PREFACE TO TREATISE

This volume’s title reflects an ambitious goal which it surely does not fully meet. What is presented is only a beginning in an attempt to present law (primarily of Louisiana) relating to the legislative process. It is written for lawyers and judges as well as others who are interested in or participate in the legislative process. It is not about the politics of legislation, although it is believed that knowledge of legal standards will aid in a better understanding of the political and governmental process.

The authors believe that the subject is one that should attract more attention in law schools, among the practicing bar and in the courts—as well as among those directly or indirectly involved in the legislative process. The purpose of the volume is to present to the reader the basic legal principles of the legislative process and many of the issues that impact upon the role of legislation today. An attempt has been made to present the issues in a functional format. No suggestion is made that the presentation is exhaustive or encyclopedic. Such would require a multi-volume work not attempted here. There also is no attempt here to address the important principles of philosophy of law as it relates to legislation or other sources of law.

In Louisiana, the legal aspects of the legislative process have not often been directly or systematically addressed, but rather have arisen as collateral discussions as to differences between the civilian and common law approaches, the “sources of law” and in connection with specific substantive law problems (usually statutory construction). The approach here is different: we have attempted to set forth the basic principles of the law of legislation apart from discussions of the sources of law and without being immersed in particular substantive areas or policies. To some extent that is artificial, but it is felt helpful to present a clearer view of the limited goal of this volume—legislative law and procedure. It is believed that such a limited perspective might cause a greater focus and clarity with respect to the fundamental issues relating to legislative law and procedure when they arise in the fuller context of substantive law and related policies.

Three people who no book about Louisiana legislation could fail to specially acknowledge each could have done an enormously better job in meeting the goals of this volume—and more. They are greatly missed: David R. Poynter, Clerk of the Louisiana
House of Representatives (1972-1983), who was also Clerk of the Louisiana Constitutional Convention and a member of the bar; Lee Hargrave, Professor of Law at LSU, who was also coordinator of research at the constitutional convention; and Judge Albert Tate, Jr. (late Judge of the U.S. Court of Appeals for the Fifth Circuit, and former Justice of the Louisiana Supreme Court, who also served as a delegate to the 1974 Louisiana Constitutional Convention). Each contributed significantly to the quality of the Louisiana Constitution regarding legislation and to legal analysis related to it.

Those who believe that all the law in West’s “green books” is constitutional unless it is in violation of some principle they learned in courses in constitutional law will discover that many of the principles of constitutional legislative law are not encountered in law schools or in the routine practice of law. An underlying premise of this volume is that the quality of law and, more importantly, justice under law will be enhanced by greater attention to the principles of legislative law and procedure so often neglected—yet so important they are grounded in the constitution and principled concepts of separation of powers.