

STATE OF LOUISIANA LEGISLATIVE AUDITOR

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Town of Merryville
Merryville, Louisiana

August 19, 1998



Investigative Audit

***Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor***

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Town of Merryville

August 19, 1998



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor**

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OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

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August 19, 1998

THE HONORABLE MARGARET KRASSO, MAYOR
TOWN OF MERRYVILLE
Merryville, Louisiana

Transmitted herewith is our investigative report on the Town of Merryville. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our findings and recommendations as well as the response of management for the Town of Merryville. Copies of this report have been delivered to the Honorable David Burton, District Attorney for the Thirty-Sixth Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,

A handwritten signature in cursive script that reads "Daniel G. Kyle".

Daniel G. Kyle, CPA, CFE
Legislative Auditor

AFB/ss

[MERRYVILLE]

Executive Summary

Investigative Audit Report Town of Merryville

The following summarizes the findings and recommendations as well as management's response that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's response may be found at Attachment I.

Former Mayor Receives More Than \$22,000 in Undocumented Payments

(Page 1)

Finding: From 1995 through 1997, former Mayor Charles Hudson received \$22,022 in excess of his yearly salary. According to former Mayor Hudson, the additional money was used for travel expenses, donations, automobile parts, caps and tee shirts for the Town of Merryville (Town), and payments to Mr. Clarence Hudson for labor. Neither the Town nor the former mayor could provide the Legislative Auditor with documentation supporting these expenses.

Recommendation: We recommend that the Town establish and implement internal accounting controls that will ensure the safeguarding of Town funds and the retention of public records in accordance with state law. We also recommend that the District Attorney for the Thirty-Sixth Judicial District of Louisiana review this case and take appropriate legal action regarding these possible violations of state law, to include seeking restitution.

Management's Response: Management for the Town has established the necessary controls to safeguard Town funds and records.

**Former Public Works Director Used
Public Assets for Personal Use****(Page 3)**

- Finding:** Mr. Harold Jeans, former Public Works Director of the Town of Merryville (Town), used Town funds to purchase \$1,270 in automotive parts, which appear to have been used on his personal dump truck. Of the \$1,270, Mr. Jeans reimbursed \$1,152 to the Town. The remaining \$118 of purchases have not been reimbursed. In addition, Mr. Jeans used Town funds to purchase an electric winch that fits an all terrain vehicle (ATV). The Town does not own an ATV, and the winch is missing. Furthermore, Mr. Jeans used \$197 of publicly funded labor provided by Town employees to benefit B.A.T. Paving & Trucking (B.A.T.), a personal business owned by he and his wife. As a result, B.A.T. received \$947 for the services provided by the Town's employees.
- Recommendation:** We recommend that the Town establish and implement appropriate controls that will ensure the safeguarding of the Town's assets. We also recommend that the District Attorney for the Thirty-Sixth Judicial District of Louisiana review this information and take appropriate legal action regarding these possible violations of state law, to include seeking restitution.
- Management's Response:** Management for the Town has established and implemented appropriate controls to ensure safeguarding of Town assets.
-

Missing Cash Receipts**(Page 7)**

- Finding:** Over an eight-month period, at least \$1,560 in traffic ticket revenue received in cash and receipted by the former Town Clerk, Ms. Debra Longoria, cannot be accounted for.
- Recommendation:** We recommend that the Town establish and implement procedures to ensure that all receipts collected are deposited daily.
- Management's Response:** Management has implemented a receipting process that provides that all money collected is receipted by a permanent written record. All receipts are deposited daily.
-

Background and Methodology

The Office of the Legislative Auditor received various allegations of possible improper activities occurring at the Town of Merryville (Town). These allegations indicated that the former mayor, Mr. Charles Hudson, received over \$22,000 in additional payments, that the Town purchased parts and insurance for an employee's personal vehicle, and that Town employees were being paid by the Town while working for a private business. We conducted our investigation to determine the propriety of these allegations and other matters that came to our attention.

The Town of Merryville is a township within Beauregard Parish. The Town was incorporated in 1912 under the Lawrason Act, R.S. 33:321-481.

Our procedures consisted of (1) interviewing the former mayor, employees of the Town, and other persons as appropriate; (2) examining documents related to the allegations; (3) making inquiries and performing tests to the extent we considered necessary to achieve our purpose; and (4) reviewing applicable Louisiana state laws.

The result of our investigation is the findings and recommendations presented herein.

Findings and Recommendations

FORMER MAYOR RECEIVES MORE THAN \$22,000 IN UNDOCUMENTED PAYMENTS

From 1995 through 1997, former Mayor Charles Hudson received \$22,022 in excess of his yearly salary. According to former Mayor Hudson, the additional money was used for travel expenses, donations, automobile parts, caps and tee shirts for the Town of Merryville (Town), and payments to Mr. Clarence Hudson for labor. Neither the Town nor the former mayor could provide the Legislative Auditor with documentation supporting these expenses.

Mr. Hudson, the former mayor, initially said that he did not have all of the receipts documenting the use of these public funds. He said that at one time he kept records of all expenses for the Town. He stated that no one asked to see the records, so he stopped keeping them. Mr. Hudson added that he wished the Town's attorney or CPA, Mr. Michael Elliott, would have informed him that he needed to keep receipts for the expenditure of these public funds. In a later interview, Mr. Hudson stated that the receipts must have been stolen when the town's barn was vandalized.

Mr. Hudson said that he kept a separate compartment in his wallet for the Town's money and used that money for various Town expenses. Mr. Hudson said that when he ran out of money, he would ask Ms. Debra Longoria, former Town Clerk, to write him another check. He stated that he might have gotten the money in his wallet confused three times over the past three years resulting in the possibility that he could have spent approximately \$150 of Town money for personal purposes.

According to Ms. Longoria, Mr. Hudson would ask her to write checks payable to him without providing any documentation of the intended use of the money. She said that Mr. Hudson did not always tell her what the check was being used for, but when he did, it was noted on the check and check register.

Travel Expenses

According to Mr. Hudson, he travels an average of ten times a year on Town business and some of the checks written to him were for his travel expenses. When we asked Mr. Hudson for details concerning his travel, he could only provide us with five occasions when he traveled on Town business during 1996. The former town clerk and two of the Town Council members told us that Mr. Hudson only traveled approximately three times per year on Town business. A third Town Council member said that the mayor traveled less than six times each year on Town business. The remaining Town Council member and the former mayor pro tem stated that they only recall approving Mr. Hudson to make three trips on Town business during the past three years.

When our office attempted to verify Mr. Hudson's lodging expenses with hotels he claimed to have used, Mr. Hudson refused to authorize the hotels to provide us with such verification.

Cash Donations

Mr. Hudson said that some of the money was used to make donations to Merryville High School, individual athletes at the high school, the Dixie Youth Baseball Association, and the Merryville Little Dribblers Association. Mr. Hudson told us that we should contact Ms. Rosa Lewis with the Merryville Dixie Youth Baseball; Merryville Little Dribblers; Mr. Todd Stark, Athletic Director of Merryville High School; and Coach Kirk Pellerin and Coach Tommy Lilley of Merryville High School.

Ms. Rosa Lewis informed us that Mr. Hudson did not contribute cash to the Dixie Youth Baseball Association. Individuals associated with the Merryville Little Dribblers Association said that they were not aware of any cash contributions made by Mr. Hudson. Mr. Todd Stark said that Mr. Hudson made several donations throughout the year to the Merryville High School Athletic Department in the form of cash and checks. Mr. Stark stated that Mr. Hudson donated approximately \$1,000 a year to the athletic department. A review of the Town's canceled checks for 1997 indicates that \$850 was donated by check to the school's athletic department. Coach Lilley and Coach Pellerin both stated that they did not receive cash donations from Mr. Hudson. However, Coach Pellerin did recall one instance when Mr. Hudson contributed to a dinner for the girl's basketball team around February or March 1997, when the team went to the play-offs. Coach Lilley also recalled one instance when the Town paid Deputy Mike Carrier to pour cement at the school's track.

Town records indicate that Deputy Carrier was paid by check. In a signed statement, Deputy Carrier said that Mr. Hudson asked him to tell the Office of the Legislative Auditor that he (Carrier) was paid cash for the cement work at the school. In his written statement, Deputy Carrier states that he was paid \$140 with a Town check for this work.

We spoke with the four individual students to whom Mr. Hudson claimed to have donated money for athletic camps. Only one student stated that he received a donation from the former mayor during the time period of the undocumented \$22,000. This student stated that he received a \$200 cash donation.

Auto Parts, Materials, and Supplies

We noted a description on several check stubs that indicated that \$2,418 of the additional payments was used for various purchases, including materials and supplies, for the Town. However, as stated earlier, neither the former mayor nor the town clerk could provide any documentation supporting these payments.

Mr. Hudson also said that he used a portion of the money to purchase auto parts for the Town. He explained that the Town was slow in paying its bills, and some vendors would not sell merchandise to the Town until the Town paid its bill. Mr. Hudson stated that he went to vendors to whom the Town did not owe money and purchased parts with cash. Some of the vendors named by Mr. Hudson were Walmart, Auto Zone, and Scoggins Auto Parts.

In addition, Mr. Hudson said that he used the money to purchase caps and tee shirts with Town logos to distribute at grant conferences. Our examination of vendor records indicated that Town purchases of caps and tee shirts during 1997 were paid for with Town checks.

Cash Payments to Mr. Clarence Hudson

Notations in the Town's check register indicate that \$6,870 of the additional payments to Mr. Hudson were used to make cash payments to his brother, Mr. Clarence Hudson, as compensation for performing maintenance and repair work for the Town. Former Mayor Hudson stated that his brother receives social security disability income. The former mayor stated that he made the checks payable to himself to keep his brother from getting in trouble with social security.

The actions described above indicate possible violations of the following state laws:

- R.S. 14:67, "Theft"
- R.S. 14:68, "Unauthorized Use of a Movable"
- R.S. 14:134, "Malfeasance in Office"
- R.S. 44:36, "Preservation of Records"
- R.S. 42:1461(A), "Obligation Not to Misappropriate"
- Article 7, Section 14 of the Louisiana Constitution, "Donation of Public Assets"

In addition, the Town did not report these additional payments as income to the mayor either on a Form 1099 or on a W-2.

We recommend that the Town establish and implement internal accounting controls that will ensure the safeguarding of Town funds and the retention of public records in accordance with state law. We also recommend that the District Attorney for the Thirty-Sixth Judicial District of Louisiana review this case and take appropriate legal action regarding these possible violations of state law, to include seeking restitution.

FORMER PUBLIC WORKS DIRECTOR USED PUBLIC ASSETS FOR PERSONAL USE

Mr. Harold Jeans, former Public Works Director of the Town of Merryville, used Town funds to purchase \$1,270 in automotive parts, which appear to have been used on his personal dump truck. Of the \$1,270, Mr. Jeans reimbursed \$1,152 to the Town. The remaining \$118 of purchases have not been reimbursed. In addition, Mr. Jeans used Town funds to purchase an electric winch that fits an all terrain vehicle (ATV). The Town does

not own an ATV, and the winch is missing. Furthermore, Mr. Jeans used \$197 of publicly funded labor provided by Town employees to benefit B.A.T. Paving & Trucking (B.A.T.), a personal business owned by he and his wife. As a result, B.A.T. received \$947 for the services provided by the Town's employees.

Dump Truck

According to Ms. Brenda Jeans, she and her husband, Mr. Harold Jeans, purchased a 1972 Mack dump truck in June 1997. Mr. Jeans stated that he originally purchased the truck for his personal use, but intended thereafter to sell it to the Town. Former Mayor Charles Hudson said Mr. Jeans purchased a dump truck because the Town could not afford to buy one and agreed to let the Town use it. In exchange, the Town was to provide routine maintenance to the truck, such as changing the oil, lubricating the chassis, and adding coolant. Mr. Jeans stated that he did not recall such an agreement.

According to Ms. Sherry Johnson of Glenn Dean Insurance Agency, on June 17, 1997, Mr. Jeans instructed her to add coverage for a 1972 Mack dump truck to the Town's insurance policy. Ms. Johnson said Mr. Hudson reviewed the coverage of all vehicles listed under the Town's policy on July 14, 1997, before annual renewal. Ms. Johnson stated that Mr. Jeans canceled coverage of the dump truck on September 2, 1997. As a result, the Town paid \$213 to insure the truck. Mr. Jeans later reimbursed \$95.

From June to August 1997, Mr. Jeans purchased and charged to the Town \$1,057 of parts from DeRidder Truck Parts. Mr. Clyde Kellogg, Jr., a former public works employee, stated that he was with Mr. Jeans when the purchases were made and he installed the parts on Mr. Jeans' dump truck. These facts were made public at the Town Council meeting on September 2, 1997. On this same day, the Town deposited a check from Mr. Jeans for \$1,000, which was dated August 15, 1997. On September 15, 1997, the Town deposited a second check from Mr. Jeans for \$152. The description on the second check was reimbursement for parts and insurance (\$95 for insurance and \$57 for parts). The Town paid for the purchases from DeRidder Truck Parts on September 16, 1997.

Winch

Records indicate that on March 13, 1997, Mr. Jeans purchased a Warn winch from Battery Warehouse for \$312 charging it to the Town. The Town paid for the winch on July 2, 1997. The manufacturer's specifications indicate that the winch purchased by Mr. Jeans is used on ATVs. Mr. Jeans stated that he might have purchased a winch for the Town's sewer plant, and that he left it there when he left employment with the Town. According to Mr. Charles Jones, former Director of the Water and Street Departments, the Town has never owned an ATV, and the Town has never owned a winch other than the one on the tractor with the bush hog arm extension.

Mr. Jeans explained that he personally purchased a Warn winch from East Texas R V on March 15, 1998, and that before that date he only had a manual winch on his ATV. He also provided us with an invoice from that vendor. When we spoke with Ms. Erma Watson with East Texas R V, we noted that the invoice number before the one issued to Mr. Jeans is dated June 1998. We also noted that the invoice following the one issued to Mr. Jeans had not been issued.

Furthermore, Mr. Luther Tilley, Jr., a former Town employee, recalls seeing an electric winch on Mr. Jeans' ATV before June 1997. Mr. Clyde Kellogg, Jr., (former public works employee) stated that he recalls seeing an electric winch on the front of Mr. Jeans' ATV in April or May of 1997.

Truck Tires

Mr. Jeans purchased two truck tires from Morris Tire Service on August 2, 1997, and charged them to the Town. According to Mr. Junior Morris, on September 12, 1997, Mr. Jeans paid cash for the tires. Mr. Fred Walker, Public Works Director, stated that the Town does not own vehicles that use the size tires he (Jeans) purchased.

Yarbrough's

Mr. C. Newal Yarbrough, owner of Yarbrough's Materials and Construction, Inc., stated that he was searching for a site to locate a materials yard in Louisiana when he met Mr. Jeans. Mr. Jeans offered the Town's assistance in preparing a site for the materials yard as an incentive to locate in Merryville. Mr. Yarbrough agreed to locate in Merryville, and the Town incurred labor costs of \$3,046 to prepare the site for operation.

In addition, Mr. Jeans charged \$1,743 of materials to the Town to prepare the site for Yarbrough's. Though purchased by the Town, B.A.T. (co-owned by Mr. Jeans and his wife) invoiced and was paid \$1,000 by Yarbrough's for some of the same materials. Mr. Yarbrough informed us that on September 10, 1997, Mr. Jeans told him that he had made a billing error. Mr. Yarbrough said Mr. Jeans told him the Town should have billed him, not B.A.T. Mr. Yarbrough said that Mr. Jeans gave him \$1,000 in cash and an invoice from the Town. He added that Mr. Jeans asked him to write a check payable to the Town for \$1,000. It should be noted that Mr. Jeans returned the \$1,000 to Yarbrough, after allegations were made in the Town Council meeting of September 2, 1997.

In another matter, Mr. Yarbrough stated that he paid Mr. Jeans to haul limestone. Mr. Benjie Yarbrough, dispatcher at Yarbrough's yard in Merryville, said that he loaded 15 loads of limestone into the B.A.T. truck. He stated that the drivers of the truck were Mr. Jeans and Mr. Luther Tilley. Yarbrough's scale tickets reveal the loads were hauled during the Town's normal business hours. Town records indicate Mr. Jeans and Mr. Tilley were paid at least \$121 by the Town while hauling the limestone. Mr. Jeans' company, B.A.T., received \$600 for services provided by the Town's employees.

Records indicate that on Monday, September 29, 1997, Donnie Sammuel, at that time a town employee, delivered two loads of limestone to the Town driving B.A.T.'s truck. Town records indicate that Mr. Sammuel was on the Town's payroll at this time. Mr. Jeans, through B.A.T., billed and was paid \$197 by Yarbrough for this delivery. Thus, Mr. Jeans used a Town employee for personal profit.

Mr. Phillip Myers

Town employees paved an abandoned street near Mr. Phillip Myers' property while being paid \$76 by the Town. On August 7, 1997, B.A.T. invoiced Mr. Myers \$600 (\$450 for material and \$150 for labor and equipment rental) for the paving work.

Mr. Jeans stated that he wrote a check payable to the Town for \$150 for the work performed. Mr. Jeans said that he gave the check to the Town's attorney, Mr. Creighton Pugh. According to Mr. Pugh, the check has not been deposited into the Town's account because there is confusion as to whether the work may have been performed on the Town's property, and not Mr. Myers' property. Mr. Hudson stated that he agreed to have the Town perform the work for Mr. Myers because Mr. Myers was going to allow the Town to wash its vehicles there. According to Mr. Hudson, the street is abandoned. Mr. Hudson said that Mr. Myers paid to have the street paved so that if, in the future, the Town Council voted to donate the land to Mr. Myers, he would have paid for the paving.

The above actions indicate possible violations of the following Louisiana laws:

- R. S. 14:67, "Theft"
- R. S. 14:138, "Payroll Fraud"
- R. S. 14:68, "Unauthorized Use of a Movable"
- R. S. 14:134, "Malfeasance in Office"
- R. S. 42:1116, "Abuse of Office"
- R.S. 42:1461(A), "Obligation Not to Misappropriate"
- Article 7, Section 14 of the Louisiana Constitution, "Donation of Public Assets"

We recommend that the Town establish and implement appropriate controls that will ensure the safeguarding of the Town's assets. We also recommend that the District Attorney for the Thirty-Sixth Judicial District of Louisiana review this information and take appropriate legal action regarding these possible violations of state law, to include seeking restitution.

MISSING CASH RECEIPTS

Over an eight-month period, at least \$1,560 in traffic ticket revenue received in cash and receipted by the former Town Clerk, Ms. Debra Longoria, cannot be accounted for.

A review of the Town's cash receipts register from June 6, 1997, through January 31, 1998, showed that the Town received \$5,664 in cash as payment for traffic tickets. According to the deposit detail, during this period, \$4,104 in cash was deposited into the Town's bank account, leaving \$1,560 unaccounted for.

Ms. Debra Hennigan Longoria, former Town Clerk, stated that she was responsible for collecting, receipting, and depositing revenue from traffic tickets. She stated that the difference in the amount of cash receipted and deposited could have resulted from cashing her personal checks, purchasing stamps for the Town, and washing police cars. However, Ms. Longoria agreed that this would not explain the entire shortage because the above expenditures did not happen often. Ms. Longoria also indicated that the shortage could have resulted from the problem with people breaking into Town Hall. Ms. Longoria added that receipts were not deposited on a daily basis. Receipts, including cash, were kept in an unlocked bank bag in an unlocked filing cabinet in her office. According to Ms. Longoria, the lock on her office door was not secure. As a result, many individuals had access to her office and the filing cabinet.

Ms. Longoria noted there were several instances when her office appeared to have been broken into. Ms. Longoria stated that she never made an attempt to determine if money was missing though she suspected this was the case. She stated that she was not happy with her job and had been trying to leave for three years. In addition, she said it was common knowledge that she was not a good bookkeeper.

Ms. Lena Mae Robberson, former Town Utility Clerk, stated that she also suspected someone was breaking into her office; however, she checked to determine whether any money was missing. According to Ms. Robberson, she reconciled her collections on a daily basis and determined that no money was missing from her receipts.

Police Chief Droddy recalls instances when Ms. Longoria reported break-ins to the police department. However, according to Chief Droddy, Ms. Longoria never reported any money missing.

Ms. Longoria resigned her position as Town Clerk on January 30, 1998.

We recommend that the Town establish and implement procedures to ensure that all receipts collected are deposited daily.

Attachment I

Management's Response

Town of Merryville
P.O. Box 506
Merryville, Louisiana 70653
(318) 825-8740

Margaret Krasso
Mayor

August 11, 1998

Mr. Daniel G. Kyle, CPA, CFE
Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

RE: Management's Response to Legislative Auditors Report Draft

Dear Mr. Kyle:

The Town is now managed by a new Mayor, 4 out of 5 new Councilmen and a new Town Attorney. We had a meeting, before taking office, with the District Attorney of Beauregard Parish, who went over the Code of Governmental Ethics and Public Contracts.

The Town bookkeeping practice has changed so no checks are written without an invoice and a purchase order.

The Town Clerk writes the checks and attest to all checks that are signed by the Mayor or Mayor Protem. The Mayor reconciles the bank statements. All bank transactions must have two signatures.

We have a locked box, with two key, for our daily receipts. The Clerk has one key and the Mayor the other. Deposits are made daily in all accounts. Two part receipts are written for money received. The carbon stays in the receipt book as a permanent record.

Business trips for Town business must be approved by the Town Council at a duly called Council meeting. Business expenses must have receipts and any other supporting documentation before reimbursement will be made.

A memo to all employees, stating that no work of any kind will be performed on private property, will be placed in their pay envelopes this week.

Should you or your office require additional information, please feel free to contact me at (318) 825-8740.

Sincerely,

A handwritten signature in black ink that reads "Margaret Krasso". The signature is written in a cursive, flowing style.

Margaret Krasso
Mayor

MLK:cmm

Attachment II
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Findings and Recommendations section of this report:

R.S. 14:67 provides that theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations.

R.S. 14:68 provides that unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the movable permanently.

R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

R.S. 14:138 provides, in part, that payroll fraud is committed when any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

R.S. 42:1116 provides that no public servant shall use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to provide himself, any other public servant, or other person with any thing of economic value.

R.S. 42:1461(A) provides that officials, whether elected or appointed, by the act of accepting such office assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property, or other thing of value belonging to the public entity in which they hold office.

R.S. 44:36 provides that all persons and public bodies having custody or control of any public record shall exercise diligence and care in preserving the public record for a period of at least three years.

Article 7, Section 14 of the Louisiana Constitution provides that except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.