



1           WHEREAS, this horizontal separation of powers reflects the understanding the  
2 founding fathers derived from both scripture and experience that sinful man could not be  
3 trusted to always be virtuous and public-minded; and

4           WHEREAS, the founding fathers did not want undue power to be combined in any  
5 branch of government where, if left unchecked, it could become tyrannical; and

6           WHEREAS, the Constitution of the United States does not permit Congress to  
7 delegate or confer any lawmaking power to any other branch of government; and

8           WHEREAS, no other person, agency, or department of any other branch of the  
9 federal government has any lawmaking power under the Constitution of the United States;  
10 and

11           WHEREAS, Article I, Section 7 of the Constitution of the United States establishes  
12 the only process by which a bill becomes a law; and

13           WHEREAS, this process requires passage by both houses of Congress followed by  
14 either presidential approval or congressional override of presidential veto; and

15           WHEREAS, any action by the executive or judicial branches that purports to enact  
16 law or that is treated as such is a usurpation of power; and

17           WHEREAS, federal court opinions and executive orders are often erroneously  
18 interpreted as law or to have amended the Constitution of the United States; and

19           WHEREAS, the principle of separation of powers is so innately representative of a  
20 republican form of government that it is upheld and reinforced in the Constitution of  
21 Louisiana through the establishment of three branches of state government; and

22           WHEREAS, when creating a federal government through ratification of the  
23 Constitution of the United States, the people and the states also designed a vertical  
24 separation of powers between the superior sovereign states and the inferior federal  
25 government; and

26           WHEREAS, a vertical separation of powers is explicitly articulated in Article I,  
27 Section 8 of the Constitution of the United States, granting to the federal government only  
28 limited, enumerated, lawmaking powers; and

29           WHEREAS, this vertical separation of powers is also incorporated into the Bill of  
30 Rights; and

1           WHEREAS, the First Amendment specifically denies Congress lawmaking power  
2 within certain listed fields; and

3           WHEREAS, the Ninth Amendment specifically prohibits the federal government  
4 from interfering with rights not expressly enumerated in the Constitution of the United  
5 States; and

6           WHEREAS, the Tenth Amendment, denies the federal government powers not  
7 delegated to it in the Constitution of the United States; and

8           WHEREAS, this vertical separation of powers is generally well known by the people  
9 and the states and was known and respected by the federal government for over one hundred  
10 years of our nation's history; and

11           WHEREAS, this principle has become increasingly disregarded in recent decades,  
12 as if the federal government were supreme in all areas and unlimited in its jurisdiction; and

13           WHEREAS, whether this shift was intentional or accidental, active or passive, it  
14 nevertheless finds no support in the Constitution of the United States of America, the laws  
15 of the United States, or the constitutions of any of the sovereign states and is an illegal  
16 usurpation of power and the unalienable rights of the people; and

17           WHEREAS, any federal action that violates either the horizontal or vertical  
18 separation of powers is void as the Constitution of the United States is the supreme law of  
19 the land; and

20           WHEREAS, the landmark Supreme Court case *Marbury v. Madison* declared that  
21 "a law repugnant to the Constitution is void"; and

22           WHEREAS, an act of Congress repugnant to the Constitution of the United States  
23 cannot become a law; and

24           WHEREAS, the provisions of the Constitution of the United States supersede all  
25 other laws; and

26           WHEREAS, in the 1879 decision, *Ex parte Siebold*, the Supreme Court ruled that  
27 "An unconstitutional law is void, and is as no law. An offence created by it is not a crime.  
28 A conviction under it is not merely erroneous, but is illegal and void, and cannot be a legal  
29 cause of imprisonment"; and

30           WHEREAS, in *Norton v. Shelby County* the Supreme Court stated that "An

1 unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no  
2 protection; it creates no office; it is, in legal contemplation, as inoperative as though it had  
3 never been passed"; and

4 WHEREAS, in *Miranda v. Arizona*, the Supreme Court further opined that "Where  
5 rights secured by the Constitution are involved, there can be no rulemaking or legislation  
6 which would abrogate them"; and

7 WHEREAS, as Thomas Jefferson explained in the Kentucky Resolutions of 1798,  
8 "whenever the General government assumes undelegated powers, its acts are  
9 unauthoritative, void, and of no force."; and

10 WHEREAS, Jefferson further added "but where powers are assumed which have not  
11 been delegated a nullification of the act is a rightful remedy: that every state has a natural  
12 right, in cases not within the compact to nullify of their own authority all assumptions of  
13 power by others within their limits"; and

14 WHEREAS, the Constitution of the United States binds federal lawmakers by oath  
15 to support the constitution, and when they fail to do so, the rightful remedy for states is to  
16 nullify their usurpations and to declare their acts void; and

17 WHEREAS, every constitutional officeholder must know and understand these  
18 important constitutional limitations of power and individually determine how best to defend  
19 the rights of the people and fulfill his or her oath of office; and

20 WHEREAS, President Andrew Jackson illustrated commitment to this principle in  
21 1832 through his veto of a bill to recharter the Bank of the United States; and

22 WHEREAS, President Jackson argued that the principle of separation of powers  
23 meant that no branch of government could claim the exclusive right to settle constitutional  
24 differences of opinion because each public officer swears to uphold the constitution as he  
25 understands it, not as it is understood by others; and

26 WHEREAS, President Jackson's veto illustrated the requirement that every  
27 officeholder must reach an independent judgment about the jurisdictional scope of the  
28 federal government and act consistently upon those judgments; and

29 WHEREAS, the Constitution of the United States assures the people and the states  
30 that their respective rights and powers will be respected by the federal government; and

1           WHEREAS, these sacred rights shall not be infringed upon by any action of the  
2 federal government purporting to wield any undue authority.

3           THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
4 affirm the sovereign right of Louisiana to nullify unconstitutional acts of the federal  
5 government.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Matt DeVille.

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DIGEST

SCR 21 Original                      2023 Regular Session                      Cathey

Affirms the right of Louisiana to nullify unconstitutional acts of the federal government.