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Keeping Up with New Legal Titles

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* The books reviewed in this issue were published in 2013. If you would like to review books for "Keeping Up with New Legal Titles," please send an e-mail to bkeele@indiana.edu and nsexton@email.unc.edu.

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of what may be called comparative international law is even more apropos since Bradley explicitly counts "non-U.S. readers" among his intended audience (p.ix). Nevertheless, this book is an essential component of any library that professes to collect in international law or the constitutional law of foreign relations.

Corley, Pamela C., Amy Steigerwalt, and Artemus Ward. *The Puzzle of Unanimity: Consensus on the United States Supreme Court.* Stanford, Calif.: Stanford University Press, 2013. 216p. $50.

*Reviewed by Tina M. Brooks**

¶10 The conventional media analysis is that the Supreme Court is deeply divided on most issues, and existing scholarship tends to focus on explaining the reasons behind those divisions. However, according to *The Puzzle of Unanimity: Consensus on the United States Supreme Court*, an important empirical study on Supreme Court decision making, "a majority of the Court's decisions every term are unanimous or highly consensual" (p.4). In this study, the authors, all political science professors whose research centers on judicial decision making, investigate why the Supreme Court is able to reach consensus so much of the time. While past studies have focused on whether legal, ideological, or strategic considerations best explain Supreme Court decision making, Corley, Steigerwalt, and Ward theorize that all of those forces and more interact at a complex level in each individual case, and they present a compelling mechanism for empirically measuring those forces.

¶11 The book begins with a substantial and interesting discussion of how the norms of the Supreme Court changed from consensus to dissensus during the Roosevelt Court, an analysis based on the authors' original investigation of the private papers of Justices William O. Douglas and Harlan Fiske Stone. This chapter describes institutional changes, such as expanded conference discussions and legislation allowing the Court more control over its docket, that strongly influenced the Court toward individual expression by each Justice and a "dissensus revolution" (p.11). Having set up this historical background, the authors then explore why, with so many factors encouraging dissensus, the Court is able to reach consensus so often.

¶12 To explore their theory that there are multiple, concurrent forces influencing unanimous and highly consensual decisions on the Court, the authors examined each case the Supreme Court decided from 1953 to 2004. To test for the forces at play in each case, they developed a list of factors that are indicative of attitudinal, legal, strategic, institutional, and case-specific forces. The inclusion of each of these factors is rationalized and explained in detail. For example, to measure legal certainty, the authors ask whether a case was legally complex, whether there was amicus participation in the case, whether there was conflict among lower courts on the issue, whether there was dissensus in the opinions below on nonideological grounds, and whether the issues involved statutory or constitutional interpretation. Tables demonstrating the coding and summary statistics for each variable are

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included. The authors' findings suggest that unanimous and highly consensual decisions are more likely when legal certainty is high, when the case under review is not a civil liberties case, and when the case is ultimately decided in a liberal direction. They also find that justices are more likely to vote to their ideological preferences when legal certainty is low; when legal certainty is high, it constrains the justices' ability to vote according to their ideology and leads to a higher probability of consensus.

¶13 Finally, the authors ask why, if the Court's role is to decide the difficult legal questions, are the justices taking on cases where the level of legal certainty, and thus the likelihood of consensus, is high? To answer this question, they examine the cert pool memos from the 1989 term and come to the conclusion that "unanimous cases are those in which the justices believe it is important to clarify the law and issue a final, national ruling on a legal question of great importance, and in which a single, unified answer can be reached" (p.159). The book closes with a discussion of the implications of the findings and suggestions on directions for further research.

¶14 *The Puzzle of Unanimity* is logically organized. The introduction lays out a road map for the rest of the book, and each chapter is clearly titled and contains a conclusion that summarizes the key points from that chapter and sets up the ideas explored in the next. In the second chapter, and more briefly in subsequent chapters at appropriate junctures, the authors present a literature review of existing studies and theories regarding Supreme Court decision making. The variety of sources referenced results in a very rich bibliography for researchers looking for a listing of the most important works on the topic. Additionally, for a book that is relatively short, the index is thorough, and there is also an index of cases referenced.

¶15 While the intended audience for this book appears to be fellow scholars of Supreme Court decision making, the accessible writing and detailed explanations of the authors' methodology make this an excellent addition to an academic law library that has either a basic or an advanced collection on the Supreme Court.

Cuéllar, Mariano-Florentino. *Governing Security: The Hidden Origins of American Security Agencies.* Stanford, Calif.: Stanford University Press, 2013. 316p. $90.

*Reviewed by Susan A. Smith**

¶16 Some American journalists criticized the Obama administration after Edward Snowden made public some covert operations of the National Security Agency (NSA). The classified documents that Snowden leaked revealed that the NSA has been collecting electronic communications and phone records of U.S. citizens over the past seven years.[9] Some legal scholars and politicians view this conduct as an assault on the Fourth Amendment.[10] While scholars and politicians spew vitriol, some political scientists with historical knowledge of federal security

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9. Jennifer Stisa Granick & Christopher Jon Sprigman, Op-ed, *The Criminal N.S.A.*, N.Y. TIMES, June 27, 2013, http://www.nytimes.com/2013/06/28/opinion/the-criminal-nsa.html.

10. *Id.*