

1/29/01

SUPREME COURT OF LOUISIANA

No. 00-CA-1176

**EUGENE C. LATOUR II, CLYDE LAFLEUR
and JOSEPH L. LACHNEY, JR.**

Versus

**STATE OF LOUISIANA; HONORABLE M. J. “MIKE” FOSTER,
GOVERNOR; RICHARD P. IEYOUB, ATTORNEY GENERAL;
WILLIAM R. “RUT” WHITTINGTON, SUPERINTENDENT, STATE
POLICE**

KIMBALL, Justice, concurring

I write separately to again voice my opinion that this court has not employed the appropriate test to determine whether statutes which discriminate on the basis of age are constitutional in light of Louisiana’s unique constitutional provision which gives greater protection against age discrimination than either the United States Constitution or any other State Constitution. Here, however, under even the test which is, in my opinion, the appropriate test to be applied in this case, I believe the State has met its burden by persuasively showing that persons aged 18, 19 and 20 have three times the amount of gambling problems as persons aged 21 and over. The record evidence in this case shows that 18, 19 and 20 year olds are the age group “most responsible for the evil the government seeks to address.” *Manuel v. State*, 95-2189 (La. 7/12/96), 692 So.2d 320 (on rehearing) (Kimball, J. dissenting). Thus, the statute is not arbitrary and capricious. This is the type of showing that was absent from the record evidence presented in *Manuel*. In light of the record evidence presented in this case, I believe the statutes at issue are not arbitrary, capricious, or unreasonable. Therefore, I agree with the majority’s conclusion that the district court’s ruling that La. R.S. 47:9025(B)(2) and 47:9070 are unconstitutional must be reversed.