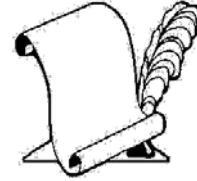

Subnational Constitutional Chronicle



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CONFERENCE ON FEDERALISM

In September the Center for State Constitutional Studies participated in the sponsorship of a conference on “Comparing and Contrasting Federalism in the European Union and the United States,” which was organized by the Center for European and International Affairs of the University of Nicosia in Cyprus. The symposium, which was carried out as part of the project Network for Federal Studies and Governance in Biethnic and Multiethnic States, brought together scholars from several countries to discuss various federal models and their applicability. Alan Tarr, Director of the Center for State Constitutional Studies, presented a paper entitled “In Search of Constitutional Federalism: American Perspectives.” The convention papers will be published in 2015.

NEWSLETTER GOES ELECTRONIC

Subnational Constitutional Chronicle, the newsletter of the Center for State Constitutional Studies, is now changing from its paper-or-electronic format to an exclusively electronic format. If you already receive the newsletter via e-mail, that will continue as before. If you have received the newsletter via mail, you will need to contact the Center with your e-mail in order to continue to receive the *Subnational Constitutional Chronicle*. Should you know of others who might wish to receive the newsletter, please forward their names and e-mail addresses to the Center, and they will be added to the mailing list.

WILLIAMS STATE CONSTITUTIONAL LECTURE

On February 26, 2015, Keith Whittington, the William Nelson Cromwell Professor of Politics at Princeton University, will deliver the twenty-sixth annual Robert F. Williams State Constitutional Lecture at 3:00 PM at the Rutgers Law School in Camden. Professor Whittington is the author of *Constitutional Construction: Divided Powers and Constitutional Meaning*; of *Constitutional Interpretation: Textual Meaning, Original Intent, and Judicial Review*; and of *Political Foundations of Judicial Supremacy: The Presidency, the Supreme Court, and Constitutional Leadership in U.S. History*, which won the C. Herman Pritchett Award for best

book in law and courts and the J. David Greenstone Award for best book in politics and history. A member of the American Academy of the Arts and Sciences, Professor Whittington has been a fellow of the American Council of Learned Societies and of the John M. Olin Foundation. The topic for Professor Whittington's lecture is "The New Deal in State Constitutional Law: The Case of New Jersey."

For details on the time and location of the lecture, contact the Center at 856-225-6625.

STATE CONSTITUTIONAL AMENDMENTS

During 2014 the citizens of the various states voted on 99 constitutional amendments, with 91 of the amendments proposed by state legislatures and 8 by constitutional initiative. That so few constitutional initiatives were proposed is likely the effect of two factors—regulations imposed on the initiative process in several states that make it harder to qualify questions for the ballot, and the decision by initiative sponsors to frame measures as statutory rather than constitutional initiatives. In fact, the most contentious ballot initiatives in 2014—dealing with raising the minimum wage, authorizing the use of marijuana for recreational purposes, and regulating genetically altered foods—were all statutory initiatives, with the exception of a defeated Florida amendment that would have authorized medical marijuana. Voters approved 66 of the legislatively proposed amendments (73 percent) but only 2 of those proposed by initiative (25 percent). Among the states with the most proposed amendments were Alabama (all 6 proposals ratified), Louisiana (6 of 14 proposals ratified), Missouri (5 of 9 proposals ratified), and New Mexico (4 of 5 ratified).

Several issues prominent in past election cycles were likewise addressed in 2014. Rhode Island rejected the automatic ballot referral of whether to hold a constitutional convention by a 55-45 percent margin. Illinois further strengthened its victims' rights amendment, which had been adopted in 1992 and strengthened in 1996. Alabama and Missouri adopted right-to-hunt amendments, raising the number of states with such amendments to 18, and Missouri also adopted a right-to-farm amendment. Proponents of these measures defend them as necessary to protect against out-of-state interests, particularly animal-rights groups. Arizona adopted by a 51-49 percent margin an amendment that allows the state legislature or citizens to determine whether a federal statute violated the U.S. Constitution and bans the use of state funds to support the implementation of such laws. A similar measure was rejected by Arizona voters in 2012 and an attempt to place a similar measure on the ballot in Ohio failed in 2014. The Arizona measure faces a constitutional challenge in federal court. Colorado voters rejected by a 65-35 percent margin a "human personhood" amendment proposed by right-to-life groups that would have included the unborn within the definitions of "person" and "child" under the state's criminal code. The state had previously rejected similar measures in 2008 and 2010. However, Tennessee by a 53-47 percent margin approved an amendment clarifying that the state constitution does not recognize a right to an abortion or require that abortions be publicly funded. Finally, several states adopted amendments to impose restrictions on legislative action. For example, California adopted by a 69-31 percent margin an amendment that increased the size of the state's "rainy day fund" and limited the ability of the state to avoid contributions or withdraw funds, while Georgia by a 74-26 percent margin prohibited raising income tax rates, and Maryland by an 81-19 percent margin prohibited transfer of funds from the transportation fund to the general fund.

WE'VE MOVED!

The Center for State Constitutional Studies has moved to new headquarters in Rutgers Law School. Its new address is: 217 N. 5th Street, Rm. 612W, Camden, NJ 08102. Contact by phone (856-225-6625) and by fax (856-225-6628) remain the same as previously.

NEW AND FORTHCOMING PUBLICATIONS

Alain-G. Gagnon, Soeren Keil and Sean Mueller (eds). *Understanding Federalism and Federation*. Farnham, UK: Ashgate, 2015.

Hulsebosch, Daniel J., "The Revolutionary Portfolio: Constitution-Making and the Wider World in the American Revolution," *Suffolk University Law Review* 47 (2014): 759-820.

Palermo, Francesco and Elisabeth Alber, eds., *Federalism as Decision-Making: Changes in Structures, Procedures and Policies* (Leiden/Boston: Brill/Martinus Nijhoff Publishers, 2014).

Schulz, Anthony. "State Constitutional Restrictions on Special Legislation as Structural Restraints," *Journal of Legislation* 40 (2013-2014): 39-95.

Tarr, G. Alan. "American State Constitutions and the Three Faces of Magna Carta," in Randy J. Holland, ed., *Magna Carta: Muse and Mentor* (Thomson Reuters, in association with the Library of Congress, 2014).

Tarr, G. Alan. "Explaining State Constitutional Change," *Wayne Law Review* 60 (2014): 9-30.

Volk, Kyle G. *Moral Minorities and the Making of American Democracy* (Oxford University Press, 2014).

Williams, Robert F. "Michigan State Constitutionalism: On the Front of the Last Wave," *Wayne Law Review* 60 (2014): 1-8.

IACL PAPERS PUBLISHED

The International Association of Constitutional Law held its 9th World Congress in Oslo, Norway in June, 2014. Robert Williams, Associate Director of the Center for State Constitutional Studies, co-organized the conference workshop on "Subnational Constitutions in Federal and Quasi-federal Constitutional States." Several papers from that workshop have now been published in a special issue of *Perspectives on Federalism*, entitled "Re-exploring Subnational Constitutionalism." The issue is available online at: http://www.on-federalism.eu/attachments/004_Volume%206%20-%20issue%20%20-%202014.pdf . The articles included in the special issue include:

Robert F. Williams, *Foreword: Continuing Sophistication in Subnational Constitutionalism*

Giacomo Delledonne, Giuseppe Martinico and Patricia Popelier, *Editors' Introduction: Re-exploring Subnational Constitutionalism*

Patricia Popelier, *Subnational Multilevel Constitutionalism*

Anna Gamper, *Constitutional Courts, Constitutional Interpretation, and Subnational Constitutionalism*

Werner Vanden Bruwaene, *The Legal Enforcement of the Principle of Subsidiarity*

José María Serna De La Garza, *Strengthening State Constitutionalism from the Federal Constitution: the Case of Mexico*

Zemelak Ayitenew Ayele, *The Politics of Sub-national Constitutionalism and Local Government in Ethiopia*

Giuseppe Martinico and Leonardo Pierdominici, *Crisis, Emergency and Subnational Constitutionalism in the Italian Context*

Sarah Lambrecht, *Movement towards a Flemish Constitution: the Charter for Flanders, Another Failed Attempt?*

Esther Seijas Villadangos, *Answers to Spanish Centrifugal Federalism: Asymmetrical Federalism Versus Coercive Federalism*

Irene Sobrino Guijarro, *Constitutional Bases in the Federal Conflict Over the Health Care Access Restriction of Undocumented Migrants in Spain*

Werner Reutter, *Multilevel Systems and Sub-National Constitutional Politics in Germany: A Qualitative Comparative Analysis*

Dirk Hanschel, *The Role of Subnational Constitutions in Accommodating Centrifugal Tendencies within European States: Flanders, Catalonia and Scotland Compared*

Olivier Van Der Noot, *Subnational Constitutions: The Belgian Case in the Light of the Swiss Experience*

Víctor Cuesta-López, *Intergovernmental Relations in Spain and the United Kingdom: The Institutionalization of Multilateral Cooperation in Asymmetric Polities*

Benjamin F. Gussen, *The Evolutionary Economic Implications of Constitutional Designs: Lessons from the Constitutional Morphogenesis of New England and New Zealand*

CENTER SHORTS

In September, 2014, Alan Tarr and Robert Williams, Director and Associate Director of the Center, participated via skype as guest experts before a class on “Constitutional Design” conducted by Sandy D’Alemberte and Carol Weissert at Florida State University.

In October, 2014, Robert Williams gave the Keynote Address at the Tribute to Chief Justice Ronald B. Castille, at Duquesne University in Pittsburgh, Pennsylvania. His talk, "Chief Justice Ronald Castille, the Pennsylvania Supreme Court and State Constitutional Law" will be published in the Duquesne Law Review.

In November, 2014, Robert Williams gave expert advice relating to federal constitutional provisions on subnational constitutions to the United Nations consultants who are advising the Constitutional Drafting Committee for Yemen.

In November, 2014 Robert Williams spoke at a New Jersey Institute for Continuing Legal Education program, "What Every Lawyer Should Know About the New Jersey Constitution."

In November, 2014, Alan Tarr directed a conference on “Judicial Independence, Judicial Power, and Liberty” under the auspices of the Liberty Fund in Santa Fe, New Mexico.

In January, 2015, Alan Tarr presented a paper entitled “Popular Constitutionalism and Its Enemies” at the annual conference of the Southern Political Science Association, held in New Orleans, Louisiana.

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.

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.

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