David Rohde, and others) should be considered the main power centers in the Congress, nor do they link it with recent attempts by Rohde and others to go beyond this debate to create a more powerful analytical synthesis. The potentially intriguing suggestion that regionalism merits consideration as a third variable in the discussion of congressional power is not followed up, even at the level of a hypothesis. The book thus remains resolutely descriptive. In this way, its value to scholarship remains largely illustrative and suggestive. It is, nonetheless, of considerable value to students of Congress because of its compelling, detailed description.

The Michigan Affirmative Action Cases. By Barbara A. Perry. Lawrence, KS: University Press of Kansas, 2007. 210p. $35.00 cloth, $16.95 paper.
doi:10.1017/S1537592709991319

— Rosalee A. Clawson, *Purdue University*

In this book, Barbara A. Perry draws on her experiences as a judicial fellow at the Supreme Court, and relies on archival research and interviews with key individuals, to provide an in-depth examination of the University of Michigan affirmative action cases, *Gratz v. Bollinger* and *Grutter v. Bollinger.* She begins by describing the history of affirmative action in the United States, including a discussion of *Bakke* and other relevant cases. Next, she reviews the political context and judicial history of the Michigan cases. Then, Perry discusses the petitioner briefs, the University of Michigan briefs, and several important amici briefs submitted to the Supreme Court. She also summarizes the oral arguments before the Court and analyzes the rulings in the cases. Finally, Perry closes with a discussion of affirmative action policies in the aftermath of the Michigan rulings. Along the way, the reader gains insights into the experiences and motivations of many of the critical individuals involved in these cases.

Perry's examination of the Michigan affirmative action cases illustrates how the demographic characteristics, experiences, and ideology of the Supreme Court justices (and lower court judges) influence their rulings. The importance of the justices' characteristics is apparent throughout the book, but Perry provides the most details on Justice Sandra Day O'Connor. Perry explains how O'Connor's background and experiences shaped the rulings in the cases and demonstrates that the petitioners and respondents carefully crafted their briefs to appeal to O'Connor's predispositions because she was the swing vote in the cases.

The book has several strengths, although here I will focus on the three most important. First, Perry discusses affirmative action in a balanced, neutral way. She articulates both the pro- and anti-affirmative action positions (and the reasoning behind those positions) with great respect. She does not create a straw man argument out of either side of the debate; instead, Perry presents an even-handed account of affirmative action and the Michigan cases in particular. I suspect that advocates from both sides of the issue might find her even-handedness maddening.

Second, Perry's primary goal is to illuminate the history, context, and details of the Michigan affirmative action cases. Perry meets that goal, but also goes beyond it. Her book offers more general insights into the judicial system as well. For example, readers will gain an understanding of the complexity of the judicial system and how slowly cases move through it. Readers will also be exposed to a number of legal concepts, which Perry nicely explains without interrupting the flow of her narrative.

That brings me to the third strength of this book. It is well written and easy to read. Perry provides an instructive and engrossing account of the Michigan affirmative action cases. She successfully conveys the abstract legal issues at hand while maintaining her focus on the concrete facts of these particular cases.

At the same time, the book also has limitations. First, Perry's analysis of the Michigan cases illustrates the importance of justices' characteristics and ideologies; however, her work is not grounded in models of judicial decision making, nor does it provide new theoretical insights into these models. Political scientists have developed a significant body of literature examining judicial decision making. For example, C. Neal Tate's classic work draws attention to the influence of personal characteristics on Supreme Court voting behavior ("Personal Attribute Models of the Voting Behavior of U.S. Supreme Court Justices," *American Political Science Review* 75 [June 1981]: 355–67), and Jeffrey A. Segal and Harold J. Spaeth's attitudinal model focuses on the impact of ideology on judicial decision making (*The Supreme Court and the Attitudinal Model Revisited* [2002]). Considering how the Michigan cases shed light on these models and vice versa would have been a helpful addition to this book.

Second, Perry discusses many of the important documents in the Michigan affirmative action cases, but does not review the respondent briefs filed with the Supreme Court by the student intervenors. The lawyers representing the student intervenors (including Theodore Shaw of the NAACP Legal Defense and Educational Fund) argued that the Supreme Court should uphold the Michigan affirmative action programs because of historical and current racial discrimination. The student intervenors supported affirmative action as a policy promoting justice for racial minorities, whereas the University of Michigan supported affirmative action because it creates a diverse student body benefiting all students. The tension between these two perspectives is important, and exploring it would have provided a more thorough treatment of the Michigan cases. Further, an analysis of the lawyers and students behind these briefs would have provided a more detailed portrait of the people affected by the Michigan affirmative action cases. For a behind-the-scenes journalistic account of the

student intervenors and their arguments, see Greg Stohr's *A Black and White Case: How Affirmative Action Survived Its Greatest Legal Challenge* (2004). In Perry's defense, the student intervenors were not given time to present their perspectives during oral arguments. As a result, she may not have viewed their briefs as fundamental to understanding the Michigan cases.

Despite these limitations, this work is valuable and will appeal to both a general and an undergraduate audience. General readers interested in affirmative action in higher education or in the workings of the judicial system will appreciate the book's balanced coverage of affirmative action, important insights into the Michigan cases, and clarity of writing. Faculty teaching introductory American government classes and courses on law and politics will find the book especially helpful for their undergraduate students. Because the book provides a bibliographic essay at the end, rather than formal citations throughout, it is less helpful for graduate students.

In sum, Perry provides an interesting and informative account of the University of Michigan affirmative action cases. Her work offers an impartial appraisal of the arguments surrounding affirmative action. Further, her examination of the Michigan cases illustrates many important aspects of the judicial system.

The Constitution of Electoral Speech Law: The Supreme Court and Freedom of Expression in Campaigns and Elections. By Brian K. Pinaire. Stanford: Stanford University Press, 2008. 368p. $60.00.
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— Ronald Kahn, *Oberlin College*

This book offers an important analysis of the conceptions and rhetorical modes used by justices to frame and decide cases involving electoral speech. In doing so, the author demonstrates control of the literature on election law, democratic theory, and the process of Supreme Court decision making.

Brian K. Pinaire seeks to explain the multiple influences that shape Supreme Court justices' opinions regarding the potential for and privileged status of electoral communication—and the ultimate implications of these Court rulings for American democracy. Electoral speech is viewed as the intersection of free speech and electoral process jurisprudence and, therefore, has a "two-fold significance for American democracy: that it implicates the means by which a polity deliberates and makes decisions (freedom of expression) and it keeps those structures and practices in place to record collective preferences and reflect the public will (campaigns and elections)" (p. xiii).

The author notes that his purpose "is comprehension not prescription" (p. xiv) and proclaims that the "complexity and distinction of this legal domain (Electoral Speech Law) have not been sufficiently appreciated (or examined)" (p. xiii). He emphasizes that the analysis of "electoral speech has tended to be subsumed within either the general categories of 'free speech' or 'electoral process' jurisprudence" (p. xiii). The book seeks to remedy this misunderstanding of the distinctiveness of electoral speech law.

In the first half of the book, Pinaire discusses four "Constitutional Elements" through which the Supreme Court decides electoral speech cases: "Constituent Concepts," "Conceptual Confluence," "Rhetorical Modes," and "Cognitive Contours." Chapter 1 offers an historical overview of First Amendment speech cases. Chapter 2 analyzes the evolution of First Amendment speech theory, explaining how Oliver Wendell Holmes' classic "market place of ideas" view moved in two separate directions: an equality conception, which is "directed primarily toward people and opportunities for participation," and a custodial conception, which is rooted in "the state's propriety claim over the mechanics and institutions of the process by which elections are carried out" (p. 74). In Chapter 3, Pinaire delineates five rhetorical modes of legal argument: historical (argument from precedent), empirical (argument from the range of available evidence), epistemological (justification in situations were "proof" is inaccessible or nonexistent), and aspirational and precautionary, which involve appropriations of cultural attitudes about ends and means. Finally, Chapter 4 analyzes the process of image construction through which justices define preferences and seek to persuade, articulating cognitive maps that draw upon both formal legal arguments and broader cultural values.

The author identifies 39 electoral speech cases since 1947. These are cases "wherein the Supreme Court either reviewed a law that specifically restricted freedom of speech during campaigns and elections, or where a more general law restricted speech as *applied* within the course of the electoral process" and a constitutional challenge existed on speech grounds (p. 5). These cases typically involved political activists advocating a cause or issue, candidates for public office attempting to communicate to the public, questions regarding campaign finance and the extent to which the use of money is regarded as protected speech, and the free speech rights of newspapers and political parties. The author chooses one activist case (*McIntyre* v. *Ohio Elections Commission* [1995]), one candidate case (*Burson* v. *Freeman* [1992]), and two money cases (*Buckley* v. *American Constitutional Law Foundation* [1999] and *Nixon* v. *Shrink Missouri Government PAC* [2000]), and spends one of the final four chapters on each, respectively. Each of these chapters offers "an analytic framework for understanding how the various elements [defined in this book] configured the case and ultimately shaped the constitution of the larger domain" (p. 15).

All of these cases were decided during the Rehnquist Court era. While Pinaire justifies his case selection in terms of the availability of both archival and interview evidence, this limited time frame, and the failure to include any