
SUBNATIONAL CONSTITUTIONAL CHRONICLE



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CENTER CELEBRATING 25TH ANNIVERSARY OF STATE CONSTITUTIONAL LAW ISSUE

In 2013, Rutgers Law Journal will celebrate the 25th year of publishing the Annual Issue on State Constitutional Law. This publication has contributed to the development of a literature on American state constitutions as well as comparative subnational constitutional law. It has featured an invited lecture by a leading state constitutional law scholar or judge, together with other scholarly articles and student notes and comments. To mark the occasion, on October 18, 2013, the annual State Constitutional Lecture, which is cosponsored by the Center for State Constitutional Studies, will be held at the National Constitution Center in Philadelphia. The speaker will be Professor Sanford Levinson, who holds the W. St. John Garwood and W. St. John

Garwood, Jr. Centennial Chair in Law at the University of Texas. His topic will be “Reflections on States as Laboratories of Constitutional Design.” Professor Levinson’s lecture (to be published in *Rutgers Law Journal*) will be followed by a panel discussion by Alan Tarr and Robert Williams, as well as Steven Steinglass, former Dean of the Cleveland-Marshall College of Law at Cleveland State University in Ohio, and an expert on Ohio constitutional revision. A dinner and reception will follow the event. For more information on this event, contact the Center’s Associate Director, Robert Williams, at r fw@camden.rutgers.edu.

FORTHCOMING CONFERENCES

It’s not too early to mark your calendar for the next Congress of the International Association of Constitutional Law, which will be held in Oslo, Norway, from June 16-20, 2014. The research group on “Sub-national Constitutions in Federal and Quasi-Federal Constitutional States,” whose convenor is Robert Williams of the Center for State Constitutional Studies, will sponsor a panel at the meeting. For more information about the research group, visit its web site at: <http://www.iacl-aicd.org/en/iacl-research-groups/subnational-constitutions-in-federal->

[quasi-federal-constitutional-states](http://www.iacl-aicd.org/en/iacl-research-groups/subnational-constitutions-in-federal-quasi-federal-constitutional-states).

Coming on September 11-13, 2013, is the annual conference of the International Association of Centers for Federal Studies. This year’s conference, which will focus on “Federalism and/as Decision-Making: Changes in Instruments, Procedures, and Policy,” will be hosted by the Institute for Studies on Federalism and Regionalism in Bolzano, Italy. For further information about the conference, contact the Institute at: sfere@eurac.edu.

SUPPORT FOR THE CENTER FOR STATE CONSTITUTIONAL STUDIES

The Rutgers Center for State Constitutional Studies is seeking funding to support its service, research and education programs, as well as Center operations. Although the Center gratefully acknowledges the generous support it has received from Rutgers University, from private foundations, and from agencies of state government, this funding does not fully meet the costs of maintaining and expanding the Center’s activities.

Through the Rutgers University Foundation, the Center is seeking contributions from the community as well as from

corporations and foundations. Individuals may give gifts in the form of stock, bequests, and in-kind donations, in addition to traditional monetary contributions. Development Officers at the Rutgers University Foundation are available to discuss different types of contributions and associated tax benefits.

If you are interested in making a contribution to the Center for State Constitutional Studies, please contact the Development office at 856-225-6324 for more information.

Web site: www-camlaw.rutgers.edu/statecon/

CALIFORNIA STATE CONSTITUTIONAL CENTER

Recently established at Berkeley Law is the California Constitution Center, a non-partisan academic research institution devoted to studying the constitution and high court of the state of California. Although California is the nation's largest state by population and economy, this represents the first institution in the legal academy to focus on the state charter and its interpretation, providing scholarly guidance for California practitioners and courts. To advance the study of the state constitution, the center pub-

lishes scholarly articles, presents courses at Berkeley Law, holds a moot court for practitioners with cases pending before the California Supreme Court, and organizes conferences on the state constitution and high court. For further information, visit the center's web site at calconcen.berkeley.edu or contact David A. Carrillo, the Executive Director of the California Constitution Center, at 337B Boalt Hall (North Addition), Berkeley, CA 94720 (e-mail: carrillo@law.berkeley.edu; phone: 510-664-4953).

RECENT AND FORTHCOMING PUBLICATIONS

Galie, Peter J., and Christopher Bopst. *The New York State Constitution*, 2nd ed. New York: Oxford University Press, 2012.

Horton, Wesley W. *The Connecticut State Constitution*, 2nd ed. New York: Oxford University Press, 2012.

Kincaid, John, Sonja Walti, and G. Alan Tarr, eds. *Federalism and the Global Financial Crisis: Impacts and Responses*. New York: Oxford University Press, forthcoming in 2013.

Leshy, John. *The Arizona State Constitution*, 2nd ed. New York: Oxford University Press, 2013.

Orth, John P., and Paul Martin Newby. *The North Carolina State Constitution*, 2nd ed. New York: Oxford University Press, 2013.

Tarr, G. Alan. *Judicial Process and Judicial Policymaking*, 6th ed. Boston: Wadsworth/Cengage, 2013.

Tarr, G. Alan. *Without Fear or Favor: Judicial independence and Judicial Accountability in the States*. Stanford: Stanford University Press, 2012.

Tarr, G. Alan. "No Exit: The Financial Crisis Facing State Courts," *Kentucky Law Journal* 100 (2012): 785-805.

Tinkle, Marshall. *The Maine State Constitution*, 2nd ed. New York: Oxford University Press, 2013.

Utter, Robert, and Hugh Spitzer. *The Washington State Constitution*, 2nd ed. New York: Oxford University Press, 2013.

Williams, Robert F. *The New Jersey State Constitution*, 2nd ed. New York: Oxford University Press, 2012.

Williams, Robert F. and Nico Steytler, "Squeezing Out the Provinces' Legislative Competence In Premier: Limpopo Province v. Speaker: Limpopo Provincial Legislature & Others I and II," *The South African Law Journal* 129 (2012): 621-637.

Williams, Robert F., Nico Steytler, and Jaap de Visser, "Unfunded Mandates: Directing Subnational Governments," in Gisela Färber, ed., *Governing from the Center: The Influence of the Federal/Central Government on Subnational Governments*. Speyer, Germany: 2012.

Winkle, John. *The Mississippi State Constitution*, 2nd ed. New York: Oxford University Press, 2013.

CENTER SHORTS

In August, 2012, Robert Williams, Associate Director of the Center for State Constitutional Studies, coauthored an amicus curiae brief in the state constitutional litigation challenging the Pennsylvania voter photo ID law in the Pennsylvania Supreme Court.

In September, 2012, Robert Williams spoke on a panel at the National Constitution Center in Philadelphia, moderated by former governor Ed Rendell, on the Pennsylvania voter photo ID litigation.

In September, 2012, Robert Williams was selected as Secretary/Treasurer of the International Association of Centers for Federal Studies during IACL's annual meeting in Rome, Italy.

In November, 2012, Alan Tarr, Director of the Center for State Constitutional Studies, directed a Liberty Fund conference on "Liberty, Democracy, and Property in the American States" in La Jolla, California. The conference focused on the constitutional debates in Massachusetts,

New York, and Virginia in the 1820s, as reproduced in Merrill Peterson, ed., *Democracy, Liberty, and Property*, reissued by the Liberty Fund in 2010.

In November, 2012, Alan Tarr served as a panelist at a conference on constitutional reform in New York, sponsored by the EffectiveNY.

In November, 2012, Robert Williams served on a panel concerning state judicial independence at the Annual Meeting of the General Council of the New Jersey State Bar Association.

In December, 2012, Robert Williams spoke at a New Jersey Institute for Continuing Legal Education program on "What Every Lawyer Should Know about the New Jersey Constitution."

In January, 2013, Alan Tarr is serving as a panelist discussing "Governance and the Judiciary" at a conference on "Is America Governable?" sponsored by the University of Texas in Austin.

NEW YORK CONSTITUTIONAL REFORM

In 2017, New Yorkers will vote on whether to call a constitutional convention. Research has already begun on the constitutional problems facing the state and on ways to encourage public interest in the task on constitutional reform. Leading this effort is EffectiveNY, an organization created by the New Roosevelt Foundation, which spon-

sored a conference in Albany in November, 2012, on “A New New York: The Constitutional Dimension.” For more information on EffectiveNY and on constitutional issues in New York, visit the following web site: <http://effectiveny.org/>.

STATE CONSTITUTIONS IN THE 2012 ELECTIONS

Active states: Alabama voters ratified 10 of 11 proposed amendments but rejected a measure that would have removed obsolete language mandating racially segregated schools, in part because it was interpreted as simultaneously removing the right to public education from the constitution. Florida voters also considered 11 proposed amendments, ratifying only the amendments that provided tax benefits for disabled veterans, for spouses of military veterans, and for low-income senior citizens. Louisiana voters approved eight of the nine proposed amendments, dealing with measures as diverse as taxes, gun rights, and the membership on government boards. Arizona had eight amendments on the ballot, and voters approved four of those. Oklahoma voters approved six amendments, including a ban on affirmative action and restrictions on property taxes.

Affirmative action: Oklahoma voters approved a ban on affirmative action in state programs, joining Arizona, California, Michigan, Nebraska, and Washington in prohibiting race-conscious hiring and admissions.

Budgetary matters and taxes: South Dakota adopted an amendment requiring a balanced state budget. A few states authorized tax increases by amendment – most notably Alabama, Arkansas, and California – but others restricted the legislative power to impose taxes or introduced tax exemptions. For example, Utah exempted military personnel from paying property taxes, and Oklahoma voters amended their constitution to overturn a supreme court ruling authorizing property taxes on intangible personal property. Voters in some states, however, were leery of making tax increases more difficult. Thus Michigan voters rejected an amendment that would have required tax increases be approved by either 2/3 of the state legislature or by a popular vote, and New Hampshire voters rejected a constitutional ban on income taxes.

Capital punishment: Voters in California narrowly rejected an amendment that would have outlawed the death penalty.

Constitutional conventions: Voters in Alaska, New Hampshire, and Ohio all rejected automatic convention calls by decisive margins.

Gambling: Voters in Rhode Island approved two amendments authorizing casino gambling.

Health care: Alabama, Montana, and Wyoming approved constitutional amendments prohibiting mandatory participation in any health care program. A similar measure was defeated in Florida in a close vote. These amendments were an attempt to block the “individual mandate” provision of the Patient Protection and Affordable Care Act championed by President Obama and enacted by Congress in 2009. On a different note, Louisiana voters approved an amendment that protected the Medicare Trust Fund in the state from budget cuts.

Judicial elections: Justice David Wiggins, who voted to extend the right to marry to same-sex couples, survived a campaign to remove him from the Iowa Supreme Court. The result was in stark contrast to the outcome in 2010, when three Iowa justices who voted for same-sex marriage were defeated in retention elections. In Florida, conservatives campaigned vigorously against three members of the supreme court (Justices Barbara Pariente, Fred Lewis, and Peggy Quince), claiming they were too activist in their rulings; but each justice comfortably won retention with about 2/3 of the vote. In fact, in 2012 state supreme court justices running in retention elections were in every instance retained in office.

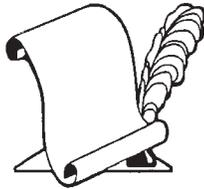
Marijuana: Colorado voters ratified an initiated constitutional amendment that legalized the possession and use of marijuana by adults, and Washington voters approved a similar measure. These measures place the states on a collision course with the federal government, which bans the use or possession of marijuana. Voters in Arkansas narrowly rejected an initiated state statute that would have legalized medical marijuana, while voters in Massachusetts, Montana, approved measures authorizing the use of medical marijuana, bringing the number of states with medical marijuana to 18.

Right to hunt: Voters in Idaho, Kentucky, Nebraska, and Wyoming approved constitutional amendments recognizing a right of residents to hunt and fish in the state. Similar amendments were approved in six states in 2010.

Same-sex marriage: Voters in Maine and Washington approved measures – not constitutional amendments – authorizing same-sex marriage. Voters in Minnesota defeated a proposed amendment that would have defined marriage in the state as between one man and one woman. North Carolina voters had ratified a similar amendment earlier in the year.

KEEPING INFORMED & INFORMING OTHERS

The Center welcomes information about constitutional developments within your state or subnational unit and publications relating to subnational constitutions or federalism. The Center is eager to publish such information, space permitting, so as to make it available to a broader audience. Send such information also to: cscs@camden.rutgers.edu.



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