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— Matthew Lebo, *Stony Brook University*

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This is not an easy task. It is easy for legislative scholars to find anecdotes to support their claims about congressional parties. For example, it is impossible to read Robert Caro’s *Master of the Senate* (2002) and argue that parties and their leaders have not affected the decisions of individual legislators. Caro’s description/recounting of Lyndon Johnson twisting arms to the point of costing senators reelection are strong examples of senators not just following their ideological beliefs or maximizing their chances of reelection. But over the history of Congress, there are anecdotes to suit every theory.

The search for systematic empirical proof of congressional party influence is of course more challenging. This may be generally true, but Smith explains how finding statistical evidence of party influence is particularly difficult. There have been thousands of roll call votes in congressional history with dozens or hundreds of members participating in each roll call. Even if party influence were occurring in its simplest form and out in the open—perhaps if C-SPAN’s cameras could capture leaders exerting party pressure through some version of the “Johnson Treatment”—we would still find the number of cases where legislators went against their particular interests overwhelmed by the cases where they were simply left to make their own decisions. And party influence can be wielded well in advance of any roll call being taken; indeed, parties may have their greatest influence in preventing a roll call from occurring or structuring how the vote will occur.

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majority status and upon the relative sizes of the party delegations.

One interesting question addressed by the book is whether the primary purpose of congressional parties is to maximize policy outcomes, electoral success, or both. Smith makes a case for “both,” citing classic studies of party leadership elections. This differs from the conditional party government (CPG) approach where policy change (or, more precisely, maximization) is the paramount goal. Maximizing party seat share is helpful toward this goal, and some versions of CPG stress Richard Fenno’s view that parties serve legislators who themselves have multiple goals. More recent discussions of cartel theory begin with the view that electoral goals are paramount but that policy maximization is central to that goal, and so the cartel model focuses on policy outcomes. The more recent theory of strategic party government (SPG) posits that parties seek to maximize seat share and that winning votes and changing status quo policies is an instrumental goal—parties do these things to bolster their reputation but not *per se* for the satisfaction of party members.

This leaves us with the subtle question: Do parties enact laws so that they can gain seats, or do they gain seats so that they can maximize their policy goals? We frequently observe behavior that is directed at both policy change and winning elections, but perhaps for the sake of parsimony we can reasonably treat one goal as paramount and the other as instrumental. The empirical question is whether a significant amount of legislative behavior can *only* be explained by a double-goaled approach: parties forcing through policy changes that are adverse to their electoral interests *and* parties acting in ways that promote their electoral interests while betraying their policy preferences. In *Party Influence in Congress*, Smith does not carry this empirical exercise very far, but he does lay out a feasible alternative to the prevailing theories on congressional behavior, and in doing so, the biggest contributions here are the structure he gives to the search for party influence and the challenges he makes to congressional researchers to engage the agenda he sets out.

Speech Out of Doors: Preserving First Amendment Liberties in Public Places. By Timothy Zick. New York:

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— Brian K. Pinaire, *Lehigh University*

Addressing itself to “speech” (but also assembly, petition, and the press) “out of doors,” Timothy Zick’s fantastic new book convincingly demonstrates that what he terms the “expressive topography”—the “public space in which First Amendment liberties may be exercised”—has been severely diminished over the last several decades (p. 5). The implications of this general erosion, ordering, and management of expressive space are especially profound

in a free society, both because “place” (i.e., the locale, its symbolism, its associations, its history) is as critical to one’s expressive experience as voice, sight, and auditory function, and because a diminished geography portends—and perhaps predestines—a diminished democracy.

Following an introductory chapter that exhibits both theoretical rigor and refreshingly clear prose, Zick outlines in chapter 2 the history and theory of his “topography,” stressing that streets and town squares in the colonial era were its earliest features and were “critical to the revolutionary spirit and cause” (p. 30). Moving into the contemporary era, Zick then explains in detail how the “public forum” doctrine has “failed to respond adequately to the various forces and events that shaped public places beginning in the 1950s” (p. 55), meaning that those forums deemed “quintessential” decades ago by the Supreme Court have been vanishing—with no *re-placements* made available. (The pun is mine.) The upshot of this is an array of bureaucratized public places that reduce the “physical breathing space for public expression” (p. 57).

Chapter 3 considers the desired entry of speakers into the “embodied” places of listeners and viewers, or as Zick puts it, the “places we take with us as we traverse the expressive topography” (p. 65). Here, Zick exhibits an excellent grounding in social science research (e.g., the work of Erving Goffman) as he contemplates the repercussions of denying First Amendment access to individuals’ “personal spaces” by way of legal constructs such as “bubbles,” “zones,” “buffers,” etc. Chapter 4 focuses on speakers’ efforts to access “contested” places, or venues that are in some sense essential to the message itself, including libraries, lunch counters, jails, government buildings (e.g., the Pentagon), cemeteries, and private residences, among others. There has been insufficient academic attention to the strategic selection of the place (not simply its impact) for the communication of the speaker’s viewpoints. Drawing in some of the themes of the previous chapter—abortion clinic “buffer zones” and funeral “protest” zones, for example—Zick offers some especially valuable direction here for how the requisite balancing might be undertaken by courts and local officials.

Chapter 5 looks at what Zick calls “defunct” or “dead” spaces on the expressive topography (p. 145)—“non-places,” as he generally refers to them—a right jab at the Supreme Court and its categorization of such locales as “non-public forums,” or places that for First Amendment purposes are *not* “places.” These include transit hubs, gated communities, and shopping centers, and Zick’s opening discussion of the restrictions in the Mall of America in Minnesota is particularly apt at illustrating the themes of the chapter. “Non-places” are a concern because in the most literal sense, they remove “x” number of square feet from the prospective expressive topography, but they are also indicative of doctrinal failures to acknowledge diminishing space and recalibrate expressive prospects.

Chapter 6 focuses on places such as streets, sidewalks, parks, and squares, locations that have a special resonance in “speech-out-of-doors” terms, because they have “literally and figuratively been *inscribed* with our history, politics, and values” (p. 182). Here, Zick attends to the emergence of public order schemes in the 1970s, which have had the effect of institutionalizing protest speech even while the expressive spaces have been downsized and demoted. Chapter 7 addresses not “military” spaces *per se*, but rather the effect of “militarization” of public spaces, which is an interesting metaphor capturing the phenomenon of channeling, containment, and, it seems to me, *capture*. The point here is to illustrate that, at party conventions, summits, and inaugurations, for example, the effect of segregating expression to “zones” is to *effectively* suppress or even eliminate it—ironically at the time (and in the “place”) where it matters most.

In chapter 8, Zick turns his attention to speech on college and university campuses and stresses that while we are aware of debates on campus over “speech codes,” we have paid less attention to the deterioration of public space on those campuses; we have discussed *what* we cannot discuss, in other words, but not so much *where* we can (not) discuss it. His claim here is that campuses have come to resemble the landscapes that surround them, rife with regulations and restrictions on public liberties—all to the detriment of democratic life, given the significance of the college environs for crafting an engaged citizenry. Finally, chapter 9 draws on the preceding chapters to look forward and contemplate what this all means for a future of “networked” public places, where the effect of being “wired in” is also to be *confined* and deprived of “place” by technologies that occupy little or no space. Zick uses the notions of “clouds” (wireless fidelity—Wi-Fi—connections in public places), “cameras” (surveillance systems), and “computers” (of the mobile variety) to discuss the present and future implications of such networks on “speech out of doors.”

My only reservation with this fine book is that it should have been called *Speech Out of Place*, because that is really the larger (double) meaning it conveys—that speech is lacking in “place” *and* that such speech, as evidenced by and owing to its whittled-away topography, is somehow “out of place,” inappropriate, and lacking in value. Zick does not quite make the normative push here as strongly as he might have (and that is not necessarily a critique), but my concluding impression is that he *is* basically urging us to “take to the streets,” even though he resists this characterization (p. xiii). Put differently, he does seem to be stressing that there is something qualitatively superior about speech “out of doors” because such expressive occasions—grounded as they are *in* the “ground” they are *on*—cannot be replicated with listservs, chat boards, or twitters. MySpace is not my “place”—and nor could it be. Zick’s epilogue seems to concede as much,

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