



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE BILL OF RIGHTS AND VOTING COMMITTEE

FOR THE MEETING HELD
THURSDAY, OCTOBER 9, 2014

Call to Order:

Chair Sapphire called the meeting of the Bill of Rights and Voting Committee to order at 10:13 a.m.

Members Present:

Committee members Sapphire, Jacobson, Amstutz, Fischer, and Peterson were in attendance. A quorum was not present.

Approval of Minutes:

Minutes of the July 10, 2014 meeting were not approved due to lack of a quorum. The minutes will be presented at the next committee meeting.

Topics Discussed:

Article V, Section 4 (Exclusion from Franchise)

Douglas A. Berman, Professor of Law at the Ohio State University Moritz College of Law presented on the topic of felony disenfranchisement. He began his presentation with a quote by United States Attorney General Eric Holder: "The right to vote is the single most basic right of American citizenship."

Ohio is recognized as one of the few states that allow felons to vote once they have been released. Prof. Berman indicated that felons who are re-enfranchised are less likely to commit additional crimes: they will invest in society's laws.

When asked if there is any data to suggest that people who are subjected to felony disenfranchisement and have their vote restored will vote at a higher rate Prof. Berman responded there is not much evidence, but it appears about the same rate as their socioeconomic cohorts.

Prof. Berman suggested that rather than altering the current language, perhaps there should be an express provision to give the governor the right to re-enfranchise felons under a specific provision that would state those disenfranchised by laws by the General Assembly may have the right to petition the governor for re-enfranchisement.

When asked if there is any evidence to indicate that the longer a felon is in prison the less likely he is to vote again Prof. Berman replied there are thousands who are imprisoned for decades or more. He indicated there is a skew in racial dynamics with only 0.6% of Ohio's entire voting population being disenfranchised by having a current felony sentence, but that the rate is four times higher for African Americans where 2.4% of all voting age Ohioans of this racial category are disenfranchised by having a felony conviction. Approximately 25,000 of the 50,000 prison population in Ohio is African American.

Prof. Berman stated that he believes voting is a right, privilege, and responsibility, and we should have a strong rationale before taking it away.

When asked if there are any crimes that would permanently disenfranchise their perpetrators, Prof. Berman replied that crimes that go against the election process should be considered for such disenfranchisement.

Prof. Berman went on to say that removing the right of citizenship has a primitive aspect. This is a topic of conversation because disenfranchisement is seen as a symbol of the opportunity to prevent re-entry into society for a certain population. He indicated he doesn't support losing the right to vote. Enfranchisement sends a message regarding democracy and the importance we place on voting.

When asked if he would enfranchise persons in prison, Prof. Berman stated that thinks that should be the norm. He reported that Maine and Vermont allow for this and have reported no problems. He also noted that the administrative burden is diminished by use of absentee ballot. He also added that voting engenders a desire to be involved and informed.

Prof. Berman was then asked a question about allowing the following three hypothetical prisoners to vote.

- A domestic terrorist who murders dozens of people
- A serial child rapist
- A judge who takes bribes

Prof. Berman replied that allowing a domestic terrorist to have the right to vote sends a message that change is affected by voting, not terrorism. He added that we are eager to punish these crimes with the thought that punishment also deters others, but added that the prisoner's ability to get involved in the process may change them. The voting right is not about punishment, but about a felon's engagement with the laws he is subject to. He went on to add that the ultimate

loss of rights comes with the death penalty. Those on death row could be excluded from voting. There may be some other crimes so horrific you have no more rights.

Prof. Berman replied he has not had a chance to research, but those states have made no attempt to change their laws, although they have debated the use of absentee ballots.

Chairman Richard Saphire commented he likes the idea of the governor having authority to lift the ban and wondered if there are any other states with this type of provision. Prof. Berman responded he was not aware of any, but noted that governors do have the power of general pardon.

Chairman Richard Saphire asked Commission Counsel Shari O'Neill to research existing power of the governor and if he could entertain a request for a prisoner to be allowed to vote under his current constitutional powers.

When asked if he had any comment regarding a convicted felon's eligibility for public office, Prof. Berman noted this was justifiably subject to legislative restriction and that he is comfortable with restricting running for office. See R.C. 2961.01.

Peg Rosenfield, an Elections Specialist for the League of Women Voters of Ohio and a member of the audience observing the meeting, commented that in 1980 the Secretary of State arranged a rehabilitation release procedure, to provide felons leaving prison the opportunity to re-register to vote. The registration would be sent to the Secretary of State's office, which then forwarded it to the city/county with the date of release. She stated she is not sure if this is still done. She asked if there was an effort to re-enfranchise felons once they were released, and wondered whether the Ohio Department of Rehabilitation and Correction still use that policy/procedure.

Article V, Section 6 (Idiots or Insane Persons)

Chair Saphire informed the committee that Michael Kirkman from Disability Rights Ohio would be invited to attend the next committee meeting to discuss Article V, Section 6.

Adjournment:

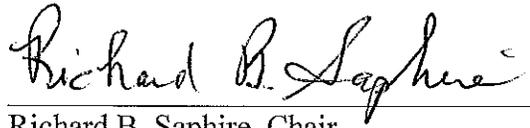
With no further business, the committee adjourned at 3:47 PM.

Attachments:

- Notice
- Agenda
- Roll call sheet
- Sentencing Project Primer on felony disenfranchisement
- Shadow Report on the prevalence and impact of felony disenfranchisement laws
- O'Neill memorandum re: Article V, Section 4
- O'Neill memorandum re: Article V, Section 6
- Bell memorandum re: Article V, Section 6

Approval:

These minutes of the October 9, 2014 meeting of the Bill of Rights and Voting Committee were approved at the December 11, 2014 meeting of the committee.



Richard B. Saphire, Chair

Jeff Jacobson, Vice Chair