
THE CONSTITUTIONS
OF THE STATES

A STATE BY STATE
GUIDE AND
BIBLIOGRAPHY
to Current Scholarly Research



OF THE STATES

A STATE BY STATE
GUIDE AND
BIBLIOGRAPHY
to Current Scholarly Research

by
BERNARD D. REAMS, JR., J.D., Ph.D.
and
STUART D. YOAK, Ph.D.

OCEANA PUBLICATIONS, INC., DOBBS FERRY, NEW YORK



Library of Congress Cataloging-in-Publication Data

Reams, Bernard D.

The constitutions of the states: a state by state guide and bibliography to current scholarly research/by Bernard D. Reams, Jr. and Stuart D. Yoak.

p. cm.

Includes indexes.

ISBN 0-379-20970-5: \$60.00

I. United States—Constitutional law, State—Bibliography.

I. Yoak, Stuart D. II. Title.

KF4529.R43 1988

016.34273'02—dc19

[016.3473022]

88-19621

CIP

© Copyright 1988 by Oceana Publications, Inc.

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, xerography, or any information storage and retrieval system, without permission in writing from the publisher.

Manufactured in the United States of America

INTRODUCTION

This book is a companion volume to *The Constitution of the United States: A Guide and Bibliography to Current Scholarly Research*. The first title was initiated largely to help commemorate and participate in the increased research effort celebrating the bicentennial of the United States Constitution. Frequently during the compilation of our first work we found references to state constitutional scholarship. Many of the state constitutions have been revised and rewritten over the years, but the secondary literature and commentary surrounding these legal milestones has lagged far behind that of the federal constitution. Additionally, no comprehensive bibliography existed which compiled and organized this body of secondary literature. Our objective in this new title remained the same: to provide the legal scholar and researcher with both a guide and a bibliography to constitutional writings. Our hope is that *The Constitutions of the States: A State by State Guide and Bibliography to Current Scholarly Research* will provide direction for future researchers and in so doing open up this vast area of generally untapped resources and bring it into the fabric of the American legal world.

The Constitutions of the States focuses primarily upon current research in the legal periodical literature. The design and organizational structure follows that established with our prior work. This time each chapter is devoted to a single state constitution and within each chapter the entries are arranged according to the specific articles and sections of the respective state constitutions. This method of presentation enables the researcher to focus directly upon the specific topic areas of interest. Under each article and section the entries are then arranged in reverse chronological order and then alphabetically by the author's last name. This arrangement presents the most current and pertinent items first for the investigator's review.

We consider *The Constitutions of the States* a guide in the truest sense. As with our earlier work on the United States Constitution, what we have provided here is far more than a simple listing of entries. From the Table of Contents one can see the myriad diversity presented to the legal scholar with these fifty different state constitutions. With ratification dates which range from as far back as 1784 for New Hampshire to as recent as 1986 for Rhode Island, one sees the foundation for a broad spectrum of American legal tradition. One of the most daunting of tasks, both for the scholar and bibliographer, when confronting these fifty different constitutional documents is their lack of uniformity. Although most do follow structures and basic content of the federal constitution, there are significantly unique features in each state constitution. This is represented in the different titles given to each article and section and in the manner of their presentation. To discern the rich insight these many unique and often subtle differences imply, the researcher only needs to consult the classic *Index Digest of State Constitutions* (2d ed. 1959-1969) published by Oceana Publications to see comparative and parallel statements of provisions of all state constitutions arranged by subject.

In *The Constitutions of the States*, we have arranged the entries by state and then by article of each constitution. Additionally, we have also provided a number of different indexes which will assist the researcher. As with our previous work, we have included an Author Index and Title Index which identify each entry. All entries in the bibliography are presented following the *Uniform System of Citation* format. Consequently, only the last name of the author is entered for journal articles. The only occasions in which an author

name would not be listed in the Author Index are those where the name on the entry is “Case Comment” indicating an unsigned article in a legal periodical. These entries, however, will be listed in the Title Index and Case Name Index where appropriate.

The Title Index lists all entries in the bibliography. If the entry appears more than once in the bibliography, then each of the pages will be indicated sequentially following the title of the article in the Title Index. If two or more entries use the same name in the bibliography—such as *Constitutional Law* or *Evidence*—then a separate title will be listed in the Title Index for each new and distinct citation. Titles which begin with a number such as a year or section number precede the alphabetic entries.

One of the new features we have introduced with this book is the Case Name Index. This table of cases identifies specific case names which appear in the title of entries listed in the bibliography. Although these case names do appear in the full title of each entry, they are often not at the beginning of a title and, therefore, are lost as a search reference point in the alphabetically arranged Title Index. This new index of Case Names should improve researchers access to important entries within the bibliography and provide a method for tracking the impact specific court cases have upon the development of state constitutional law.

As with our earlier work we have concentrated on current legal scholarship in the selection of entries for *The Constitutions of the States*. The beginning point for our work was with the state constitutions themselves. We conducted a thorough and exhaustive search through the textual footnotes and commentary of each of the fifty state constitutions as contained in the annotated state codes of each state. In most cases we worked with the commercially produced state codes in an effort to identify potential entries which would have analytical or expository value for the bibliography. Our primary task has been, as it was with our first work, to produce a research tool that enabled scholars to narrow their investigations according to specific articles or sections of each state constitution.

Since many of the states have revised or rewritten their constitutions over the years we decided to concentrate only on the version currently in effect. The current date for each state constitution is identified in the Table of Contents chapter headings and at the beginning of each chapter. After having reviewed the fifty state constitutions, we proceeded to carefully extract potential entries from the *Index to Legal Periodicals*, *Current Law Index* and *InfoTrac* from 1970 until today. In some cases where we were unable to locate any source documents for a particular state constitution we expanded our search in the legal periodical literature to include earlier entries published before 1970.

The uniqueness of this bibliography is that it brings together many relevant articles and essays previously scattered in various locations into one centralized forum. We focus primarily on legal articles analyzing, examining, and interpreting various sections of the constitutions. Researchers should find this work an excellent starting point into contemporary state constitutional law research. Additionally, no other current volume exists which has attempted such an exhaustive bibliographic survey of the literature of state constitutional law. We do, however, wish to cite to older titles which are useful in tracing the historical development of state constitutions: B. Poore, *Charters and Constitutions* (1877); F. Stimson, *The Law of the Federal and State Constitutions of the United States* (1908); F. Thorpe, *Federal and State Constitutions* (1909); C. Kettlebrough, *State Constitutions* (1918); New York Constitutional Convention Committee, 3

Reports: *Constitutions of the States and United States* (1938); B.J. Halevy, *Selective Bibliography on State Constitution Revision*, (1963); A.L. Sturm, *Selected Bibliography on State Constitutional Revisions* (1966); A.L. Sturm, *A Bibliography on State Constitutions and Constitutional Revisions, 1945-1975* (1975); C.E. Browne, *State Constitutional Conventions...1776-1959, A Bibliography* (1973), plus *Supplements for 1959-1975* by S.R. Yarger (1976) and for 1959-1976, with *Revisions and Amendments*, by B. Canning (1977); *State Constitutional Conventions, Commissions, and Amendments on Microfiche (1972-1980)*; and the classic W.F. Swindler, *Sources and Documents of United States Constitutions* (1979) regarded by many legal researchers as the most useful historical source for state constitutions.

As with any documents of this size and scope, one encounters many debts along the way. First, we must express our wholehearted appreciation to the Editors and our friends from Oceana Publications, Inc. Special recognition goes to Ms. Diane M. Peters, second year law student at Washington University in Saint Louis, who assisted us so conscientiously throughout the preparation and data collection phases of this project. Ms. Peters has gained our highest respect and praise for her dedication and the fine quality of her work. We also wish to thank Mr. Brain Wooley, Circulation Assistant at the Washington University Freund Law Library and Karen Hunt, student assistant, who provided valuable technical and computer assistance in bringing this project to a successful conclusion. Finally, we wish to thank all of the members from the Washington University Law Library staff who suffered with us during this major bibliographic project.

To our fathers
Maj. Bernard D. Reams, U.S. Army (Ret.)
and
Dale Martin Yoak
(1911-1980)

THE CONSTITUTIONS OF THE STATES
A STATE BY STATE GUIDE
AND BIBLIOGRAPHY

TABLE OF CONTENTS

Introduction	xvii
--------------------	------

Chapter One

Alabama Constitution - 1901

Article I: Declaration of Rights	3
Article III: Distribution of Powers of Government	4
Article IV: Legislative Department	4
Article VI: Judicial Department	5
Article XII: Corporations	6
Article XIV: Education	7

Chapter Two

Alaska Constitution - 1959

Article I: Declaration of Rights	11
Article II: The Legislature	12
Article IV: The Judiciary	12
Article VII: Health, Education, and Welfare	13
Article VIII: Natural Resources	14

Chapter Three

Arizona Constitution - 1910

Article II: Declaration of Rights	17
Article III: Distribution of Powers	21
Article VI: Judicial Department	21
Article VII: Suffrage and Elections	22
Article IX: Public Debt, Revenue, and Taxation	22
Article XI: Education	23
Article XIII: Municipal Corporations	23
Article XIV: Corporations Other Than Municipal	23
Article XV: Corporation Commission	23
Article XVIII: Labor	24
Article XX: Ordinance	24
Article XXV: Right to Work	25

Chapter Four

Arkansas Constitution - 1874

Article II: Declaration of Rights	29
Article IV: Departments	31
Article V: Legislative Department	31
Article VI: Executive Department	32
Article VII: Judicial Department	32
Article IX: Exemption	33
Article XII: Municipal and Private Corporations	33
Article XIV: Education	34
Article XVI: Finance and Taxation	34
Article XIX: Miscellaneous Provisions	34
Amendments to the Constitution	36

Chapter Five

California Constitution - 1879

Article I: Declaration of Rights	39
Article II: Voting, Initiative and Referendum, and Recall	46
Article VI: Judicial	46
Article IX: Education	47
Article X: Water	47
Article XI: Local Government	48
Article XIII-A: Tax Limitation Initiative	48

Chapter Six

Colorado Constitution - 1876

Article II: Bill of Rights	53
Article III: Distribution of Powers	57
Article V: Legislative Department	57
Article VI: Judicial	58
Article VIII: State Institutions	62
Article IX: Education	62
Article X: Revenue	63
Article XVI: Mining and Irrigation	63
Article XX: Home Rule Cities and Towns	64
Article XXV: Public Utilities	65

Chapter Seven

Connecticut Constitution - 1965

Article I: Declaration of Rights	69
Article III: Of the Legislative Department	71
Article V: Of the Judicial Department	72
Article VII: Of Religion	72
Article VIII: Of Education	73
Article X: Of Home Rule	74

Chapter Eight

Delaware Constitution - 1897

Article I: Bill of Rights	77
Article II: Legislature	77
Article IV; Judiciary	77
Article VIII: Revenue and Taxation	78
Article IX: Corporations	78

Chapter Nine

Florida Constitution - 1968

Article I: Declaration of Rights	83
Article II: General Provisions	90
Article V: Judiciary	90
Article VII: Finance and Taxation	91
Article VIII: Local Government	92
Article IX: Education	93
Article X: Miscellaneous	93
Article XI: Amendments	94

Chapter Ten

Georgia Constitution - 1983

Article I: Bill of Rights	97
Article III: Legislative Branch	99
Article V: Executive Branch	99
Article VI: Judicial Branch	99
Article VII: Taxation and Finance	100
Article VIII: Education	101
Article IX: Counties and Municipal Corporations	101
Article X: Amendments to the Constitution	102

Chapter Eleven

Hawaii Constitution - 1959

Article I: Bill of Rights	105
Article III: The Legislature	105
Article VI: The Judiciary	106
Article VII: Taxation and Finance	107
Article VIII: Local Government	107
Article IX: Public Health and Welfare	107
Article X: Education	108
Article XI: Conservation, Control and Development of Resources	108
Article XII: Hawaiian Affairs	109

Chapter Twelve

Idaho Constitution - 1890

Article I: Declaration of Rights	113
Article III: Legislative Department	114
Article V: Judicial Department	114
Article VII: Finance and Revenue	115
Article VIII: Public Indebtedness and Subsidies	115
Article IX: Education and School Lands	115
Article XV: Water Rights	116

Chapter Thirteen

Illinois Constitution - 1970

Article I: Bill of Rights	119
Article IV: The Legislature	123
Article V: The Executive	123
Article VI: The Judiciary	124
Article VII: Local Government	124
Article VIII: Finance	126
Article IX: Revenue	126
Article X: Education	126
Article XI: Environment	126
Article XIII: General Provisions	127

Chapter Fourteen

Indiana Constitution - 1851

Article I: Bill of Rights	131
---------------------------------	-----

Article IV: Legislative	132
Article VII: Judicial	132
Article X: Finance	133

Chapter Fifteen

Iowa Constitution - 1857

Article I: Bill of Rights	137
---------------------------------	-----

Chapter Sixteen

Kansas Constitution - 1859

Bill of Rights	141
Article I: Executive	143
Article II: Legislative	144
Article III: Judicial	144
Article XI: Finance and Taxation	145
Article XII: Corporations	145
Article XV: Miscellaneous	145

Chapter Seventeen

Kentucky Constitution - 1891

Article I: Bill of Rights	149
Article II: Distribution of the Powers of Government	150
Article III: Legislative Department	150
Article X: Revenue and Taxation	150

Chapter Eighteen

Louisiana Constitution - 1974

Article I: Declaration of Rights	153
Article II: Distribution of Powers	161
Article III: Legislative Branch	161
Article IV: Executive Branch	162
Article V: Judicial Branch	163
Article VI: Local Government	165
Article VII: Revenue and Finance	166
Article VIII: Education	166
Article IX: Natural Resources	167
Article X: Public Officials and Employees	168
Article XII: General Provisions	169

Chapter Nineteen

Maine Constitution - 1983

Article I: Declaration of Rights	173
Article IV	
Part Third: Legislative Power	174

Chapter Twenty

Maryland Constitution - 1967

Declaration of Rights	177
Article I: Elective Franchise	179

Article III:	Legislative Department	179
Article IV:	Judiciary Department	180
Article VIII:	Education	180
Article XIV:	Amendments to the Constitution	181
Article XVI:	The Referendum	181

Chapter Twenty-one

Massachusetts Constitution - 1780

Preamble	185
Part the First: A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts	185
Part the Second: Frame of Government	186
Chapter I: The Legislative Power	187
Chapter II: The Executive Power	187
Chapter III: The Judicial Power	187
Articles of Amendment	187

Chapter Twenty-two

Michigan Constitution - 1963

Article I: Declaration of Rights	191
Article IV: Legislative Branch	195
Article VI: Judicial Branch	195
Article VIII: Education	195
Article IX: Finance and Taxation	195

Chapter Twenty-three

Minnesota Constitution - 1857

Article I: Bill of Rights	199
Article VI: Judiciary	201
Article X: Taxation	201

Chapter Twenty-four

Mississippi Constitution - 1890

Article I: Distribution of Powers	205
Article III: Bill of Rights	205
Article IV: Legislative Department	206
Article VI: Judiciary	206

Chapter Twenty-five

Missouri Constitution - 1945

Article I: Bill of Rights	209
Article II: Distribution of Powers	212
Article III: Legislative Department	212
Article V: Judicial Department	213
Article VI: Local Government	213
Article IX: Education	214
Article X: Taxation	214
Article XII: Amending the Constitution	214

Chapter Twenty-six

Montana Constitution - 1972

Article I: Compact With the United States	217
Article II: Declaration of Rights	217
Article VII: The Judiciary	218
Article IX: Environment and Natural Resources	218
Article X: Education and Public Lands	219

Chapter Twenty-seven

Nebraska Constitution - 1875

Article I: Bill of Rights	223
Article III: Legislative Power	224
Article V: Judicial	224
Article VII: Education	224
Article VIII: Revenue	225
Article XII: Miscellaneous Corporations	225
Article XVI: Amendments	226

Chapter Twenty-eight

Nevada Constitution - 1864

Article I: Declaration of Rights	229
Article III: Distribution of Powers	229
Article IV: Legislative Department	229
Article VI: Judicial Department	230
Article VIII: Corporations	230

Chapter Twenty-nine

New Hampshire Constitution - 1784

Part First: Bill of Rights	233
Part Second: Form of Government	234

Chapter Thirty

New Jersey Constitution - 1947

Article I: Rights and Privileges	237
Article III: Distribution of the Powers of Government	242
Article IV: Legislative	242
Article VI: Judicial	242
Article VIII: Taxation and Finance	243
Article XI: Schedule	243

Chapter Thirty-one

New Mexico Constitution - 1911

Article II: Bill of Rights	247
Article III: Distribution of Powers	248
Article IV: Legislative Department	249
Article VI: Judicial Department	249
Article XI: Corporations Other Than Municipal	249

Chapter Thirty-two

New York Constitution - 1982

Article I: Bill of Rights	253
Article III: Legislative Power	260
Article VI: Judiciary	260
Article IX: Local Governments	261

Chapter Thirty-three

North Carolina Constitution - 1970

Article I: Declaration of Rights	265
Article II: Legislative	267
Article III: Executive	268
Article IV: Judiciary	268
Article V: Finance	269
Article VI: Suffrage and Eligibility to Office	269
Article VII: Local Government	270
Article VIII: Corporations	270
Article IX: Education	270
Article X: Homesteads and Exemptions	271
Article XI: Punishments, Corrections, and Charities	272
Article XII: Military Forces	272

Chapter Thirty-four

North Dakota Constitution - 1889

Article I: Declaration of Rights	275
Article III: Powers Reserved To The People	275
Article IV: Legislative Branch	276
Article VIII: Education	276
Article X: Finance and Public Debt	276
Article XIII: Compact With United States	276

Chapter Thirty-five

Ohio Constitution - 1851

Article I: Bill of Rights	279
Article II: Legislative	285
Article IV: Judicial	288
Article VI: Education	288
Article VIII: Public Debt and Public Works	289
Article XI: Apportionment	289
Article XIII: Corporations	290
Article XVIII: Municipal Corporations	290

Chapter Thirty-six

Oklahoma Constitution - 1907

Preamble	295
Article I: Federal Regulations	295
Article II: Bill of Rights	298
Article III: Suffrage	306
Article IV: Distribution of Powers	306
Article V: Legislative Department	306

Article VI:	Executive Department	307
Article VII:	Judicial Department	307
Article VII-A:	Court on the Judiciary	308
Article IX:	Corporations	309
Article X:	Revenue and Taxation	310
Article XII-A:	Homestead Exemption from Taxation	311
Article XIV:	Banks and Banking	311
Article XVII:	Counties	311
Article XVIII:	Municipal Corporations	312
Article XXI:	Public Institutions	312
Article XXII:	Alien and Corporate Ownership of Lands	312
Article XXIII:	Miscellaneous	312
Article XXIV:	Constitutional Amendments	313
Article XXV:	Social Security	313

Chapter Thirty-seven

Oregon Constitution - 1857

Article I:	Bill of Rights	317
Article IV:	Legislative Department	318
Article IX:	Finance	319

Chapter Thirty-eight

Pennsylvania Constitution - 1874

Article I:	Declaration of Rights	323
Article V:	The Judiciary	329
Article VIII:	Taxation and Finance	329

Chapter Thirty-nine

Rhode Island Constitution - 1986

Article I:	Declaration of Certain Constitutional Rights and Principles	333
Article XIV:	Constitutional Amendments and Revisions	333

Chapter Forty

South Carolina Constitution - 1895

Article I:	Declaration of Rights	337
Article III:	Legislative Department	337
Article V:	Judicial Department	338
Article VIII:	Local Government	338
Article X:	Finance, Taxation and Bonded Debt	338
Article XVII:	Miscellaneous Matters	339

Chapter Forty-one

South Dakota Constitution - 1889

Article III:	Legislative Department	343
Article V:	Judicial Department	343
Article VI:	Bill of Rights	343
Article VIII:	Education and School Lands	344
Article XI:	Revenue and Finance	344
Article XXI:	Miscellaneous	344

Article XXII: Compact with the United States	345
Article XXVI: Schedule and Ordinance	345

Chapter Forty-two

Tennessee Constitution - 1870

Article I: Declaration of Rights	349
Article II: Distribution of Powers	350
Article III: Executive Department	351
Article V: Impeachments	351
Article VI: Judicial Department	351
Article X: Oaths, Bribery of Electors, New Counties	352
Article XI: Miscellaneous Provisions	352

Chapter Forty-three

Texas Constitution - 1876

Article I: Bill of Rights	355
Article II: The Powers of Government	359
Article III: Legislative Department	359
Article V: Judicial Department	359
Article VIII: Taxation and Revenue	361
Article XI: Municipal Corporations	362
Article XII: Private Corporations	362
Article XVI: General Provisions	362
Article XVII: Mode of Amending the Constitution of this State	362

Chapter Forty-four

Utah Constitution - 1895

Article I: Declaration of Rights	365
Article X: Education	366
Article XI: Counties, Cities and Towns	367
Article XX: Public Lands	367

Chapter Forty-five

Vermont Constitution - 1793

Chapter I: A Declaration of the Rights of the Inhabitants of the State of Vermont	371
Chapter II: Plan or Frame of Government: Legislative Department	373
Chapter II: Plan or Frame of Government: Judiciary Department	374

Chapter Forty-six

Virginia Constitution - 1970

Article I: Bill of Rights	379
Article II: Franchise and Officers	381
Article V: Executive	382
Article VI: Judiciary	382
Article VII: Local Government	382
Article VIII: Education	383