

STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT

05-1283

JAMES W. TOWNSEND, ET AL.

VERSUS

TRUSTEES OF LOUISIANA COLLEGE, ET AL.

COOKS, J., concurs.

After carefully reviewing Louisiana College’s bylaws, I am compelled to join in the majority’s opinion. In Article II, § 2 of the United States Constitution it is provided the President of the United States “shall nominate, and by and with the advice *and consent* of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States . . .” (Emphasis added.) In that section, the Constitution specifically binds the President and Senate together in the process of *nominating and selecting* these “officers of the United States.” In contrast, there is nothing in the Louisiana College bylaws which provide the PSC more than an advisory or nominating role in the selection process of the position of President of Louisiana College. The bylaws do not provide that the Board of Trustees must select a candidate nominated by the PSC; nor is there any provision in the bylaws to prohibit nominations by the Board of Trustees. Therefore, the PSC’s argument that the president’s position could only be filled from a candidate recommended by it was properly rejected.