



# OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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## REPORT AND RECOMMENDATION

### OHIO CONSTITUTION ARTICLE I, SECTION 17

### NO HEREDITARY PRIVILEGES

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The Ohio Constitutional Modernization Commission issues this report and recommendation regarding Article I, Section 17 of the Ohio Constitution concerning the granting or conferring of hereditary privileges. It is issued pursuant to Rule 10.3 of the Ohio Constitutional Modernization Commission's Rules of Procedure and Conduct.

#### **Recommendation**

*The Commission recommends that no change be made to Article I, Section 17 of the Ohio Constitution and that the provision be retained in its current form.*

#### **Background**

Article I, Section 17, reads as follows:

No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this State.

The Bill of Rights as set forth in Article I is a declaration of rights and liberties similar to those contained in the United States Constitution. Article I, Sections 9 and 10 of the U.S. Constitution similarly prohibit the granting of titles of nobility.<sup>1</sup>

That hereditary titles and privileges had no place in the emerging egalitarian ideals of the American colonies is a concept reflected in the writings of prominent statesmen, political theorists, and constitutional framers of the time. As observed by Alexander Hamilton, "Nothing need be said to illustrate the importance of the prohibition of titles of nobility. This may truly be denominated the corner-stone of republican government; for so long as they are excluded, there can never be serious danger that the government will be any other than that of the people."<sup>2</sup>

The prohibition of such titles and distinctions also was seen as necessary to the survival of the young republic, when the hard-won gains of the Revolutionary War were threatened by both British and French trade interference and other acts of aggression in the period leading up to the War of 1812. Out of the fear that foreign influence, bought with hereditary titles and aristocratic privileges, could weaken nationalistic resolve, constitutional framers both at the federal and state levels included prohibitions against such “titles of nobility” in their constitutions.<sup>3</sup> Hereditary titles were seen as the antithesis of a societal aspiration that rejected Old World notions of birthright and a fixed social status in favor of liberty, equality, and economic opportunity. As Thomas Jefferson wrote on the occasion of the fiftieth anniversary of the signing of the Declaration of Independence, and near the end of his life:

That form which we have substituted, restores the free right to the unbounded exercise of reason and freedom of opinion. All eyes are opened, or opening, to the rights of man. The general spread of the light of science has already laid open to every view the palpable truth, that the mass of mankind has not been born with saddles on their backs, nor a favored few booted and spurred, ready to ride them legitimately, by the grace of God.<sup>4</sup>

Article I, Section 17, adopted as part of the 1851 Ohio Constitution, is virtually identical to Section 24 of Article VIII of the 1802 Constitution, which reads: “That no hereditary emoluments, privileges, or honors shall ever be granted or conferred by this state.”<sup>5</sup> The record of the 1802 Constitutional Convention does not reflect the provision’s source, but it is identical to the analogous provision in Article II, Section 30 of the Tennessee Constitution of 1796.

### **Amendments, Proposed Amendments, and Other Review**

Article I, Section 17 has not been amended since its adoption as part of the 1851 Ohio Constitution.<sup>6</sup> The 1970s Ohio Constitutional Revision Commission did not recommend any changes to this section.<sup>7</sup>

### **Litigation Involving the Provision**

Article I, Section 17 has not been the subject of significant litigation.

### **Presentations and Resources Considered**

There were no presentations to the committee on this provision.

### **Action by the Bill of Rights and Voting Committee**

After formal consideration by the Bill of Rights and Voting Committee on April 9, 2015 and June 11, 2015, the committee voted unanimously to issue a report and recommendation recommending that Article I, Section 17 be retained in its current form on June 11, 2015.

## Presentation to the Commission

On September 10, 2015, on behalf of the Bill of Rights and Voting Committee, committee Vice-chair Jeff Jacobson appeared before the Commission to present the committee's report and recommendation, by which it recommended retention of Article I, Section 17. Vice-chair Jacobson explained the history and purpose of the provision, indicating that the committee had determined that it would be appropriate to retain Article I, Section 17 in its current form.

## Action by the Commission

At the Commission meeting held October 8, 2015, Patrick Fischer moved to adopt the report and recommendation for Article I, Section 17, a motion that was seconded by Jo Ann Davidson. A roll call vote was taken, and the motion passed by a unanimous affirmative vote of 23 members of the Commission.

## Conclusion

The Ohio Constitutional Modernization Commission concludes that Article I, Section 17 should be retained in its current form.

## Date Adopted

After formal consideration by the Ohio Constitutional Modernization Commission on September 10, 2015, and October 8, 2015, the Commission voted to adopt this report and recommendation on October 8, 2015.

/s/ Charleta B. Tavares  
Senator Charleta B. Tavares, Co-Chair

/s/ Ron Amstutz  
Representative Ron Amstutz, Co-Chair

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## Endnotes

<sup>1</sup> U.S. Const. Art. I, Section 9 reads, in part: "No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state." Section 10 reads, in part: "No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility."

<sup>2</sup> The Federalist No. 84, (Alexander Hamilton). Available online at: [http://www.gutenberg.org/files/1404/1404-h/1404-h.htm#link2H\\_4\\_0084](http://www.gutenberg.org/files/1404/1404-h/1404-h.htm#link2H_4_0084) (last visited Apr. 24, 2015).

<sup>3</sup> See, e.g., Gideon M. Hart, *The "Original" Thirteenth Amendment: the Misunderstood Titles of Nobility Amendment*, 94 Marq. L. Rev. 311, 335-47 (2010-2011).

<sup>4</sup> Letter to Roger C. Weightman, June 24, 1826 (Thomas Jefferson), as reprinted in *50 Core American Documents*, 136-37 (Christopher Burkett, ed., 2013).

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<sup>5</sup> Steven H. Steinglass & Gino J. Scarselli, *The Ohio State Constitution*, 123 (2<sup>nd</sup> prtg. 2011).

<sup>6</sup> *Id.*

<sup>7</sup> Ohio Constitutional Revision Commission (1970-77), Recommendations for Amendments to the Ohio Constitution, Part 11, The Bill of Rights, 42-43 (Apr. 15, 1976),  
<http://www.lsc.ohio.gov/ocrc/recommendations%20pt11%20bill%20of%20rights.pdf>  
(last visited Sept. 15, 2015).

*See also* Ohio Constitutional Revision Commission (1970-77), Recommendations for Amendments to the Ohio Constitution, Vol. 11, Final Report, Index to Proceedings and Research, Appendix K, 470-71 (June 30, 1977),  
<http://www.lsc.ohio.gov/ocrc/final%20report%20index%20to%20proceedings%20and%20research.pdf>  
(last visited Sept. 15, 2015).