

# Making a Modern Constitution:

The Prospects for  
Constitutional Reform  
in New York

Editors | **Rose Mary Bailly** and **Scott N. Fein**

New York State Bar Association Continuing Legal Education publications are intended to provide current and accurate information to help attorneys maintain their professional competence. Publications are distributed with the understanding that NYSBA does not render any legal, accounting or other professional service. Attorneys using publications or orally conveyed information in dealing with a specific client's or their own legal matters should also research original sources of authority.

We consider the publication of any NYSBA practice book as the beginning of a dialogue with our readers. Periodic updates to this book will give us the opportunity to incorporate your suggestions regarding additions or corrections. Please send your comments to: CLE Publications Director, New York State Bar Association, One Elk Street, Albany, NY 12207.

Copyright: 2016  
by  
New York State Bar Association  
All rights reserved  
ISBN: 978-1-57969-497-5  
Product Number: 4106

*Cover image:* "Vice-President Van Cortlandt with the Members of the Convention appeared in front of the court-house, and the Secretary, Robert Benson mounted upon a barrel, read the immortal document to the assembled multitude." *Credit:* Art and Picture Collection, The New York Public Library, Astor, Lenox and Tilden Foundations.

## **CONTRIBUTORS**

### **Editors**

Rose Mary Bailly  
Scott N. Fein

### **Government Law Center**

Raymond H. Brescia, Director

### **Authors**

Gerald Benjamin  
Kenneth W. Bond  
Christopher Bopst  
Raymond H. Brescia  
Richard Briffault  
Bruce W. Dearstyne  
Henrik N. Dullea  
Scott N. Fein  
Thomas L. Gais  
Peter J. Galie  
Henry M. Greenberg  
Bruce N. Gyory  
Michael J. Hutter  
Cathy M. Johnson  
Peter J. Kiernan  
Heather Trela  
Robert B. Ward

### **Student Executive Editor\***

William Davies

### **Student Editors\***

Rebecca Cerny  
Taylor Ciobanu  
Chandler Delamater  
Noah Engelhart  
Anna Federico  
Cassandra Rivais

## TABLE OF CONTENTS

	Introduction .....	xvii
	NYSBA Report and Recommendations Concerning the Establishment of a Preparatory State Commission on a Constitutional Convention.....	xix
Chapter 1	New York State Begins: The First State Constitution, 1777 .....	1
Chapter 2	We the People.....	21
Chapter 3	Constitutional Change in New York State: Process and Issues .....	55
Chapter 4	Constitutional Revision in the Empire State: A Brief History and Look Ahead .....	77
Chapter 5	Constitutional Revision in New York: The Democracy Agenda.....	109
Chapter 6	The Option of a Constitutional Commission to Drive Reform in the 21st Century .....	131
Chapter 7	Executive Branch: Need to Ensure Stability and Legitimacy in Issues of Succession to the Offices of Governor and Lieutenant Governor .....	159
Chapter 8	Positive Rights in the New York State Constitution: Social Welfare and Education .....	177
Chapter 9	Constitutional Debt Restraint .....	211
Chapter 10	Should the Indebted Support a State Constitutional Amendment to Restrict Public Authority Borrowing? .....	235
Chapter 11	New Frontiers for New York Constitutional Finance Law in the Twenty-first Century .....	251
Chapter 12	Safe at Home: Considering a Right to Counsel in Civil Cases as a State Constitutional Matter .....	279
Chapter 13	NYSBA Report and Recommendations Concerning Constitutional Home Rule.....	299

Chapter 14	Strengthening Enforcement of New York State’s Constitutional Rights: Is a Constitutional Convention the Right Forum?.....	331
Chapter 15	The Political Conundrum Underlying the Referendum for a Constitutional Convention in New York .....	347
Bibliographies .....		363
Contributor Biographies .....		409

## DETAILED TABLE OF CONTENTS

Introduction .....	xvii
Report and Recommendations Concerning the Establishment of a Preparatory State Commission on a Constitutional Convention .....	xix
Introduction and Executive Summary .....	xxiv
I. Background of the Report .....	xxvi
II. Historical Overview of Preparatory Commissions and Conventions .....	xxvii
A. Constitutional Convention Commission (1914-1915).....	xxvii
B. Constitutional Convention Committee (1937-1938).....	xxix
C. Temporary Commission on the Constitutional Convention (1956-1958).....	xxxix
D. Temporary State Commission on the Constitutional Convention (1965-1967) .....	xxxiii
E. 1977 Referendum on a Constitutional Convention .....	xxxv
F. Temporary Commission on Constitutional Revision (1993-1995).....	xxxvi
III. Recommendations .....	xxxvii
IV. Conclusion.....	xli

### **Chapter 1 NEW YORK STATE BEGINS: THE FIRST STATE CONSTITUTION, 1777**

*Bruce W. Dearstyne*

April 22, 1777 .....	3
New York State Begins .....	3
From Reluctant Rebels to Constitutional Statesmen .....	5
“A Choice of Dishes” .....	9
The New State in Action.....	14

### **Chapter 2 WE THE PEOPLE**

*Henrik N. Dullea*

I. Early History .....	23
II. The Path to 1967 .....	25
III. The Convention in Action.....	31
IV. Structural Change.....	33
A. The Executive.....	33

B. The Judiciary .....	34
C. The Legislature .....	36
D. Local Governments and the State.....	38
V. The Repeal of Blaine .....	39
VI. Policy Directives .....	40
A. Education.....	40
B. Welfare and Other Social Services .....	41
C. Housing, Community Development and State Debt .....	41
D. Labor, Civil Service and Pensions.....	42
E. Conservation and Natural Resources .....	43
F. The Bill of Rights.....	44
VII. Presenting the Document .....	45
VIII. Rejection by the Voters.....	46
IX. Going Forward.....	46
A. Executive Branch Reorganization .....	47
B. Legislative Branch Reorganization.....	47
C. Judicial Branch Reorganization .....	50
D. Other Potential Subjects .....	50
E. Next Steps .....	51

### **Chapter 3 CONSTITUTIONAL CHANGE IN NEW YORK STATE: PROCESS AND ISSUES**

*Gerald Benjamin*

I. The Process Legacy of 1846 .....	57
A. The Use of the Referendum to Call a Convention .....	57
B. The Year of the Vote .....	58
C. The 20-year Cycle .....	59
D. Automaticity .....	59
E. The Unlimited Question .....	60
F. The Knowledge Gap.....	60
G. A Limiting Not Empowering Document.....	60
H. Limiting Function Requires Detail, but Not All This Detail.....	60
I. Change Resistance.....	61
J. Disapproval of State Government .....	61
K. Disagreement on Agenda .....	62
L. Risk vs. Benefit .....	62
II. The Legacy of 1894: Convention Structure and Process .....	62
A. Unicameralism .....	63

B.	Timing and Location .....	63
C.	Delegate Election from Senate Districts —Partisan Bias .....	64
D.	Delegate Election At-Large: Senate Districts as Multi-member Districts .....	65
E.	Legislators as Delegates .....	66
F.	“Double Dipping” .....	67
G.	Quorum Rule and Decision Rule .....	67
H.	Filling Vacancies .....	68
I.	Convention Length .....	68
J.	Leadership and Rules .....	68
K.	Staff, Resources and Cost .....	69
L.	Presentation and Ratification .....	69
M.	Effective Date .....	70
III.	Other Process Issues .....	70
A.	Delegate Election Rules and Processes .....	70
B.	Election Technology and the Presentation of Choice to the Voter .....	70
C.	Preparatory Commission .....	71
D.	Gubernatorial Leadership .....	71
IV.	The Catch-22 .....	72

**Chapter 4 CONSTITUTIONAL REVISION IN THE EMPIRE STATE: A BRIEF HISTORY AND LOOK AHEAD**

*Peter J. Galie and Christopher Bopst*

I.	History of Constitutional Revision and the Amendment Process in New York .....	79
A.	Constitutional Revision in New York, 1916-2015 .....	84
1.	The Decline of the Constitutional Convention as a Means of Reform .....	85
2.	The Heuristic Function of Conventions .....	86
3.	The Failure of the Legislature to Propose Meaningful Reform .....	88
B.	Other Methods of Constitution Reform .....	91
1.	Limited Convention .....	91
2.	Popular Initiative .....	94
3.	Constitutional Commission .....	99
II.	Conclusion .....	102



**Chapter 5 CONSTITUTIONAL REVISION IN NEW YORK:  
THE DEMOCRACY AGENDA**

*Richard Briffault*

I.	Introduction .....	111
II.	Removing Obstacles to Political Reform .....	114
	A. Voting .....	114
	B. The Senate .....	116
	C. Dealing with Corruption.....	117
	D. Fixing a Broken Board of Elections .....	117
III.	Entrenching Watchdog Institutions .....	120
IV.	Substantive Reform Provisions .....	123
V.	Conclusion.....	125

**Chapter 6 THE OPTION OF A CONSTITUTIONAL  
COMMISSION TO DRIVE REFORM IN  
THE 21ST CENTURY**

*Robert B. Ward and Heather Trela*

I.	Introduction .....	133
II.	The Need for Constitutional Reform.....	135
III.	Alternative Approaches to Constitutional Change in New York.....	136
	A. Difficulties Inherent in the Convention Route to Revision .....	138
	B. Recent Constitutional Amendments via the Legislature .....	140
IV.	A Constitutional Commission Rather Than a Convention?.....	142
V.	A Brief History of Constitutional Commissions in New York .....	146
VI.	Is This a Different Era for Constitutional Revision?..	150
VII.	Conclusion.....	153

**Chapter 7 EXECUTIVE BRANCH: NEED TO ENSURE  
STABILITY AND LEGITIMACY IN ISSUES OF  
SUCCESSION TO THE OFFICES OF GOVERNOR  
AND LIEUTENANT GOVERNOR**

*Michael J. Hutter*

I.	Introduction .....	161
II.	Absence of Governor from State.....	162
III.	Temporary Gubernatorial Inability .....	165
IV.	Vacancy in the Office of Lieutenant Governor .....	169
V.	Conclusion.....	171

<b>Chapter 8</b>	<b>POSITIVE RIGHTS IN THE NEW YORK STATE CONSTITUTION: SOCIAL WELFARE AND EDUCATION</b>	
	<i>Cathy M. Johnson and Thomas L. Gais</i>	
I.	Origins of Article XVII .....	180
II.	Judicial Interpretation of Article XVII.....	182
III.	Welfare Reform after PRWORA .....	187
IV.	Origins of Article XI .....	191
	A. Judicial Interpretation of Article XI.....	192
	B. Legislative and Executive Responses .....	196
	C. After CFE .....	199
V.	Conclusions .....	203
<b>Chapter 9</b>	<b>CONSTITUTIONAL DEBT RESTRAINT</b>	
	<i>Peter J. Kiernan</i>	
I.	Introduction .....	213
II.	Discussion .....	213
	A. Legislative Debt Limit .....	215
	B. Evasion.....	215
	C. Authorities—New Agents of Issuance.....	219
	D. Balanced Budget Requirements .....	221
	E. Supermajority Requirements.....	224
	F. Judicial Approval .....	225
	G. Too Much Debt? .....	227
	H. Infrastructure .....	229
III.	Conclusion.....	230
<b>Chapter 10</b>	<b>SHOULD THE INDEBTED SUPPORT A STATE CONSTITUTIONAL AMENDMENT TO RESTRICT PUBLIC AUTHORITY BORROWING?</b>	
	<i>Scott N. Fein</i>	
I.	Background .....	237
II.	Is There a Need for a Constitutional Amendment?.....	241
III.	Judicial Reluctance to Enforce Certain Constitutional Limitations.....	243
IV.	The Alternative.....	246
<b>Chapter 11</b>	<b>NEW FRONTIERS FOR NEW YORK CONSTITUTIONAL FINANCE LAW IN THE TWENTY-FIRST CENTURY</b>	
	<i>Kenneth W. Bond</i>	
I.	Introduction .....	253
II.	The New York Constitution: The People’s Law.....	254

III.	The Layout of the 1938 State Constitution .....	254
IV.	Constitutional Finance Provisions.....	256
V.	The Practices of State Finance under the Current Constitution .....	258
VI.	The Practices of Local Finance under the Current Constitution .....	261
	A. Public Purpose .....	262
	B. Gift and Loan Prohibition .....	263
	C. Faith and Credit .....	264
	D. Debt Limits.....	265
VII.	Proposed Amendments to the Finance Articles .....	266
	A. Article VII—State Finance.....	266
	B. Article VIII—Local Finance .....	267
	C. Article IX—Home Rule .....	268
	D. Article V—Comptroller .....	269
	E. Article XVI—Taxation .....	270
VIII.	State Constitutions Matter .....	271

**Chapter 12 SAFE AT HOME: CONSIDERING A RIGHT  
TO COUNSEL IN CIVIL CASES AS A STATE  
CONSTITUTIONAL MATTER**

*Raymond H. Brescia*

	Introduction .....	281
I.	Why a Right to Counsel in Civil Cases in which Basic Human Needs Are at Stake?.....	282
II.	The Right to Counsel, Constitutional Protections and the National Landscape .....	284
III.	The Right to Counsel in New York State.....	286
	A. Constitutional Protections .....	286
	B. Statutory Arguments .....	287
IV.	Why Embed a Right to Counsel in Basic Human Needs Civil Cases in the Constitution .....	287
	A. A Statement of First Principles .....	288
	B. Insulation from Shifting Political Winds .....	289
	C. Good Governance and Enlightened, Cost-Effective Budgeting .....	291
	Conclusion .....	294

**Chapter 13 NYSBA REPORT AND RECOMMENDATIONS  
CONCERNING CONSTITUTIONAL HOME RULE**

	Introduction and Executive Summary .....	305
I.	Background of the Report .....	307

Constitutional Home Rule — Generally .....	309
A. Grants of Lawmaking Authority .....	311
B. Immunity from Legislative Interference .....	314
Restrictions on Home Rule .....	316
A. The Preemption Doctrine .....	317
B. The State Concern Doctrine .....	321
C. Unfunded Mandates .....	327
Conclusion .....	329

**Chapter 14 STRENGTHENING ENFORCEMENT OF NEW YORK STATE’S CONSTITUTIONAL RIGHTS: IS A CONSTITUTIONAL CONVENTION THE RIGHT FORUM?**

*Scott N. Fein*

I. Background .....	333
A. The Federal Picture .....	334
B. The New York Experience .....	335
C. The Promise of Brown .....	337
II. Going Forward .....	340
Scholarly Articles .....	341
Case Law .....	343
Statutory Citations .....	344
Endnotes .....	345

**Chapter 15 THE POLITICAL CONUNDRUM UNDERLYING THE REFERENDUM FOR A CONSTITUTIONAL CONVENTION IN NEW YORK**

*Bruce N. Gyory*

I. Introduction .....	349
II. Political Factors That Could Lead to Passage .....	353
A. Regionalism .....	353
B. Polling Data .....	357
C. Interest Groups .....	358
III. Changes Impacting Politics Since 1997 .....	359
IV. Conclusion .....	360

**BIBLIOGRAPHY PART I**

The New York Constitution: A Guide to Sources and Commentary .....	363
Online sources .....	363
The Constitution .....	364
Bibliographies .....	365
The Background .....	366

General Works on New York’s Constitutional History.....	367
The Convention of 1777 .....	368
The Sources .....	368
Commentaries.....	369
The Convention of 1801 .....	370
Records.....	370
Secondary Sources .....	371
The Convention of 821 .....	371
Records.....	371
Commentaries.....	371
The Convention of 1846 .....	373
Sources .....	373
Commentaries.....	373
Constitutional Developments From 1847-1894.....	374
Sources .....	374
Commentaries .....	375
The Convention of 1894 .....	375
Documents.....	375
Commentary .....	376
The Convention of 1915 .....	376
Sources .....	376
Commentaries.....	377
Constitutional Developments From 1916-1937.....	377
Sources .....	377
Commentaries.....	378
The Convention of 1938 .....	378
Sources .....	378
Commentaries.....	378
Constitutional Developments Between	
Conventions, 1939-1966 .....	379
Sources .....	379
Commentaries.....	379
The Convention of 1967 .....	380
Sources .....	380
Commentaries.....	380
Constitutional Developments From 1968-2000.....	382
Constitutional Developments During The	
Twenty-first Century .....	383
The Current Constitution .....	384
Reforming the State Constitution .....	385

**BIBLIOGRAPHY PART II**

Constitution and Constitutional Change in New York ..... 387

- I. History and Overview ..... 387
  - New York ..... 387
  - General ..... 387
- II. Bibliographies ..... 388
  - New York ..... 388
  - General ..... 388
- III. State Constitutional Law and Constitutional Change—General Context ..... 388
- IV. National Context and Comparative Materials (selected) ..... 390
- V. Law Review Articles and Scholarly Essays on New York ..... 391
- VI. Papers, Proceedings and Books from or on Specific N.Y. Conventions and Commissions ..... 393
  - 1777 ..... 393
  - 1821 ..... 393
  - 1846 ..... 393
  - 1867-68 ..... 394
  - 1894 ..... 394
  - 1915 ..... 394
  - 1921 ..... 395
  - 1938 ..... 395
  - 1957 ..... 395
  - 1967 ..... 396
  - 1977 ..... 396
  - 1997 ..... 396
- VII. Newspaper Opinion Essays and Editorials and Campaign Materials ..... 397

**BIBLIOGRAPHY PART III**

Other Sources ..... 399

- Reports ..... 399
- Articles ..... 400
- Radio and TV Broadcasts and Interviews ..... 404
- Broadcast Media that Regularly Cover the November 17, 2017 Referendum ..... 405
- News Related to New York Institutional Corruption ..... 406
- Moreland Commission ..... 407
- Lectures on the Upcoming Referendum ..... 408

Contributor Biographies ..... 409

**EDITORS**

**ROSE MARY BAILLY**

Rose Mary Bailly is an advisor to the Government Law Center and Pro Bono Programs of Albany Law School, and an Adjunct Professor of Law at Albany Law School. She serves as Editor-in-Chief of the *Government Law and Policy Journal*, a joint publication of the Government Law Center of Albany Law School and the New York State Bar Association.

**SCOTT N. FEIN**

Scott N. Fein is a partner at Whiteman Osterman and Hanna LLP. Prior to joining the firm he served as an Assistant Counsel to Governors Hugh Carey and Mario Cuomo and before that, as a prosecutor. Mr. Fein is Chair of the Board of Advisors of the Government Law Center and has been appointed by the Governor to the Public Authorities Reform Task Force and by the Chief Judge of the Court of Appeals to the Court's Permanent Commission on Sentencing Reform. He received his J.D. from Georgetown Law School and his LL.M. from New York University Law School.

**AUTHORS**

**GERALD BENJAMIN**

Distinguished Professor and Professor of Political Science, Gerald Benjamin is the Associate Vice President for Regional Engagement and Director of the Benjamin Center for Public Policy Initiatives at SUNY New Paltz. Benjamin's most recent book (edited) is *THE OXFORD HANDBOOK OF NEW YORK STATE GOVERNMENT AND POLITICS* (2012). An edited volume (with Peter Galie and Christopher Bopst) titled *NEW YORK'S BROKEN CONSTITUTION* is forthcoming in 2016 from SUNY Press. Between 1995 and 1997, Benjamin was Research Director of the Temporary State Commission on Constitutional Revision (appointed by Governor Mario Cuomo).

**KENNETH W. BOND**

Kenneth W. Bond is a Senior Partner, Squire Patton Boggs (US) LLP; Adjunct Professor, Albany Law School; Member, Advisory Board, Government Law Center, Albany Law School; Member of Council, Section of State and Local Government Law, American Bar Association; Member of Executive Committee, Local and State Government Law Section, New York State Bar Association; and Fellow, American College of Bond

Counsel. He is a co-author of *STATE AND LOCAL GOVERNMENT LAW IN A FEDERAL SYSTEM* (8th ed. 2014).

### **CHRISTOPHER BOPST**

Christopher Bopst is the Chief Legal and Financial Officer at Sam-Son Logistics in Buffalo, New York. Before that, he was a constitutional litigation partner at law firms in New York and Florida. He is the co-author with Professor Peter Galie of the leading reference work on New York's State Constitution, *THE NEW YORK CONSTITUTION* (2012), as well as numerous articles on the state Constitution. He is also a contributor to and co-editor (with Professor Galie and Professor Gerald Benjamin) of a volume of essays entitled *NEW YORK'S BROKEN CONSTITUTION: THE GOVERNANCE CRISIS AND THE PATH TO RENEWED GREATNESS* (forthcoming 2016). In 2016, he was appointed to a Judicial Task Force on the New York Constitution formed to advise the Chief Judge and the New York court system on issues related to the upcoming vote in 2017 on the holding of a constitutional convention.

### **RAYMOND H. BRESCIA**

Raymond H. Brescia is an Associate Professor of Law, Albany Law School. His chapter is adapted, in part, from a previous work of the author: *Sheltering Counsel: Towards a Right to a Lawyer in Eviction Proceedings*, 25 *Touro L. Rev.* 187 (2009). The author would like to thank John Pollock, Andrew Scherer and David Udell for helpful comments and insights on a prior draft of his chapter. The author is also grateful to the editors of this volume, Rose Mary Bailly and Scott Fein, as well as student editor William Davies.

### **RICHARD BRIFFAULT**

Richard Briffault is the Joseph P. Chamberlain Professor of Legislation, Columbia University School of Law. His research, writing and teaching focus on state and local government law, the law of the political process, and government ethics. He is the Chair of the New York City Conflicts of Interest Board and the Reporter for the American Law Institute's project on Principles of Government Ethics. He was a member of New York's Moreland Act Commission to Investigate Public Corruption (2013-14), and served as a member of, or consultant to, several New York City and State commissions dealing with state and local governance, including the New York State Commission on Local Government Efficiency & Competitiveness (2007-08), the Temporary New York Commission on Constitutional Revision (1993-95), and the New York City



Charter Revision Commission (1987-89). In 1980-82, he was an assistant counsel to the governor of New York.

### **BRUCE W. DEARSTYNE**

Dr. Bruce W. Dearstyne is the author of the books, *THE SPIRIT OF NEW YORK: DEFINING EVENTS IN THE EMPIRE STATE'S HISTORY* (2015) and *LEADING THE HISTORICAL ENTERPRISE: STRATEGIC CREATIVITY, PLANNING, AND ADVOCACY FOR THE DIGITAL AGE* (2015). He is the author of several other books, many articles and often writes about New York history in the "Perspective" section of the *Sunday Albany Times Union*. Dr. Dearstyne taught New York history at SUNY Albany, SUNY Potsdam, and Russell Sage College. He served on the staff of the New York State Office of State History and for many years was a program director at the New York State Archives. He was also a professor at the College of Information Studies, University of Maryland, where he continues to teach as an adjunct professor. He resides in Guilderland, New York.

### **HENRIK N. DULLEA**

Henrik N. Dullea retired in 2003 as vice president for university relations at Cornell University. He previously served as Director of State Operations and Policy Management for Governor Mario M. Cuomo and as Assistant Secretary for Education and the Arts for Governor Hugh L. Carey. He began his career in state government as a legislative budget analyst for the Assembly Ways and Means Committee. He received his B.A. in government from Cornell University and his Ph.D. in political science from the Maxwell Graduate School of Citizenship and Public Affairs, Syracuse University. He recently served as a member of the State University of New York Board of Trustees.

### **THOMAS L. GAIS**

Thomas L. Gais is director of the Nelson A. Rockefeller Institute of Government, State University of New York. Mr. Gais joined the Institute as a research fellow in 1994. His recent research has focused on American federalism, state and local implementation of national initiatives, state spending on human service programs, evidence-based decision-making in government, and higher education. Prior research has dealt with faith-based social services, the nonprofit sector, campaign finance reform, state constitutional reform, and political interest groups. Mr. Gais has taught at Barnard College and Michigan State University. He received his doctorate in political science from the University of Michigan.

**PETER J. GALIE**

Peter J. Galie is Professor Emeritus and former chairman of the Political Science Department at Canisius College, Buffalo, New York. He is a leading expert on New York State's constitutional history, including its constitutional conventions. He is the co-author with Christopher Bopst of the leading reference work on New York's State Constitution, *THE NEW YORK CONSTITUTION: A REFERENCE GUIDE* (2012). He has authored or co-authored many books and articles, including *ORDERED LIBERTY: A CONSTITUTIONAL HISTORY OF NEW YORK, State Constitutional Guarantees and Supreme Court Review, State High Courts, State Constitutions, and Individual Rights Litigation Since 1980, The Constitutional Commission in New York, and Changing State Constitutions: Dual Constitutionalism and the Amending Process*. With Bopst, he is editing a volume of essays, *NEW YORK'S POTEMKIN CONSTITUTION* (expected publication, Fall 2016). He is the recipient of the Wilson College Olive Garvey White Outstanding Teacher Award. His Ph.D. in political science is from the University of Pittsburgh.

**HENRY M. GREENBERG**

Henry Greenberg is a shareholder at Greenberg Taurig, LLC. He is the Chair of the New York State Bar Association's Committee on the New York State Constitution, and a member of the Judicial Task Force on the New York State Constitution. He also serves as an advisor to the Nelson A. Rockefeller Institute of Government's educational campaign to promote awareness and understanding of the 2017 New York State Constitutional Convention referendum.

**BRUCE N. GYORY**

Bruce N. Gyory is a political consultant serving as a senior advisor at Manatt, Phelps & Phillips LLP. He is also an adjunct professor of political science at the University at Albany SUNY and is on the Advisory Board of the Government Law Center at Albany Law School.

**MICHAEL J. HUTTER**

Michael J. Hutter is a Professor of Law at Albany Law School. From 1979 to 1984, he served as Executive Director of the New York State Law Revision Commission. In that position, he was involved in the drafting of legislative/constitutional proposals, including gubernatorial and lieutenant governor succession, which is discussed in this book. Professor Hutter has also been involved in litigation regarding lieutenant governor succession,

*Skelos v. Paterson*, 915 N.E.2d 1141 (2009), submitting an Amicus Curiae Brief on behalf of himself, two academic experts on the subject of the New York State Constitution, Gerald Benjamin and Peter Galie, and former Lieutenant Governor Stan Lundine; and State Comptroller succession to that office upon a vacancy, *Marino v. Weprin*, 600 N.Y.S.2d 289 (App. Div. 1993). He currently serves as a Commissioner on the New York State Law Revision Commission.

### CATHY M. JOHNSON

Cathy M. Johnson is the James Phinney Baxter III Professor of Political Science at Williams College. She is the author of *THE DYNAMICS OF CONFLICT BETWEEN BUREAUCRATS AND LEGISLATORS* (1994) and the co-author of *CREATING GENDER: THE SEXUAL POLITICS OF WELFARE POLICY* (2006). She concentrates on American politics and public policy with a focus on social welfare policy, the politics of creating and redistributing wealth, and the representation of children. She received her Ph.D. from the University of Michigan and her B.A. from Dartmouth College.

### PETER J. KIERNAN

Peter J. Kiernan is Chair of the New York State Law Revision Commission, Visiting Fellow, Nelson A. Rockefeller Institute of Government, and Of Counsel to Schiff Hardin LLP.

### J.H. SNIDER

J.H. Snider is the founder and president of iSolon.org, a nonprofit committed to exploring and advancing opportunities for democratic reform where elected officials have a conflict of interest with the American public and auxiliary democratic institutions are needed to address the conflict. He maintains The State Constitutional Convention Clearinghouse and state-specific clearinghouses when a state has a constitutional convention referendum on the ballot, such as Rhode Island in 2014 and New York in 2017. His op-eds on state constitutional conventions have appeared in more than a dozen media outlets, including the *Washington Post*, *Baltimore Sun*, and *Providence Journal*. He has been a fellow at the Edmond J. Safra Center for Ethics at Harvard University, the Harvard Kennedy School of Government's Shorenstein Center on Media, Politics and Public Policy, the New America Foundation, and the American Political Science Association, where he worked as a Congressional fellow for the U.S. Senate Judiciary Committee. He has a Ph.D. in American Government from Northwestern University and an M.B.A. from Harvard Business School.

**HEATHER TRELA**

Heather Trela is the assistant director for research management at the Nelson A. Rockefeller Institute of Government. She was a doctoral student at the Rockefeller College of Public Affairs and Policy, University of Albany (SUNY), with a concentration in public law. She holds a master's degree in political science from University at Albany (2001) and a bachelor's in economics and political science from Hartwick College (1998). She previously was an adjunct at the University of Albany and Skidmore College.

**ROBERT B. WARD**

Robert B. Ward is deputy comptroller for budget and policy analysis in the New York State Office of the State Comptroller. His earlier work includes having served as deputy director of the Nelson A. Rockefeller Institute of Government; director of research for the Public Policy Institute of New York State; adviser to the chairman of the Assembly Ways and Means Committee; and as a newspaper reporter and editor. He has served on the boards of organizations, including the State Academy of Public Administration, Capital Region Sponsor a Scholar, and Peter Young Housing, Industries and Treatment. He is a graduate of Syracuse University.