

NOTARY STUDY COMMITTEE MEETING

Minutes

July 24, 2002

The Third Notary Study Committee meeting was called to order at the State Capitol, Baton Rouge, Louisiana in House Committee Room No.1 at 10:00 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, who noted that Ronnie LeBoeuf died in April of this year.

The following committee members were present: Warren Ponder, Executive Counsel for the Secretary of State, Jo Landry, Stephen Broussard, President of the Notary Association of New Orleans, Wendy Hilker, President of the Professional Assn. of Civil Law Notaries, Sue Dier, Paul A. Bello, International Union of Latin Notaries, Narciso Lomeli, Alan Jennings, Editor of Louisiana Notary, Carvel Sims, and Glenn Stallings.

William L. Pratt, Orleans Custodian of Notarial Records, Randall David, President of the Louisiana Notary Association, Ronnie LeBoeuf, The Practicing Notary, Walter Brunty, Kathleen L. Clark, Linda Davidson, and John C. Shidler were absent.

Cynthia Cotten, Chairman, presided and Lindsey Lejeune, Notary Department, recorded the proceedings of the meeting. Nancy Underwood, acting as secretary, took the minutes.

Cynthia Cotten welcomed everyone to the meeting, stating that today we do have a few people that are absent 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 including guests. He stated: this is not exactly a pleasant job all the time, it's always nice to get out in the public, but the work that you are doing is hard work and I appreciate it, don't think that I don't, I do appreciate what you are doing, and I know that you are doing it for low pay, which is this case is no pay, so your interest in this thing is very much appreciated by our office. Just to review the legislative mandate that we have received on this study committee: the Secretary of State's office reads this mandate as: the Secretary of State's office being more of a facilitator, and a referee in some cases, but not a pusher of one program over the other. We want the notaries public to make the decision about whether or not any changes are needed and if so, what changes need to be made. I think Mr. Ater, our First Assistant Secretary of State, said at the first meeting, "we do not have a dog in this fight", and we do not want to push one idea over the other. We want you to make the decision, but we want to be here to help in any way that we can, to help facilitate these decisions being made. I cannot emphasize often or hard enough that whatever work we do here will be presented to the Legislature, but this does not preclude any member of this

committee, nor any member of an association or any member of the public, from talking to their legislator, or the committee, or testifying before any committee hearings held on all this. The work we're doing now will merely be presented to the Legislature for their consideration; it does not end here, it's just the beginning. We have tried to keep these meetings informal, as much as we can; this does not mean they are unimportant. The Secretary of State's office has a very high interest in the outcome of this study and ultimately in whatever laws the Legislature passes concerning the Secretary of State's office relationship with notaries public; whatever changes are made, or if no changes are made, we are still going to be involved in your profession. So, don't mistake this informality with us thinking it's unimportant or we're not interested. We are very much interested. We want to be a part of this association of professionals. So anything that I've done or said or made light of, or anything else, that has given you the impression that I don't think this is important, I do apologize for that, because I find it very important. I think that the work you are doing is very important and I look forward to concluding this and getting it over to the Legislature and putting it in their hands. Again, welcome and thank you for your participation.

Cynthia Cotten, Chairman, discussed what was in the packets before each person: (1) the agenda, (2) the reports submitted by the subcommittees, (3) a survey done by Alan Jennings, (4) proposed revisions to Title 35 by Paul Bello, and (5) comment sheets. She stated that although we already have the reports, I'm going to ask that Subcommittee #1 officially submit their report at this time. Subcommittee #1 was charged with studying standardized testing, and you'll see that report in your folder. Would someone from Subcommittee #1 officially submit their report?

Wendy Hilker: stated that Subcommittee #1's reporting member is absent and feels that she is very unprepared for this and has been thrown to the wolves, which will be duly noted. Our subcommittee met several times and we did a lot of correspondence through email and telephone calls, and this is a compilation of what we decided as a committee we would like to recommend. I'd like to respectfully submit this report.

Cynthia Cotten, Chairman, opened discussion on the report submitted by Subcommittee #1, titled "Report of the Standardized Testing Subcommittee, July 12, 2002".

Warren Ponder: stated that he had read the report, and asked how is the general feeling out in the community and the people that you've met about the proposal that you have here? Obviously you've received a favorable response, but was there any opposition to it? Did anyone express some opposition or problems with this proposal?

Alan Jennings: stated that most of the writings and input on these surveys that I did asked for yes/no responses and didn't ask for comments. There was a lot of "yes I think there should be standardized tests"; there were all sorts of different directions on what that might mean. Some people thought it meant one test should be given across the state, and we took that to mean they had concerns about the way, but there wasn't anybody that came up and said oh no. People that were arguing about some of the other aspects of this study were just.... My sense of it was "oh yeah, something like that? yeah, I don't have a problem with that". I get some of that on

the phone. I get some “oh well you’d have to be sure that this happened, or who would do this” so there’s interest, but we don’t really have any questions from the committee who’ve read it to know what kind of questions we need to answer yet, but we’re prepared to do that. If you’ll look at the end of the report, we’re saying this is what we think based on all this stuff, and some ideas that came of how it could be used, we tried to put those in there. But most of those were just here and there in friendly conversations.

Wendy Hilker: most of the people that I spoke with and come in contact with felt that the need was great to have standardized testing because the feeling was that there’s not enough specific information to study to pass the test. After all, the people that were in charge of training you to become a notary or to understand the revised statutes and all the aspects of the notary public office, they’re not the ones that are giving you the test. Even sitting in on some of the courses that were being given, the professors or teachers or lawyers or whoever was specifically giving the actual courses would make comments like “I’m not sure if this is going to be addressed”, or “I’m not sure if I’ve addressed all the avenues that you need to know in order to pass the test”. So the consensus that I have had through my association has been that it would be great if we knew kind of what they were looking for, and if we had this battery of questions to study, if we knew all 2,000 or 5,000 or 10,000 questions, and knew the answers to them, then we would not only become a good notary public, we’d also be able to pass the test and we’d be assured that we’ve passed it. Because remember, we take the exam and we get a pass or fail, we don’t get a “how you did in what section”.

Alan Jennings: I’d like to add one other comment that I picked up, and it was the notion that it would eliminate a lot of the local politics. Sid Horn said in his letter, some parishes can keep you out and other parishes don’t care. You can ratchet up the standard of the level of entry into being a notary public in Louisiana and solve a lot of problems. If people had to know more to get in, then some of the back doors of the easier parishes, we’d all be better. You could raise the level of professionalism simply by raising the bar a little bit in the future.

Jo Landry: All of the notaries that I spoke with were in favor of standardized testing. Consistent testing would create for fairness amongst the notary community. Right now it is just not fair from parish to parish. Consistent standardized testing throughout Louisiana would benefit the communities as a whole. That’s what the mind-set was on every notary that I spoke with.

Sue Dier: I teach the preparatory course for the notary exam in Livingston Parish. I concur with this committee’s findings. In my parish, many times there are ludicrous, silly questions that have nothing to do with the notary’s knowledge or the examinee’s knowledge of the civil law. I know personally, and heard of, several people that cannot pass the test in one parish after taking the test two, three, four or five times; they go to another parish and register to vote, in a parish with an easy exam, become a notary, go back to their parish of residence, and proceed with their notary practice. I think this would eliminate a lot of that if all of the parishes had some kind of standardized testing. When the person passed the exam, then the examining committee of that parish would know that this person has the knowledge to practice their notary in that parish. I concur with this report and think it’s very good.

Carvel Sims: I do want to commend that subcommittee because I did attend at least one of their hearings and they did a very admirable job. This is a problem of the chicken and the egg. When you look at monitoring and enforcement of standards, and then you look at testing procedures, and then you look at statewide powers, it's a question of what comes first and which comes hand-in-hand. Here's the problem I have: I probably have the largest bank of questions on notary exams, because for the last twenty years or so I have been collecting them from all over the state, from anybody who would send them to me, and also from my own. The problems that I have is that as long as you have the local committee and local enforcement of the district judge, then you are going to have the problem of local control. If you take that away, then it's going to be like any other testing that the state does, be it the bar exam, the law school admissions test, the standardized achievement test, the SAT, and all these other tests that we give. You're going to be measuring intelligence, but not necessarily skill in preparation of acts. I know in East Baton Rouge Parish, we had, on the last test that was given earlier this month, I think on the 8th, 50% of the test was multiple choice questions, and 50% was to draw a diagram, prepare an act, and so forth. We had a very extensive, comprehensive exam. In some parishes, they lean less toward preparation of notarial acts. In some parishes they ask questions that, for want of a better answer, I think they have the wrong answer. Where I had to do extensive computerized legal research to even find a reference to a word or a term that they wanted to find, I could find only two cases cited in cited legal cases in the last 50-75 years, and none in the civil code, none in the revised statutes, none in the code of civil procedure, or anything else, and that, in my opinion, certainly had nothing to do with notarial practice. The problem is I went to a district judge and said that this person who is a notary, a commissioned notary in, and I quoted a parish which was one of the cluster of East Baton Rouge Parish, and she was convicted of a felony in East Baton Rouge Parish. These people wanted her notarial commission removed, or at least a hearing to remove it. The district judge, who was a very very strict criminal district judge on law and order, who in my opinion was more strict than he should be on most first offenders, even, said he was very reluctant to take away somebody's ability to earn a living. How do you set uniform testing standards when you don't have uniform enforcement of standards, uniform enforcement of notary behavior, and so forth? I do agree with the committee: there are some completely un-uniform tests. I went to a parish adjacent to this parish when a secretary that I had employed lived in that parish and she took the notary exam. The question was "what is the effect of an authentic act?" And that tester wanted that it was self-proving, which is the terminology they teach in law school. But in the civil code, under Article 1832 et seq., it is "full proof against the heirs and assigns universal and particular title." That's what she put, and he marked it wrong. So yes, the committee is absolutely right, it would be wonderful to have a uniform test. Not necessarily of each question, but to have a bank of questions. They're right, we need this available for the people who prepare the tests and also the answers. The problem is, unless you take away the authority from the local committee, then you have to switch it to - who? either a legislative committee or to a bar association committee, or to some other committee, okay? You've got problems. If we go with statewide powers, then statewide testing is clear. It's almost mandated. But if you do not have statewide powers and we stay to our clusters or to the individual parishes in which the notary is commissioned, then it is up to the local district judge to supervise that person. The problem you have is that there is no law that specifically says that if you are convicted of a

felony, that you then have to report that to the Secretary of State, that you are then to surrender your notary license or commission, or anything like that. I understand what Mr. Jennings says, when they talk about raising the bar, and I agree with that. That's the bar that you have to hurdle across, but that is an artificial bar. They have raised it for paralegals, and in my opinion, the civil law notary public is a paralegal, a true paralegal, in the sense that this is the legal credentials to assist the attorney. I look at it from that respect because I'm an attorney. When I engage the services of the notary in my office, I'm looking for a qualified notary public. Somebody who is qualified and commissioned to assist me in their duties as a notary public. The public looks from a different point of view. The problem you have is that with paralegals, they're now saying you need two years of college or its equivalent or an associates degree. But that's an artificial bar. They could just as well have said three years, or one year. Yes it raises the level of education, of caliber and everything else, of the people entering the profession of paralegal, but that has nothing to do with a notary public. If we're going to artificially raise this bar, does that mean we're going to grandfather in other people? I know that in other countries, the education for the attorney is different. I believe in many countries in Europe, I think it's about a six-year education, but that includes college. Ours, in this state, is four years; used to be three years in college and you could take some special entrance into law school and then accredited with your fourth year of college by getting credit for your first year in law school, but they no longer do that. So then it would be about a six-year education. But right now we're essentially talking, in theory, four years and then three and a half, or at least three, plus. So we're talking seven years. I guess that is an artificial bar that we've erected by saying that not only do you have to be educated with a college degree, you then have to go to law school. I am not against an artificial bar. I certainly think there are some very practical ones. You should be able to read and write, how else can you take an exam, how else can you pass an act if you cannot read it? The problem is where to draw that line, and do we do it locally or on a statewide basis. Then if we do that, then we're talking about what I was trying to investigate, which is monitoring and enforcement of standards. We're asking a chicken and egg question. Until you tell me which one you're going to designate, local testing and local powers and local standards, or are we going to talk about statewide powers, statewide standards and statewide testing. I don't know that there's an answer, although they have done about the best job that they can do.

Wendy Hilker: In response to the chicken or the egg, I believe that we're beginning at the beginning, which is the standardized testing. That is the entrance of the notary public into the profession. You study, you take your test, you be appointed, and then everything else happens. I do have to take a stand: I'm a vegetarian, but I am going to take the stand that we're going to be the egg at this point. If you read the report closely you'll see that the bank of questions includes statewide questions, but it also includes the opportunity for the test to include local questions that would address the profession in their particular parish.

Witness Testimony by Arthur A. Maurice: I don't know if this is permissible, but another notary, Henry Sauviac, asked me if I could read a letter from him into the record, because he could not make it here today. *Mr. Maurice then read the letter from Henry J. Sauviac, see attached copy.* I've got some comments I would like to make. First, we apparently have a number of little notarial organizations, or what have you, claiming to represent a majority of the

notaries in this state. I doubt that is a fact. I've never joined an organization or been contacted to join one. What I'd like to know, is if the Secretary of State has the total number of notaries allowed to practice in this state. I'd like to know the total number of notaries, as opposed to the number of members in these International Unions of Latin American Notaries or whatever it is, all of them combined. That way when these organizations are saying they speak for the majority of notaries, we know what their numbers are. Right now we have no idea. I suspect you are going to find that the numbers of these organizations as opposed to the whole is going to be infinitesimal. Ms. Hilker says everyone she talked to was in favor of changing all these laws. Again, Ms. Hilker does not tell us how many people she talked to or who she talked to. I suspect she didn't speak to every notary in the state, I know for a fact that she didn't speak to me. Mr. Jennings brought up the possibility of politics in getting a back-door commission. This is Louisiana, that's going to happen. I don't think it's prevalent. I know when I took the exam I found it was rather stringent. I would be opposed to having a statewide examination mainly because I think local control is better. If I'm not mistaken I believe it was Thomas Jefferson who said "the government that governs least governs best." Again, as Henry Sauviac said, has the Secretary of State's office been inundated with complaints about non-attorney notaries?

Warren Ponder: The only reason we're here is because the Legislature has asked us to do this study. We did not generate the interest in the Legislature to create this study commission. When I say we, I mean the Secretary of State's office. Apparently someone in the Legislature felt the necessity, for whatever reason, to have this study committee convene and look at the possibility of doing these other things. Let me ask you, Mr. Maurice, you said that you do not support a statewide test. Do you oppose the 64 parishes submitting a set of questions to be used as a bank of questions to draw on, and then each parish can draw 100 or 50 questions or whatever it might be?

Mr. Maurice: I would have no objection to that.

Warren Ponder: Well I believe that's what the subcommittee has recommended, is a bank of questions to be used by each parish to draw on, so that statewide it would be a standardized type test. Not that one test be given to each parish.

Mr. Maurice: The impression I got was that, I suspect that what Mr. Bello and the others would like to do, would be to revoke all existing commissions and then have one standardized statewide test where everyone would have to requalify. I know he doesn't state that in these documents, but it's just a suspicion I have from having met him before.

Warren Ponder: I want to make sure that everyone, all people represented by notary associations, all notaries not represented by notary associations, all members of the public: this study commissions is going to make a recommendation or present the recommendations to the legislature, but then the legislative hearings start. That's where any reservations you have about revocation of any existing commissions or whatever should be addressed. I certainly encourage you and all notaries to participate not only in our study but when it becomes time for the legislature to consider this topic.

Mr. Maurice: With regard to the Secretary of State's office, do you know, does the office know, the total number of non-attorney notaries in the State of Louisiana at this time?

Warren Ponder: I don't know that number.

Cynthia Cotten: Yes, we do.

Mr. Maurice: My question, then, is can we compare the total number of non-attorney notaries on record with the Secretary of State as opposed to the total number of notaries purport to be members of these organizations?

Cynthia Cotten: The Secretary of State has no knowledge of notary associations. We don't keep them on file, we have absolutely nothing to do with the associations, so there's nothing for me to compare. I don't know their numbers.

Mr. Maurice: I understand that, but you do know the total numbers of non-attorney notaries.

Cynthia Cotten: That's correct.

Mr. Maurice: We could ask each of these associations to tell us how many members they have. Then we'd have some idea of what percentage they actually represent. Do you see what I'm speaking of?

Cynthia Cotten: Yes, sir. There are members of this committee who are not members of any association, and they are on the committee as just personal notaries.

Mr. Maurice: I understand that. I'm speaking only of these organizations, the Louisiana Notary Association, the International Latin American Notaries or whatever they are.

Cynthia Cotten: They are included in the study, as well as any interested notary.

Mr. Maurice: OK, what I'm trying to get at is I'd like the total number of members of these organizations.

Cynthia Cotten: This is not something we're going to be able to do at this time.

Mr. Maurice: They would not give you that information.

Cynthia Cotten: I've never asked them for that information.

Mr. Maurice: Well that's what I was asking, if you could, then we'd have some comparative basis.

Warren Ponder: If we get the numbers of the organizations, I see your point, but this study committee is not based on the notary associations. They were part of the study commission

because the legislation wanted to include these people, but we certainly didn't want to exclude any participation from any notary as part of our study.

Mr. Maurice: Why not have the Secretary of State's office. You have the names and addresses of every notary qualified in Louisiana. If you want some input from the notaries, the majority of them, why not send out a mailer to them and ask them? I found out about this strictly by accident. I never would have known.

Cynthia Cotten: We've put public notices out of all the meeting, all the meetings. We've had it on our website, we have not have a mailout, that would not be feasible. We've put public notices out and had it on our website.

Mr. Maurice: I don't often go to the Secretary of State's website. If it's not feasible to do a mailing to all the notaries, how does the Secretary of State's office going to police the notaries? If this passes, you're in effect going to have to create another department within your department as a police force. Am I wrong?

Warren Ponder: No, that is one of the things that we're going to have to address to the legislature, should they decide to do mandatory continuing education, or put the Secretary of State's office in a position where it is enforcing standards of any sort. One of the things that we're going to have to tell the legislature, and we've tried to always make this clear, is that when they ask what it's going to take in the way of manpower or budget, we're going to report to them what it's going to take. It's not that we're trying to kill any sort of idea, that's not the point at all. We're going to be honest with the legislature, as we've always tried to be in the past.

Mr. Maurice: There is something else I'm a little concerned about. Should this pass, and continuing legal education is mandated, my opinion on that would be that I'm against it, to start with. If a notary doesn't keep up with what he's doing, he's stupid. The public at large has recourse in the courts, just as they would against an attorney. But if continuing legal education is mandated, I would hate to see these little proprietary schools or even the notary association, handle the education. If we're going to make this a profession, let's have an accredited university offer the courses, not a junior college. If you want to take it one step further, why not make notary public a bachelor's degree.

Cynthia Cotten: As far as notifying notaries, the Secretary of State took the position not to exclude anyone. We excluded no one from any of our deliberations, we've had every meeting has been an open meeting, there have been meetings across the state.

Mr. Maurice: I don't argue that point. I'm just saying that a mailing would have been the best way to do it. I've talked to a number of notaries in the last few days since I was notified of this, and no one I've spoken with had ever heard of it. A mailing would have been the simplest way to do it, but you tell me it's not feasible.

Cynthia Cotten: At that time, that's what was discussed.

Wendy Hilker: I have never represented myself as representing other notaries outside of my organization. I have 27 members of my organization. It's The Professional Association of Civil Law Notaries. We were created, we got together and had this organization chartered so that we could keep up with the continuing education needs of the notaries in our area. It's open to all notaries, not just those in St. Tammany parish, and you're welcome to come in and see what we do in our meetings. I do take offense that you are misrepresenting me, because I did not do that. I want to get back to what we're here discussing. Standardized testing. You said yourself that you have nothing against the bank of questions.

Mr. Maurice: I don't.

Wendy Hilker: Ok so what exactly are you against with the committee? You said you did not want standardized testing, and then you said you agree with the bank of questions.

Mr. Maurice: I'm opposed to a statewide test.

Wendy Hilker: Did you read our report? Did you get a copy of it and read it?

Mr. Maurice: I just got it yesterday.

Wendy Hilker: After you read it, we'd be more than happy to discuss more with you as a committee, no problem.

Mr. Maurice: What I'm opposed to is a statewide examination for a statewide commission. I don't see where there's anything broken with the notary profession right now. Why fix something that's not broken? Local authority should maintain the control. Incidentally, I practice in St. Tammany.

Wendy Hilker: The standardized testing report from our subcommittee does not attach statewide commission to standardized testing. It's two different separate parts here.

Mr. Maurice: Well the reading I had on it led me to believe it may be.

Wendy Hilker: Point well taken, but it's not. There's been no place in our report that we say anything about a statewide commission. We were commissioned to address standardized testing, and that's all we addressed.

Mr. Maurice: There was something else I read in the thing, and again I just had a chance to go through this yesterday evening, and I'm not thoroughly versed on it, but there was something in there about creating three classes of notaries. I didn't just dream that up, it'll take me a few minutes but I'll find it. If that is going to come about, I would definitely be opposed to that. If I'm not mistaken, that was another one of Mr. Bello's proposals.

Paul Bello: First, I want to apologize for being late and making Mr. Broussard late, too.

Second, I want to just disabuse Mr. Maurice of a couple of statements, a couple of understandings that he believes he has. Number 1: I have never advocated the revocation of any notary's commissions, and Number 2: I also never sought the establishment of separate classes of notaries. So I just wanted to make that statement clear. In support of Ms. Hilker, I'd also like to comment that we're here as a consultative body. We don't represent notaries per se. We're here as a consulting body to make recommendations to give to the Secretary of State, in order for the Secretary of State to have the information he needs to make his report to the legislature. Thirdly, that task is limited in scope. The Secretary of State sent us out to gather information, which we did. Our task was to gather the information and to come up with a set of recommendations which would enable the legislature or the Secretary of State to consider how best to implement the three-pronged approach to the issuance of a statewide commission for non-attorney notaries. None of this is guaranteed to become law. This is simply just a list of recommendations and a plan we're trying to come up with and we don't pretend that we represent notaries per se on this, we're just merely consulting and information-gathering.

Mr. Maurice: Mr. Bello, how many people are in your organization, how many people do you represent with this?

Paul Bello: I don't represent anyone.

Mr. Maurice: This International Latin American Notaries or whatever it is, how many members do they have?

Paul Bello: I don't know.

Cynthia Cotten: Reminds committee members about how the microphone system works.

Jo Landry: To address Mr. Maurice's statements, as well as Mr. Sims', if you read the subcommittee's report on standardized testing, numbers 10 through 14 specifically state that it would be beneficial to maintain the current parish examining committee structure. And it envisions continued administration of examinations by the parish. So this keeps it local. It does not bring it to a statewide standardized test.

Mr. Maurice: Well then what is the problem, what are you trying to address?

Jo Landry: We're bringing a bank of questions to where it becomes thoroughly fair for every candidate to take a test and become knowledgeable in the field specifically with a civil code focus. A lot of parishes don't focus on the areas that they should be focused on.

Mr. Maurice: So the state is going to tell the parishes what they should focus on, is that correct?

Carvel Sims: I agree with the committee that there should be a bank of questions. The problem is that as long as the committee is kept local, then the question is going to be not how fair is the

question, how fair is the answer, and how fair is the grading, and I've been subject to that attack for twenty years, and fortunately I keep such a low profile the attack is very insignificant, but the point is I think they're right in the sense that there should be a bank of questions. But as long as you have local control without any review process of the district judge, there's nothing you can do. But also to answer your question, there are already five classes of notaries. Attorney notaries who have powers statewide; non-attorney commissioned notaries who have powers only in their local parish and reciprocal parishes; clerks of court and their deputies who have the same powers as commissioned notaries but are not commissioned notaries; justices of the peace who have notary powers but are not outside of their local jurisdiction and also don't have full notarial powers for immovable sales and things like that; and ex-officio notaries. So you have them already. And the problem is that the public doesn't know it, the public is not protected, and many people have said "oh, within the hospital I'm a notary" and do car titles, when in actuality all they can take is an acknowledgment of paternity. You have five classes and I think we ought to do away with it.

Mr. Maurice: Either that or are you going to make justices of the peace take a notarial exam?

Carvel Sims: They are encouraging them to and they are trying to get them to, but many of them cannot pass it. I've had them complain to me.

Mr. Maurice: How could you force them to do it?

Carvel Sims: You can't force them. You can encourage them. But the problem is if they can't pass, and it is a rigorous exam in this particular parish, East Baton Rouge, because I'm on the committee and except for two years I have been for about twenty years. But I do feel it's a fair exam, but very rigorous.

Mr. Maurice: But if you can't pass it you shouldn't be a notary.

Sue Dier: Mr. Maurice, I'm Sue Dier, nice to see you, I'm glad you attended this morning. In an answer to your question, I know of several parishes where people just go in there and they say I want to become a notary, and they give an exam just whenever they get enough people, it's a very simple exam. In one parish I know of several people from that parish, they go in on that Friday, the attorney gives them a list of questions and answers, tells them to return Monday morning. The test is maybe two hours. He tells them they can do nothing but bills of sale on car titles and simple affidavits. In my parish, Livingston Parish, it is now a 4 1/2 hour exam. My notary preparatory course is 3 1/2 months. We use the civil code and the revised statutes, and when these people take the exam, we've had six that passed the exam in the last five years. Just to note, Jo Landry behind me here is one of those six. You know your stuff when you pass the exam. It is one of the toughest in the state. This is my problem regarding the bank of questions. For instance, on the exam, the question was "how much should a notary charge to notarize an application for a driver's license?" Well, that's repugnant. It's silly. There's no sense in it. How many years in prison would a notary get for representing a client in a court of law? What's the answer to that? Notaries can't represent in court. This is the point I'm trying to make: all they're saying is, if each parish was required to base their exam on a bank of

questions and so many questions would be required, say, for real estate, wills, etc. etc., then we would be on a more uniform basis and the notaries would have to know their stuff. The examinees would have to know their stuff, just like you said, if they can't pass the exam, they don't need to be a notary. But if you just ask ten questions and you become a notary and in my particular parish, there are 800-900 deputy clerk seals given to people. We're trying to reverse that now. You would not believe the stuff that goes on in my parish. And a stop has got to be put to this.

Mr. Maurice: I still don't see a groundswell of complaints against the notarial system as it is now. Again, the Secretary of State's office would have been inundated if there was such a groundswell of incompetency and corruption.

Cynthia Cotten: The Secretary of State has no regulatory powers. They've not been given any by the legislature.

Mr. Maurice: You don't think they'd be notified, since you keep track of all the notaries?

Warren Ponder: Not necessarily, Mr. Maurice, but we would not necessarily be notified if there was a problem with a notary. It may be strictly local. Again, we did not start this study committee, we are responding. What I'm telling you is that, if there was a problem, apparently some of the legislators thought there was a problem to at least examine the way we do things. And we didn't start this, it wasn't our problem, we didn't run to them and say we've gotten a lot of complaints and we need to study this thing; that's not the situation at all. But apparently someone thought it was necessary for the notaries to start looking at this situation to see if any changes need to be made. I hope I made it clear from the very beginning, we may end up saying no changes are necessary. We appreciate your participation today and I hope the committee will note the opposition that you've expressed to the statewide commission, especially, I think is the main thrust of it.

Mr. Maurice: Well, that's about all I've got to say here today, and I appreciate the opportunity to speak.

Witness Testimony by Kathleen D. Bondio: I'm a commissioned notary since 1986 in the parish of Jefferson. I agree with standardized testing and the bank of questions. We do need to do something to maintain our powers and duties. Some of us, probably the majority of us that are here, take the time to have continuing education and take the time to keep up with the civil code. However, in these tests in a lot of these parishes, the people don't even know what a notary is after they finish taking the test. They don't do wills because they were told they couldn't. They don't do real estate transactions. They have no knowledge of how to do a title transfer. They're scared to death to do anything, and they think it's just a seal for signing their name and attesting to somebody's signature. In the state of Louisiana, a notary is far greater than that. It's for the common people. We're the scribes. We're the ones that need to protect the guy that needs a contract drawn up or needs a will done and doesn't have a lot of money. We need to have the knowledge, and it shouldn't matter what parish you get your commission in, you should have the knowledge of the civil code and the knowledge of how to prepare

documents. The only way it's ever going to be fair is to have a statewide mandatory test. Whether you do it from a bank of questions or you have one test, and you pass or fail. I agree with the standardized testing. I also agree with mandatory CLE because the law changes every year and we have to keep up with it. They have people still calling power of attorney a power of attorney instead mandates, because they never got the code, they never kept up. I want them to keep up because I take pride, and the people that I service, they need to know that no matter what notary they go to, they're going to get the same quality.

Witness Testimony by Cynthia Traina: I am commissioned in Orleans Parish and also one of the instructors for the notarial course for the University of New Orleans. I've been teaching it since 1990. First of all, just to clarify, I do support the concept of standardized testing in the sense that there be some mechanism for designing a test bank of sorts. Obviously those of us who teach the courses have developed or acquired over the years a volume of questions from various sources such as students who provide us with questions they've gotten from anonymous sources. It varies - we get them from the parishes, some have been kind enough to submit certain types of test questions, including Orleans and Jefferson, the parishes that I deal with for instruction purposes, mainly focused on Orleans, Jefferson, St. Tammany, Plaquemines, St. Bernard, St. Charles, and St. John. I cover a pretty large area. I'm looking at the report that was done here, and the question would be, and it's probably directed to the Secretary of State because that's where the concept is being developed, the standardized bank or maintaining this. I appreciate your concept behind this, that the various parishes throughout the state would submit to the Secretary of State their set of questions, and from that there would be a test bank developed, and they could then take from that test bank, and only from that test bank, those questions and they would submit answers as well. That would support the fair and uniform idea. I think that's fine, but who would be responsible for monitoring the questions, particularly the ones I know we're all concerned about, and that is questions that are on the notarial exam that relate to attorney practice and notarial work. Questions that have to do with litigation in court, questions that have to do with handling matters that are strictly matters involving attorney practice, versus notarial acts. Who would be responsible for maintaining and/or siphoning through these questions, and determine what is an attorney-derived question and what is a notarial-derived question? I'm going to defer to the Secretary of State because they're probably the ones who can answer that.

Warren Ponder: I wish I had a good answer. This is going to be one of the problems, I have a note in here for closing remarks, whatever suggestions we make to the legislature, we're going to have some problems with it, we're going to have some questions for the legislature to answer, or for this committee to answer, or for another committee to answer, as to exactly how this is going to be implemented. I think at the last meeting I jokingly said that if we make a recommendation to the legislature that mandatory notary education is going to be required but the Secretary of State is going to pay for everyone to complete this somewhere in the Bahamas, I think we're going to have a serious problem with that. We're going to have to work through some of these and certainly we welcome your suggestions as to how this should be maintained and at the proper time, we will have to make a decision on it.

Ms. Traina: I can appreciate some of the problems that perplex the committee in dealing with

this questionnaire, and although I kind of support the idea that, although it may not have been feasible, that the Secretary of State should have generated a questionnaire out to the notaries because we're with the university and we didn't even know that this committee was being put together, but for an accident. We are completely 100% involved in instructional and educational programs and we weren't aware that this was going on until recently. However, I think even though you did not get that poll, the consensus of non-attorney notaries, if that was the group you were doing to direct it to, I think even attorney notaries, if they were to vote and make a decision or have their input involved, would look at the concept of yes, there should be some kind of standardized questioning. I don't think the lack of notice to all the notaries would change the outcome. I've been teaching this for over ten years and I think personally they would all agree. That's the biggest complaint I get from my students. But I would like to address something that will never, I don't think, be resolved, and that is the ability to standardize it the way that you have envisioned. That's the fairness you would refer to. It's going to be as fair as you can absorb the civil code in sixteen weeks. Many of my students come into the class have never even opened the civil code. On the other hand, there are people who've been doing work in some form, whether it's working with a title company, working in banks handling mortgages, working in real estate offices doing title transfers, working in auto title transfers, working in notarial offices that do all kinds of affidavits and forms. The problem that you are going to have is that the notary's function, first of all in reference to line 12-13-14 of your report, you refer to questions being permitted relating to local customs and rules of court. The notary's function is, although limited to a jurisdiction, is a statewide function. It's pursuant to the civil code, and it's applications are found in the civil code, and local customs, either you understand the civil code and the practice of functioning the acts upon a notary, or you don't. The local customs kind of threw me as to the application, because if you are examined and successfully pass, you are given an appointment through the governor with the senate's approval, and this becomes your license for life. That is something I'd like to point out, it is an appointment. Non-attorney notaries are bonded upon that appointment, and that is a form of regulation, in the sense that your acts, if there were any conduct in question, and someone was to pursue some type of litigation for your acts, that being a non-attorney or attorney notary, and they proceed to go before a court and question your activities. We're bonded, attorneys can carry their malpractice insurance so they don't require a separate bond, and those remedies are remedied by the court in the jurisdiction in which you hold your commission, and that, I believe, applies to the attorney notaries as well. Several years ago, I believe it was in the early 90's, when they amended the statute to allow the attorneys to have a statewide commission, that was not always the case. Even attorneys were limited to a jurisdiction, and it's because of the premise behind what the notary's acts are. The concept, obviously foreign now, is that you know the person who comes before you, most likely, and it was a local jurisdiction when you go back to that. What you're going to ever get around is local control, because of the concept of the notary, even prior to it being statewide for attorneys, because of that you're going to have local imposition of questions. Even if they throw this on to a test bank, they're still, as I see that you proposed, going to be able to pick and choose, and it seems that they'll probably pick and choose their own questions, if it's their option. Unless there's someone going to actually regulate the questions, filter out those which, I personally agree, should be filtered out relative to attorney. If I'm from the parish of Orleans and I submit a test bank of questions to you, and no one's regulating which questions I can use, I'm going to use the same questions I submitted to

you. I don't know if it's going to accomplish what should be done here, and that is some form of making sure that we're not having questions on the exam related to practicing law. That is the most difficult task I've had as an instructor, in preparing my students. I have students constantly come back and tell me the questions didn't even make sense, they were attorney questions, and all I can do is handle that locally with the testing committees to say, gentlemen or ladies, if you're going to proceed and continue to ask these questions, you're going to be challenged in the court, these students are going to start doing that. They're going to start wanting this information because you're going beyond, and that's the only method of regulation I've seen so far. I support your idea, I wish I could come up with a concept to regulate it too, but unless it's going to be the Secretary of State, it's going to be difficult if not impossible, and then as instructors, it's going to be the same thing we've had for all these years, and that is we're teaching the civil code but we can't tell you exactly what they're going to put on the test. The question I heard before, somebody mentioned that the comments came back, I believe it was Ms. Hilker, about being unable to say if that's going to be covered on the test. I have had to say that to my students quite often. Because I don't know, if, out of the civil code they're going to ask a question related to succession, or if three quarters of the exam will be about succession. That's my only question, really, is how would you monitor and how would we do this, so that we could in fact generate a fair set of questions for the students to be prepared for.

Alan Jennings: I wanted to address Cynthia's comment. We footnoted a possible scenario. We want to be real careful not to say as much about how it should be done, because we don't know. We know we have to mold and formulate this, but footnote 6 was one of those scenarios. To try to keep it with the court in some way. Some things didn't get developed in this report. There's a science to writing this sort of thing and I understand that, and I'm not one of those scientists, but the notion that the courts could maintain some control and could establish some uniform standards within the development of the question bank, and make standards that, on any test given, there shall be certain coverage from selected areas that are defined in a standard adopted by these courts, whether legislatively mandated or voluntarily. Our wish is to say that we think that the current authority over content should come from the courts, they could probably do a better job of standardizing the content a little bit. If you're going to publish the questions anyway, and the answers, so that everybody knows what might be on the test, all 2000 or 3000 of them including any local questions you might want to ask in your area, then administration. It starts to say, by adopting a standard bank of questions, we're almost de facto setting the standard for what you have to be to become a notary. Other parishes would begin to look at it as "Oh, you can do that?" Some parishes don't think you're supposed to do some things. We didn't want to suggest that it go to the Secretary of State to do this, we wanted to suggest that the courts might want to figure this out and maintain their control over the authority over the examination content. By nature, developing standards means that various courts in parishes have to kind of figure out a way to pool their existing efforts.

Cynthia Cotten: At this time, we want Subcommittee #2 to submit their reports on Mandatory Continuing Education. We'll take the majority report first. Mr. Stallings, are you going to represent that committee?

Glenn Stallings: We would submit the report to you and I'll reserve any comments until after

comments and questions are made.

Cynthia Cotten: You want to summarize it?

Glenn Stallings: Basically, as you can tell from our report, we held approximately thirteen meetings across the state, made several hundred phone calls, received emails, one-on-one contacts, letters, etc. The general feeling that I received and that the other two committee members reported to me that were on the majority report of the Mandatory Continuing Education, felt that the general public as a whole was not for the idea of MCE, but very strongly were for the idea of continuing education, and felt that there were a number of means available out there to accomplish that.

Cynthia Cotten: Is there any comment?

Paul Bello: I have some questions after going over your report. The committee didn't really have a chance, as a committee, so we didn't actually meet as a committee. You have list of your thirteen meetings. Were there two or three meetings in Baton Rouge?

Glenn Stallings: Two, that I recall

Paul Bello: I was at one of them, that's why I wanted to ask if there was another one that I wasn't aware of. According to my notes and my participation at one of those meetings, it seemed to me that most of the people at that meeting were in favor of a continuing education requirement. I would contest the characterization of both the Baton Rouge meetings being against MCE. I also contacted and touched base with people in Lafayette and Opelousas areas, and they feel that - let's go with Opelousas first. When was that meeting, was that the meeting of the committee that you were alluding to that no one came to?

Glenn Stallings: Yes there was a committee meeting and also it was the publication to take testimony from those that wanted to give their opinion.

Paul Bello: So was there a meeting in Opelousas, or not? And how many attended?

Glenn Stallings: I believe there were only two that actually showed up in Opelousas.

Paul Bello: And that would have been who, yourself and ...

Glenn Stallings: I was there, and Walt Brunty was there, and two people from the public.

Paul Bello: From that you get the impression that the Opelousas area is against MCE? Because I get the opposite indication from the notaries from the area, that in fact they are in favor it. In Lafayette, you also characterized as having a feeling against MCE; about how many people were at that meeting, if you recall? I wasn't there.

Glenn Stallings: I don't recall.

Paul Bello: Were you disappointed by the participation? Was it more than ten, less than 10?

Glenn Stallings: That's an excellent question, Paul, because I was disappointed in the participation in all the meetings. From the number of notaries we have throughout the state, and for the publication of the information given out that the meetings would be held, the turnouts were absolutely horrible.

Paul Bello: So these majority feelings really, you don't mean to characterize by this that the majority of notaries are against MCE, you can't really make that statement based on these meetings, can you?

Glenn Stallings: Actually, from the number of people that I've talked to, which probably comes close to 400 at this point, the general feeling was yes, they were against MCE, but for continuing education.

Paul Bello: What do you mean by the feeling, how many? Do you have any hard numbers for me?

Glenn Stallings: No.

Paul Bello: You said you made about 400 phone calls. But you do agree that most notaries think continuing education is in the best interests of notaries and the public, your report says. Going further down in your report, you make three reasons people gave you for being against MCE. One reason you said they are against MCE is that everyone seems to view being a notary as being a profession or a job, rather than as an appointed official to the state performing a service to their constituency in the area they reside. I have trouble assigning that as a reason for being against continuing education. What does that mean, with regard to a reason to being against continuing education? It would seem to me that most people view being a notary as a profession that they would be more inclined to consider MCE is needed. How is that construed as a reason, #1 specifically and literally how is that construed as a reason for being against MCE?

Glenn Stallings: As we consider the fact that each one of us is a public official, and that we do not do notary work as a business or a profession. We have to then consider that we are not like a barber or anyone else that we can consider. We function as a public service, and therefore we don't have mandated or required educational requirements at this point. Most people felt like although they wanted to keep up with the profession, particularly with the civil code, they did not want to be mandated to have to go out and take certain hours or certain types of training. They wanted to be able to and take the kinds of things they wanted to. As a result of that, basically what we were trying to say here is that most people really aren't looking at this as a profession or job. As a matter of fact, probably 95-plus percent of notaries out there don't make a living or even a part of a living out of serving as a notary. This is not a profession, not a business.

Paul Bello: That finding that you just expressed is exactly opposed to #1 in your report.

Glenn Stallings: That does support the reason as to why we don't want to take the MCE.

Paul Bello: I think it supports your opinion.

Glenn Stallings: People told us, as we talked to them...

Warren Ponder: Mr. Bello, excuse me, I don't mean to interrupt any discussion of any of this, but in fairness of Mr. Stallings, I believe these are reported as things that the people that he's talked to, as opposed to continuing notary education, and gave these as reasons, not necessarily Mr. Stallings reasoning on this subject. These were the reasons that the people that he's talked to gave him. I'm not sure he's in a position where he can defend what they told him was their reason for opposing it. I've quickly read down, obviously cost is going to be a big factor if MCE is going to be imposed by the legislature. Cost is going to be a factor on a lot of the notaries and that is going to have to be addressed, by somebody, either by the legislature or by the individual notaries. There is going to be some cost associated, even if the seminars are free, there will be travel cost and down time from your office or whatever profession you're in. I didn't want to stop the discussion, but in fairness I think this is the reasons that were given to Mr. Stallings.

Paul Bello: I just wanted to underline the fact that #1 of the general reasons that people gave for being against MCE -I'm just trying to find a way to understand how that's connected with opposition to MCE, and why it actually runs cross-current to the last line of the report, which says that notaries are a public service appointment, not a profession, which seems to be exactly the opposite of what people reported to the committee. Of course I agree with you, the cost of keeping up certainly has to be considered, except in the context in this way, however, they say that the cost will be about \$150-300 a year. I'd be interested to know, and I know it's hard to get these kinds of figures, just the notaries who are in the regular practice of the profession and are contributing to the public good by serving as notaries in their community, particularly rural communities. It would seem that \$300 a year at prevailing fees, that's 30 simple signatures a year, it seems like if a notary is operating out of public duty only, rather than as a for profit business or a profession, it seems that it would be pretty easy to recoup that \$300 a year if you're not interested in making a living at it and only interested in assisting the people in their community in simple matters such as that. I also have a comment to make, the report indicates that almost 95% said continuing education is important, basically it said 95% of people are receiving continuing education now through local notary organizations. At monthly local notary meetings, there's usually 45-60 minutes of education offered and it doesn't cost the notary anything above their normal membership fees. I think that's one great way to make sure it's provided. I don't believe that 95% of notaries are taking advantage of that kind of a forum to receive continuing education. I think it's pretty much an established fact that 95% of the notaries in Louisiana aren't.

Warren Ponder: Mr. Bello, I just want to point out, it says more than 90% of the people contacted said that continuing education is important, not necessarily that 95% of the notaries

are taking advantage of it. Mr. Sims, I know you are an attorney, the Mandatory Continuing Legal Education was imposed on the bar after you became a member of the bar association, and the continuing legal education was offered long before that, by way of seminars. I would be interested, for my own edification or maybe for the edification of the committee, in finding out how many notaries participate in continuing education on a voluntary basis, and at what cost, statewide. I think that would be an interesting question for this committee to look at or find out, and if the legislature imposed the MCE, I wonder if that would go up or down. Does anyone have any thoughts on that?

Carvel Sims: I can give you personal information. I worked with Mr. LeBoeuf before his death, he had The Practicing Notary, which participated by giving a lot of continuing notarial education, CNE, he called it. He averaged right at 100 people at each seminar. It was lower at first and built up. Right after 911, he still had about 60-70 people that attended that seminar, within 30 days of that or so. We found that, regarding the average cost, about the limit you can charge is somewhere between \$99 - \$129, for a late registration. The most you can get in is about 6-8 hours of education in one day, comfortably. People traveled from all over the state to attend his seminars. I was privileged to guest lecture at all or part of them. They do not want MCE. They are very happy with the voluntary ability. We found that it's going to run approximately \$100 per day, not including your cost of travel and overnight accommodations, to attend seminars. So to get 12-15 hours is going to cost no less than \$175 for a two-day seminar, to a maximum of about \$250, depending on what some of the other organizations do. There are differences between seminars and workshops. Workshops are hands-on, which I know Sue Dier really enjoys and she's excellent at it. The things that she said attorneys tend to favor is the lecture, which is the lecture, which is the seminar without the actual hands-on filling in forms. Both are valuable, I think. But I can see where, according to my calculations and my database, I have about 20,000 to 25,000 non-attorney commissioned notaries in my computer, that I have weeded out from the Secretary of State's database and all the sources of information that I can get to. I can see that at 20,000, a MCE of about \$200 for the actual schooling and not including any related travel and hotel accommodation expenses, are going to raise approximately \$4,000,000 a year in revenues for the people who teach these courses. I have been privileged to guest lecture for Ms. Hilker at times. She has a wonderful organization. They do an excellent job, they do it quite reasonably. The process of getting all this approved for continuing notarial education credit is going to be a problem. I don't want to go into Subcommittee #3 yet, because that is where you talk about regulation. Right now the regulation is parishwide. I happen to have an email address of an attorney at "notarypublic.com". The gentleman asked how many people were associated with an organization, and the answer is there are approximately 4.5 million notaries in the United States, and I know that "notarypublic.com" has over 20,000 members, between 20,000 and 30,000 at the last check. That is still a drop in the bucket, but in every other state the chief notary official is the Secretary of State, and they are charged with the enforcement of the standards for notaries, such as disciplining, suspension of commissions, and so forth. Whereas, in Louisiana, it's done on a district judge level. There are problems there. My personal feeling is that everyone I speak to is either a notary or a notary student. The notaries don't want MCE unless they're associated with organizations that would benefit or profit from that, by making it mandatory. They all want voluntary education. They want it, they love it, they lust for it, almost, because they need it. But

to make it mandatory, then you have to pick and choose. I suppose it's like a doctor who has restricted his practice to noses, having to go in and pick mandatory education and if that year they happen to be teaching about brain surgery, well that's what he takes. I suppose you could then say, well if you're generating \$4 billion a year in continuing education, there's going to be a lot to pick and choose from. As an attorney, I know that "last chance" seminar which is in December, is followed by the end of the year between Christmas and New Years, so last chance isn't the last chance. I hate to see us get caught in that same thing. The cost for an attorney is just a little bit more than that of the cost of what it's going to be for a notary, yet the fees are nowhere that.

Cynthia Cotten: Asks that the minority report of Subcommittee #2 be officially submitted. In essence we are discussing both things, and I didn't want to not have that on record. Then we'll continue the conversation. Mr. Estes, you're next and then Ms. Dier. Mr. Bello, please submit the report.

Paul Bello: I'll go ahead and officially submit the minority report of Subcommittee #2 on Mandatory Continuing Education. (begins reading the report)

Cynthia Cotten: asks that the report be summarized.

Paul Bello: Basically, the general information that we gathered, we found that overwhelming support exists for a single standardized statewide notary examination. We find that most notaries favor continuing education and we find that support for MCE is strongest among notaries actively engaged in the profession, and weakest among notaries with little or no activity. We also found that in rural areas, there's a need to insure that any mandatory program provide continuing education courses which are inexpensive and do not require travel to urban areas far from home parishes, and of sufficient variety to allow notaries to take only courses which interest them, or which address only areas of limited practice. We also find that most notaries believe that there should be at least a minimum of monitoring and enforcement in order to safeguard the profession and maintain standards.

Mr. Estes: I represent the Professional Civil Law Notaries Association of North Louisiana. I have been requested by our membership to speak for them at this meeting. We have 100 members, and at our meetings we have from 30-38 people that attend. We do offer continuing education at every single meeting of the year, of which there are 11; the 12th month we do not meet. Without exception to the membership in our group, they are opposed to MCE, and they ask that I bring that message to this hearing.

Sue Dier: I want to respond to Mr. Bello's objection to the majority report of Subcommittee # 2 on Mandatory Continuing Education. The reasons people gave for being against MCE - just to clarify Mr. Stallings' report, I believe what has happened here is that it was just misstated. I believe it's just written wrong. I believe that everyone seems to view being a notary as a professional job. I believe what they're saying is, and this is what I have gotten from several people, that they consider themselves licensed, they use that terminology, licensed, but then they say they're appointed by the governor, it's a lifetime commission, so it's not really a job or a

profession like a barber, massagist, beauty shop operator, or whatever. I think it's just misquoted in item #1. About the objection to the majority feeling in the Baton Rouge meetings, I attended one, the other one, unless you are talking about the one that was held here, I attended both of them. I did chair one of those meetings, and from the sense I received and my personal survey of notaries within a 4-5 parish area around East Baton Rouge Parish, talking with them and a personal survey that I did on my own, the majority of the ones that reported back to me were against MCE. All of them were for continuing education on a voluntary basis. I want to Mr. Maurice's question. I do belong to the LNA. I think our membership is about 1200 at this time. Just to make a note: we talk to many notaries through correspondence, email, on the phone, and at meetings. We could have talked to 2000 in this state, which we possibly did, which, as Mr. Sims said, is not a drop in the bucket, and we're just talking Louisiana notaries. Because it was not feasible for the Secretary of State's office to individually contact each notary on an individual basis, many many people throughout the state had no idea this is going on, and many I talked to found out by accident, even though there were public notices in the paper, the associations notified their members and as many non-members as they could. Of the many notaries in this state, the few that we have talked to and met with, the majority do not want MCE. So if the majority we talked to and met with, and that's just a few compared to the total number of notaries in this state, I would feel like the majority of commissioned notaries do not want MCE. On another subject, all we talk about is commissioned notaries. We don't talk about all these other four designated notaries, and my personal feeling is if one notary should be required to do MCE, all notaries should be required MCE. There are three classes that don't even have initial education. I wanted to clarify my findings in the objection to the Baton Rouge census, I did not attend the other meetings in the other towns.

Glenn Stallings: I was just looking over the report and I couldn't understand why Mr. Bello couldn't understand #1. Obviously I'm a buffoon and I made a big error in typing this. After the word "notary" belongs the word "not". I apologize for that, I made a couple other typos also, I've noticed. Apparently I'm too good at preparing written reports. That's why it doesn't make any sense.

Paul Bello: I just wanted also to enter into the record. I have about 50 or 60 emails from individual notaries who made statements supporting MCE, and I also wanted to note that the Louisiana Bankers Association has also supported MCE for notaries. They feel it's very important in the area of mortgage lending, that notaries keep up. I also have a email from Robert Taylor from the Louisiana Bankers Association expressing his support for MCE.

Warren Ponder: Mr. Stallings, let me point out, as a very poor typist myself, I do not consider you a buffoon for typos.

Carvel Sims: How many here are attorney notaries? I know I am, I know this gentleman is, Mr. Ponder, you are, I presume, and Mr. Lomeli is, by virtue of the way his system is set up. We have our mandatory continuing education, and I can tell you that none of it touches on notarial topics, generally. My only feeling is, while notarial education is excellent, mandatory is not necessarily going to serve any purpose.

Alan Jennings: I wanted to note a statement in Paul's report that led me to analyze my survey data in this file, and there may be one of those "nots" left out of that report, but on the second page he says "two surveys conducted in March and May of 2002 and released on July 12, 2002 by the Louisiana Notary", a publication I write, "returned nearly unanimous, mostly unqualified support for MCE". That was not the sense that I had when I read the material, but I had not analyzed it. I had collected all those things up and stacked them up and sent them to you and hoped that the committee had access to the raw survey responses. When I read that, I wanted to be sure that I hadn't misunderstood what I had read, so I counted everybody, and I put a list in here of the names of the people that responded, and there's two surveys. If you find these actual survey responses, they're available on PDF, if I made some mistakes in my hurry to get all this ready, feel free to tell me that's what's out there is not lined up right in the right columns on this report. The bottom line was a sort of 38-26 split with eight people that might have said yes but might have meant no. I didn't attempt to analyze it, I attempted to give you a summary of it. I hope that you'll look at it yourselves to clarify the results for yourselves and just look at see.

Witness Testimony by Kelly Paliaro: Orleans Parish commission. I am for MCE. I am for that because our positions are to benefit the public, not necessarily to benefit ourselves. Regardless of how much work we actually do, when the public comes to us, we're supposed to know what we're doing. For them to have confidence in us, without any type of MCE, we'll depend on the age of the notary and when they took their test, and the last time they actually reviewed the books. That's the main reason that I'm for MCE.

Cynthia Cotten: Next we have Subcommittee #3, Monitoring and Enforcement of any Standards or Requirements, we have two members here, Mr. Sims and Mr. Estes, who are members of that committee. I was not given a report, do either of you have a report to officially submit?

Carvel Sims: I do want to apologize to the committee. Due to my ill health, I don't know if anyone has noticed but I've lost 80 pounds, I was out of work for about two months. Mr. LeBoeuf, who was also on this committee and was going to help me, died on March 24; he was associated with my office. I have talked to a lot of people. I have been getting information from the websites of other states, because this is what I think is important, and I brought this out earlier. In Louisiana, the local district judge is charged with the enforcement of the notaries within their jurisdiction. In all other states, it's the Secretary of State. I'm not saying that this is something that needs to be shifted, but the designation and problems that I see in monitoring and enforcement of standards is #1, we need to know who is, in fact, a notary, #2 whether or not they're current with their bond, #3 whether or not they need a bond, and #4 what type of status they have. As I said, there are five classes of notaries and the public is not aware of this. That's why I'm not in favor of creating any type of notary, other than either a notary or a non-notary, because of the problems with the public perception of this. What we need to do is actually get together with the Secretary of State's office and look at proposed legislative changes to give strict enforcement standards. Right now you can only remove a commission from a notary for failing to turn over, under Title 35, money entrusted to him, failing to pay a

judgment entrusted to him as a notary, or any just cause. I think we need to elaborate as to any just cause, conviction of a felony, and so forth. I think this is more of a legal problem. We can get around a lot of the different classes of notaries by eliminating ex-officio notaries by seeing the feasibility. This has been proposed to me by different people and I have thrown out there and they seem to have a big advantage, they would like to see unsworn statements under penalty of perjury. If you do have that, then you eliminate the need for ex-officio notaries. In almost all cases, these are sworn statements to be offered in administrative hearings and to be offered in different procedures with the court. If the courts would change some of the procedures and laws which would allow for unsworn statements under penalty of perjury, and the federal government has moved to a lot of this too, then we will eliminate almost entirely the need for ex-officio notaries. The justices of the peace are a under separate system in law and they have their own mechanical seals. When they put on there "justice of the peace", while the public doesn't know, anyone dealing with them does know they're a justice of the peace. The only problem that you have, which Sue Dier brought up, is those clerk of court seals, and the answer is that, since the clerk of court is in essence an ex-officio notary, if you would put down on ex-officio notaries a requirement that they either have a mechanical seal, or give them a type of commission number that began with "X", then you would know that they would need an expiration date. So that even if they have a clerk of court seal, it would automatically expire with the termination of the clerk of court's elected term. So if you gave ex-officio notaries "X" numbers, justices of the peace "J" numbers, clerks of court "C" numbers, commissioned notaries could be given just a number, and attorney notaries could be give "A" numbers, for attorney. You could easily differentiate and then people who get this act would know immediately the status of the individual. You could require that it be put on a mechanical seal or that it be put on each document. The elimination of the different classes of notaries would solve that problem by getting rid of the ex-officios. I personally spoke to the new clerk in your parish (Sue Dier, Livingston Parish) immediately after he took office. He is aware of it, they're out there rounding them up, they're taking them in, they're trying to correct it. However, I don't want to disparage Mr. Patterson's name who was the predecessor who's now deceased, but I believe that possibly it was two things: one was political to help keep him elected, but more importantly, other than that, there were no notaries that were non-attorney notaries in that parish. That is a problem, and Mr. Jennings addressed it, because if there is a bank of questions, even if they're not mandatory, it is good because then you have something to draw from.

Warren Ponder: Mr. Sims, let me ask you, are attorneys getting the letter "A" a la Hester Prine? Is it that kind of letter? Can I ask you, sometime between now and the next meeting, to prepare just a short one-page draft of the problems as you see it, so that we could at least distribute it among the committee members, and have something to discuss? Obviously this is not as critical, at this juncture, to have the report from Subcommittee #3, but I certainly would like to have something in the file that we can work with. I think it's obvious to me that we have some very strong feelings on all of these topics, and of course from the general public too, and that we have a great deal of interest. I would like to have that report if we could.

Caravel Sims: I will do that, now that my health is mostly good.

Warren Ponder: Congratulations on the 80 pounds. I don't want to go through what you did to lose that weight.

Sue Dier: Just quickly, regarding what Mr. Sims said. This is true, at the present clerk of court is really doing a fantastic job. The problem is, so many notary seals were issued and there's no list of who received them, so they're still operating. The DMV office has been ordered not to accept any, but still some are going through. I wanted to make a note about the ex-officio notaries, possibly doing away with them - it's my understanding that clerks of court, years ago, were appointed deputy clerk notaries ex-officio, for the reason being that in rural areas there was a lack of notaries in the area, so they allowed the deputy clerks to be ex-officio notaries to notarize documents being recorded in the clerk of court's office. I would suggest on possibility is to let the clerk of court stay the deputy clerk ex-officio only, not be allowed to pass out any seals and do away with that, and maybe possibly one or two clerk of court employees going and taking the notary course and becoming commissioned notaries in each clerk of court's office. I see no problem with that. Possibly two or three, in case one would be out sick and they really needed a notary. In my parish the reason the sheriffs are issued clerk of courts previously was so when people sold cars at 1 or 2 o'clock in the morning, there was a notary to notarize the transfer.

Paul Bello: I spoke to Mr. Pratt yesterday, I know he intended to be here this morning and I think he has something written down that he'll pass around. Obviously something happened and he's not here this morning, but I'll make sure when I get back to town and I see him, I'll relay Mr. Ponder's request to him.

Cynthia Cotten: We heard from Mr. Pratt and he had a court appearance.

Witness Testimony by Normand Roy: I'm a self-appointed notary public, commissioned since 1972. That makes me the senior notary in the group, I think. I remember being commissioned when we had to take a four-tier exam. I understand in talking with several notaries across the state that Caddo Parish, among others, is one of the most difficult to obtain a commission. I remember when I got my commission, a dear friend of mine, Judge Boland, called me and said "I can't imagine a yankee passing the exam the first time, this is most unusual, you're not supposed to do that." I did pass the exam the first time, and it was at a time when you passed all four parts, and failure of one part constituted failure of the whole. You had to take it all over again. It is a difficult exam in some parishes, and in other parishes it appears that it's almost a "gimme." For that particular reason, I think that a bank of questions and a standardized exam, yet leaving authority with the local parishes, would be the reasonable thing to do, it would seem to me. It would eliminate the need for a statewide administration, and as the old expression goes, if the wheel ain't broken, you don't fix it. You only fix the wheel that squeaks the most, and then you try to put a little grease on it, to keep it running. For that particular reason, my opinion is that I really don't see any real need for any real administrative changes in the administration of our notaries public across the state of Louisiana. I believe that it ought to remain exactly the way it is. It's worked for over 150 years, and I think it could continue to work another 150 years if it's properly cared for, like everything else. Gee if everything else was properly cared for we wouldn't have any problems. We talked about MCE. My biggest

problem with that is that, in looking at MCE, while I really feel that continuing education is necessary, I'll make that fundamental statement right there, but a MCE on the part of notaries, especially from the smaller and poorer parishes, however prejudicially we want to address any one of these parishes, I think it would be difficult because some of the notaries that we have in the smaller parishes are really notaries in the sense that they might do an affidavit of fact or they may do a transfer of title, but more often than not, in a small parish where we only have 1500 people in the whole parish and 16,000 cows, those 1400 people are going to the parish seat and they're going to address their problem to an attorney, and they're not going to address it to the notary. At least this is what I glean from my conversations from other notaries in the small parishes. As Mr. Estes so amply stated, we have the notary association in Louisiana and we meet 11 times a year, he didn't mention the one time during the year where we have an entire day seminar offered to all notaries in Caddo, Bossier, DeSoto, and the cluster parishes that we are associated with. We are talking about \$300 plus the cost of transporting ourselves and putting ourselves up and feeding ourselves somewhere. You are talking about \$400-\$500. Someone said well a mere 30 notaries would cover the cost. But what if it's 30 notary jobs that the poor notary in Winn Parish does in an entire year? You just wiped out his paycheck for an entire year. With our professional organization, we charge a nominal \$15, we may go to \$25, annual fee, to cover the cost of mailing our newspaper and so forth. We're helping the Secretary of State save money because we're communicating to every one of our people. We also charge \$52 for that one-day seminar. We make certain the specific parts of the notarial duties are covered. We have one of the finest practicing attorneys in the law of succession, attorney Joe Gelso. He may speak two or three times a year. You couldn't get a better professional in the entire state of Louisiana to talk on the subject. We feel that our people are getting what we need with the efforts we have made in promoting a good civil law notary in Louisiana. We have even trouble getting a member over here, a concurrent resolution had to be passed to get him over here. There's been a lot of confusion with all of these meetings and so forth. I think that if we remain the status quo, and I think if we address the problems that we have, that they could be corrected, and those problems could be corrected with the present system as it exists today.

Wendy Hilker: May I just ask you one question, Mr. Roy? I think it might help out with some of the continuing education problem in your area. When you do your one-day seminars, do you actually try to get it accredited? Have you ever gone through the bar association to try to get some hours on it? They have very easy ways of becoming accredited, and I think that we're all trying to make us all work together and make it easy. There's nothing that anyone's said that you have to get your particular training from a particular place. If you look through, and I'm agreeing or disagreeing with anything, and I'm not taking a side on this, but if you look through the minority report for the MCE, Mr. Bello has included a copy of what it takes to get accreditation, and we're a very small organization, the Professional Civil Law Notaries in St. Tammany, we just came together as a group to try to get our local people up to par. When someone says to me, can you do something, and I busy or just don't feel comfortable doing it, I have a bank of people that I know keep up with their education, and that's sort of the premise for us being started, and that's why we keep our membership so low, so we can handle everybody's needs. We don't do this as a living, this is just a sideline. If you look at the requirements that are listed on here, it's something that we've all done, and it's something I think

that maybe could help you in the future.

Mr. Roy: I realize what accreditation is all about. I am a professional certified appraiser in real estate, residential. I'm also a realtor and I'm also a certified broker with the state of Louisiana. I'm perfectly clear and understanding of what continuing education is all about. Every three years, including my designation that I have as independent fee appraiser with the National Association of Independent Fee Appraisers, I have to maintain 75 hours of continuing education for all three certifications, every three years. I understand perfectly what it costs. My income is substantial enough to be able to justify paying for accreditation courses. I can tell you right now that my accreditation each year is over \$5000. There's no notary in the state of Louisiana that could afford a \$5000 accreditation fee. We certainly could give them a certificate, and we do give them certificates. On continuing education, I think it would be simply wonderful if we could retain two or three or four instructors, the caliber of Ms. Traina who testified earlier this morning, I think if we could have them as traveling agents to the various parishes, or clusters of parishes, it would be much easier and cheaper to administer an education seminar program. It could be done through our folks over here during the summer months who really need the extra income because now they're supposed to be on vacation.

Witness Testimony by Michele Fry: I think everything has been covered very well, and so many things were brought up. I run the P M Notary Service here in Baton Rouge, I've been active with the LNA since I became a notary in 1999. I'm one of those people who likes to join, I also belong to The Practicing Notary, and the American Society of Notaries, and I was very hungry for the information. I served on the LNA board last year for a year, and right now I run a little forum called The Louisiana Civil Law Notary. The reason why I mention those things is because while I was on the board of the LNA, I was privy to some information about how they try to contact new notaries. At every test, they're there giving out their pamphlets and brochures. Through their executive director, they've probably contacted every active notary in the state, letting them know of their existence, letting them know of their continuing education. When you contact thousands and thousands of notaries to get only 1200 members, you realize, and I'm sorry the gentleman left before I could make my comments, that it isn't that people aren't notified, it's that they don't act on the notification. I'd like to commend you all, I think you took a little heat for not contact enough people, you did issue public notices but people do have to pick up the paper to read the notices. On the forum that I started, just because of this thing, I became the moderator of a forum, and we've contacted hundreds of notaries, told them about the forum. I've passed out my little forum business cards, and I think in the several months that we've been operating, we have 21 people who are subscribed, and about 5 people who actually write things. We even have Mr. Paul Bello on our forum, they're ready to answer all questions, and there's very few questions really addressed to him. The notary needs to take the responsibility for not taking advantage of the opportunities presented. I'm very much in favor of standardized statewide testing and a bank of questions that could be drawn from. I don't know all the ramifications of how to do all of that, but I think it is absolutely essential that we protect the public and our profession by being professional and having some standards of how we become what we become. My test was very difficult, I passed it the first time out and I'm glad I did, but in all of my testing, I never studied the civil code. I was never told to open the book. I was basically taught to pass the test. I think that there's a lot of problems that we

need to address. I did not feel at all prepared to practice as a notary, even though I passed my test. I was very lucky that I had some good mentors, because I joined the LNA and met some notaries right away who were able to answer my questions. The one thing that bothers me, because I'm a retired school teacher, I was a teacher for 27 years, is not so much that the notary is lacking in knowledge of how to be a notary, but that the public is lacking in knowledge that their signature is their bond and the entire process of why the notary is put into the system for their protection is not taught to the public. I know that has nothing to do with what this committee is about, but I really want it to go on record, and I don't mean to besmirch the state, but in a way it's the state's responsibility to teach the public that they're living in a country where they have private property and that the way this is kept track of is through paperwork, and that their signature is their bond, and that the way that their signature is protected and proven is because we have this wonderful invention called a notary. Not even just a civil law notary, all notaries do this one very important function. One day maybe in years to come, we will discuss the responsibility of the state to educate the public, and not just to educate us.

Cynthia Cotten: Set the next meeting: August 20, 2002, in House Committee Room 2, 10:00 a.m. At that time, we will be, as a committee, voting on the reports.

Paul Bello: I want to officially submit, for consideration and discussion, my proposed revisions to Title 35 within the context of everything that we've been doing.

Warren Ponder: Once again, thank everyone for their participation and lively discussion. I've certainly enjoyed it, especially being nonpartisan in the group, I've enjoyed watching it. We do have some issues before this committee, and hopefully before the public. We're not finished yet. Don't everyone get laid back just yet. Given the discussion we had today, we still have a lot of discussing to do, not only within the committee, but obviously with the public in general. I encourage everyone to continue to notify all notaries public, whether it's in an association or just by email or website, however we can do it, get their input into all the things we've discussed today. Not only the notaries public, but also the public in general, even lawyers, we need to talk to lawyers about this kind of stuff, even though we the scarlet letter "A" on the numbering system. Talk about the problems that we're going to have and potential solutions. I encourage everyone to, as the present ad campaign says, "let's think outside the bun." Whatever we can do to solve the problems that we're going to face, is what we need to present to the legislature. If we don't present them, they won't get discussed, they won't be presented to the legislature. Thank you again for your participation.

There being no further business, the meeting was adjourned at 12:20 p.m. by the Chairman, Cynthia Cotten.

Secretary

HENRY J. SAUVIAC III
LIMITED NOTARIAL PRACTICE
P.O. BOX 640399
KENNER, LA. 70064

July 23, 2002

Honorable W. Fox McKeithen
Secretary Of State
State Of Louisiana

Re: House Concurrent Resolution #81

Dear Sir:

I am asking that this letter be hand delivered to you at the hearing pursuant to the above mentioned resolution of the Louisiana House Of Representatives and that this letter be entered into the record. I am a Notary with a full time practice in Jefferson Parish. Because of my schedule I am unable to attend the Hearing.

In reading the material collected by the study committee over the last year I fail to see the necessity for any material change to the current Code.

Statewide testing. This idea seem to be the only one with any merit. Only if each parish can draw from a library of questions compiled by the Secretary Of State and those questions are used by each parish to administer test to applicants. Keeping control of the testing and grading on the parish level.

Continuing education. Continuing education is available now through the Louisiana Notary Association. To make continuing education mandatory for Notary Commissions will create an undue burden on the Secretary Of State's Office and the cost to the taxpayers of Louisiana would be an unnecessary expense. In all the data and testimony gathered by the study committee there is not one scintilla of evidence that there is a problem with the competence of non-attorney notaries. If a problem did exist the Secretary Of State's Office would have been flooded with complaints. The dockets of the courts of Louisiana would have been jammed with malpractice suits and this study would have reported those statistics to you. If there is no evidence of a lack of knowledge by the practicing notaries, why would we go though the time and considerable expense to fix a problem that the evidence suggests does not exist? I might suggest that changing the law

might create a situation in which the public would be less served. Taxpayers money would have to allocated to create a body within the Secretary Of State's Office to oversee the continuing education. Employees would have to police the continuing education program to see that each notary would complete his requirements as required by the law. Many part time non-attorney notaries might not continue to practice and reduce the number available and thus some citizens might not have notary service easily available to them and with less numbers the cost for the notary services would surely rise.

Statewide notary commissions. Why? Are there rural parishes in Louisiana that are underserved? Have attorney notaries reported that they have been overburdened by request to travel to other parishes to give notary service to underserved citizens? If neither is the case why change the law? If there is no substantial evidence the citizens of Louisiana would be better served then it is our duty not to recommend changing the law.

Three classes of notaries. Why? No evidence has been collected that the citizen of Louisiana have been harmed by the current system and no evidence has come forth that a change would be beneficial to the citizens of Louisiana.

I know that some notaries who claim to represent the majority of notaries in Louisiana have all sorts of recommendations for changes to the code so as to increase their ability to invade the practice of law. I would say to those who wish to practice law the State Of Louisiana has provided for you. This state has several fine law schools and after graduation and examination you too can be admitted to practice law in Louisiana. It is incumbent on the Legislature not to allow that system to be short circuited by legislative fiat.

Respectively,



Henry J. Sauviac