

Ohio Constitutional Modernization Commission  
Judicial Branch and Administration of Justice Committee  
September 11, 2014

Statement of William K. Weisenberg

A few months ago, I had the occasion to discuss with State Senator Larry Obhof two sections of the Ohio Constitution that would be coming before the Judicial Branch and Administration of Justice Committee of the Ohio Constitutional Modernization Commission, specifically Sections 19 and 22 of Article IV. Section 19 of the Ohio Constitution addresses the authority of the General Assembly to establish court of conciliation, while Section 22 authorizes the Governor, with the advice and consent of the Senate, to establish a Supreme Court Commission to dispose of cases on the Supreme Court docket that by arrangement between the commission and the Court may be transferred for disposition by the commission.

Let me begin by saying that I am not by any means an expert with regard to these provisions and quite frankly was not familiar with them until they were included as part of State Issue I in 2011, that primarily addressed extending the age at which a person may be elected or appointed to a judgeship. As you will remember, the issue was rejected by the voters.

My limited knowledge with regard to “courts of conciliation” is that their objective was to reduce a backlog of cases in the judicial system at a time when the judicial system was in its formative years. To the best of my knowledge, courts of conciliation have not been created by the General Assembly. Over the past forty years that I have been involved with the General Assembly, significant measures have been enacted by the General Assembly addressing arbitration, mediation and private judging. Recognition of alternative forms of dispute resolution has been a collaborative effort of the legislative and judicial branches and has enhanced efficiencies in our judicial system benefiting Ohioans. It is my personal opinion that Section 19 of the Ohio Constitution is not required or needed and simply a remnant of history. Processes of conciliation are prevalent today in the form of alternative dispute resolution noted above. The Commission would be prudent in considering a recommendation to repeal this provision.

With regard to Section 22 of Article 4 providing for a “Supreme Court Commission” to dispose of cases on the Supreme Court docket, I concur with Jo Ellen Cline’s analysis as set forth in a paper Ms. Cline is presenting to you. Once again, I am not personally familiar with this provision but do know that such a commission has not been established by a governor for well over a century, evidencing that whatever need may have presented itself in the early years of statehood is not present today. Therefore, I recommend to you and your colleagues’ consideration of its repeal as no longer being necessary for the efficient operation of Ohio’s judicial system,

There is much work ahead for this Commission as it addresses great issues of importance for the citizens of Ohio. Please do not hesitate and to contact me as I will make myself available to assist you and the Commission.

Finally, please note that the views and opinions expressed herein are mine alone and do not reflect the position of the Ohio State Bar Association. As you are aware, I retired from my full-time at the Ohio State Bar Association on June 30, 2014, but continue in a consultant role as senior policy advisor.

Respectfully,

William K. Weisenberg