

The Iowa State Constitution

John Dinan
Wake Forest University

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Book Reviews and Notices

The Iowa State Constitution, 2nd ed., by Todd E. Pettys. The Oxford Commentaries on the State Constitutions of the United States. New York: Oxford University Press, 2018. xv, 337 pp. Notes, bibliographical essay, table of cases, index. \$165 hardcover.

Reviewer John Dinan is professor of politics and international affairs at Wake Forest University. He is the author of *State Constitutional Politics: Governing by Amendment in the American States* (2018) and *The American State Constitutional Tradition* (2006).

In *The Iowa State Constitution*, Todd E. Pettys, a law professor at the University of Iowa College of Law, analyzes the origins, amendments, and judicial interpretations of the Iowa Constitution. Pettys's book is published as part of a 50-state series, *The Oxford Commentaries on the State Constitutions of the United States*, edited by G. Alan Tarr. Following the standard format for authors in this series, Pettys provides a history of Iowa's constitutions in the opening fifth of the book and a section-by-section commentary for each constitutional article and provision in the rest of the book.

Pettys provides a detailed account of the constitutional conventions that were held in 1844 and 1846 and eventually produced the state's inaugural constitution as well as an 1857 convention responsible for crafting the state's current constitution. Those conventions faced questions about how to structure and limit governing institutions, where to locate the capital, and how to draw the state's boundaries. Delegates also spent a good deal of time debating whether to allow banks to operate in the state. The 1846 state constitution was one of several state constitutions around the country at that time that prohibited the operation of banking institutions altogether. A decade later, though, public dissatisfaction with the bank ban played a key role in the calling of an 1857 convention that reversed course and authorized banks but sought to limit them in various ways and required any banking legislation to be approved in a public referendum.

Delegates at these conventions also debated various constitutional provisions with implications for African Americans. The 1846 convention approved provisions barring blacks from voting or serving in the legislature or militia. The 1857 convention considered various proposals to guarantee property rights for black residents, allow them to serve in

the militia, and permit them to testify as witnesses, before ultimately rejecting the first two proposals and passing a modified version of the third. Delegates at the 1857 convention also engaged in extensive debate about black suffrage and whether to replace a provision in the inaugural constitution that reserved voting for white men. Black suffrage commanded enough support in the convention that the decision was made to submit the question to the people in a separate vote alongside of the proposed new constitution; voters defeated the stand-alone measure by an overwhelming margin.

Although Iowa continues to operate under its 1857 constitution, the legislature has approved and voters have ratified more than 50 amendments. For instance, a 1962 amendment brought significant changes in the way judges are chosen. Although the 1857 constitution provided for judicial elections, in keeping with the dominant trend in state constitution-making during the mid-nineteenth century, just over a century later voters approved an amendment providing for judges to be appointed by the governor from nominees submitted by a merit-selection commission and then for judges to stand for periodic retention elections. A 1968 amendment instituted municipal home rule. Amendments in 1972 brought several notable changes by repealing a longstanding ban on lotteries and increasing the governor's term from two to four years. Among other amendments of note, voters defeated state equal rights amendments in 1980 and 1992 before finally approving a modified version of a gender-equity amendment in 1998.

In keeping with the format of the series, Pettys's section-by-section commentary focuses to a significant extent on judicial decisions interpreting each provision of the Iowa Constitution. Iowa courts have frequently been called on to interpret state constitutional provisions that have no counterpart in the U.S. Constitution. Occasionally, Iowa judges have concluded that provisions in the Iowa Constitution should be understood as guaranteeing greater protection for certain rights than is provided by U.S. Supreme Court interpretations of the federal Bill of Rights. The most notable decision of this kind was the Iowa Supreme Court's unanimous ruling in *Varnum v. Brien* (2009) that relied on the equal-protection clause of the Iowa Constitution to require legal recognition of same-sex marriage at a time when same-sex marriage was recognized in only two other states and six years before the U.S. Supreme Court interpreted the U.S. Constitution as requiring nationwide legalization of same-sex marriage.

This book will be a terrific resource for lawyers interested in tracing the origin, development, and interpretation of each of Iowa's constitutional provisions, but it deserves a broader readership from scholars

and citizens who are interested in tracing Iowa's political and legal development. Historians will benefit in particular from the close attention to debates and proceedings in Iowa's three mid-nineteenth-century conventions. Students of Iowa government and politics will also come away from this carefully researched and well-written book with answers to numerous questions about the origins of institutions, rules, and processes that play a key role in how Iowa is governed.

Wisconsin and the Shaping of American Law, by Joseph A. Ranney. Madison: University of Wisconsin Press, 2017. x, 309 pp. Graphs, notes, bibliography, index. \$49.95 hardcover.

Reviewer Dale Yurs earned an M.A. in history at the University of Northern Iowa in 2011. His master's thesis was "From a Weak Tribunal to a Branch of Government: The Supreme Court of the United States from 1789 to Marshall."

Joseph Ranney's book, *Wisconsin and the Shaping of American Law*, offers a new look at how state law made a valuable contribution to our national legal system. Through his chronological look at Wisconsin's legal history, Ranney puts the midwestern states on the forefront of legal history and shows how those states, particularly Wisconsin, created the system of laws that we enjoy today.

The book opens with a discussion of how the newly created nation built a legal system to span its entire territory. After winning independence from the British in 1783, the United States gained large amounts of land west of the Appalachian Mountains. The question became how to maintain law and order in the new territory. The civil law systems of the French and Spanish, who occupied the territory prior to the French and Indian War, ran a rather loose ship. Distance limited those colonial powers' ability to micromanage their colonies. Therefore, Ranney argues, those in positions of authority required only a rudimentary knowledge of the law. Once the territory came under British control, the French and Spanish civil law systems became obsolete and a new legal system had to be fashioned. Responding to this need after independence, the new American government created the Northwest Ordinance. The progressive nature of the ordinance, exemplified in its bill of rights and the prohibition of slavery, created a new legal culture in the Midwest, one that the national legal system later adopted.

Ranney further shows how the Midwest's progressive nature developed throughout the Jacksonian period. He explains how the midwestern states embraced the premises of Jacksonian jurisprudence, especially expanding rights and opportunities. The ideals of the Jack-