

NOTARY STUDY COMMITTEE MEETING

Minutes

February 27, 2002

The Second Notary Study Committee meeting was called to order at the State Capitol, Baton Rouge, Louisiana in House Committee Room No.1 at 10:13 a.m. authorized by House Concurrent Resolution No. 81 from the 2001 Regular Session of the Legislature.

Meeting called to order by Chairman, Cynthia Cotten.
Roll called by Chairman, Cynthia Cotten.

The following committee members were present: Warren Ponder, Executive Counsel for the Secretary of State, Jo Landry, William L. Pratt, Orleans Custodian of Notarial Records, Randy David, President of the Louisiana Notary Association, Stephen Broussard, President of the Notary Association of New Orleans, Paul A. Bello, International Union of Latin Notaries, Narciso Lomeli, Alan Jennings, Editor of Louisiana Notary, Carvel Sims, and Glenn Stallings.

Ronnie LeBoeuf, The Practicing Notary, Walter Brunty, Kathleen Clark, Linda Davidson, Sue Dier, and John Shidler were absent.

Cynthia Cotten, Chairman, presided and Lindsey Lejeune, Notary Department, recorded the proceedings of the meeting. Glenna Doucet, acting as secretary, took the minutes. Nancy Underwood, Elections Staff, was in charge of witnesses and the testifying cards.

Cynthia Cotten, Chairman, discussed what was in the packets before each person: (1) the agenda, (2) a list of the subcommittees and members and, (3) information received by Mr. Nariciso Lomeli, regarding a profile on Latin Notaries. Cynthia Cotten welcomed everyone again to the meeting, stating that today we do have a few people that were ill and said they could not be here, but we're going to go ahead and get started. The Chairman then introduced Warren Ponder.

Warren Ponder welcomed everyone back. He stated we should have a short meeting today, hopefully, and everyone could back to their real jobs and real work. He then thanked everyone for their participation.

Cynthia Cotten stated that at the last meeting each member was given a charge to go and get feedback from the other notaries you are associated with. So we'll go to the floor and let each one of you report your findings.

Paul Bello began with his findings of the last few years through last week. According to my research most non-attorney notaries are generally in favor of state wide commissions. I personally believe that the majority of these notaries do not oppose continuing education for non attorney notaries. The Louisiana Notary Association conducted a non binding poll on whether CLE should be required for notaries and the poll return showed solid support among rank and file for CLE. In that poll 55.5% of the respondents favored mandatory CLE for non attorney notaries. Response made up 42% of the membership, a larger rate than is usual for votes cast for LNA Board Elections. 58% of the membership expressed no opinion one way or the other. 42% of the members participated in the poll. Today there are approximately 1200 LNA members. It is generally believed among its supporters that the MCLE proposal is a significant step in preserving and saving our notariat and solidifying perceptions of our professionalism. It seems to be generally admitted that frequent changes in the law require CLE for notaries. The LNA leads the state in voluntary CLE programs in regional and state wide seminars, frequent shop talks, publications and practice forms. The CLE requirement, I believe, would be painless to LNA members and members of the other notary associations who also conduct regular seminars, conferences and meetings. Attorney notaries, of course, must have CLE through the Bar Association, and CPA's, real estate agents, barbers, massage therapists and many other professions and vocations require continuing education to maintain their status and the trend toward CE and the trades and the profession is seen as generally a good and necessary exercise. I believe the concern of rural notaries over access and affordability to CLE will be met through correspondence and distance courses which will be reasonably priced and that require little travel for the rural notaries. Most recently and significantly I received support from about 60 individual notaries who favor MCLE and the Louisiana Bankers Association has communicated to me that they support mandatory continuing legal education for notaries.

Glenn Stallings stated that this was his first meeting and he appreciated the opportunity to be here. I also did take some time, as being a relatively new notary in the last couple of years I looked at the information you sent me at the last meeting and decided to take a random poll in my northwest Louisiana area, I was able to make 164 calls and able to actually talk with 71 people and just from that small group I found that there was a 57 to 14 balance that wanted continuing education and felt it was worth the time and the effort. The only concern they expressed was that it needed to be on a local basis if at all possible, or at least made readily accessible to the different areas of the state. There had been concern that much of the training that had been available in the past had been mostly in the southern part of the state and has made it difficult for those that live in the north to travel here. In addition to that, I found that many people were willing to adopt a fee if necessary even a yearly fee if it took that to make that available to us. 59 to 12 were in favor of some type of fee system, maybe even on a yearly basis if it took that. The average fee that they indicated I thought was interesting because it ranged from \$5 to as high as \$150. The bulk of the people, however, were looking at prices in the \$25-50 range and felt that

would be fair. In addition to that, I was asking concerning the fact of having the notary on a statewide basis, I thought this was kind of interesting in lieu of the other numbers in that 49 people did not want to have a statewide notary situation at all and 22 said that they did. The main reason for most of those people that said they did not, as I questioned that, was due to the fact they have no need to travel to other parts of the state and do business and that they only do business in one or two parishes typically, we have six in our area that we can do business in; most of them are confined to the one parish they are in, or possibly two. So it was a little bit of an interesting statistic for me. I guess the great hope that I had from what I heard was that they were hoping that there would be continuing education on their part, so that was probably the bright side of the things that I heard and I myself certainly do support the idea of continuing education. I think that it is critical to our industry to give us an opportunity to be more professional. One sideline that really wasn't part of what you asked for but I just thought I would throw it in: I also asked how many of these notaries were making a profit in their business; I hope they were being honest; I think they were. But it was interesting that 64 said that they really make very little money in what they do with this and there were only 7 who said that they make \$1000 a year or more in their notary practice. I thought that was another interesting statistic to deal with because if we are going to supply, for example, continuing education and if we are going to mandate that we follow up with these things, to make sure that enforcement takes place, that they are properly monitored and the things they are suppose to have, we are going to have to be able do that so we can reach out to those that are not doing a whole lot of business, or we are going to find in the process of continuing education perhaps higher fees to monitor these things, that we will lose a significant number of notaries in the state, from what I have observed so far.

Carvel Sims stated he spoke to several of the notary instructors in East Baton Rouge Parish and some of the notaries in the surrounding parishes. They thought it would be extremely helpful if the Secretary of State could get involved in assigning commission numbers with letter prefixes so that ex-officio notaries, clerks of court, and justice of the peace, would have to have expiration dates on their mechanical seals. As you are aware, we do not need a mechanical seal for commissioned notaries such as an attorney or a non attorney notary. Because ex-officio notaries have very limited powers and cannot do anything outside of their official functions, normally, if they had an "X" number and were required to put a commission number then the department of motor vehicle and all other state agencies would know that this is not an ordinary notary. Also, in speaking to some of the clerks of court, they are having trouble and they are recalling all these notary seals that were given out, if they had an expiration on the seal and it was required and they also had a "C" number for clerk of court, and all clerks of court have an expiration date, because it would be when the next election was due. These things would expire by themselves. Also, they would know that the clerk of court can do certain functions that even a justice of the peace cannot and a justice of the peace is elected; suppose they were given "J" numbers so that the Secretary of State and any lay person could track these much

more readily. I have problems where people come in and show me a notarial act, I can't read the notary's name, the law does require that the notary sign their name underneath their signature, they don't do that, but if they had a number that would greatly assist it. All those with "C", "J", or "X" would be required to have an expiration date. Most of the attorneys that I spoke with and non attorney notaries like the idea of the education. Twenty years ago when I was appointed to the examination committee in East Baton Rouge Parish, I called on my law school education which was inadequate in the area of notarial law. It is not that we consider it beneath us to teach it in law school, but there are so many more pressing matters that you teach the very complicated things and feel that the average attorney can go find it out by reading the book. That's what I did, but it took me probably a year to two years to become somewhat knowledgeable in the detailed field, that is I knew generally the answer to the question, but I didn't know why I knew the answer. When you asked me a question I could give you the correct answer, because the procedure had been drummed into me in law school, but I didn't have any idea why, where it came from, civil code, revised statutes, what the particular law was because I hadn't read it, I just knew the answer. They do want voluntary education; the attorneys think that since they have mandatory, the notaries must have mandatory. I'm trying to get the designation CNE for continuing notarial education, as opposed to CLE to distinguish it from legal education, because we don't want to instill in the notaries that they are studying the law to give legal advice. We want to instill upon them that they are studying notarial practices, procedures and laws. I think that is important to stress, what they did not want is they don't want to have to go to school more than one day a year. To take out the time and go, the average cost for one day is roughly \$100, when you throw in a meal and the cost of getting there and back, it is \$100. There are a lot of good organizations that are offering these locally and statewide. They didn't want to have to pay too much, most didn't want to pay at all, but realize it is a fact of life, they were going to have to. They didn't want it mandatory because they are going to have to take a certain amount this year, and if there's only one course offered they have to take that, instead of what they want. I know that I am just bombarded with 50-60 seminars a year, and I can pick and choose what I feel I need to study, but the notaries are not going to have that option, at least not at first. They are looking at making it non-mandatory. I have done some calling around and I have spoken to some of the people who sell both errors-and-omissions and notarial bonds, and I've asked them and they said they can't remember (in Baton Rouge), when they had anybody who made a claim on a bond. I've searched the literature, which is all the reported cases that I could find, which was Court of Appeals and Louisiana Supreme Court and the only notarial malpractice I could find was attorney malpractice. So I think the self-limiting factor is that these notaries who don't understand a particular process or the way the law works, won't touch it with a ten foot pole. Now, that is comforting, but there is always somebody out there who is going to try. Apparently, it's a very, very small percentage and many of them go seek an attorney for assistance. The next thing is they wanted the assistance of the Secretary of State, to keep an up-to-date database to make sure that the bonds are current. I have lots of people who come into my office and say someone is a notary, but when I pull up the

name on the Secretary of State's database, most of the time they are inactive. They have not renewed their bond; actually they have renewed their bond, but they filed it with the clerk of court, but did not file it with the Secretary of State. We have included in some of the seminars that I have been involved with a reminder that you have to do that. The statute is not easily interpreted. It is not difficult, but if you are not familiar with the process, it doesn't jump out at you. All the people I have done, 60-70% are not current. I talked with them about statewide commissions. A few thought it would be handy, some thought it would be more of a nuisance because they can decline to do something because it is out of their parish of commission, and there are a lot of national lenders who want to send people halfway across the state. When they realize the cost, they say no thank you. But there are some notaries that would find it very convenient to have some additional adjacent parishes, so that perhaps anything within 75-100 miles they could petition to get on. Some of these outlying areas, 75 or 100 miles is not necessarily that far to travel to do a notarial job, because people need the service. They find it would be more convenient to have additional adjacent or close by parishes that they could get either by petition or by posting an additional bond or something and perhaps being reviewed by the district judge. Currently, in statute, there are three reasons to remove a notarial commission: for example, failure to pay over money, and the last one is for any just cause, which is very broad. It leaves it to the discretion of the local judges. They know how many notaries they have in their area, and they know the reputation of the person, so it is the local district judge that supervises these local notaries. They don't feel any need for a statewide commission, but the district judges and their staff, they take their obligations very seriously, they supervise these exams very seriously, and they supervise their notaries. Before any notary is commissioned, many times that district judge sits down and talks with them, and lets them know they are going to be watching you, if you do anything illegal. The problem with statewide testing is the local district judges like to have control over the testing and the commissioning process. A problem I see is that the notaries are more aware of the change in law than what the law originally stated. Most of the things they do, the law has not changed nor the procedures. I think word of mouth education is a very good thing in Louisiana. I will make available the web site in Louisiana, if there is any questionnaire that the committee would like to put out there and we can have the people respond to. The people would have to register their name, address, and phone number so we can be sure it is not one person voting eight or ten times and I can report this back to the committee.

Cynthia Cotten advised Mr. Sims that that would be a good topic to address to his subcommittee.

Alan Jennings received one letter addressed to the publication and I would like to read a pertinent paragraph from Ms. Terese C. Boudreaux, in Borgue, Louisiana, which reads: With regards to the study being done by the Secretary of State on the office of notary in Louisiana, it is my opinion, emphasis placed by Mr. Jennings, as her opinion, that if I and all those like me, with certain rules and

specifications, have obtained a lifetime commission then as long as we practice under and adhere to those rules and specifications we should be allowed to retain our lifetime commissions, if there is interest in establishing new rules and specifications and those rules and specifications are changed, then it seems only just to me that the new rules should apply to new notaries and that those of us who were commissioned for life should be allowed to continue to practice as we were commissioned. Of course, this is my opinion, and you can take it for what you consider it is worth, but I have spoken with other notaries whom I know and have found them to be of the same opinion. Ms. Boudreaux thanked Mr. Jennings for his kind attention. Mr. Jennings stated that is the only thing that came to me from the field. But I didn't want that to sway me from making a short comment on the three areas that we have been asked to look into. On standardized testing, I believe the most important thing this committee can do is to slam the gate to incompetents coming in and getting commissions. Whatever we have to do to make sure that no more who are not properly prepared, and the chain is as strong as it's weakest link. That the easiest test in Louisiana be a substantial test. Whatever we can do to bring that to bear will improve things from this day forward. We can easily work on it, it needs to be done. I believe we can do it without threatening any local politics and serving certain parishes who would just as soon not have to come up with this test. But I believe we can secure the gate dealing with the deputy clerks of court who can easily have the same power we do with no test whatsoever. Whether it is in the Resolution to look at that or not, if we are going to make a standardized notary, if we are going to have someone who rises to a certain level of competence that can do these things, we can not allow an appointee to do those things without a test. I do not think it is unreasonable to look at the deputy clerk power. On governance and regulation of notaries and any notary policy that might be established, I believe that that must be by our peers. I do not believe that any board should appointed by any beaurecrat, legislator, or governor, but if we are going to have any kind of governing body it should be elected by notaries, or at least by house of delegates of notaries elected by notaries in an election managed by the division of elections, where we go and say these 200 people will seek this board. I just don't believe that we can be supervised, other than legislatively, by any body other than within the membership of our profession. As to MCLE, any programs managed by any governance body that is situated as I just described, I wouldn't have any problem with it. I wouldn't have any problem with saying that if a notary gets anything certified by the bar association in terms of specific areas of practice of interest to notaries that that shouldn't qualify for any kind of requirements, with anything else that would tend to make education an industry, itself, just a profitable windfall for people who say, if we get this passed we can make some money. I think that has to be discouraged. I think that the notaries have to govern what the notary education is, and say this is what we believe, that if you take this course you are furthering your profession. I think we should keep in mind that we are appointed public officials at a parish level. I think great care must be taken to preserve the 200-300 years' cultural heritage that we have in terms of being local officials governed by the courts. To make changes in the nature of the office unnecessarily, I think, is very unwise. I'm not saying that we shouldn't

consider a jurisdiction that extends beyond the parish area right now or the ability to commission in other parishes. But I think that we can do almost everything called for in this resolution and still not make this a state office, but still maintain the nature of it as a parish office.

Wendy Hilker stated that the Professional Association of Civil Law Notaries is very happy to be a part of this committee. We've met several times, the first time we met regarding these topics was back in August of last year, I do have all my notes and all that, but just briefly, I wanted to say that the consensus of the organization is that we do truly believe in Continuing Notarial Education and we do want to look a little further into the statewide commission. A lot of the notaries in the organization feel the same way that a lot of you do. They are not going to travel 900 miles, whatever it is, to do work in another parish, just because it's there, but they want to have the opportunity to work in maybe a cluster. I'm from St. Tammany, and we don't have any clusters; I am privileged to be a part of the Orleans Parish notary and it's pretty nice to be able to cross that line, it's not like you walk across the parish line and you forget everything you know because, of course, it's not true. It's a little harder in Orleans but we learned to do it because it's something we've all studied. The monitoring and enforcement is something we find extremely, extremely important to us. A lot of the work that comes through my office is done by notaries that either are just flying by the seat of their pants and they are not really sure of what to do, and they send them over to me with their paperwork to look at, and it's like I wouldn't touch it with a ten foot pole. So I do think there is (and so does the organization) a big call for monitoring and enforcement. On the issue of ID's granted to the notaries for their commission, we do believe that is something necessary. So that we can track, a lot of times when I have work that comes into my office, through motor vehicles, I can't read the notary signature on the form and they don't use the embosser so you can't even figure out what their name is and so it's hard to know if in fact it was a notary or if it was a doubloon that was used, I do know that it happens, that with a rubber mallet I hear it's wonderful, but it's terrible for us because we can't accept work we can't prove that has been done by a real notary. Standardized testing, we definitely, definitely want to chime in on that. We think that is something that is definitely necessary. St. Tammany has a pretty good test, it is not nearly as hard as people say it is, of course, it is a matter of opinion. It depends on how hard you study. We know that there are some tests being given out there that is almost a breeze to walk in and that's why the notarial profession is being so saturated with people that just think it's a great easy job to be a notary and they don't take the seriousness of their profession. We want to chime also in on the fact that we are against having separate classes of notaries, that's not something that we even want to put on the table. It would be such a chore to educate the public on this topic that we would just rather spend our time on something else. The Professional Association of Civil Law Notaries would like to be involved in the standards of conduct that's going to be set with the notaries, and we have three of our members here today, I don't want to give any specifics about what we're going to talk about in the committees but we do have three members here that are going to be hopefully joining in on some of

the subcommittees just to be able to chime in and let them know there are other organizations out there that are interested in all this stuff.

Jo Landry spoke with several lay notaries from non-reciprocal parishes. I requested that they send in letters and have given Becky some of the important statements that were made by these notaries. I would like to read one particular paragraph written by Ms. Rebecca McCormick who I think pretty much sums it all up: “those of us who have earned the right of commission want to be good notaries, just as the State of Louisiana and subsequent interested parties want us to be. Therefore, it is only prudent that the testing focus shift from that of individual parish agendas to that of a Civil Code focus, consistently, across Louisiana. Comprehensive standardized testing will fulfill the demand that all candidates, statewide, have been tested thoroughly and fairly, prior to receiving a commission. The consistency brought by this shift in focus to the Louisiana Civil Code as the primary testing tool will help eliminate incompetent instruction and encourage good candidates to pursue obtaining a commission. Further, testing consistency will set a precedent for and encourage the same type of consistency in continuing education. She respectfully asked that all committee members realize the importance of implementing comprehensive standardized testing in Louisiana, followed by mandatory continuing education for all notaries”. I agree with Wendy, standards of professional conduct are long overdue, and I think the subcommittees are going to be worthwhile.

Carvel Sims stated that a client once told him “there is nothing more self righteous than a reformed sinner”. What I’m telling you is that to exempt anybody who is presently a notary from the classification of any changes in the law, I think would be unfair. You know, “I didn’t meet these standards but all the other ones have to”, I think this would be unfair. In preparing tests, I know that the only parish that I am aware of and there maybe more, that have drawn up written standards of what knowledge a notary should possess is East Baton Rouge Parish. I didn’t bring them with me but I can get a copy and make them available. One of the important standards is that the notary should be able to prepare from a blank sheet of paper certain notarial acts and there’s about 15 or 20 of them. So when you do a test, to put an emphasis on the civil code is fine but not only do you have to know the law you have to know how to apply it and you have to know how to interpret it and prepare these acts. So not only do you test on the knowledge, you test on the application of the knowledge, you test all sorts of ways to see if they know that, by giving them written problems, what is the solution and so forth. It was my privilege to have one person who teaches who’s got a doctorate and also a commissioned notary, and he said “you know the test that you prepare is rather difficult, in that you test the knowledge, the application of that knowledge and you test the result of that application through another question”. So he talked about different levels of learning. I think what it means is that I call it an umbrella knowledge: what goes up the chimney but won’t come down, down the chimney but not up; however they learned it, we’re going to ask them in a different way. So that you’re not going to see it unless you learn it backwards and forwards, you’re not going to know what we’re looking for.

Cynthia Cotten stated it was time to open the meeting for open testimony. All cards, if filled out, need to be brought to Nancy Underwood at this time.

Becky McCormick, witness, stated first of all I would like to thank all of you for allowing me this opportunity to stress the importance of implementing comprehensive standardized testing and mandatory continuing education for notaries. I recently passed the notary examination administered in December 2001. I have worked in the commercial insurance industry for over ten years and this continuing education is certainly a distinguishing mark of my profession as well as in many professional industries. I am also a junior at LSU majoring in accounting and once I obtain my CPA, I am sure this continuing education will play a prevalent part in my success as a professional. Currently, instructors preparing notary candidates for testing in the surrounding parishes face a difficult task. The inconsistency in testing methods, parish willingness to release study material or sample tests and what each parish deems important spans too far in extremes for an instructor to effectively address these issues. This stressful, expensive process only frustrates those candidates who follow the instructor's advice in preparing for the exam and subsequently fail the exam, sometimes multiple times. Specifically, a candidate may be faced with any or all of the following situations while endeavoring to obtain a notary commission: (1) instructor may not be prepared to address issues for a specific parish test. The lack of a ruling authority over instructors allows a course to be publicized as a general preparatory course when in reality it would be more accurately publicized as a parish specific preparatory course. In short, these courses are costly and often ineffective in helping an individual properly prepare for the exam, (2) following the exam, the 45-day wait time to receive test results often extends to 60 plus days, and (3) the notary candidate is likely to find the instructor's focus was not equivalent to the test parish focus, which often becomes painfully apparent in the form of a failing grade. Rebecca McCormick also stated that those of us who have earned the right of commission want to be good notaries, just as the State of Louisiana and subsequent interested parties want us to be. Therefore, it is only prudent that the testing focus shift from that of individual parish agendas to that of a Civil Code focus, consistently, across Louisiana. Comprehensive standardized testing will fulfill the demand that all candidates, statewide, have been tested thoroughly and fairly, prior to receiving a commission. The consistency brought by this shift in focus to the Louisiana Civil Code as the primary testing tool will help eliminate incompetent instruction and encourage good candidates to pursue obtaining a commission. Further, testing consistency will set a precedent for and encourage the same type of consistency in continuing education. She respectfully asked that all committee members realize the importance of implementing comprehensive standardized testing in Louisiana, followed by mandatory continuing education for all notaries.

John Brennen, witness, stated I have been occasioned by legislators who have great experience in these matters that the study committees are where things are sent

to die a quiet death. I am again impressed to see that that is not the case with regard to this matter. This is an important matter that should be given all the weight and all the consideration that you can muster. I am familiar with some of the people on this panel, I know some personally and some by reputation. I see that the Secretary of State has its Executive Counsel, that again shows me that this matter is being taken seriously. Just a few personal comments, if I may, and if I can be of help to any of the subcommittees, I will be glad to do so. I have been an attorney since 1975, I've been a commissioned notary since 1977. In approximately 1996, I decided to limit my legal practice to notarial matters. I was amazed to find out that all those years I was practicing law, others were doing likewise who were not attorneys. The Civil law notary is a very, very powerful position. I would venture to say that a lot of attorneys are not familiar with the fact that non- attorney notaries have the same power as they do; I for one did not. I don't for a minute regret that fact. I do, however, feel that it is incumbent upon all civil law notaries, particularly those that are not attorneys, to make themselves familiar with the changes that occur in the law from time to time. Mr. Davidson, (at the end of the meeting, Mr. Brennen asked that the record reflect that he misspoke and meant to say "Mr. Stallings") you are right, if this committee recommends and the legislature passes something of this nature, there will be less notaries in the state. I don't think that is a bad thing, we have way too many. I'm sure all of you have come across a situation from time to time that someone has done something they should not have done. I believe if we should make the notarial commission somewhat more difficult to obtain and maintain. Perhaps if we make it a little more expensive for those who don't want to spend the money, if we make it a little more time consuming for those who don't want to spend the time, if we make it a little more responsible for those who don't want to be responsible. I did not want to get off on that particular point. But I think there are too many notaries, I am sure there are plenty of attorney notaries in this category who treat the notarial commission as a sideline, as something that they do from time to time and not really as their way of life. I would like to make it more difficult for those people to continue to do so. It would stand to reason, I would think, these are the individuals who are not keeping track of what's happening in Baton Rouge, these are the individuals who are not following the jurisprudence that is relevant to matters of this nature. These are the people, sad to say, who are signing things when individuals are not in their presence. These are the individuals who are not making their signature legible so that no one can come back to them and say why did you sign, this is wrong. These are the people that we need to eliminate, quite frankly. I think we can do that if we recognize and acknowledge the powerful position we have. If we recognize and acknowledge it requires a certain degree of expertise. Now this resolution deals specifically with a statewide commission in exchange for mandatory education, as I appreciate the resolution. I've read it several times, it's rather brief but it seems to me that what was the intent was to trade a statewide commission for the imposition of mandatory education. Not a bad trade off, as I see it. Should that apply to notaries who have already been commissioned? Absolutely, and the reason being, we simply cannot allow the individuals who have previously been commissioned to go about their ways, as they have always done. This is a change in the status quo. And that is

sorely needed. So yes it has to apply to all notaries in the state. Some will allow their commissions to lapse, fine, they did not have what is needed to be a notary in the first place. They should have left their seal in the drawer and I presume it will gather dust henceforth, and that, again, is not a bad thing. Mr. Sims, I listened with great interest your recommendation with regard to ex-officio notaries with regard to justices of the peace. If that can be done in a way which is fair and equitable I think that is a good suggestion. Perhaps it will not allow members of the public to know that this individual may not have the power that this individual is purporting to have, but it will, I think, place upon that individual certain restrictions in his own mind that he won't succeed. As it is right now, there are no distinctions. Although we know, and Mr. Jennings is well familiar with individuals who exceed their authority, they go unchallenged. No one wants to necessarily take on someone in a position of authority. So they do what they have always done. It wasn't right when they first started doing it and it's not right now. So it seems to me that this is the first step in perhaps what might be a long line of considered approaches to the notarial profession, be it attorney or non-attorney participants. As a lawyer I have to have 16 hours of continuing education every year. Do I enjoy it? No, I do not always enjoy it. Is it an imposition on me? Yes, it is. Have I come to understand that it is important? Absolutely. I can honestly say there could not have been 10% of the members of the bar who were in favor of continuing education when it was passed. No one likes to have anything mandated upon them, but I think every attorney in his heart of hearts, if he was honest with you, would say yes, I think that continuing legal education that has been mandated upon me by the courts and by legislative fiat has made me a better lawyer. I don't go to even the most simplistic of gatherings of other lawyers or non-attorney notaries where I don't learn something, or I don't remember something I had forgotten that is important or I should have been remembering all along. We are simply too busy in our day-to-day life. We need to take some time out, we need to reflect upon what we are doing and if we are doing it right. Yes, it will cost a few dollars, yes, there will be some time spent away from the office. But this is so important. What can be more important than preparing a will for someone, and having that will later be determined not to be in proper form. The notary was not even disciplined for signing the document without even examining it as to proper form. We have got to stop that kind of activity. If the courts aren't going to do it, then perhaps the legislature should. I really feel strongly about the profession of notaries. All notaries need to be professional. As in every profession, attorneys not excluded, there are those who will exceed their authority, there are those don't take their job seriously, those who should be really doing something else. I strongly support any legislation that would impose continuing education upon all attorneys notaries and non-attorney notaries, I would hope there would be an exemption for the educational hours that attorneys have to put in if they would cover notarial matters. When I do attend educational seminars, I take those that will further my understanding of my notarial world. But that is simply because I have limited my practice to notarial matters. When I did that I was amazed to find that there were others who did not have a law degree, who hadn't passed the bar, but were practicing law, and that's how important it is. I have no desire to limit the authority of the non-attorney notary,

that's been tried, these efforts were misguided. What they did do was to emphasize the importance of the areas the non-attorney notaries can be involved in. They tried to limit the authority of the civil law notary. That is not what we should be doing. We should be allowing the civil law notary to have all the authority and all the power that was intended, but at the same time making sure that power is not abused. Making sure that one who possess that power, one who has the seal, if you will, is predisposed to do so in a professional manner, has the knowledge and expertise to fulfill the function, perform the duties that are commensurate with it. I offer whatever continuing experience I may have in this area.

Cynthia Cotten asked if there were any other witnesses. She then stated the subcommittee assignments will be handed out at this time. We have broken up the state, from the north all the way down to New Orleans, so there is an equal amount of northern non-attorney notaries on the subcommittee, you'll see it's broken up that way. Some of the people didn't get back with me on their preference, so you were given a subcommittee to be on. At this time I'm going to let Mr. Ponder give you your charge for the subcommittees.

Warren Ponder suggested that the subcommittees are going to be where the work really takes place. We certainly do appreciate your cooperation, and taking your subcommittee assignment very seriously. We divided the subcommittees into the three main categories that we are talking about and spread it across the state. What I suggest, and it is merely a suggestion, I will leave it up to the subcommittees to decide on how they want to handle it. We will ask how the subcommittee decides how they want to take testimony from all non-attorney notaries, or for that matter attorney notaries, anybody, the general public, whoever wants to have input into this matter, we want to hear from them. We want as many people commenting as possible. Let me reemphasize what Mr. Ater said at the first meeting. "The Secretary of State office takes no position, we are not here to tell you what should be presented to the legislature. We are here to let you tell us what you want us to present to the legislature. What the legislature will then do, and with Mr. Singletary, is what it deems is appropriate. It may not follow our recommendation, it may not follow your recommendation. It may take your recommendation and do something completely different. It may take all the recommendations and only act on one category. But we want to present them with all the possible explanation or experience you have had, so that they can have all that input to make their decision. It would be very dangerous to leave them with no information and no input and let them do something to you. Can be, I'm not saying it will be. Once the testimony is taken, then I'll ask the subcommittees, you have an odd number purposely, ask the subcommittees to meet and select what it considers to be a majority report. Vote on what you want the legislature to do in your particular area. If it is a 3 to 2 vote, I want the 2 members to get together and prepare a minority report, and report it to this committee. If it is a 3-1-1 let's have three reports, if it's a 2-1-1-1 let's have four reports, whatever it takes, let's bring the information back, let's have the input for the committee as a whole. Then at the next meeting, and I think Cynthia has set it for

July 17th, which is after the legislative sessions, so we will all be available. We will meet as a committee as a whole, to hear the reports from the subcommittees. We will have a discussion, then in the next meeting, the committee as a whole will vote on what report it wants to present to the legislature. Again it may be a minority report or it may be a majority report. Again, we are not limited to what the subcommittee does. At that meeting, whoever is on the opposition side for the majority report, can prepare a minority report. The legislature may say I see where the majority wants to have mandatory continuing education, but we think it is in the best interest not to do this, so let's look at the minority report and see their arguments. We are just trying to present as much possible information input from you to the legislature. So we may have to do it piecemeal. But whatever it takes, we want to do it. The Secretary of State's office will then review all the reports as taken from the committee as a whole and we will add our input on things like cost, and feasibility. For example, you may say you want the Secretary of State's office to be the keeper of all these things, and the Secretary of State's office will then administer the continuing legal education at no cost to the notaries. Of course, that will not happen!! Those are the type of things we will comment on. We are not trying to take a position, but we do want to point out the problems, if there are some. Feasibility is one of them, and cost is another, because we are always on a limited budget. That is generally what I suggest we do, if anyone has a better idea, please let us know. I suggest the subcommittees meet, and you decide among yourselves the best way to do this. We will be here to help if we can. Anyone have any questions, comments?

Carvel Sims asked once this subcommittee and committee produce these reports and the Secretary of State gets them and it goes to the legislature will the members of the study committee be able to get a written copy of those results?

Warren Ponder assured Mr. Sims that everyone on the committees will have a copy before it is sent to the legislature. Let me also point out, although we are a study committee that has been mandated by the legislature, this does not preclude any member from this committee from giving testimony to the legislature when the matter comes up. I'm sure they want the input also. We want input from everyone, we want the subcommittees to talk to anyone who wants to put input into it. We think that is very important. What is very important to the notaries may not be exactly what the public wants. While this is a subcommittee and the legislature will affect the notaries, there are more public out there voting for the members of the legislature, than there are notaries. It is very important to make sure that whatever we do the public is also behind, or at least not opposed to, it. Whatever you do, I should say.

Mr. Paul Bello requested contact information on the committee members.

The Chairman informed him that the information he was requesting was in the folder presented to him at the beginning of the meeting with the other information.

He wanted to know what procedure do you want us to use to schedule the

meetings? Since we are coming from all around the state, it seems it would be logical for us to all meet in Baton Rouge when we do and will there be a facility for us to meet and how do we go about all of that?

Warren Ponder stated he will leave it up to the subcommittee on how you want to meet. Let me point out we are trying to do this as informally as possible. We think that is the best way to get the public input that we need, input from the notaries and from the public in general. As far as I'm concerned, testimony given to one member of the subcommittee then shared with other members of the subcommittee will be fine. Mr. Stallings from Bossier Parish may be talking to people up there, as long as he sends it down to New Orleans or wherever it may go, at some point the subcommittee needs to meet, obviously, but how we get the information to the subcommittee is really up to you. I just encourage you do it in a way to get the most information possible.

Cynthia stated that the next meeting will be after the legislature is finished meeting and it is going to be Wednesday July 17, 2002. We tried not to make it toward the end of the month because a lot of you told us that it was a busy time at the end of the month. So we have put it right in the middle, July 17th. Are there any more comments?

Alan Jennings asked if the subcommittee meetings considered public meetings? Do they have any standing where notice must be given, where people are entitled to attend.

Warren Ponder stated these are not meetings that are going to decide issues. They are not going to vote on agenda or vote on an item before the subcommittee. They are really public testimonial type meetings. Meeting of one, in some cases. Information gathering source, is how we are going to use the subcommittee. When the subcommittee meets to decide which proposal to present to the committee, that will be another matter. I suggest that that should be a true meeting, as one subcommittee, and of course we will make our facilities available for said meeting. That's where the real work is going to be done as far as gathering the information. Luckily, the legislature will meet in the meantime. We are giving the most possible time to gather the information and arrive at the proposals.

Alan Jennings - does one have the right to attend any quorum if one of these committees. If it sits as a committee, is it open to anyone?

Warren Ponder stated once the committee meets, yes, it is an open meeting. Nothing should take place behind closed doors. I suggest that when the meetings take place, notify Cynthia and let her be the clearing house for all this information. The Secretary of State would also like to be notified, if possible, when you are going to meet.

Cynthia Cotten stated she would be glad to get any information out to you, if you get it to me.

Glenn Stallings suggested as we meet as a committee and then try to get this information on an individual basis, there are a few people who are not much further than 50 or 60 miles from here north, other than myself, in order to obtain information from such places as Monroe, Alexandria, and the other areas around there, is it possible, if we're willing to contact the local paper and perhaps hold a meeting in those towns to allow people to come make input to an individual.

Warren Ponder thought this would be a great idea. Keep in mind that we do not have a budget, so if the local paper want to be paid for an ad, we cannot do that. But as a public service type notice, I encourage that. If the subcommittee is willing, you can hold a meeting in Alexandria or in Monroe, or wherever you want to meet, and make it as public as possible and let everyone know about it. We also encourage use of the Internet, mailing, newsletters, however we can do it, we want it done.

Cynthia Cotten, stated we have a department that also can get out press releases and she would try and assist in this area, if possible.

Randy David asked if each subcommittee should elect a chairman?

Warren Ponder stated that would be fine. Just select a chairman of the subcommittee, and use whatever procedure you think is appropriate to make sure we get as much input as possible. We are not bound by the Roberts Rules of Order, and we don't want to be. We want it as open and as much of a discussion as anything else.

Paul Bello stated that several notaries on the committee have access to notarial publications and they might find an avenue to get public service messages in publications in a particular area where a subcommittee member is seeking involvement of the public.

Cynthia Cotten, Chairman, stated we have no more comment, we are going to adjourn the meeting now. Just know that I will be glad to help you or be of service to you in any way that I can, just let us know.

There being no further business, the meeting was adjourned at 11:32 a.m. by the Chairman, Cynthia Cotten.

Secretary