL**
Baton Rouge, LA

ELIZABETH A. ALSTON*
Covington, LA

DAN CLAITOR*
Baton Rouge, LA

GLENN B. ANSARDI*
Gretna, LA

WILLIAM E. CRAWFORD*
Baton Rouge, LA

JEFFERY J. “JEFF” ARNOLD*
New Orleans, LA

JAMES C. CRIGLER, JR.*
Monroe, LA

THOMAS M. BERGSTEDT*
Sulphur, LA

L. DAVID CROMWELL*
Shreveport, LA

DAVID F. BIENVENU*
New Orleans, LA

KEVIN C. CURRY**
Baton Rouge, LA

BERNARD E. BOUDREAUX, JR.*
Baton Rouge, LA

ROBERT L. CURRY, III*
Monroe, LA

JAMES J. BRADY*
Baton Rouge, LA

JAMES J. DAVIDSON, III*
Lafayette, LA

L. KENT BREARD**
Monroe, LA

ROBERT G. DAWKINS*
Ruston, LA

DORRELL J. BRISTER**
Alexandria, LA

JOHN E. DI GIULIO*
Baton Rouge, LA

WILLIAM J. BURRIS*
Franklinton, LA

JIMMY N. DIMOS*
Monroe, LA

ANDRE DOUGET**
Lafayette, LA

BILLY J. DOMINGUE**
Lafayette, LA

LAWRENCE E. DONOHOE*
Lafayette, LA

DAVID M. ELLISON, JR.*
Baton Rouge, LA

THOMAS L. ENRIGHT, JR*
Baton Rouge, LA

FRANK FOIL*
Baton Rouge, LA

WILLIAM R. FORRESTER, JR.**
New Orleans, LA

ANGELIQUE FREEL*
Baton Rouge, LA

J. DAVID GARRETT*
Shreveport, LA

GRACE B. GASAWAY*
Hammond, LA

JAMES A. GRAY, II*
New Orleans, LA

HUNTER V. GREENE*
Baton Rouge, LA

ISSAC M. "MACK" GREGORIE**
Baton Rouge, LA

DAVID W. GRUNING**
Abita Springs, LA

GREG G. GUIDRY*
New Orleans, LA

LEO C. HAMILTON**
Baton Rouge, LA

JOSEPH L. HARGROVE, JR.*
Shreveport, LA

THOMAS A. HARRELL*
Grapeland, TX

THOMAS M. HAYES, III*
Monroe, LA

CORDELL H. HAYMON*
Baton Rouge, LA

MARY C. HESTER**
Baton Rouge, LA

LILA T. HOGAN**
Hammond, LA

GUY HOLDRIDGE*
Gonzales, LA

JOHN WAYNE JEWELL**
New Roads, LA

RICHARD F. KNIGHT*
Mandeville, LA

ARLENE D. KNIGHTEN*
Baton Rouge, LA

ROBERT W. "BOB" KOSTELKA*
Monroe, LA

RON J. LANDRY*
River Ridge, LA

WALTER I. LANIER, JR.*
Thibodaux, LA

LUKE A. LAVERGNE*
Baton Rouge, LA

RICHARD K. LEEFE*
Metairie, LA

THOMAS B. LEMANN*
New Orleans, LA

F.A. LITTLE, JR.*
Alexandria, LA

MELISSA T. LONEGRASS**
Baton Rouge, LA

MARÍA PABÓN LÓPEZ**
New Orleans, LA

JOSEPH P. LOPINTO, III*
Metairie, LA

MARILYN C. MALONEY*
Houston, TX

EDWARD F. MARTIN*
New Orleans, LA

JUDY PERRY MARTINEZ*
New Orleans, LA

MICHAEL W. MCKAY*
Baton Rouge, LA

JOHN G. MCLURE*
Alexandria, LA

KAY C. MEDLIN**
Shreveport, LA

JOSEPH W. MENGIS*
Baton Rouge, LA

DAVID D. MEYER*
New Orleans, LA

JEAN-PAUL J. MORRELL*
New Orleans, LA

GLENN G. MORRIS*
Baton Rouge, LA

MAX NATHAN, JR.*
New Orleans, LA

FRANK X. NEUNER, JR.*
Lafayette, LA

BEN NEVERS*
Bogalusa, LA

RICK J. NORMAN*
Lake Charles, LA

CHRISTOPHER K. ODINET*
Baton Rouge, LA

GEORGE W. PUGH*
Baton Rouge, LA

WILLIAM W. PUGH*
Houston, TX

ANGELIQUE REED**
New Orleans, LA

HERSCHEL E. RICHARD, JR.*
Shreveport, LA

THOMAS RICHARD**
Baton Rouge, LA

SALLY RICHARDSON**
New Orleans, LA

CHRISTOPHER H. RIVIERE**
Thibodaux, LA

CYNTHIA A. SAMUEL*
New Orleans, LA

RONALD J. SCALISE, JR.**
New Orleans, LA

JOSEPH L. "LARRY" SHEA, JR.**
Shreveport, LA

EULIS SIMIEN, JR.*
Baton Rouge, LA

EMMETT C. SOLE*
Lake Charles, LA

PERRY R. STAUB, JR.*
New Orleans, LA

JAMES E. STEWART, SR.*
Shreveport, LA

SARAH E. STOGNER*
New Orleans, LA

JAMES A. STUCKEY**
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GENERAL MEMBERSHIP

The By-Laws of the Law Institute provide for a general membership consisting of ex officio and elected members. The ex officio membership consists of judges of the Supreme Court, the Courts of Appeal and District Courts, and all judges of Federal Courts sitting in Louisiana. Included also are all members of the law faculties of Loyola University, Paul M. Hebert Law Center, Southern University, and Tulane University. The elected membership consists of not over one-hundred and seventy-five active members of the Bar, who have practiced for at least ten years, and not over fifty junior members of the Bar who have practiced law not less than three and not more than ten years. In addition, each of the listed schools is authorized to designate annually an outstanding graduate who is elected as a junior honorary member of the Law Institute. The terms of the general members are indefinite.

V. MAJOR ACCOMPLISHMENTS OF THE LAW INSTITUTE

Compiled Edition of the Louisiana Civil Codes (1940).

Louisiana Statutes Related to the Civil Code (1942).

The Louisiana Criminal Code (Acts 1942, No. 43).

The Louisiana Revised Statutes of 1950.

The Translation of French Commentators (1959-1972).

The Louisiana Code of Civil Procedure (Acts 1960, No. 15).

The Louisiana Trust Code (Acts 1964, No. 338).

The Louisiana Code of Criminal Procedure (Acts 1966, No. 310).

The Louisiana Mineral Code (Acts 1974, No. 50).

The Louisiana Civil Code (Continuing).

The Louisiana Code of Evidence (Acts 1988, No. 515).

The Uniform Commercial Code (Continuing).

**VI. LEGISLATIVE ACTION ON LAW INSTITUTE RECOMMENDATIONS 2000 - 2014
(Information Relative to years prior to 2000 is available at the offices of the Louisiana State Law Institute)**

A. Law Institute Recommendations For the 2000 First Extraordinary Session

<u>Bill No.</u>	<u>Subject</u>	<u>Final Result</u>
H.B. 94	Interdiction & Curatorship; C.C., C.C.P., & R.S.	Adopted - Act 25

B. Law Institute Recommendations For the 2001 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Final Result</u>
<u>CHILDREN'S CODE</u>		
H.B. 318	"Open Adoptions," Allows continued contact with children after adoption.	Adopted - Act 568
H.B. 316	Miscellaneous revisions to Children's Code, including mediation, permanency planning, Adoption and Safe Families Act	Adopted - Act 567
H.B. 317	Ch.C. Art. 908; Dept. of Public Safety & Corrections	Deferred
<u>CODE OF CIVIL PROCEDURE</u>		
H.B. 722	Sale of mortgaged property without appraisal	Adopted - Act 588
H.B. 721	Application for writ of certiorari Art. 2166	Adopted - Act 587

H.B. 720	Continuous revision; service of notice of judgment, attorney fees, fees in annulment actions, etc.	Adopted - Act 512
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CRIMINAL PROCEDURE

H.B. 887	Provides that the court may accept a guilty plea in misdemeanor cases without the <i>Boykin</i> procedure required in felony cases	Adopted - Act 243
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SUCCESSIONS

H.B. 360	Benefit of inventory cleanup	Adopted - Act 572
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H.B. 361	Provides rules for disinherison of forced heirs	Adopted - Act 573
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H.B. 632	Independent administration	Adopted - Act 974
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H.B. 634	C.C. Arts. 1520 & 1521 (substitutions)	Adopted - Act 825
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H.B. 66*	Allows sale of succession property by heirs (*duplicate of Institute bill passed after Institute bill deferred)	Adopted - Act 556
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H.B. 595	Capacity of interdict (*Institute recommendation removed after amendment substantially changed the bill)	Adopted - Act 509*
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H.B. 633	Miscellaneous amendments, including olographic will	Adopted - Act 824
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TRUST CODE

H.B. 1083	Prudent investor rule, gives trustee greater discretion on investments	Adopted - Act 520
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H.B. 846	Miscellaneous Trust Code revisions, including class trusts	Adopted - Act 594
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UNIFORM COMMERCIAL CODE

H.B. 679	Revision of U.C.C. Chapter 9 (secured transactions) of R.S. Title 10	Adopted - Act 128
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C. Law Institute Recommendations For the 2003 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Final Result</u>
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CIVIL CODE

H.B. 87	Interdiction and Curatorship; Housekeeping C.C. & C.C.P	Adopted - Act 1008
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S.B. 410	Deposit and Sequestration; C.C. Arts. 2926-2951	Adopted - Act 491
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H.B. 724	Successions - security for usufructuary; C.C & C.C.P	Never Heard - Held for further study
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CODE OF CIVIL PROCEDURE

S.B. 818	Continuous revision; C.C.P & Ch.C.; Venue, abandonment of actions	Adopted - Act 545
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CRIMINAL LAW

H.B. 604	Pornography; Contraband Constitutional Amendment	Adopted - Act 1304
H.B. 1021	Disposition of Pornographic Evidence	Adopted - Act 1245
H.B. 1022	Attempted Arson; R.S. 14:27	Adopted - Act 166
H.B. 1023	Drug court; Probation; R.S. 13:5304(B)(10.1)	Adopted - Act 1053
H.B. 1024	Reconsideration of sentences; C.Cr.P. Art. 881.1	Adopted - Act 167
H.B. 1025	Child desertion - penalty; R.S. 14:93.2.1(B)(2)	Adopted - Act 168
H.B. 492	Corporate Criminal Liability; R.S. 14:24	Not Heard - Held for further study

CHILDREN'S CODE

H.B. 140	Intent to surrender for Adoption	Adopted - Act 564
H.B. 171	Continuous revision	Adopted - Act 567
H.B. 243	Safe Haven Act	Adopted - Act 609

TRUST CODE

S.B. 251	Continuous Revision	Adopted - Act 480
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LIMITATION OF STATE LIABILITY

H.B. 424	Constitutional Amendment	Adopted - Act 1295
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H.B. 428	Coastal Restoration; Venue	Defeated -House Vote: 42 yeas, 54 nays
H.B. 983	Coastal Restoration; Leases	Not Moved
H.B. 1094	Highways	Not Moved

D. Law Institute Recommendations For the 2004 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
<u>CIVIL CODE</u>		
H.B. 38	Lease	Adopted - Act 821
H.B. 150	Loan	Adopted - Act 743
S.B. 182	Successions	Did not reach House floor
<u>CODE OF CIVIL PROCEDURE</u>		
H.B. 148	Depositions; C.C.P. Art. 1443	Adopted - Act 365
H.B. 149	TRO; C.C.P. Art. 2752	Referred to Senate Judiciary A Committee
<u>CHILDREN'S CODE</u>		
H.B. 69	Legal representation for child; Child's family in need of services	Adopted - Act 321
H.B. 184	Confinement of children adjudicated delinquent	Adopted - Act 484
H.B. 185	Juvenile delinquency proceedings	Adopted - Act 485
H.B. 372	Adoption	Referred to Senate Judiciary A Committee

FILIATION

H.B. 368	Proof of filiation; C.C., C.C.P., Ch.C., R.S.	Defeated -House Vote: 45 yeas, 52 nays
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ILLEGITIMATE CHILDREN

S.B. 65	A change in terminology C.C., C.C.P., R.S.	Adopted - Act 26
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UNIFORM COMMERCIAL CODE

S.B. 227	Security on movable property	Adopted - Act 303
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E. Law Institute Recommendations For the 2005 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
H.B. 91	Civil Code Articles relative to the filiation of parents and children	Adopted - Act 192
H.B. 214	Registry and recordation	Adopted - Act 169
H.B. 226	C.C.P.	Adopted - Act 205
H.B. 138	Community Property and attorneys' fees	Adopted - Act 415
H.B. 181	Juridical Persons & Corporations	Heard by House Civil Law & Procedure Committee on May 10, 2005

F. Law Institute Recommendations For the 2006 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
H.B. 594	Component Parts	Adopted - Act 765
H.B. 90	Ch.C. search for parents	Adopted - Act 248
H.B. 322	Filiation	Adopted – Act 344

H.B. 654	Incarcerated Parents	Adopted - Act 272
H.B. 215	Ch.C. Prenatal Neglect	Adopted - Act 157
H.B. 127	Children - Visitation	Failed in House
H.B. 503	Ch.C. Mental capacity	Adopted - Act 266
H.B. 777	Ch.C. Placement	Adopted - Act 278
H.B. 904	Adoption	Adopted - Act 288
H.B. 1372	Children; Sanity Hearing	Adopted - Act 308
S.B. 383	U.C.C.	Adopted - Act 533

G. Law Institute Recommendations For the 2007 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
H.B. 73	Compromise	Adopted - Act 138
H.B. 178	Prenatal Neglect	Adopted - Act 396
H.B. 203	Civil Discovery	Adopted - Act 140
H.B. 669	Placement of Children	Adopted - Act 334
H.B. 681	Parole of Children	Failed in House
S.B. 208	Parenting Coordinators	Adopted - Act 265

H. Law Institute Recommendations For the 2008 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
H.B. 158	Domicile	Adopted - Act 801
H.B. 322	Adult Adoption	Adopted - Act 351
H.B. 337	Tax Sale and Adjudicated Property	Adopted - Act 819

H.B. 388	Component Parts	Adopted - Act 632
H.B. 444	Adoption	Adopted - Act 583
H.B. 513	Ch.C. Supervisory writ procedure	Deferred by Senate Committee
H.B. 527	Donations	Adopted - Act 204
H.B. 548	Civil Procedure	Adopted - Act 824
H.B. 605	Charitable Trusts	Adopted - Act 637
H.B. 1232	Postponement of Taxes	Adopted - Act 506
S.B. 38	Juvenile Procedure	Adopted - Act 222
S.B. 73	Parental Contribution to Foster Care	Adopted - Act 392
S.B. 76	Restoration of Parental Rights	Adopted - Act 436
S.B. 265	Emancipation of minors	Adopted - Act 786
S.B. 382	Criminal Probation	Adopted - Act 451
S.B. 605	Child Support	Defeated in Committee

I. Law Institute Recommendations For the 2009 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
H.B. 140	Filiation	Adopted - Act 3
H.B. 363	Community Property	Adopted - Act 204
H.B. 403	U.C.C.	Adopted - Act 207

J. Law Institute Recommendations For the 2010 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
H.B. 95	Criminal Procedure Grand Jury	Adopted – Act 347

H.B. 130	Criminal Procedure Probation	Adopted – Act 352
H.B. 131	Criminal Procedure Grand Jury lists	Failed House Floor
H.B. 137	Civil Procedure	Adopted – Act 185
H.B. 142	Civil Code Exchange	Adopted – Act 186
H.B. 286	Criminal Procedure Bail	Adopted – Act 914
H.B. 484	Security Devices	Adopted – Act 378
H.B. 608	Criminal Procedure Probable Cause	Adopted – Act 260
H.B. 651	Children’s Code	Adopted – Act 266
H.B. 663	Juvenile delinquency	Adopted – Act 593
H.B. 702	Juvenile delinquency	Adopted – Act 594
H.B. 856	Trust Code	Adopted – Act 390
H.B. 857	Mortgage Records	Adopted – Act 284
S.B. 217	Uniform Prudent Management of Institution Funds Act	Adopted – Act 168
S.B. 320	Child Custody Residence Relocation	Failed House Floor
S.B. 343	Inheritance Taxes	Adopted – Act 175
S.B. 361	Civil Code Usufruct	Adopted – Act 881

K. Law Institute Recommendations For the 2011 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
H.B. 98	R.S. Title 33	Adopted – Act 248
H.B. 123	Estate Tax	Adopted – Act 346
S.B. 32	Guardianship	Adopted – Act 128

S.B. 161 Family Courts Adopted – Act 340

L. Law Institute Recommendations For the 2012 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
H.B. 274	Expropriation	Adopted – Act 702
H.B. 369	U.C.C.	Adopted – Act 450
H.B. 439	Testaments	Adopted – Act 125
H.B. 456	Title 33	Adopted – Act 86
H.B. 466	Rent of Lands & Annuities	Adopted – Act 258
H.B. 474	C.C.P.	Adopted – Act 741
H.B. 476	Charitable Trusts	Adopted – Act 742
H.B. 764	Counterletters	Adopted – Act 277
S.B. 152	Children’s Code	Adopted - Act 730
S.B. 153	Child Residence Relocation	Adopted – Act 742
S.B. 154	Expungement	Deferred
S.B. 317	Juvenile Parole	Adopted – Act 466
S.B. 659	Criminal Discovery	Adopted – Act 842

M. Law Institute Recommendations For the 2013 Regular Session

<u>Bill No.</u>	<u>Subject</u>	<u>Present Status</u>
H.B. 192	C.C.P.	Adopted – Act 78
H.B. 321	Expedited Jury Trials	Deferred
H.B. 408	Corporations	Deferred
H.B. 578	Adoptions	Adopted – Act 86
H.B. 588	Prescription	Adopted - Act 88
S.B. 40	Criminal Procedure	Adopted – Act 343
S.B. 162	Surrogacy	Vetoed

N. Law Institute Recommendations For the 2014 Regular Session

For the 2014 Regular Session, the Law Institute is planning to file bills relative to Corporations, Security Devices, Utility Servitudes, Child Support, Civil Procedure, Title 33 Revision, Criminal Procedure, Uniform Interstate Depositions and Discovery, the Children's Code, and the Uniform Commercial Code.

O. Reports Submitted to the Louisiana Legislature in 2012 and 2013

- (1) Long Distance Parenting; Relative to H.C.R. No. 160 of 2010.
- (2) Expropriation; Relative to H.C.R. No. 3 of 2010.
- (3) Designation of an attorney by the testator to handle legal matters of his estate; Relative to H.C.R. No. 127 of 2011.
- (4) Use of translators in the drafting and executive of testaments; Relative to H.C.R. No. 126.
- (5) Multi-district litigation; Relative to S.C.R. No. 86 of 2009.
- (6) Immunity as a Peremptory Exception; Relative to H.C.R. No. 13 of 2012.
- (7) Abandonment of Civil Actions in Code of Civil Procedure Article 561; Relative to H.C.R. No. 134 of 2012.
- (8) Waiver of Trial by Jury; Relative to S.C.R. No. 45 of 2012.
- (9) Valuation of Usufructs; Relative to S.C.R. No. 57.
- (10) Expedited Jury Trials; Relative to H.C.R. No. 81 and S.C.R. No. 108 of 2012.
- (11) Louisiana Lien Laws (Private Works Act); Relative to S.R. No. 158 of 2012.
- (12) Agreements to Extend Liberative Prescriptive Periods; Relative to H.C.R. No. 28 of 2011.
- (13) Terminology Referring to Persons with Disabilities; Relative to H.C.R. No. 88 of 2011.
- (14) Criminal Background Checks; Relative to H.R. No. 69 of 2011.
- (15) Procedures and requirements in Child in Need of Card Proceedings; Relative to S.R. No. 121 of 2011.
- (16) Duty of Attorneys Who Represent Fiduciaries; Relative to S.C.R. No. 78 of 2009.

VII. CIVIL CODE REVISION AND OTHER CURRENT PROJECTS

Since 1975, the primary work of the Law Institute has been the revision of the Louisiana Civil Code. The Coordinating Committee, discussed in detail later in this report, has charted the Titles of the Civil Code and has decided which Titles will be revised. Separate revision committees, each under the leadership of a Reporter, have Titles of the Civil Code under their jurisdiction.

The 2012 and 2013 Council years were consumed with a variety of projects, with a large proportion of Council time being devoted to the consideration of proposals relative to Child Support; Child Relocation; Long-Distance Parenting; Dual Paternity; Surrogacy; Birth Certificates; Tutorship Procedure; Rents and Annuities; Corporations; Security Devices; Revision of Title 33; Successions and Donations; Power of Attorney for the Elderly; the Children's Code; the Code of Civil Procedure; Expedited Jury Trials; Water Law; the Code of Criminal Procedure; the Criminal Code; Expropriations; Utility Servitudes; and the Uniform Commercial Code.

A brief description of the status of our significant projects is set out below:

A. CIVIL CODE REVISION

1. Preliminary Title

Chapters 1 and 2 of the Preliminary Title have been revised by Professor A.N. Yiannopoulos and the Preliminary Title Committee. Chapter 1 provides for the sources of law and the general principles of law. Chapter 2 provides for the interpretation of laws. These chapters were enacted by Acts 1987, No. 124.

Chapter 3 of the Preliminary Title was revised by Professor Symeon Symeonides and the Conflict of Laws Committee. This Chapter provides briefly for the Conflict of Laws. Book IV of the Civil Code provides most of the revised legislation on Conflict of Laws. Chapter 3 of the Preliminary Title and Book IV of the Civil Code were enacted by Acts 1991, No. 923. The Articles enacted by this Act have helped lawyers and the courts decide which laws should be applied when there has been a conflict between the laws of Louisiana and the laws of another state.

2. Book I, Title I, Natural and Juridical Persons

Professor A.N. Yiannopoulos and his committee have completed their work on the revision of Title I of Book I of the Civil Code. This Title provides general principles relative to the two different kinds of persons; human beings and entities to which the law attributes personality. This revision was enacted by Acts 1987, No. 125.

3. Book I, Title II, Of Domicile and the Manner of Changing the Same

Professor A.N. Yiannopoulos, the Domicile Committee, and the Council have finished the revision of the Civil Code Articles that are relative to the domicile of natural persons. This revision was enacted by Acts 2008, No. 801.

4. Book I, Title III, Absent Persons; Title VI, Of Master and Servant; Title X, Of Corporations

Professor A.N. Yiannopoulos and the Absent Persons Committee have completed the revision of Title III of Book I of the Civil Code. This Title provides general principles relative to absent persons, the curatorship of their property, and when an absent person can be declared dead. This revision was enacted by Acts 1990, No. 989.

During the revision process, Professor A.N. Yiannopoulos and his committee also decided to recommend the repeal of unnecessary Civil Code Articles in Titles VI and X of Book I of the Civil Code that were relative to Master and Servant, and to Corporations. The Louisiana Legislature accepted the recommended repeals in Acts 1990, No. 705 and Acts 1987, No. 126.

5. Book I, Title IV, Husband and Wife; Title V, Divorce; Title VII, Parent and Child

Professor Katherine S. Spaht and the Marriage-Persons Committee have now brought before the Council the revision of our law relative to marriage and divorce. The committee proposals on Marriage, Divorce, Spousal Support, Child Custody and Support, and other actions incidental to divorce have all been considered and approved by the Council. The part of the revision relating to Marriage was enacted by Acts 1987, No. 886. The provisions on Divorce, Incidental Demands, and Nullity were presented to the Louisiana Legislature in House Bill 847 during the 1988 Regular Session. It was deferred by the House Committee on Civil Law and Procedure in May 1988. Reintroduced in 1989 as House Bill No. 336, the revision passed the committee but was defeated on the floor of the House. For 1990, this lengthy bill was divided into four smaller bills addressing, respectively, Divorce, Spousal Support, Child Custody and Support, and Nullity of Marriage. Our original recommendations have also undergone significant revisions that were made by the Council and the Reporter acting in consultation with interested legislators. The new cause of action for divorce was enacted by Acts 1990, No. 1009. Related segments were enacted by Acts 1990, Nos. 361, 362, and 1008.

H.C.R. 139 of the 1991 Regular Session directed the committee to study our law of separation of property. During the 1993 legislative session, two Law Institute bills were enacted into law. Act 261 revised the laws on child custody, visitation, and support. Act 108 revised the Civil Code provisions on nullity of marriage. A proposal revising the law of spousal support was introduced in 1993 but did not pass. The proposal was revised after consultation with a number of legislators and was approved by the Council for submission to the Louisiana Legislature in 1995. During the 1995 Regular Session of the Louisiana Legislature, Act 1008 enacted provisions governing the partition of former community property, which were prepared by the Marriage-Persons Committee and approved by the Council.

In 1997, the Louisiana Legislature approved the Law Institute Bill on Spousal Support. This subject had been introduced at several prior legislative sessions and was

very controversial. However, after several House amendments, the bill was enacted by Acts 1997, No. 1078.

A special committee, under the leadership of Mr. Kenneth Rigby, was appointed pursuant to House Resolution No. 1 of the 1998 Regular Session of the Louisiana Legislature. The committee prepared a report on the role of fault in divorces. The report was submitted to the Louisiana Legislature and received a hearing in the House Civil Law and Procedure Committee.

In 2005, the Louisiana Legislature accepted the Law Institute's recommendations relative to "Proof of Maternity" and "Proof of Paternity" by enacting Acts 2005, No. 192. This Act revises Chapters 1, 2, and 3 of Title VII of Book I of the Civil Code.

In 2006, the Law Institute presented a wide range of amendments relative to the filiation of parents and children. The Louisiana Legislature reviewed H.B. 322 as recommended by the Law Institute and enacted the Law Institute's recommendations with amendments by Acts 2006, No. 344.

From 2008 through 2011, the Marriage-Persons Committee worked on revisions of parent and child, adult adoption, filiation, parental authority, parental usufruct, provisional custody by mandate, and birth certificates. Revisions relative to adult adoption and filiation were enacted by Acts 2008, No. 351 and Acts 2009, No. 3. The remaining revisions will be presented to the legislature in 2015.

6. Book I, Title VIII, Of Minors, Of Their Tutorship and Emancipation

Professor Katherine S. Spaht and the Marriage-Persons Committee have begun the revision of Chapter 1, of Title VIII, of Book I of the Civil Code that is relative to Tutorship. The Committee presented recommendations to the Council in 2010 and 2011. The Law Institute plans to file a comprehensive bill during the 2015 legislative session.

Professor Monica Wallace and the Tutorship Procedure Committee have finished the revision of the provisions of law that are relative to Tutorship procedure. The committee plans to present a bill to the legislature in 2015.

Professor Dane Ciolino and the Emancipation Committee have finished the task of revising Chapter 2 of Title VIII of Book I of the Civil Code that is relative to the emancipation of minors. This revision was enacted by Acts 2008, No. 786.

7. Book I, Title IX, Persons Unable to Care for Their Persons or Property

Under the leadership of Mr. Joel Mendler and Professor Dane Ciolino, the Curatorship Committee has finished the revision of Title IX of Book I of the Civil Code and related provisions that are in the Code of Civil Procedure and the Revised Statutes. This revision provides detailed provisions relative to the interdiction of a natural person and the curatorship of an interdict. This revision was enacted by Acts 2000, 1st Ex. Sess., No. 25.

8. Book II, Things and the Different Modifications of Ownership

Book II of the Civil Code has been revised. Professor A.N. Yiannopoulos remains active to fix any problem that may arise. Minor amendments have been made as the need for them became apparent.

In 1990, Professor A.N. Yiannopoulos and the Ownership In Indivision Committee recommended the addition of Title VII of Book II of the Civil Code that was relative to Ownership In Indivision. This Title was enacted by Acts 1990, No. 990. This revision was supplemented by Acts 1991, No. 689.

From 2005 through 2008, Reporter L. David Cromwell and his Component Parts Committee reviewed Civil Code Article 466 and its conflicting jurisprudence. After heated discussion, the Council presented H.B. 594 to the Louisiana Legislature during its 2006 Regular Session. After debate, the legislature enacted Acts 2006, No. 765. After reconsidering the issues and principles of this subject, the Law Institute submitted H.B. 388 during the 2008 Regular Session of the Louisiana Legislature. The legislature enacted the Law Institute's recommendation with Acts 2008, No. 362.

9. Book III, Title I, Of Successions; Title II, Donations

Under the leadership of Max Nathan, Jr., a practicing attorney from New Orleans and Adjunct Professor of Law at the Tulane Law School, the project on Successions and Donations continues.

The Successions Committee did yeoman's service in preparing the companion legislation to implement the change in forced heirship law enacted by the 1989 Louisiana Legislature. The work of the committee was completed on schedule, was introduced during the 1990 Regular Session, and was enacted by Acts 1990, No. 147. The committee's work on undue influence was enacted by Acts 1991, No. 363.

Following the Supreme Court's declaration in *Succession of Lauga* that the new articles on forced heirship were unconstitutional, the committee prepared new articles on that subject.

The committee then completed, and the Council has approved, legislation to implement the 1995 amendment to the Louisiana Constitution on the subject of forced heirship. That legislation was enacted into law by Act 77 of the 1996 First Extraordinary Session of the Louisiana Legislature.

The committee has also completed a comprehensive revision of the entire law of Successions. The revision was enacted into law by Act 1421 of the 1997 Regular Session of the Louisiana Legislature.

In 2001, the committee completed a projet on independent administration of estates, designed to simplify and expedite probate proceedings. This projet was enacted into law by Acts 2001, No. 974.

The committee has completed the revision of the law of donations inter vivos. This revision was enacted into law by Acts 2008, No. 204. In 2010, the committee

completed a comprehensive revision of the law of usufruct. This revision was enacted into law by Acts 2010, No. 881.

Since then, the committee has done considerable work on the subject of forced-heirship rights of grandchildren and the duties of attorneys representing fiduciaries among other projects.

The committee has also undertaken considerable work on the subject of the use of translators in the preparation of wills, pursuant to H.C.R. 126 of the 2011 Regular Session and the right of a testator to designate an attorney for the executor, in accordance with H.C.R. 127 of the 2011 Regular Session. Reports on these subjects were submitted to the Louisiana Legislature in 2012.

10. Book III, Title III, Obligations in General; Title IV, Conventional Obligations or Contracts

Professor Saul Litvinoff's monumental work on the revision of Obligations is now a part of Louisiana law. This revision was enacted by Acts 1984, No. 331. The lawyers and judges of Louisiana have worked with this new law for a considerable length of time and no substantial objections or difficulties have come to light. It is to be expected that as experience grows with the revision, questions will arise, but when they do, they will be brought before the Louisiana Legislature for any resolution required. The revision has received acclaim worldwide in all civil code jurisdictions, and, most important, has proved appropriate for the citizens of Louisiana.

11. Book III, Title V, Obligations Arising Without Agreement

Professor A.N. Yiannopoulos and the Quasi-Contracts Committee have completed their work on the revision of Chapters 1 and 2 of Title V, of Book III, Obligations Arising Without Agreement. This revision provides general principles relative to *negotiorum gestio* and unjust enrichment. This revision was enacted by Acts 1995, No. 1041.

12. Book III, Title VI, Matrimonial Regimes

The revision of the law of Matrimonial Regimes was enacted by Acts 1979, Nos. 709 and 710. Professor A.N. Yiannopoulos and his committee were called upon to prepare a refinement for accounting in community property matters. It was completed on schedule and was enacted by Acts 1990, No. 991. Professor A.N. Yiannopoulos and his committee now remain in a continuing revision role to take care of any questions that may arise.

13. Book III, Title VII, Sale

It is impossible to use laudatory terms sufficient to describe the prodigious intellectual achievements of Professor Saul Litvinoff in the work of Civil Code revision. Immediately after completing the monumental subject of Obligations, he undertook the work on Sales. His advisory committee, which began meeting in May 1986, submitted its completed work to the Council, which approved the entire project and sent it on for consideration by the 1992 Louisiana Legislature. It was deferred for further study

because of the sheer volume of the revision. It was eventually enacted by Acts 1993, No. 841 and became effective in 1995.

14. Book III, Title VIII, Exchange

Professor Saul Litvinoff has completed the work relative to the revision of the law of Exchange. He was assisted by a committee of members who served him during the revision of the law of Sales. The Law Institute recommended H.B. 142 to the Louisiana Legislature during the 2010 Regular Session. The recommendation was enacted by Acts 2010, No. 186.

15. Book III, Title IX, Lease, Chapters 1-4

Professor Symeon Symeonides and the Leases Committee have completed the revision of Chapters 1-4 of Title IX of Book III. This revision provides general provisions relative to the lease of a thing. This revision was enacted by Acts 2004, No. 821.

16. Book III, Title X, Of Rents and Annuities

Professor A.N. Yiannopoulos and his committee have finished the revision of Title X of Book III of the Civil Code, Of Rents and Annuities. The revision provided for the elimination of the archaic Articles relative to the rent of lands and for modern articles relative to an annuity contract. The Law Institute presented H.B. 466 to the Louisiana Legislature during the 2012 Regular Session. The legislature enacted the Law Institute's recommendations with Acts 2012, No. 258.

17. Book III, Title XI, Partnership

Under the leadership of Max Nathan, Jr., a practicing attorney from New Orleans and Adjunct Professor of Law at the Tulane Law School, the Partnership revision was enacted by Acts 1980, No. 150. Mr. Nathan remains ready to serve for any continuing revision functions if needed. Thus far, the work has been extremely well received and no substantial objection or problems have been raised.

18. Book III, Title XII, Loan

Professor A.N. Yiannopoulos and the Loan Committee have completed the revision of Loan. This provision provides general provisions relative to a *gratuitous* loan. This revision was enacted by Acts 2004, No. 743.

19. Book III, Title XIII, Deposit and Sequestration

Under the leadership of Professor A.N. Yiannopoulos, the revision of the law of Deposit and Sequestration has been completed and approved by the Council. The revision of Title XIII of Book III of the Civil Code was enacted by Acts 2003, No. 491.

20. Book III, Title XIV, Of Aleatory Contracts

Professor A.N. Yiannopoulos has announced his intention to undertake the revision of Title XIV of Book III of the Civil Code, Of Aleatory Contracts. The revision will begin in the spring or summer of 2014.

21. Book III, Title XV, Representation and Mandate

Professor A.N. Yiannopoulos and the Mandate Committee have finished the revision of Title XV of Book III, Representation and Mandate. This revision provides general principles relative to representation and the contract of mandate. The Law Institute presented H.B. 716 to the Louisiana Legislature during the 1997 Regular Session. The legislature enacted the Law Institute's Recommendation with Acts 1997, No. 261.

22. Book III, Title XVI, Suretyship

Under the leadership of Professor Thomas A. Harrell and his committee, the work on Suretyship was completed and enacted by the Louisiana Legislature by Acts 1987, No. 409. It has had an excellent reception by the bench and bar.

23. Book III, Title XVII, Of Transaction or Compromise

Under the leadership of Professor Saul Litvinoff, the revision of the law of transaction or compromise has been completed. For several years, the committee made policy recommendations to the Council. After discussion, Civil Code Articles and comments were drafted and approved by the Council. In 2007, the Law Institute presented its recommendations to the Louisiana Legislature in H.B. 73. The legislature enacted the Law Institute's recommendations in Acts 2007, No. 138.

24. Book III, Title XVIII, Of Respite

On January 31, 2014, Professor A.N. Yiannopoulos and the Respite Committee held its first committee meeting. During that meeting, Professor Yiannopoulos recommended that this Title be repealed, since the Articles of this Title have not been used for about 100 years. The members of his committee supported the repeal of this Title. A recommendation will be made by Professor Yiannopoulos to the Council of the Law Institute in 2014.

25. Book III, Title XX, Of Pledge Security; Title XX-A, Pledge; Title XXI, Of Privileges; Title XXII, Mortgages; Title XXII-A, Of Registry

Reporter L. David Cromwell and the Security Devices Committee are continuing the work brilliantly prepared by Professor Thomas A. Harrell for many years. The Security Devices Committee has finished its revisions of the Titles relative to Pledge and Privileges and will propose a new Title relative to Security. The Law Institute will file a bill relative to these Titles during the 2014 Regular Session.

Professor Thomas A. Harrell and his committee have completed their work on the revision of mortgages. This revision was enacted by Acts 1991, No. 652.

The revision of legal and judicial mortgages has also been completed and enacted by Acts 1992, No. 1132.

Professor Harrell and his committee have also completed their work on Registry that was enacted by Acts 2005, No. 169.

26. Book III, Title XXIII, Occupancy and Possession; Title XXIV, Prescription

Professor A.N. Yiannopoulos and his committees did excellent work in the completion of these revisions. Title XXIII was enacted by Acts 1982, No. 187. Title XXIV was enacted by Acts 1982, No. 187 and Acts 1983, No. 173. These revisions have been well received from all accounts. The Reporter remains active to amend the law if any need for amendment is necessary.

27. Book III, Title XXV, Of the Signification of the Sundry Terms of Law Employed in This Code

Professor A.N. Yiannopoulos and his Definitions Committee have finished their project of repealing unnecessary definitions in Civil Code Article 3506. This project was enacted by Acts 1999, No. 503.

28. Book IV, Conflict of Laws

Book IV of the Civil Code, Conflict of Laws, was carefully crafted by Professor Symeon Symeonides and the Conflict of Laws Committee. This revision was enacted by Acts 1991, No. 923.

B. THE COORDINATING COMMITTEE

The Coordinating Committee, under Mr. L. David Cromwell as Reporter and Chairman, conducts a major review of all legislation recommended by the Law Institute and reviews revisions of the Civil Code to ensure that each separate revision project is consistent with the remainder of the Civil Code. A comprehensive blueprint for the unrevised Titles of the Civil Code has been completed. The committee has decided which Titles will be suppressed or eliminated and which Titles are suitable for revision. The remaining Titles of the Civil Code will be revised as rapidly as feasible.

C. CONTINUOUS REVISION OF THE CODE OF CIVIL PROCEDURE

Under the leadership of Mr. Richard Knight, as chairman, and Mr. William Forrester, as Reporter, constant attention is given to keep the provisions of the Louisiana Code of Civil Procedure and related statutes current with changing times and the needs of the law.

In 2007, the Code of Civil Procedure Committee, the Council, and the Law Institute recommended H.B. 203 that recommended revisions relative to discovery, the scope of discovery, disclosure, remedies for inadvertent disclosure, discovery involving experts, and discovery of electronically stored information. The Louisiana Legislature accepted the Law Institute's recommendations and enacted Acts 2007, No. 140.

In 2008, the legislature enacted Acts 2008, No. 824, a recommendation from the Code of Civil Procedure Committee, the Council, and the Law Institute. The Act

provided a wide range of revisions relative to the consolidation of cases, the peremptory exception, affirmative defenses, subpoenas, discovery, pretrial conferences, judgments, and summary proceedings.

In 2010, the Code of Civil Procedure Committee and the Council recommended H.B. 137. This bill provided for service by private persons, for class action prescription, for service by electronic means, for the right of a surety to plead discussion, and for discovery of electronic information. The legislature enacted H.B. 137 by Acts 2010, No. 185.

In 2011, the Code of Civil Procedure Committee reviewed procedural issues ranging from multi-district litigation to executory process.

During the 2012 Regular Session, the Law Institute recommended H.B. 474 to provide for the tutor's enforcement of rights of unemancipated minors, for statements on denials of summary judgments, for service by couriers, for suspension of writ denials by the supreme court, and for entry of judgment notwithstanding an indigent's failure to pay costs. The legislature approved the Law Institute's recommendations and enacted Acts 2012, No. 741.

H.C.R. 13 of 2012 requested that the Law Institute study Louisiana's existing laws governing peremptory exceptions and immunity and to make specific recommendations as to whether immunity should be added as a peremptory exception. This project was assigned to the Code of Civil Procedure Committee. The committee responded to the resolution by submitting a report to the legislature in 2013.

H.C.R. 134 of 2012 requested that the Law Institute study procedures relative to the abandonment of civil actions and to report its findings and recommendations to the legislature. This project was assigned to the Code of Civil Procedure Committee. The committee responded to the resolution by submitting a report to the legislature in 2013.

H.C.R. 174 of 2013 requested that the Law Institute study and make recommendations relative to Code of Evidence Article 902 to provide for certain self-authenticated records and to report its findings and recommendations to the Louisiana Legislature. In response to this resolution, the Law Institute assigned this project to the Code of Civil Procedure Committee. On January 30, 2014, the Law Institute submitted an interim report to provide information relative to the progress of this study.

S.C.R. 6 of 2013 requested that the Law Institute study and make recommendations on the feasibility of requiring clerks of court to accept electronic signatures on documents for filing. In response to this resolution, the Law Institute has assigned this project to the Code of Civil Procedure Committee.

In 2013, the Law Institute recommended H.B. 192 that provided for venue, default judgments, amendments to a final judgment, exceptions, and motions for a new trial. The legislature approved the Law Institute's recommendations and enacted Acts 2013, No. 78.

D. CONTINUOUS REVISION OF THE CRIMINAL CODE AND CRIMINAL PROCEDURE

In response to changes in society and from the legislature and the courts, the Criminal Code and Code of Criminal Procedure Committee exercises continuing oversight of these Codes to keep our laws current. Judge Frank Foil and Judge Robert Morrison, III are the co-chairmen of the committee. Vice-Chancellor Cheney Joseph is the Reporter.

In 2008, the Criminal Code and Code of Criminal Procedure Committee presented S.B. 382 that was enacted by Act 451. This Act provided for wide variety of matters, including probation in misdemeanor cases, drug court matters, homicides, defenses relative to terrorizing, and DWI matters.

In 2009, the Criminal Code and Code of Criminal Procedure Committee began its study of Criminal Discovery in response to H.C.R. 115 of the 2009 Regular Session. The committee presented its report to the Council in March 2011. The Council approved the report and forwarded it to the legislature. During the 2012 Regular Session, the legislature passed comprehensive discovery legislation in Act 842. That Act, although not recommended by the Law Institute, relied very heavily on the recommendations contained in the Committee's H.C.R. 115 report to the legislature.

In 2010, the Criminal Code and Code of Criminal Procedure Committee and the Council recommended: H.B. 95 (Act 347), which was relative to the makeup of grand juries; H.B. 130 (Act 352), which was relative to procedure following arrest or summons for parole violation; H.B. 608 (Act 260), which was relative to the use of electronic transmission of evidence in probable cause determinations; and H.B. 131, which was relative to jury venire lists. Only H.B. 131 was not enacted by the legislature.

H.C.R. 9 of the 2010 Regular Session directed the Law Institute to study issues relative to the finality and accuracy of criminal convictions. In February 2013, the Law Institute submitted an interim report to provide information relative to the progress of this study. The committee is continuing its consideration of this subject.

Acts 2011, No. 587 directed the Law Institute to develop a uniform expungement form and a uniform judicial order. The committee was unable to accomplish this task. The committee informed the Council of this matter in December 2011. The Law Institute then sent a report to the legislature.

S.C.R. 37 of the 2011 Regular Session directed the Law Institute to determine if Louisiana law was in compliance with *Graham v. Florida*. The committee determined that Louisiana law was not in compliance. The committee recommended legislation to bring the law into compliance. During the December 2011 Council meeting, the committee's proposal was approved. The Law Institute sent a report to the legislature. During the 2012 Regular Session, the legislature passed Act 466 the purpose of which was to bring Louisiana law into compliance with the Graham decision. That Act, although not recommended by the Law Institute, relied heavily on the recommendations contained in the Law Institute's S.C.R. 37 report to the legislature.

H.C.R. 3 of the 2012 Regular Session requested that the Law Institute study and make recommendations for the revision of laws regarding expungement. The Law Institute assigned this project to the Criminal Code and Code of Criminal Procedure Committee. The committee plans to make a presentation to the Council of the Law Institute as its meeting on February 21-22, 2014. If the committee's recommendation is approved by the Council, the Law Institute will introduce a bill in the legislature in 2014.

S.C.R. 45 of the 2012 Regular Session requested that the Law Institute study an apparent conflict between the provisions Code of Criminal Procedure and the Louisiana Constitution dealing with a defendant's waiver of a jury trial under certain circumstances. In January of 2012, the Council of the Law Institute approved proposed legislation recommended by the committee. During the 2013 Regular Session, the legislature passed Act 343 which enacted the Law Institute's recommendations.

S.C.R. 97 of 2013 requested that the Law Institute study and make recommendations relative to the issue of whether the Code of Criminal Procedure should contain responsive verdicts for the crime of aggravated incest. The Law Institute has assigned this project to the Criminal Code and the Code of Criminal Procedure Committee. In December 2013, the Law Institute submitted an interim report to provide information relative to the progress of this study.

E. MINERAL CODE

The initial work of the Law Institute in preparing the Mineral Code (Acts 1974, No. 50) was so thorough and complete that little change has been required over the years. As the need for amendments may arise, the committee stands ready to fill the role necessary for continuing revision.

F. THE CHILDREN'S CODE

The Louisiana Children's Code was passed into law by Acts 1991, No. 235. Act 235 further provided that the Louisiana State Law Institute shall direct and supervise the continuous revision, clarification, and coordination of the Children's Code. The Law Institute was also directed, by Section 20 of that Act, to prepare comments and explanatory notes to the provisions of the Code.

Extensive comments were prepared under the direction of Professor Lucy McGough, Reporter for the Children's Code Committee of the Law Institute, and now appear in West Publishing's two-volume Children's Code. Since Professor McGough's retirement, Karen Hallstrom and Isabel Wingerter have served as Co-Reporters.

In addition, Act 705 of the 1992 Regular Session enacted the first set of Law Institute recommendations for change by the revision committee. That bill made corrections and changes to approximately seventy-seven articles.

During the 2006 Regular Session, the Louisiana Legislature enacted six acts recommended by the Children's Code Committee, the Council, and the Law Institute. Act 157 added prenatal neglect to the child-abuse provisions of the Children's Code. Act 248 provided for a diligent search for the absent parents of children to advise the

parents of their rights and obligations. Act 266 provided for the determination of a child's mental capacity. Act 272 required incarcerated parents to provide a plan of care for their children. Act 278 provided for taking a child into state custody. Act 288 defined "child" for the purpose of adoption. Act 308 provided for sanity hearings for juveniles transferred to criminal court.

During 2008, the Children's Code Committee had a busy year. As a result, five bills were introduced during the 2008 Regular Session. Act 583 focused on certain aspects of adoption. Act 222 dealt with sanity and competency commissions. Act 436 provided for the restoration of parental rights after a prior termination. Act 392 provided for parental contribution for the care and treatment of their child in foster care. H.B. 513 provided for the setting of the date for the filing of a writ application. It was defeated in committee.

During 2009, the Children's Code Committee considered a variety of issues with a goal of presenting a number of bills to the legislature in 2010. Act 593 provided for the presumption of indigency for the purpose of appointment of counsel in juvenile cases and for the determination of the voluntariness and admissibility of a child's confession. Act 594 provided for juvenile court jurisdiction and criminal court jurisdiction, informing the juvenile of sex registration requirements, and a modification of form and confidentiality of incriminating information contained in competency evaluation reports. Act 266 revised Louisiana's laws on adoption.

In November of 2011, the Council adopted the Committee's report which proposed legislation dealing with transitioning youth out of foster care, the presence of caregivers in court at child in need of care hearings, termination of parental rights and minor housekeeping items. During its 2012 Regular Session, the legislature passed Act 730 which enacted those proposals into law.

At that same meeting, the Council adopted the Committee's proposal dealing with expungement of juvenile records. However S.B. 154 of the 2012 Regular Session, which contained those proposals, did not attract sufficient support to pass out of committee.

In March of 2013 the Committee reported to the Council on its proposal dealing with international adoptions which was in partial response to H.C.R. 85 of 2011. The Council adopted the Committee's proposal, the purpose of which is to have Louisiana law reflect the present state of federal and international adoption practice following the United State's adoption of the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. During its 2013 Regular Session, the Legislature passed Act 86 that contained the Committee's proposed legislation.

G. TRUST CODE

After years of work by the Law Institute Trust Code Committee and the Council, the Louisiana Trust Code was enacted by Acts 1964, No. 338. Today, Professor Ronald J. Scalise, Jr. serves as Reporter for the Trust Code Committee.

During the 2010 Regular Session, the Trust Code Committee recommended H.B. 856 to provide for the definition of "proper court", to provide for class trusts, to provide for the interests of beneficiaries, to provide for the correction of cross references, to provide for the shifting of the interest of a principal beneficiary; to provide for the delegation of the right to terminate, modify, or amend certain trust provisions, and to provide for the delegation of the right to revoke a trust. The recommendations of the Trust Code Committee and the Law Institute were enacted by Acts 2010, No. 390.

S.R. 8 of 2011 requested that the Law Institute study revising state law to authorize the creation of testamentary and inter vivos trusts to provide for the care of an animal. The Law Institute has assigned this project to the Trust Code Committee. The Trust Code Committee plans to present a bill during the 2015 Regular Session to provide for a pet trust.

H.C.R. 168 of 2013 directed the Law Institute to study and review the Louisiana Trust Code and to make a determination as to whether it should be amended to provide for asset protection trusts, silent trusts, directed trusts, and any other types of trusts that have been adopted in other states that could be helpful to Louisiana citizens. The Law Institute has assigned this project to the Trust Code Committee. The Trust Code Committee is considering the issues relative to these different forms of trust to determine if these different forms of trust should be incorporated into Louisiana Law.

H. THE LOUISIANA CODE OF EVIDENCE

The Evidence Committee and Council completed a draft article on the "Identity of Informant" testimonial privilege. A special sub-committee consisting of interested district attorneys and criminal defense lawyers, as well as law professors, met many times to hammer out a compromise. The proposal was approved by the advisory committee and after review by the Council a bill was introduced during the 1995 legislative session, and was enacted by Acts 1995, No. 1040. This completes Chapter 5 on Privileges.

The Evidence Code Reporters worked very hard to codify the law of evidentiary presumptions and its effect on the burden of proof. This elusive area proved to be very difficult to draft due to the jurisprudential confusion and uncertainty surrounding the subject. However, the Council approved the Articles on Presumptions and they were enacted by Acts 1997, No. 577.

The Presumptions bill marks the completion of the Code of Evidence Project. The Code has been well received by the bench and bar and since its adoption in 1986 by Acts 1986, No. 515. Since the enactment of the Code of Evidence, there has been a very noticeable reduction in the number of appeals relative to evidence.

I. MAINTENANCE AND ORGANIZATION OF THE LAWS OF LOUISIANA.

The Law Institute maintains the Revised Statutes and other laws of Louisiana pursuant to the continuous revision authority of R.S. 24:251 et seq. After each legislative session, the staff, under the direction of the Revisor of Statutes, reviews each Act and adopted Resolution, sorts them by Title and Code, corrects errors,

identifies conflicting provisions, and designates and redesignates sections of the Revised Statutes and articles of the Codes as necessary for an orderly disposition of the laws, all done in preparation for the printing of the Revised Statutes and Codes. Between legislative sessions, the Law Institute works closely with the Capitol staff and with the publishers to keep the printed statutes as up-to-date as possible and to ensure the accuracy of interim publications of the laws of Louisiana.

J. SPECIAL PROJECTS

1. Adoption of Uniform Commercial Code Provisions Into Louisiana Law

The adoption of revised Article 9 (secured transactions) of the Uniform Commercial Code before the national deadline of July 1, 2001 was very important for the state of Louisiana so that the entire nation could operate under one uniform set of laws. The Law Institute devoted a considerable amount of time to study how to mesh this uniform statute with Louisiana's civil law concepts. Conflicting statutes had to be repealed, terminology changed, and important policy decisions made before the uniform act could be integrated into Louisiana law. Under the leadership of Jim Stuckey, the Law Institute was able to complete the statute in a timely fashion. The Law Institute also included Comments to aid the legal, financial, and commercial communities in understanding the changes being made to Louisiana law and the differences in the Act from the national model. The Law Institute proposal was one of the first bills enacted during the 2001 legislative session, by Acts 2001, No. 128.

During the 2004 Regular Session, the Law Institute filed a bill (S.B. 227) to provide for security on movable property. This bill was enacted by the Louisiana Legislature by Acts 2004, No. 303.

From 2010 to 2014, the U.C.C. Committee has undertaken the task of implementing the most recent revisions of the U.C.C. into the law of Louisiana. H.B. 69 was presented to the legislature during the 2012 Regular Session. The Law Institute recommendations were enacted by Acts 2012, No. 450. The Law Institute also plans to present a bill to the legislature in 2014 that is relative to the electronic transfer of funds.

2. Laws Relating to Registry

Mr. Robert Hawthorne, a member of the Baton Rouge Bar, and Professor Thomas A. Harrell accepted the responsibility as Chairman and Reporter of the Registry Committee to undertake the badly needed modernization and streamlining of our laws of registry as related to immovable property. The need for this modernization became most apparent during the consideration of the work on obligations. It was a most difficult area to reform.

After numerous committee and Council meetings, the Law Institute presented a bill to the Louisiana Legislature that was enacted by Acts 2005, No. 169. This Act became effective on July 1, 2006.

H.C.R. 57 of the 2008 Regular Session, requested that the Registry Committee study the laws dealing with the cancellation of mortgages and privileges in light of the changes created by Acts 2005, No. 169. After review, the committee came to the conclusion that some statutes governing cancellation of mortgages and privileges should be transferred to Title 9 of the Louisiana Revised Statutes. In 2010, Act 284 provided for the transfer of certain statutes from Title 44 to Title 9.

During the 2014 Regular Session, the Security Devices Committee, under the leadership of Reporter, L. David Cromwell, and the Law Institute will present a comprehensive revision of Civil Code Articles and Revised Statutes relative to Security and Pledge. Several articles and statutes relative to Registry will also be amended.

3. Bail Bond Procedure Revision

In response to Senate Resolution Number 56, passed during the 1992 Regular Session, the Law Institute formed the Bail Bond Procedure Revision Committee. The committee's charge was to study all aspects of bail bond procedure and to formulate any revisions deemed appropriate. Professor Cheney Joseph chaired the committee and Mr. Eulis Simien served as Reporter. The committee held many meetings and submitted a comprehensive revision of bail bond procedure, which was introduced during the 1995 Regular Session as H.B. 1745. This bill was not enacted.

The committee continued its work under the leadership of a new Reporter, James Gray, II. In 2010, Act 914 was enacted to complete the committee's comprehensive revision of Louisiana's bail bond law.

4. Child Support

Pursuant to H.C.R. 42 of the 2004 Regular Session of the Louisiana Legislature, a committee was organized under the leadership of Lisa Woodruff-White to study issues relating to Child Support in multiple families and to recommend improvements of the law. The committee did an extraordinary amount of work in pursuance of the tasks undertaken. The Law Institute presented a bill to the Louisiana Legislature in 2008, but it was not enacted.

H.C.R. 156 of 2012 requested that the Law Institute study certain procedures for implementing visitation orders in conjunction with support orders and to report its findings and recommendations in the form of specific proposed legislation to the legislature. The Child Support Committee has determined that it needs additional time before it can present a recommendation to the Council of the Law Institute.

S.C.R. 98 of 2012 requested that the Law Institute study and make recommendations regarding certain aspects of child support calculations involving net child care costs. After consideration by the Child Support Committee and the Council, the Law Institute plans to present a bill to the legislature in 2014.

5. Postponement of Taxes

Judge Walter I. Lanier, Jr. was the Reporter for the Postponement of Taxes Committee. The committee drafted a bill to authorize the postponement of ad valorem

taxes when an emergency has been declared. The legislature enacted the bill by Acts 2008, No. 506.

6. Adjudicated Properties Committee

During the 2006 Regular Session, the Louisiana Legislature passed H.C.R. 69 that urged the Louisiana State Law Institute to study the tax sale of adjudicated properties and to make recommendations for improvements. During 2006, 2007, and 2008, the Adjudicated Properties Committee, under the leadership of Chairman Glenn Morris and Reporter R. Marshall Grodner, completed a study of Louisiana's laws relative to the tax sale of adjudicated property. In 2007, the Council reviewed the Committee's recommendations and approved substantial revisions of Louisiana's laws. The Law Institute presented a bill on this subject to the Louisiana Legislature in 2008. It was enacted by Acts 2008, No. 819.

7. Counterletters Committee

Pursuant to H.C.R. 130 of the 2008 Regular Session, that requested that the Louisiana State Law Institute study and make recommendations on the laws on the use and prohibitions of counterletters and to report its findings to the Louisiana Legislature, a committee was formed under the leadership of Professor Ron Scalise, to fulfill the legislative request. The committee met several times and prepared a report which was presented to the Louisiana Legislature during the 2009 Regular Session.

During the 2012 Regular Session, the Law Institute presented its recommendations to the legislature in H.B. 764. The legislature enacted the Law Institute's recommendations by Acts 2012, No. 277.

8. Family Law Committee

Pursuant to S.C.R. 114 of the 2008 Regular Session, the Family Law Committee considered the feasibility of creating a unified family court system for Louisiana. Judge Pamela Baker led a large committee that recommended legislation (H.B. 161 – Act 340) to provide for the creation of family courts in two Louisiana judicial districts. The Law Institute also recommended that these statutes be used as a model in the future by other judicial districts whenever they decide to create family courts for their districts.

9. Child Custody Committee

Professor Andrea "Andi" Carroll is the Reporter for the Child Custody Committee that was given the responsibility to respond to S.C.R. 45 of the 2009 Regular Session. S.C.R. 45 requested that the Louisiana State Law Institute study and make recommendations relative to the relocation of a child's residence in custody cases. Although the legislature rejected the Law Institute's proposed bill (S.B. 320) in 2010, the Child Custody Committee and the Council reconsidered the reasons for the rejection and presented another bill (S.B. 153) to the legislature in 2012. The legislature enacted the Law Institute's recommendations by Acts 2012, No. 627.

During the 2010 Regular Session, the legislature passed H.C.R. 160 that requested that the Law Institute "study the impact of child custody and visitation orders

which require a child to travel long distances in order to comply with the custody or visitation order of the court”. Professor Carroll, the Child Custody Committee, and the Council of the Law Institute have finished their consideration of the issues relative to H.C.R. 160 and submitted a report to the legislature in 2012.

10. Title 33 Revision Committee

H.C.R. 218 of the 2009 Regular Session requested that Louisiana State Law Institute study and make recommendations relative to Title 33 of the Louisiana Revised Statutes that are relative to municipalities and parishes. Retired Judge Walter Lanier was appointed to serve as the committee’s Reporter. In 2011, Act 248 was enacted to provide for the repeal of statutes that are no longer effective and for the transfer of certain statutes to other Titles of the Revised Statutes.

In January of 2012, the Council approved the Committee's recommendation to repeal certain statutes, dealing with the power of local governments to punish vagrancy and laying out public roads by a jury of freeholders, which were obsolete and ineffective. During the 2012 Regular Session, the legislature passed Act 86 which contained the Committee's recommended repeal of those statutes.

Today, the committee continues its work and hopes to make an additional proposal during the 2014 Regular Session of the Louisiana Legislature.

11. Uniform Prudent Management of Institutional Funds Act

Mr. Kenneth Weiss served as the Reporter for the UPMIFA Committee that revised Louisiana’s laws relative to the Uniform Management of Institutional Funds Act. This revision was welcomed by managers of institutional funds who found the prior law too restrictive. The UPMIFA Committee and the Council recommended S.B. 217 during the 2010 Regular Session of the legislature. The legislature enacted the Law Institute’s recommendations with Acts 2010, No. 168.

12. Surrogacy Committee

In response to S.C.R. 81 of the 2010 Regular Session that requested that the Louisiana State Law Institute “study and make recommendations on the implementation of laws in Louisiana relative to surrogacy agreements and . . . report its findings to the legislature,” the Law Institute created the Surrogacy Committee and named Professor Andrea “Andi” Carroll as Reporter. The committee and Council held numerous meetings and faced significant and controversial issues. During the 2013 Regular Session, the Law Institute presented H.B. 433 to the legislature to provide for surrogacy contracts. Although the bill received support in the Louisiana House of Representatives and the Louisiana Senate, the bill was vetoed by the governor.

13. Guardianship Committee

The Guardianship Committee, led by Judge Anne Simon, undertook the task of revising the Children’s Code provisions governing Guardianship. The committee was careful in ensuring that the rules governing guardianship are compatible with the Civil Code Articles governing tutorship. The committee’s work resulted in a revision of the

Children's Code Articles governing guardianship. After the committee's recommendations were approved by the Council, S.B. 32 was presented to the legislature during the 2011 Regular Session and enacted as Act 128.

14. Corporations Committee

The Corporations Committee was formed pursuant to H.C.R. 146 of 2008, which requested that the Law Institute study and make recommendations on the revision, reorganization, and consolidation of the Louisiana laws on corporations and to include consideration of the adoption of the Model Business Corporation Act. The committee has held twenty-seven meetings to review materials prepared by the Reporter, Professor Glenn Morris.

H.B. 408 of the 2013 Regular Session, relative to the Model Business Corporations Act, was introduced on the recommendation of the Law Institute. Near the end of the session, the bill died. Since then, the Corporations Committee has continued to review the Model Act. The Law Institute plans to recommend a bill during the 2014 Regular Session.

15. Expropriations Committee

H.C.R. 3 of 2010 directed the Law Institute to study and make recommendations for the revision of the laws pertaining to the expropriation of immovable property by private entities in order to ensure the protection of property ownership rights of the citizens of Louisiana. In response to this resolution, the Expropriations Committee, under leadership of Mr. David Ellison, submitted a report to the legislature on February 23, 2012 and filed H.B. 274 during the 2012 Regular Session of the legislature to recommend changes in the law. The legislature approved the Law Institute's recommendations and enacted Acts 2012, No. 702.

16. Birth Certificates Committee

H.C.R. 189 of 2010 requested that the Law Institute study all laws relative to birth certificates and filiation and to make recommendations to resolve any conflict between the laws relative to birth certificates and the laws relative to filiation. In response to this resolution, the Law Institute has created the Birth Certificates Committee and has named Professor J. Randall Trahan as its Reporter. The Law Institute plans to present a bill to the legislature in 2015.

17. Purchase Money Special Mortgage

H.C.R. 15 of 2011 requested that the Law Institute study all laws relative to conventional, legal, and judicial mortgages and liens and make specific recommendations as to the advisability of revising state laws in order to create a purchase money special mortgage. In response to this resolution, the Law Institute assigned this project to the Security Devices Committee. Reporter L. David Cromwell, the Security Devices Committee and the Law Institute plan to submit a final report relative to this resolution to the legislature in 2014.

18. Prescription Committee

H.C.R. 28 of 2011 requested that the Law Institute study agreements to voluntarily extend liberative prescriptive periods. The Prescription Committee, under the leadership of Professor Ronald J. Scalise, Jr., submitted proposed legislation in response. H.B. 588 of the 2013 Regular Session was introduced on recommendation of the Law Institute and was enacted by Acts 2013, No. 88.

19. Persons with Disabilities

H.C.R. 88 of the 2011 Regular Session requested a study evaluating terminology used to refer to persons with disabilities. The resolution requested that the Law Institute propose alternative terminology to be used prospectively, to identify terms currently appearing in the law that convey negative or derogatory perceptions of persons with disabilities and recommend substitute language for these provisions, and to identify provisions of the law where substitutions of the language cannot be made because the substitution would alter or render ambiguous the substantive meaning of the current provision. The Law Institute submitted its report to the Legislature on June 7, 2013. H.B. 63 of the 2014 Regular Session is based in part on the Law Institute's report.

20. Criminal Background Checks for Persons Providing Health-Related Services to Adults

H.R. 69 of the 2011 Regular Session requested that the Law Institute study and make recommendations for the revision of laws regarding criminal history background checks for individuals who provided personal care or other health-related services to adults. A subcommittee of the Criminal Code and Code of Criminal Procedure Committee was formed and Emilia Salas was appointed as its facilitator. The Law Institute filed its report with the Legislature on January 14, 2013 and recommended that there be no revision to the law.

21. Liens for Unpaid Wages

H.C.R. 76 of 2012 requested that the Law Institute study procedures for the filing of liens for unpaid wages and to make specific recommendations for legislation. In response to this resolution, the Law Institute has assigned this project to the Security Devices Committee. On December 17, 2013, the committee sent an interim report to the legislature to inform the legislature of the committee's progress. Additional meetings are needed before a final recommendation can be made.

22. Expedited Jury Trials Committee

H.C.R. 81 and S.C.R. 108 of 2012 requested that the Law Institute study and make recommendations relative to expedited jury trials in civil cases. Judge Guy Holdridge was named as the Reporter for the Expedited Jury Trials Committee. The Committee held numerous meetings to consider the resolutions and related issues. The Committee presented its recommendations to the Council during its meeting on March 15, 2013. During the 2013 Regular Session of the legislature, the Law Institute introduced H.B. 321 to present its recommendations to the legislature. This bill was

passed by the House of Representatives, but did not proceed beyond Senate Committee Judiciary A.

23. Post Conviction Relief – Filing Fees

H.C.R. 90 of 2012 requested that the Law Institute study post-conviction relief, specifically with regard to the costs associated with providing such relief, and to issue a report of its findings and recommendations on the feasibility of assessing certain fees for applications for post-conviction relief to the Legislature of Louisiana. The Law Institute has assigned this project to the Criminal Code and Code of Criminal Procedure Committee. The committee has considered the issues relative to this resolution, but additional time is needed before a final recommendation can be made.

24. Suretyship

H.C.R. 93 of 2012 requested that the Law Institute study creating procedures that would enable a surety to take possession of collateral in certain circumstances. In response to this resolution, the Law Institute has assigned this project to the Security Devices Committee. The committee considered this issue during its meetings on August 23, 2013 and February 14, 2014. The committee is presently drafting a final report and hopes to present its recommendations to the legislature during the 2014 Regular Session of the legislature.

25. The Testamentary Disposition of the Right to Bring a Survival Action

H.C.R. 131 of 2012 requested that the Law Institute study the testamentary disposition of the right to bring a survival action pursuant to Civil Code Article 2315.1 and to report its findings and recommendations in the form of specific proposed legislation. The Law Institute has assigned this project to the Successions Committee. The Successions Committee has decided to create a sub-committee that will provide research to the committee.

26. The Merchantability of Immovable Property of a Succession

S.C.R. 26 of 2012 requested that the Law Institute study the issue of heirship property; to request the Louisiana State Law Institute develop recommendations for facilitating the ability of family members to receive title to immovable property when successive generations of their family have failed to file succession proceedings; and to develop recommendations to facilitate more equitable and economically efficient distribution of immovable property. The Law Institute assigned this project to the Successions Committee. On December 13, 2013, the Law Institute sent an interim report to the legislature. The Successions Committee and the Law Institute plan to send a final report with recommendations to the legislature during the 2014 Regular Session.

27. The Valuation of Usufructs

S.C.R. 57 of 2012 requested that the Law Institute study how the value of a usufruct should be properly determined under state law. The Law Institute assigned this project to the Successions Committee. On December 10, 2013, the Law Institute submitted a final report to the legislature.

28. Dual Paternity

H.C.R. 140 of 2012 requested that the Law Institute study the potential impact of creating a child support calculation system in cases of "dual paternity" on other areas of the law and to report its findings and recommendations to the legislature. The Law Institute assigned this project to the Marriage-Persons Committee. On March 18, 2013, the Law Institute submitted its report to the legislature

29. Adult Guardianship Committee

S.C.R. 36 of 2012 requested that the Law Institute study and make recommendations regarding the inclusion of the Adult Guardianship and Protective Proceedings Act into Louisiana law. Professor Randy Trahan was named as the Reporter for the Uniform Adult Guardianship Committee. The committee plans to present its recommendations to the legislature in 2015.

30. Water Law Committee

S.C.R. 53 of 2012 requested that the Law Institute study and make recommendations regarding legal issues surrounding groundwater and surface water law and any needs for revisions to current law. Professor Dian Tooley-Knoblett was named as the Reporter for the Water Law Committee. She has presented an impressive amount of background material to the committee during its meetings. The committee plans to make a presentation to the Council during its meeting on March 21, 2014.

31. Tax Sales Committee

S.R. 109 of 2012 requested that the Law Institute study and make recommendations regarding the laws relative to sheriff's tax sales in Orleans Parish. S.R. 40 of 2013 requested that the Law Institute study and make recommendations regarding the feasibility of authorizing tax lien sales as a replacement or alternative to tax sale certificates. In response to these resolutions, the Law Institute has created the Tax Sales Committee and has named Stephen G. Sklamba as its Reporter.

32. Alternative Disputes Resolutions Committee

S.R. 157 of 2012 requested that the Law Institute study the Louisiana Binding Arbitration Act to determine what recommendations may improve arbitration contracts in Louisiana so that arbitration proceedings take less time and are not prohibitively expensive, including whether "loser-pay" provisions may assist in decreasing time and expense of the arbitration process, whether reasonable limits maybe imposed on what constitutes "pertinent evidence" under R.S. 9:4210 for an arbitrator to consider, and whether other recommended changes to Louisiana's arbitration laws may help to make arbitration a more efficient and cost-effective process for participants in Louisiana. In response to this resolution, the Law Institute has created the Alternative Disputes Resolutions Committee and has named Edward Sherman as its Reporter.

33. Lien Laws

S.R. 158 of 2012 requested that the Law Institute study and review the placement and structure of Louisiana's lien law, including the documents that are

required to be recorded, the types of liens currently provided for in Louisiana law, the placement of such provisions, and the manner in which Louisiana law currently requires that liens be recorded, perfected and prioritized, and further to develop recommendations to provide continuity within Louisiana's lien law and to simplify and better organize Louisiana's lien law to be consistent and understandable. The Law Institute assigned this project to the Security Devices Committee. In 2013, the Law Institute submitted a report to the legislature.

34. Utilities Servitudes Committee

In response to Act 739 of the 2012 Regular Session, the Law Institute has created the Utilities Servitudes Committee and has named Professor A.N. Yiannopoulos as its Reporter. The Law Institute plans to present a bill to the legislature in 2014.

35. Disabled Adult Children Committee

H.C.R. 32 of 2013 requested that the Law Institute review the child support guidelines, the law as applied to children with developmental disabilities, and the laws regarding custody and visitation for developmentally disabled adult children, and consider extending child support beyond age twenty-two and providing for custody and visitation between those children and their parents in the event of a divorce, and report its findings and recommendations in the form of specific proposed legislation to the Louisiana Legislature. In response to this resolution, the Law Institute has created the Disabled Adult Children Committee and has named Professor Andrea Carroll as its Reporter. On February 10, 2014, the committee held its first meeting.

36. Mineral Law – Legacy Disputes Committee

S.R. 84 of 2013 requested that the Law Institute study the feasibility and constitutionality of utilizing alternative dispute resolutions as a means of resolving "legacy" disputes and report its recommendations to the Senate. In response to this resolution, the Law Institute has created the Mineral Law - Legacy Disputes Committee and has named Professor Keith Hall as its Reporter.

37. Mineral Law – Unsolicited Offers Committee

S.R. 118 of 2013 requested that the Law Institute study and make recommendations for regulation on unsolicited offers for the transfer, sale, and lease of mineral rights. In response to this resolution, the Law Institute has created the Mineral Law – Unsolicited Offers Committee and has named Professor Melissa Lonegrass as its Reporter.

38. Bail Bonds Committee [New]

S.R. 111 of 2013 requested that the Law Institute perform a comprehensive study of Louisiana bail laws and procedures and to make recommendations as necessary for modernization of bail practices. In response to this resolution, the Law Institute has created the Bail Bonds Committee [New] and has named Judge Guy Holdridge as its Reporter.

39. Feasibility of Creating a Central Database for Testaments

H.C.R. 107 of 2013 requested that the Law Institute study and make recommendations relative to the feasibility of creating a central database for testaments and to report its findings and recommendations to the Louisiana Legislature. The Law Institute has assigned this project to the Successions Committee. After numerous meetings, the committee plans to submit a report to the legislature during the 2014 Regular Session.

VIII. ANNUAL MEETINGS

As mentioned at the beginning of this report, one of the purposes of the Louisiana State Law Institute under its Legislative Charter is to conduct an annual meeting for the scholarly discussion of current problems in our law. The annual meetings held in March 2012 and March 2013 were held as working meetings of the Council. The annual meeting that was held on March 14-15, 2008 recognized the 70th anniversary of the founding of the Louisiana State Law Institute. Special recognition was given to the people who have served as Reporters and as members of the committees.

IX. GENERAL COMMENTS

The governing authority of the Louisiana State Law Institute is its Council. No recommendation is submitted to the Louisiana Legislature without Council approval. From its creation in 1938 to its meeting on February 22, 2014, the Council has held 800 meetings. We have estimated that 35,000 people have attended these meetings and have donated approximately 171,000 hours of work. The members of the Council and the various committees receive no compensation for the important services they render. Expenses incurred in attending Council meetings are presently reimbursed on a limited basis to cover hotel accommodations, meals, and actual transportation expenses, all of which form a considerable portion of the Law Institute budget.

The central research staff of the Law Institute consists of the Coordinator of Research, Mr. "Hal" Mark Levy, and four full-time staff attorneys, Mr. James Carter, Mr. Joseph Baiamonte, Ms. Lynette Roberson, and Ms. Claire Popovich. The experience and expertise of our staff have proved indispensable to the Law Institute's work.

The Louisiana State Law Institute expresses its appreciation to the members of the Louisiana Legislature for their continued support, which has enabled the Law Institute to undertake its mission of research, revision, and reform in a thorough and scientific fashion. Having in mind the fact previously mentioned that the members of the Council, all highly qualified members of the legal profession, are contributing their time without compensation, it is clear that the expenditure involved is well justified.

