super DOMAs (e.g., Virginia's) caused ordinary LGBT citizens.

The final section of the book describes challenges in federal courts culminating in the 2015 *Obergefell v. Hodges* decision that struck down all state Super DOMAs. Here, the most interesting analysis is the power of Justice Antonin Scalia's dissents in *Lawrence* and *Windsor*. In decision after decision, courts overturning DOMAs quoted Scalia's dire warnings as justification for taking the next logical step toward marriage equality. Pinello refers to Scalia in jest as a "double agent" and says that Scalia was "one of the best judicial friends that the American gay community has ever had" (p. 241). But the author's legal analysis in this section is strong and nuanced, and here the story is at heart simpler than it might have been, one of steady progress in federal courts.

The period from the passage of the Defense of Marriage Act to *Obergefell* was less than 20 years, and the era of Super DOMAs was even shorter. But what this book shows is that this short time profoundly affected many Americans in a variety of ways. A book that goes from state referenda and court decisions to interviews with same-sex couples to federal court decisions is covering not only a lot of substantive ground but stylistic ground as well. In less capable hands, this might have produced a book with little unity. But Pinello pulls it off, richly informing us about state-level court cases and about individual lives with equal aplomb.

Susan Gluck Mezey's *Beyond Marriage* traces the development of legislative action, executive orders, and court actions on issues such as employment opportunity, transgender equality, and marriage equality. The chapters go into legal maneuvering, arguments, and court decisions in great detail: The chapter on same-sex marriage, for example, goes through a variety of lower and appellate court rulings challenging DOMAs and other bars to marriage equality. As in her prior work in this field, the research is thorough and the writing is clear and full of detail. The book serves, therefore, as an excellent resource for those seeking to trace rulings in Ohio and Wisconsin, for example, and in understanding the different rationales for each decision.

The two final chapters are especially interesting. In one, Mezey traces state legislative action and court rulings on religious freedom statutes, passed to allow religious conservatives to refuse to provide services to same-sex marriages, but in some cases going much further. These statutes arose after a series of rulings in state courts that wedding photographers, bakers, and florists violated equal-rights protections by refusing to do business with same-sex couples. The chapter does a fine job of tracing the evolution of these cases and the arguments posed. It then goes on to discuss the latest developments in bathroom battles over transgender rights and a plethora of other issues, detailing various injunctions and other legal actions, as well as social and economic pressure such as those on the National Collegiate Athletic Association and the Atlantic Coast Conference to relocate basketball play-offs from North Carolina to other states.

The final chapter takes an international perspective, a challenging undertaking for a book on litigation, given the wide range of constitutional, legal, and judicial systems. Here, Mezey focuses primarily on Canada, South Africa, and the European Union. In the United States, Canada, and South Africa, the common law tradition in each country allowed courts to weigh the potential challenge to their legitimacy from unpopular decisions, but ultimately decided "that their responsibility to adjudicate constitutional challenges and to give effect to their country's foundational documents outweighed their duty to defer to the people's elected representatives" (p. 209). In contrast, the lack of a common law tradition in Europe led the European Court of Human Rights to support challenges to many forms of discrimination, but not to overturn national marriage bans.

These are both fine books that I recommend highly. *America's War on Same-Sex Couples and Their Families* is exceptional for its weaving of legal analysis and narratives of the impact of Super DOMAs on the lives of LGBT couples. It is a rare feat to combine detailed legal analysis and such a rich set of in-depth interviews into a readable book. The result is a book that is useful not only for scholars interested in LGBT policy, but also potentially useful in the classroom. Pinello shows that the mere passage of these amendments affected the connections of citizens to their governments and to their fellow citizens. *Beyond Marriage* provides incredible detail on every step of recent policymaking in a variety of policy areas, making it source material for anyone seeking to understand the complexity of executive, legislative, bureaucratic, and especially judicial action. Although Mezey spends less time discussing societal aspects of the ongoing struggles, her work helps us understand the backlash against equality that is manifest in state legislative "religious freedom" acts, in bathroom access bills, and in the social disappropriation that is widespread in South Africa, despite that country's progressive policies.

Common Law Judging: Subjectivity, Impartiality, and the Making of Law. By Douglas E. Edlin. Ann Arbor: University of Michigan Press, 2016. 280p. $75.00 cloth.
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— Ken I. Kersch, *Boston College*

Alluding to the contretemps sparked by Sonia Sotomayor's comments about the distinctive perspective a "wise Latina" might bring to the Supreme Court, Douglas Edlin asks that we "move beyond the familiar civic phobia that judges will decide cases on the basis of their own values rather than the law" and recognize "that

when judges decide on the basis of the law they are deciding on the basis of their own values." (p. 40). *Common Law Judging* is the latest in Edlin's ongoing philosophical consideration of the nature and virtues of the common law legal tradition, with an eye to identifying the critical, if constrained, role for its judges in advancing justice. In earlier work on judicial review, he argued that the common law framework elided a sharp distinction between "law" and "morals." Here, judicial review and (purportedly) extrinsic sources of law take a back seat, and the author approaches similar questions from a different angle, this time involving what he argues is an inappropriately sharp distinction between judicial objectivity and subjectivity.

Edlin's argument is grounded in a complex epistemology of judicial decision making in an adversarial system aimed at establishing "legal" (as opposed to metaphysical) truth (p. 28), shaped by such institutional features as the issuance of individually signed opinions (including dissents), the duty of judges to reason from and reconsider precedent, and the protection of judges against removal for their legal judgments. Rejecting both academic and popular calls for "strict" or reified objectivity and legal realist and "attitudinalist" pronouncements of a pervading subjectivity, he contends that common law judging is better characterized as entailing "mediated objectivism" (p. 10) and "intersubjectivity" (p. 5).

Subjectivity, Edlin argues, is intrinsic to the common law process: The supposed duty of objectivity is better understood as a duty of "impartiality," or freedom from "any personal stake or bias" (p. 22); "universality," or a requirement that the decision yield "a rule that can be applied in the same way to all similarly situated individuals and cases;" and "functional effectiveness," or "the sense that the legal process operates according to identifiable rules and yields results that are identifiably legal in relation to governing rules" (p. 21). He asks that "the process of identifying legal norms . . . be understood differently from the norms themselves." Because "the production and identification of legal norms must involve human expression and perception, it is misleading to think of these norms and processes in strongly objective terms" (p. 25).

Returning to a theme adumbrated in earlier work, Edlin finds "enlightening parallels between Kant's [analysis of aesthetic judgment] and the common law's approaches to the formulation and communication of reflective judgments" (p. 52). Kant held that the exercise of aesthetic taste "combines feeling and imagination with reason and reflection . . . to arrive at [a] . . . judgment that is communicated to and evaluated by a larger community" (p. 53). The common law judge's exercise of his or her sense of justice, Edlin argues, can be analogized to the critic's exercise of taste in passing on a work of art. Both appropriately begin with "an individual's felt [and "personal"] response" (pp. 55–56), and proceed to an autonomous, independent judgment. That judgment is then justified in an individually signed opinion, and thus communicated for adoption—and, implicitly, reconsideration—by colleagues engaging in a similar process across time. In both cases, the job not only allows but also *requires* the critic and the judge to bring their subjective identities, understandings, and experiences—their humanity—to the process to arrive at singular judgments "informed by [their] perspectives without being influenced by [their] prejudices" (p. 73). Such judgments, Edlin explains, are simultaneously "personal and interpersonal," and "not merely a statement of personal preference" (p. 54). In a common law process that "does not seek something like objective truth but rather a public justification achieved over time through sustained efforts by judges to communicate their best understanding of what the law means," he observes, moreover, that "[e]rrors and disagreements no longer appear to challenge the usefulness of the enterprise [but] are recognized as a necessary, inevitable, and worthwhile part of the process" (pp. 61–62).

This process does not "afford judges of art or law license to make their decisions [arbitrarily or] idiosyncratically" (p. 57), and, contrary to the all-too-common charge, it is *not* akin to legislating. Legislating and judging "function in entirely different institutional contexts and under entirely different institutional constraints" (p. 78). Common law judging is a form of "nonergodic" decision making (p. 79): It takes place not within a stable, mappable system but as part of a perpetually altering environment with "a designed capacity for change" (p. 79) in which novel experiences and dilemmas are continually confronted and assimilated. Common law judges do not apply a priori rules, nor do they generate rulings that have the status of diktats. Rather, they apply distilled principles to a succession of particularized fact scenarios in what the system recognizes as a perpetually altering context. In so doing, common law judges "'necessarily refashion the prior rule'" (p. 12). Innovation, adaptation, and learning are at the core of this process, which the author illustrates with examples from real estate, criminal, and civil rights law.

Edlin illuminates what he contends is the poorly understood "relationship between the independence of judges and the independence of the judiciary" (p. 92). The latter, he explains, is partly aimed at advancing the former —"the autonomy and authority of judges to decide as individuals" (p. 95). A judge's humanity is constitutive of his or her independence and, moreover, a requisite of the office. As such, it is a mistake common to political scientists, among others, to hold that judicial independence entails no more than a formal institutional independence from public opinion and other government actors. Edlin illustrates this point by critiques of the proposed Constitutional Restoration Act of 2004–5 (by which Congress would have instructed judges on the legal sources that they could cite in their judicial opinions),

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and the Federal Sentencing Commission's aim of imposing a greater uniformity and standardization of criminal sentences.

Common Law Judging is short: The table of authorities, notes, references, and index comprise more than half the book, and it is even shorter if one considers its many, admittedly helpful, redundancies. At the same time, it is dense, subtle, and rich in pregnant distinctions and resonant formulations. The book carefully engages with the relevant philosophical and jurisprudential literature concerning objectivity and subjectivity, both generally and within law. Notably, however, it neglects significant recent work by prominent legal scholars like Kunal Parker, David A. Strauss, Adrian Vermeule, and Philip Hamburger that either explicitly addresses or implicitly raises questions about the relationship between the common law reasoning and constitutional adjudication.

The nature and degree of that relationship is not at all obvious, and, here, Edlin simply assumes it rather than argues for it. One question that both Hamburger's *Law and Judicial Duty* (2008) and Edlin's book raise is the appropriateness of simply importing our understandings of (traditional, English) common law judging into the United States, where the common law inheritance functions as part of a broader constitutional order structured by a written Constitution premised upon a different set of problems, structures, and logics. Many of the critiques of subjective judging that Edlin is writing against arise out of that other institutional paradigm. That paradigm, moreover—including the concept of the neutral judge—is underwritten by an extensive tradition of (modern) liberal political and constitutional thought, extending from Locke to Madison to John Rawls.

In that context, it is not surprising that Justice Sotomayor's comments triggered concerns that have long been prominent in American politics. To be sure, the common law ideals that Edlin celebrates were once more widely known and appreciated than they are today, especially in the nineteenth-century glory days of the nation's (elite) bench and bar. But from the Founding forward, from Thomas Paine, to "The Jeffersonian Crisis," to the Codification Movement, to the rise of the "statutory" or "policy" state, there have been major movements to rid the nation entirely of its common law inheritance and traditions, or to mitigate their sway. In another rub, in the United States (and unlike in Great Britain), many of the state and local judges most closely engaged with the common law are democratically elected. The problem is further complicated by the ties of the nation's appointed, life-tenured federal judges, via the appointment process, to its often boisterous and contested partisan politics. Judges are most likely to be charged with "legislating from the bench" when their interpretation of the Constitution tracks partisan cleavages on major public (and, these days, highly personal) issues that might reasonably be understood—and were once historically understood—to be the legitimate province of legislatures, or of state, rather than federal, courts.

Common Law Judges is most convincing when focused on its core task: explaining why demands for strict objectivity in judging are epistemologically misguided, and why, in recognizing this, common law institutions not only permit some degree of subjectivity in judging but also invite and structure it. The American Constitution, however, not only permits but invites and structures a sometimes robust democratic politics. That some rulings by judges draw spirited attention to the inflection point where one system abrades against the other is a necessary, inevitable, and, perhaps even, at times, worthwhile part of the process.

Revolving Door Lobbying: Public Service, Private Influence, and the Unequal Representation of Interests. By Timothy M. LaPira and Herschel F. Thomas. Lawrence: University Press of Kansas, 2017. 272p. $39.95 cloth.
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— Clare R. Brock, *Texas Woman's University*

Scholars of interest group politics have frequently puzzled over the question: Who influences public policymaking, and how? While this is a nuanced question, the short answer provided by *Revolving Door Lobbying* is that "special interests are not in the business of buying policy outcomes. They are in the market to cover their political backsides" (p. 3). With these opening words, Timothy LaPira and Herschel Thomas succinctly begin to build a case for lobbying understood as political insurance, rather than bribery.

The book's most important contribution, however, is the theoretical and empirical distinction that LaPira and Thomas make between conventional lobbyists and revolving door lobbyists. Rather than treating lobbyists as a monolithic set of interchangeable professionals, as most previous research has done, they assert that "different kinds of lobbyists provide different kinds of political insurance coverage" (p. 5). The authors set up two lobbyist prototypes: the "Librarian," and the "K Street Kingpin." The Librarian is a substantive expert; she has worked in the field and provides the quintessential lobbying service of offering an informational subsidy to legislators. In contrast, the K Street Kingpin often provides lobbying services to a variety of interest groups, across a surprising breadth of issue areas, and his main contribution is process expertise.

In order to distinguish between these two archetypes, and the associated benefits that companies may get from employing them, LaPira and Thomas rely on two sources of data. The primary data source for the book comes from Lobbying Disclosure Act (LDA) Reports, and specifically, those reports made during the year 2008. LDA data are unwieldy at best and suffer from a myriad of inherent