In the first chapter, the author presents his theory for unreasoned judgments, which includes four conditions (the last condition is for plurality decisions only): jurisdiction, case characteristics, preference, and doctrinal. Hitt argues that unreasoned judgments are more likely in cases with mandatory jurisdiction, complex cases, cases in which the justices deviate from unidimensional alignment, and cases in which "the justices' preferences over long-run doctrine outweigh their concerns over the consistency of the immediate judgment" (p. 15). In chapter 2, the author provides his definition for unreasoned judgments, which include not only plurality decisions—which are decisions where "a majority of justices agree on a judgment but write several separate opinions, none of which carries a majority" (p. 28)—but also certain *per curiam* decisions, which other studies have not examined. Although earlier literature has focused on plurality opinions, Hitt argues that certain *per curiam* decisions are also unreasoned judgments: "The brevity of the reasoning in these cases makes it difficult to ascertain what legal rationale was applied in the case and how lower courts ought to deal with similar disputes" (p. 26). *Per curiam* opinions have not received sufficient attention by scholars, and thus understanding these decisions and differentiating among them are essential to understanding Supreme Court decision making, the importance of the content of opinions, and their impact. Hitt includes *per curiam* decisions "issued after oral argument and which are accompanied by at least one separate opinion" (p. 32) as unreasoned judgments, recognizing that not all *per curiam* opinions are alike and that some are actually easy cases, but that if the case was orally argued and resulted in a separate opinion, it is not an easy one.

This is a novel measurement strategy, and Hitt convincingly validates these opinions as not easy ones. However, it is not entirely clear what these cases look like, given an example Hitt provides, which is a one-line *per curiam* decision (*Friedrichs v. California Teachers Association*) that was not accompanied by a separate opinion (p. 26). The author also mentions *Bush v. Gore*, which is obviously a very different *per curiam* opinion from *Friedrichs*, and brevity is not the problem in that case. And if it is brevity that is the problem, the author could have included additional information about these opinions, such as the number of words or the number of precedents cited and compared that to consistent judgments. In short, the reader would benefit from a more thorough discussion of these types of *per curiam* opinions.

Chapter 3 provides the reader with an empirical test for Hitt's theory of inconsistency: he finds support for many of his hypotheses. For example, the author finds that the Court is less likely to issue an unreasoned judgment when there is a circuit split, but is more likely to do so when it strikes down an act of Congress or when the voting coalition is disordered.

Hitt then investigates the frequency of inconsistency over time in chapter 4: he finds that after 1988, when the Court had almost complete discretion over its docket, both the rate and incidence of unreasoned judgment decreased. This made me wonder whether the change in the number of law clerks over time has had an impact as well. Ultimately, Hitt concludes, "Agenda control reduces the probability that the Supreme Court will produce an inconsistent decision, but the mechanism by which this result is achieved seems to be that the Court may simply avoid cases that are potentially problematic" (p. 82).

In chapters 5–7, Hitt examines the impact of unreasoned judgments. Chapter 5 addresses how lower federal courts treat unreasoned judgments; Hitt includes both district courts and circuit courts of appeal, which previous studies have not done. Hitt finds that federal judges cite and positively treat unreasoned judgments less frequently than other opinions, but that lower federal judges do not criticize unreasoned judgments any more frequently than consistent opinions. Chapter 6 analyzes the response of Congress to unreasoned judgments, whereas chapter 7 examines the response of the public via a survey experiment. Congress does not appear to respond to unreasoned judgments with an increase in criticism of the Court and neither does the public, with the exception of individuals who do not know much about the Court. Hitt also finds that the Court does not appear to damage the public's acceptance of its decisions or its institutional loyalty when it issues an unreasoned judgment; however, the Court can damage trust in government, but only among individuals with a lower knowledge of politics or the Court.

Hitt concludes his book with a discussion of whether we need a new "inferior" court, arguing that no one court is capable of simultaneously fulfilling both goals of resolving conflict decisively and providing clear and logical reasons for its decisions. He ultimately concludes that "reducing inconsistency at the Supreme Court level through enhanced agenda control likely facilitated more systematic uncertainties in the form of unresolved conflicts. Given the limited societal consequences of unreasoned judgments, this tradeoff therefore may have left the state of American government worse off than it was in a more decisive era" (p. 157). *Inconsistency and Indecision* is a valuable contribution to the field, representing a significant advance in our understanding of Supreme Court decision making and of the impact those decisions have on lower courts, Congress, and the public.

The Rise of the Representative: Lawmakers and Constituents in Colonial America. By Peverill Squire. Ann Arbor: University of Michigan Press, 2017. 344p. $85.00 cloth.
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When Vermont's Ethan Allen and his fabled Green Mountain Boys seized Fort Ticonderoga in 1775, they

purportedly did so in the "name of the Great Jehovah and the Continental Congress," demonstrating that the United States alone among the world's major nations was created by a legislature. This nation's legislative tradition is unparalleled, and any understanding of American governmental institutions must begin with a full awareness of the nation's four centuries of legislative experience.

That understanding was provided in University of Missouri professor Peverill Squire's first deep dive into US legislative history. That volume, *The Evolution of American Legislatures: Colonies, Territories, and States, 1619–2009* (2011), covered the entirety of US legislative history from the original Virginia colony of 1619 to the 110th Congress, 2007–9. The only comparable work in scope and depth would be the four volumes assembled by US Representative Robert Luce (R.-MA) in his monumental *Science of Legislation* series (1922–35). And among relatively contemporary scholars, the most notable would be Jack Greene of Johns Hopkins, whose well-written *The Quest for Power: The Lower Houses of Assembly in the Southern Royal Colonies, 1689–1776* (1963) illuminated that unique corner of colonial history.

Squire's follow-up volume, *The Rise of the Representative: Lawmakers and Constituents in Colonial America*, provides flesh to the bone of the previous work in its focus on those who made the laws and their relationship to the citizens who placed them in those 16 assemblies— the original 13 and the 3 smaller ones subsumed by the colonies of Connecticut, Massachusetts, and New Jersey.

Squire's 74 pages of references in the 2011 volume (pp. 341–414) and 54 pages in the 2017 volume (pp. 259–312) display a degree of research depth that one seldom, if at all, encounters in political science books and easily surpasses that of most books by historians. The decision of many historians more than a generation ago to focus on bottom-up social history of the common folk was long overdue, but their abandonment of much political history has left a serious void in the historical literature. Fortunately, Professor Squire's deep burrowing into seventeenth- and eighteenth-century legislative records demonstrate what a determined scholar can learn from these long-forgotten records about how these colonial legislators conducted the business of governance in a place three thousand miles away from their presumed forebears in the British Parliament. Confronted with creating new societies on a new continent, these colonial legislators emulated aspects of their distant forebears, but they did not replicate the legislative system of which few had more than passing knowledge. Settling into a continent considered "the wide-open spaces," their ingenuity was remarkable: the creation of these 16 colonial legislatures virtually guaranteed that the Congress of the United States that emerged from the colonial tradition would be quite dissimilar from the parliamentary model miles away across the Atlantic.

Having some experience in longitudinal research myself, I was impressed by Professor Squire's determination to gain access to colonial records as far back as possible, even those in existence before the arrival of the Mayflower in 1620 Plymouth. This is a project greatly aided by the diligence of countless archivists who were able to maintain and protect these invaluable documents.

Relying on the time-honored trustee-delegate representational dichotomy, Squire identifies Virginia as trustee based, New England as delegate based, and the middle colonies as hybrids. These subnational designations are much like those in David Hackett Fischer's classic *Albion's Seed: Four British Folkways in America* (1989), in which the three regions evince cultural qualities that also manifest themselves in representational styles.

Squire's chapter on who could vote and who could represent those selected for colonial governance is yet another reminder of how long-standing and contentious these issues are, which indeed persist to the present day. Colonists who held land were not identical to colonists who paid taxes in lieu of landholding, nor were their respective political concerns. Nascent urban–rural tensions continue to bedevil the body politic more than three centuries later. Religious tests for political participation in the various colonies generally targeting Roman Catholics and Quakers were echoes of the state churches that existed in Europe and would be barred in the Constitution.

Political participation was also limited by colonists' race and by conditions of servitude, most notably in the southern colonies. Presumed moral failings such as drunkenness and fornication were also cause for disenfranchisement. That it was the righteous Puritan elders of Massachusetts Bay Colony who were the most adamant on that score would surprise few, least of all Salem's Nathaniel Hawthorne, a Puritan descendant of John Hathorne, a judge at that town's infamous witch trials.

Although some colonies like New York allowed colonists who qualified to vote to serve in the assemblies, other colonies like Maryland were more restrictive, barring tavernkeepers who could vote but not serve in the legislature. The lack of uniformity throughout these colonial assemblies is yet another testament to US regional political diversity.

The debate over whether only "natural born" colonists could participate in the political life of colonial Virginia continues to echo in contemporary American politics. That these issues recur on the national stage almost four centuries later is remarkable proof of how long-standing debates over representation have been. Professor Squire's thoughtful treatment of this issue is one that contemporary lawmakers would be wise to study.

Forays into claims of voter fraud, ethnic ticket balancing, and even violence at the polls that were part of colonial electioneering indicate that the more things change, the more they remain the same. Squire's careful

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reading of these colonial documents is evident throughout, and much can be learned from his assessment of how these precedents shaped the US Congress and the nation's 50 state legislatures.

I was most impressed by the comprehensive roll-call analysis from the Maryland, Massachusetts, New Jersey, New York, and Pennsylvania colonies, indicating that the hybrid "politico" role of legislators so clearly identified and labeled by John Wahlke and his associates in *The Legislative System* (1961) was in existence long before the Founders of the nation gathered in 1787 in Philadelphia to write the Constitution of the United States.

It may be too soon to dub these two volumes of Professor Squire's as "classics" but that they are invaluable to our understanding of how American legislatures functioned then and now is demonstrably clear.

COMPARATIVE POLITICS

Against the Grain: A Deep History of the Earliest States. By James C. Scott. New Haven: Yale University Press, 2017. 336p. $26.00 cloth, $18.00 paper.
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Over the years, James Scott's voluminous scholarship has taught us to see states in a different way. *Seeing Like a State* (1998) pointed to the pathologies of state power: how, for example, the state's need to register and tax leads to the need for "legibility," forcing nomadic peoples to settle and creating regular grids of streets. Forced collectivization in Tanzania and the former USSR could only come about as a result of unchecked state power and led to untold human misery. Books like *Domination and the Arts of Resistance* (1990), *Weapons of the Weak* (1985), and *The Art of Not Being Governed* (2009) have told a different story of state power from the perspective of the state's victims, showing how they have been endlessly creative in self-organized resistance. Following in the tradition of Jean-Jacques Rousseau, Scott has forcefully contested the underlying moral premise of modernization; namely, that the slow accumulation of institutions, of which the modern state was one of the most important, has led to increased human happiness and well-being.

Against the Grain picks up a different thread of this story: the prehistoric resistance of non-state peoples to the first emergence of so-called pristine states. Scott contests what he regards as the received wisdom of state formation; namely, that it coincided with the development of agriculture and the supposedly huge increases in productivity that innovations like the plow represented. Drawing on a large new body of research by anthropologists and archaeologists, he shows that the domestication of plants and animals predated the first states by thousands of years, that "sedentism" (i.e., dense human settlement in fixed locations) existed before states appeared, and that sedentism coexisted with a flexible system in which settled peoples periodically returned to nomadism, pastoralism, and other "ungoverned" forms of life. The critical shift that allowed states to appear was thus not agriculture as such, but rather the move to cereal grains like wheat and barley that forced regimented cultivation and made tax collection far easier.

The appearance of the first states was, in Scott's account, a largely unmitigated disaster: diets and health worsened as a result of monocropping, work became far more burdensome, and slavery, which was necessary to sustain all state-level social systems, proliferated. This bad bargain was so onerous, according to Scott, that the first states crumbled easily as their residents sought to flee; only the state's coercive capacity kept inhabitants in line. The result was a period lasting thousands of years in which these fragile early states crumbled and their peoples returned to earlier types of livelihoods, only to re-form and crumble again.

There is a lot to Scott's overall argument, much of which has already been generally accepted by students of human prehistory. The superiority of "civilized" peoples as compared to "barbarians" or "savages" has long been rejected. Reality, we know now, was different. The tribal societies that preceded state-level ones were much more egalitarian: if the Big Man heading a tribal segment did not perform, his kinsmen could replace him. Today's Paleolithic diet craze reflects recent research into the deleterious effects of grains and carbohydrates. And there is, of course, no end of knowledge about the sheer awfulness of unconstrained state power.

There are, however, major weaknesses in Scott's argument. The first has to do with his ignoring politics. By his account, state formation is driven entirely by economic considerations, in particular the human choice of staple crops. He spends no time talking about politics as an autonomous realm in which power—that is, the ability to use violence—is both generated and put under control by institutions. For him, violence is simply a tool for extracting rents and not a means of controlling violence itself (e.g., the policeman on your street corner).

Yet the different ways of organizing violence were just as important as economic factors in driving the major transitions in social organization. The first such transition was from band- to tribal-level societies, which occurred across the globe about 10,000 years ago. A true tribal society is based on belief in descent from a common ancestor and is undergirded by specific religious beliefs