

State Legislatures at 400

Introduction: The Enduring Relevance of the State Assemblies

Richard A. Clucas, *Portland State University*

On July 30, 1619, 22 elected representatives convened in a small wooden church along the marshy banks of the James River to consider the laws governing the Virginia Colony. It was unbearably hot and humid during the six days that the assembly was in session and many of those attending were ill, including the colony's governor and the assembly speaker. One burgess died mid-session. Despite these obstacles, the assembly was successful in ratifying the colony's new charter, converting past instructions from the company's leaders in England into law, and adopting several new laws that the burgesses themselves wanted to see enacted. Before adjourning, the assembly passed one final measure: approval of the first tax ever proposed by an American legislature, which required adult colonists to pay one pound of their best tobacco to the colonial government (Kammen 1969, 92–101).

The story of how a representative assembly first arose in Jamestown is not a glorious tale of a struggle for democracy. The colonists did not rise up to demand a voice in their own political affairs, as their successors would 157 years later. Instead, the creation of the assembly was part of a larger plan implemented by the Virginia Company—the joint-stock company that oversaw the colony—to salvage its holdings in the New World. After more than a decade of senseless deaths among colonists, continuing missteps in the colony's management, and persistent financial losses, the company was on the threshold of collapse. “What can we do to save the venture?” company leaders asked themselves. Packaged together with a set of other reforms, the creation of an assembly offered what seemed to be the best hope for overcoming the colony's problems. Although the Virginia Company's action in creating the assembly was a pragmatic business decision, it opened the door to representative government in America and marked the birth of state legislatures (Craven 1964).

With the upcoming 400th anniversary of the Jamestown Assembly on July 30, 2019, this is a particularly opportune time to reflect on the relevance of state legislatures in American politics and on the study of these assemblies. The purpose of this symposium is to provide that reflection. Collectively, the symposium articles offer an overview of what we know today about state-legislative politics, provide directions for future research, and shine light on the importance

of state legislatures as both a focus for research and actors in American politics.

Because this symposium is meant to mark the 400-year history of state legislatures, I use this introduction to explain why this anniversary merits recognition.

WHY LOOK BACK TO JAMESTOWN?

Why use the anniversary of the Jamestown Assembly as the linchpin for reflecting on state legislatures? Part of the answer is that it makes sense from an historical perspective, and it provides a vehicle to emphasize the value in studying state legislatures in other periods and across time.

The history of state legislatures is one that transcends the nation's founding, reaching back to events that played out in Jamestown. Virginia may have been the first colony in British North America to gain a representative assembly, but it was not alone for long. As the British government established additional colonies along the Atlantic seaboard in subsequent years, it granted each one its own little parliament. With the founding of the nation, these colonial assemblies were transformed into state legislatures, experiencing little change in their operations, structures, and role in society (see Squire in this symposium). This continuity is why it is appropriate to include colonial assemblies in the study of state legislatures.

State-legislative scholars are recognizing this unbroken history and looking back to earlier periods for testing theoretical questions. Peverill Squire is the foremost scholar in this research area. In his contribution to this symposium and in earlier works (2006; 2014), he analyzes how state legislatures have evolved since the founding of the Jamestown Assembly. Squire's focus on legislative development is a topic that has been of particular interest to state-legislative scholars. By analyzing the long-term historical development of these institutions, his work provides a much fuller understanding than by reviewing the past few decades, which is more common. State-legislative scholars have long benefited from the ability to test theories across 99 separate chambers. Adding this extensive temporal dimension further strengthens the research. Squire's work also makes clear that the structures and procedures of modern state legislatures are deeply rooted in the past, demonstrating why it is reasonable to look back to Jamestown.

Although Squire's effort to incorporate colonial assemblies into legislative research is novel, it is consistent with perspectives on historical studies in other fields. Among historians, there has been growing recognition in the past 25 years that narratives on American history should not be divided arbitrarily between the colonial and postcolonial periods. Rather than viewing the Revolution as a watershed event—one in which everything in America was transformed—recent historical studies recognize that the stories of America do not routinely begin or end with the Revolutionary Era (McDonnell and

Waldstreicher 2017, 634). In looking at the states in particular, Greene (2007) emphasized the need for scholars to acknowledge the “profound continuities between the colonial and national segments of the American past” (249). Before the Revolution, state legislatures were at the center of American government, a place in which they remained far into the new Republic.

Similarly, the emergence of American political development as a subfield in political science has brought renewed attention to American history and the value of studying American politics diachronically. Much of this research has focused on institutional development, including in the presidency (Skowronek 1997), bureaucracy (Carpenter 2001), Congress (Schickler and Rubin 2016), and courts (Whittington 2016). By returning history to political science, these studies bring richer insights to the development of American political institutions. There has not been a similar effort within American political development to study state legislatures. However, the historian William Novak (2008) argued that scholars of American political development should look directly at the role of state legislatures from colonial times through the antebellum period. He compared the exclusion of state legislature in the history of early American statecraft as being “something like writing a history of the Civil War that leaves out slavery” (343).

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From the contributions of these and other scholars, it is clear that looking back through time to the Jamestown Assembly is not only historically appropriate. It also is essential for developing a better theoretical understanding of legislative politics and the nation’s development.

A CENTRAL ACTOR IN AMERICAN POLITICS

It is important to reflect on the 400-year history of state legislatures not only because of these scholarly concerns but also because state legislatures have been and continue to be important actors in American politics—although their contributions often are overlooked and underappreciated. State legislatures have been generating increased public attention recently because of the controversial character of some of their actions, including the gerrymandering of electoral districts (see Masket in this symposium; Daley 2016), the adoption of laws suppressing voter turnout (Weiser and Feldman 2018), and their efforts to counter the initiatives of both presidents Obama and Trump (see Rose in this symposium; Bulman-Pozen 2014). Although these activities have made state legislatures more visible, the efforts by the state assemblies to shape American politics are not new. To make sense of these recent events, it is valuable to understand the relevance of state legislatures in American politics over time. Think about the importance of state legislatures in the following defining events in American history.

The revolutionary generation often is credited with creating democracy in America, but it was the colonial assemblies that first established representative government in the American colonies long before the Revolution. The story of David Lloyd, the pugnacious Pennsylvania assembly speaker at the turn of the eighteenth century, is a good example of the importance of those assemblies and their leaders. William Penn is revered for his advocacy of religious freedom and the government he created in Pennsylvania. However, it was Lloyd—along with his legislative allies—who successfully forced the defiant Penn to allow the assembly to have a meaningful voice in the colony and eventually to govern. Elisha Cooke, John Robinson, Charles Pinckney, and Edward Moseley were among the many legislators who successfully championed representative government in the other colonies (Greene 1963; Lokken 1959).

The colonial and state legislatures played a central role in the creation of the Union. When the First and Second Continental Congresses convened to address increased threats from Parliament, the delegates were chosen by the colonial assemblies or by the Committees of Correspondence created by these legislatures. Today we trace the founding of the nation to July 4, 1776, yet some colonial legislatures already had voted to cut their ties to the Crown by that date.

Moreover, some scholars trace the real Declaration of Independence to May 15, 1776, when the Continental Congress directed the colonial assemblies to adopt independent governments (Woods 1969, 132). It was in this period that colonial legislatures evolved almost unchanged into state legislatures. It was the state legislatures that then sent representatives to Philadelphia in 1787—to the Pennsylvania State House—to revise the Articles of Confederation. After the convention ended, the state assemblies were responsible for approving the new constitution.

The political power of state legislatures was at its zenith during the first several decades after the nation was founded (Novak 2008). There simply was no other political body at either the national level or in the states that was in a position to challenge state assemblies. Novak (2008) pointed to the breadth of legislation and the extensive police-power regulations enacted into law as evidence of the activism of early state legislatures. But early legislatures also were heavily involved in trying to expand the market for their state’s manufactured goods and farm products. To bolster economic development, the legislatures embarked on a campaign for internal improvements, creating private corporations and banks and using public funds to build roads, rail lines, canals, and bridges. The most famous of these internal improvements was the Erie Canal. The building boom created by the assemblies established

the transportation network that crisscrossed the young nation, helping the country to develop economically and providing the infrastructure for westward expansion (Goodrich 1950; Goodrich 1970).

State assemblies were central in the battle over slavery and events that led to the Civil War. In the years preceding the Civil War, the South Carolina legislature was the leader in the southern states in defying the federal government. It repeatedly challenged Congress's actions and championed an extreme view of states' rights—one that perceived states as having the right to nullify the acts of the federal government. By 1860, the South Carolina legislature had become so incensed at the federal government that it became the first assembly to approve a convention to secede, voting unanimously for the convention a few days after Lincoln's election.

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Where South Carolina led, other southern legislatures followed, tearing the Union apart and plunging the nation into war (Haw 2006).

State legislatures continued to play a critical role in American politics in the latter part of the nineteenth century. With the end of Reconstruction, they led efforts to deny African Americans their newfound rights and liberties by instituting Jim Crow laws and restricting participation in politics. In the late 1800s, party organizations dominated state politics through their control over state assemblies. The organizations used that power to place their pawns in the US Senate and to enjoy the spoils from all levels of government (Silbey 1991). With the rise of the Progressive Movement, state legislatures became engines for major political and social change.

Although scholars often deemphasize the importance of the states after the growth of the national government in the 1930s, state legislatures were not moribund (Teaford 2002). If nothing else, state legislatures offered some of the strongest resistance to change in American society after World War II, particularly in the South where they fought the Civil Rights Movement. During the legislative-reform movement in the 1960s, state legislatures became involved in all aspects of American life, addressing issues ranging from animal rights to welfare reform.

In recent years, state legislatures have been at the center of many of the nation's most important policy debates (see Rose in this symposium). They play an active role and, in some cases, lead the way in addressing issues such as Black Lives Matter, climate change, cybersecurity, education reform, gun safety, marijuana legalization, minimum wage, the opioid epidemic, and the shared economy. They challenge presidents on health care, immigration, gendered restrooms, climate

change, and other issues. Moreover, state legislatures enact significant policy on almost every type of issue imaginable. The average number of laws enacted each year per state is more than 400, compared with fewer than 300 by Congress (Little and Ogle 2006, xiii).

In other words, as they have in the past, state legislatures play a central role in American politics today. For scholars, state-legislative politics is worth studying because these assemblies provide 99 chambers and years of existence for testing theoretical arguments about legislative politics. For Americans, state legislatures matter because of their enduring relevance in American politics since their beginning along the James River 400 years ago. The anniversary of Jamestown provides an opportunity to emphasize the scholarly and political importance of these institutions.

IN THIS SYMPOSIUM

The first two articles in this symposium focus specifically on the development of state-legislative institutions. Peverill Squire traces the development of these institutions from the colonial assemblies to state legislatures. He explains how these evolutionary changes led to the considerable organizational and procedural similarities found across American legislatures today. Gary F. Moncrief examines the history of state-legislative scholarship since the 1960s, linking the changing focus of research on the changes over time and the differences among state legislatures in their institutional arrangements.

The next three articles focus on the relationship of state legislatures to some of the most important political concerns in America today. Beth Reingold assesses trends in diversity in state legislatures and how the research in this area contributes to our understanding of gender, race and ethnicity, and representation in US politics. Seth Masket focuses on the differences across state legislatures to test some of the most frequently heard explanations for legislative polarization in America. His research, along with the studies of other state-legislative scholars, raises important challenges to these prominent arguments as to why American legislatures—including Congress—have become so polarized. Finally, Shanna Rose examines the position of state legislatures within the federal system, focusing on their role in shaping national politics and policy in the Trump Era.

In the concluding article, Keith E. Hamm documents the significant progress that has been made in state-legislative studies during the past decade. He focuses particular attention on four research areas: legislative professionalism, majority-party control, representation, and state constitutions. ■

REFERENCES

- Bulman-Pozen, Jessica. 2014. "Unbundling Federalism: Colorado's Legalization of Marijuana and Federalism's Many Forms." *University of Colorado Law Review* 85 (4): 1067–85.
- Carpenter, Daniel P. 2001. *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928*. Princeton, NJ: Princeton University Press.
- Craven, Wesley Frank. 1964. *Dissolution of the Virginia Company: The Failure of a Colonial Experiment*. Gloucester, MA: Peter Smith.
- Daley, David. 2016. *Ratf**ked: The True Story Behind the Secret Plan to Steal America's Democracy*. New York: W.W. Norton.
- Goodrich, Carter. 1950. "The Revulsion Against Internal Improvements." *Journal of Economic History* 10 (2): 145–69.
- Goodrich, Carter. 1970. "Internal Improvements Reconsidered." *Journal of Economic History* 30 (2): 289–311.
- Greene, Jack P. 1963. *The Quest for Power: The Lower Houses of Assembly in the Southern Royal Colonies, 1689–1776*. New York: W.W. Norton.
- Greene, Jack P. 2007. "Colonial History and National History: Reflections on a Continuing Problem." *William and Mary Quarterly* 64 (2): 235–50.
- Haw, James. 2006. "'The Problem of South Carolina' Reexamined: A Review Essay." *South Carolina Historical Magazine* 107 (1): 9–25.
- Kammen, Michael. 1969. *Deputies & Libertyes: The Origins of Representative Government in Colonial America*. New York: Alfred A. Knopf.
- Little, Thomas H., and David B. Ogle. 2006. *The Legislative Branch of State Government: People, Process, and Politics*. Santa Barbara, CA: ABC-CLIO.
- Lokken, Roy N. 1959. *David Lloyd: Colonial Lawmaker*. Seattle: University of Washington Press.
- McDonnell, Michael A., and David Waldstreicher. 2017. "Revolution in the Quarterly? A Historiographical Analysis." *William and Mary Quarterly* 74 (4): 633–66.
- Novak, William J. 2008. "A State of Legislatures." *Polity* 40 (3): 340–47.
- Schickler, Eric, and Ruth Bloch Rubin. 2016. "Congress and American Political Development." In *Oxford Handbook of American Political Development*, eds. Richard M. Valelly, Suzanne Mettler, and Robert C. Lieberman, 259–85. New York: Oxford University Press.
- Silbey, Joel H. 1991. *The American Political Nation, 1838–1893*. Stanford, CA: Stanford University Press.
- Skowronek, Stephen. 1997. *The Politics Presidents Make: Leadership from John Adams to Bill Clinton*. Cambridge, MA: Belknap Press.
- Squire, Peverill. 2006. "Historical Evolution of Legislatures in the United States." *Annual Review of Political Science* 9: 19–44.
- Squire, Peverill. 2014. *The Evolution of American Legislatures: Colonies, Territories, and States, 1619–2009*. Ann Arbor: University of Michigan Press.
- Teaford, Jon C. 2002. *The Rise of the States: Evolution of American State Government*. Baltimore, MD: Johns Hopkins University Press.
- Weiser, Wendy, and Max Feldman. 2018. *The State of Voting 2018*. New York: Brennan Center for Justice, New York University. Available at www.brennancenter.org/sites/default/files/publications/2018_06_StateOfVoting_v5%20%281%29.pdf. Accessed August 2, 2018.
- Whittington, Keith. 2016. "Law and the Courts." In *Oxford Handbook of American Political Development*, eds. Richard M. Valelly, Suzanne Mettler, and Robert C. Lieberman, 309–26. New York: Oxford University Press.
- Woods, Gordon S. 1969. *The Creation of the American Republic, 1776–1787*. Chapel Hill: University of North Carolina Press.

SYMPOSIUM CONTRIBUTORS

Richard A. Clucas is professor of political science at Portland State University and executive director of the Western Political Science Association. He is the coauthor of *The Character of Democracy: How Institutions Shape Politics* (Oxford University Press, 2015). He is the guest editor of this symposium and may be reached at hprc@pdx.edu.

Keith E. Hamm is Edwards Professor in American Government at Rice University. He is the coauthor, with Peverill Squire, of *101 Chambers: Congress, State Legislatures, and the Future of Legislative Studies* (Ohio State University Press, 2005). He may be reached at hamm@rice.edu.

Seth Masket is professor of political science and director of the Center on American Politics at the University of Denver. He is the author, most recently, of *The Inevitable Party: Why Attempts to Kill the Party System Fail and How they Weaken Democracy* (Oxford University Press, 2016). He writes frequently for *Pacific Standard* and *Vox*. He may be reached at seth.masket@du.edu.

Gary F. Moncrief is University Distinguished Professor Emeritus, Boise State University, and Consulting Scholar, State Government and Politics, Eagleton Institute of Politics, Rutgers University. His books include *Why States Matter*, 2nd ed. (Rowman & Littlefield, 2017) and *State Legislatures Today*, 3rd ed. (Rowman & Littlefield, 2019), both coauthored with Peverill Squire. He may be reached at gmoncri@boisestate.edu.

Beth Reingold is associate professor of political science and women's, gender, and sexuality studies at Emory University. She is the author of numerous works on gender, race, and representation in state legislatures, including *Welfare Policymaking and Intersections of Race, Ethnicity, and Gender in U.S. State Legislatures* (2012, with Adrienne R. Smith, *American Journal of Political Science* 56:131–47) and *Race Relations, Black Elites and Immigration Politics* (2018, with Irene Browne and Anne Kronberg, *Social Forces* 96:1691–720). She may be reached at polbr@emory.edu.

Shanna Rose is an associate professor of government at Claremont McKenna College. She is the author of *Financing Medicaid: Federalism and the Growth of America's Health Care Safety Net* (University of Michigan Press, 2013) and coauthor, with Andrew Karch, of *Responsive States: Federalism and the Evolution of US Policy* (Cambridge University Press, forthcoming). She may be reached at srose@cmc.edu.

Peverill Squire is professor of political science and holds the Hicks and Martha Griffiths Chair in American Political Institutions at the University of Missouri. He is the author of *The Rise of the Representative: Lawmakers and Constituents in Colonial America* (2017) and *The Evolution of American Legislatures: Colonies, Territories, and States, 1619–2009* (2012). He may be reached at squirep@missouri.edu.