



INTRODUCTION

*Robert F. Williams**

This is our Thirtieth Annual Issue on State Constitutional Law. Our invited Foreword this year is by Neal Devins, Sandra Day O'Connor Professor of Law and Director of the Institute of Bill of Rights Law at William & Mary Law School. He points out some sobering, but very important, limitations on potential state constitutional protections of individual rights in "the age of party polarization."¹ These cautions will be interesting to all of those concerned with state constitutional law.

This Issue also contains an insightful review by Professor Jonathan L. Marshfield from the University of Nebraska College of Law about John Dinan's important new book on state constitutional amendments.² Dr. Dinan analyzes the use, importance, and effect of state constitutional amendments.³ Professor Marshfield himself has contributed immeasurably to our understanding of this flexible characteristic of state constitutions in contrast to the static United States Constitution.⁴

Further, this Issue contains an insightful article by Professor Mary E. Adkins from the University of Florida Levin College of Law on Florida's unique Constitution Revision Commission.⁵ Professor Adkins is

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1. Neal Devins, *State Constitutionalism in the Age of Party Polarization*, 71 RUTGERS U. L. REV. 1129 (2019).

2. Jonathan L. Marshfield, *The People and Their Constitutions*, 71 RUTGERS U. L. REV. 1233 (2019) (reviewing JOHN DINAN, *STATE CONSTITUTIONAL POLITICS: GOVERNING BY AMENDMENT IN THE AMERICAN STATES* (2018)).

3. *See* DINAN, *supra* note 2, at i.

4. *See, e.g.*, Jonathan L. Marshfield, *Amendment Creep*, 115 MICH. L. REV. 215 (2016); Jonathan L. Marshfield, *The Amendment Effect*, 98 B.U. L. REV. 55 (2018); Jonathan L. Marshfield, *Courts and Informal Constitutional Change in the States*, 51 NEW ENG. L. REV. 453 (2017); Jonathan L. Marshfield, *Decentralizing the Amendment Power*, 19 LEWIS & CLARK L. REV. 963 (2015); Jonathan L. Marshfield, *Forgotten Limits on the Power to Amend State Constitutions*, 114 NW. U. L. REV. 65 (2019); Jonathan L. Marshfield, *Improving Amendment*, 69 ARK. L. REV. 477 (2016).

5. Mary E. Adkins, *What Florida's Constitution Revision Commission Can Teach and Learn from Those of Other States*, 71 RUTGERS U. L. REV. 1177 (2019).

an expert on Florida's state constitution.⁶ Florida's important Commission, in existence since the adoption of Florida's 1968 Constitution, has not been emulated by any other state.⁷

Not coincidentally, this Issue also contains my own review concerning Professor Adkins' book.⁸ In this book, Professor Adkins analyzes the development of Florida's 1968 Constitution, in which I had a very small staff role.⁹ So, I was very pleased to see her excellently researched book about those events.

Notably, last year we published Professor Seth F. Kreimer's deeply researched study of Pennsylvania judicial review of the state constitutional rights provisions over the last fifty years.¹⁰ We would have liked to include it in this year's Annual Issue on State Constitutional Law, but time was of the essence. Professor Kreimer, of the University of Pennsylvania Law School, is an expert on the Pennsylvania Constitution both as a scholar and as a friend of the court in some of the cases he covers.¹¹ His article describes, analyzes, and categorizes the last half century of state constitutional rights litigation in Pennsylvania.¹² This will be an invaluable resource for students, lawyers, and judges for years to come.

This year we also noted the publication of Paul E. Herron's important new book on the Civil War and post-Civil War southern state constitutions.¹³ Dr. Herron's deep research and analysis sheds important new light on this very important period of state constitutional development.

Finally, as always, this Issue contains excellent student-written analysis of some of the most important state constitutional decisions of the past year.¹⁴

6. See MARY E. ADKINS, *MAKING MODERN FLORIDA: HOW THE SPIRIT OF REFORM SHAPED A NEW STATE CONSTITUTION* (2016).

7. Robert F. Williams, *Foreword: Is Constitutional Revision Success Worth Its Popular Sovereignty Price?*, 52 FLA. L. REV. 249, 253, 256 (2000).

8. Robert F. Williams, *The Long Road to Florida's Modern Constitution*, 71 RUTGERS U. L. REV. 1247 (2019) (reviewing ADKINS, *supra* note 6).

9. ADKINS, *supra* note 6, at 1.

10. See Seth F. Kreimer, *Still Living After Fifty Years: A Census of Judicial Review Under the Pennsylvania Constitution of 1968*, 71 RUTGERS U. L. REV. 287 (2018).

11. See, e.g., Brief of Amicus Curiae Law School Professors, William Penn School Dist. v. Pennsylvania Dep't of Educ., 170 A.3d 414 (Pa. 2017) (No. 46 MAP 2015).

12. Kreimer, *supra* note 10, at 291.

13. See Williams, *supra* note 8, at 1249 n.13 (2019); PAUL E. HERRON, *FRAMING THE SOLID SOUTH: THE STATE CONSTITUTIONAL CONVENTIONS OF SUCCESSION, RECONSTRUCTION, AND REDEMPTION, 1860-1902* (2017).

14. See Caroline DiBartolomeo, Comment, *State Constitutional Law—Education Finance—The Ongoing Battle for Adequate School Funding in the State of Kansas*, 71 RUTGERS U. L. REV. 1257 (2019); Joanna Gardner, Comment, *Refusing to Hew to the Federal*

2019]

INTRODUCTION

1127

We remain hopeful that this three decades-long academic project continues to add to the scholarship on, and understanding, of state constitutions.

Floor—Florida Supreme Court Finds Mandatory Waiting Period Prior to Abortion Unconstitutional, 71 RUTGERS U. L. REV. 1277 (2019); Christina Lidondici, Comment, *State Constitutional Law—Hawai‘i Secures the Right to Remain Silent—Prohibiting the Substantive Use of Pre-Arrest Silence*, 71 RUTGERS U. L. REV. 1303 (2019); Kaitlin L. Meola, Comment, *State Constitutional Law—Ex Post Facto—The Pennsylvania Supreme Court Holds that Pennsylvania’s New Sex Offender Registration Law Violates the Federal and State Constitutions*, 71 RUTGERS U. L. REV. 1333 (2019); Stephanie P. Terzano, Comment, *Another Opportunity for the California Supreme Court to Correct the Lower Court’s Application of Hill’s Privacy Test*, 71 RUTGERS U. L. REV. 1359 (2019).