

Thanks to Red Jacket's oratory and a stout legal defense team, Tommy Jemmy was eventually set free. Considering the nationwide assault on Indian land and sovereignty in the 1820s, the case became a remarkable assertion of Seneca autonomy, though they would face new threats through the rest of the nineteenth century. Engaging a broad range of scholarly interests in early national revivalism, gender, Quakerism, Indian missions, and economic development, not to mention the Seneca themselves, Matthew Dennis shows that Seneca survival was as much a product of adaptation and persistence as it was a death and rebirth.

JONATHAN TODD HANCOCK is a doctoral student at the University of North Carolina at Chapel Hill. His dissertation, "Shocks to the Natural Order: Indians, Settlers, Slaves, and the New Madrid Earthquakes, 1811–12," shows how various earthquake interpretations reflected cultural, political, and territorial debates from the eastern Great Plains to the Atlantic seaboard.

To Bring Law Home: The Federal Judiciary in Early National Rhode Island. By D. Kurt Graham. (DeKalb, IL: Northern Illinois University Press, 2010. Pp. 194. Cloth, \$32.00.)

Reviewed by Erik J. Chaput

To Bring Law Home uses Rhode Island as a case study to illustrate the nationalizing impact of the federal court system in the early republic. Too often the story of American constitutionalism oscillates from a perspective focusing exclusively on the formation and adoption of the federal Constitution and the rise of the Supreme Court to a focus on the weaknesses of the early federal government and its limited impact on the lives of ordinary people.

The continued reliance of scholars on Charles Warren's classic work, *The Supreme Court in United States History* (1922), is responsible for the former view. Historian William J. Novak advanced the latter argument in his informative work, *The People's Welfare: Law and Regulation in Nineteenth Century America* (Chapel Hill, NC, 1996). Novak argues against the myth of American statelessness for what he terms a "well-regulated society." According to Novak, up until the Civil War, governance was strictly local in nature, with "towns, local courts, common

councils, and state legislatures” serving as “the basic institutions of governance” (10).

Historian D. Kurt Graham adds another element to Novak’s account through his mining of the historical records of neglected federal court cases. *To Bring Law Home* builds on the author’s 2002 dissertation at Brown University, which historian Gordon Wood relied on in his recent book, *Empire of Liberty: A History of the Early Republic, 1789–1815* (Oxford, UK, 2009). Graham details the myriad of ways in which the federal judiciary served the needs of the local populace, especially the merchant classes. Rhode Island merchants had a stake in the success of the new federal government, and thus they looked to the federal court system to mediate commercial transactions and revenue laws.

The author persuasively argues that the federal courts “empowered the local citizenry, were staffed by local people, and functioned alongside state and local institutions in ways that often made them indistinguishable” (63). The circuit courts enjoyed “concurrent cognizance” with the state courts in cases where diversity of citizenship was present and the monetary amount exceeded five hundred dollars (68). With the creation of offices such as district judge and district attorney, the federal court system “provided additional opportunities” for members of the legal profession because these men were often drawn from the local elite (39). A case in point is the career of Ray Greene, who served as the state’s attorney general and district attorney from 1793 to 1797.

Because of Rhode Island’s hostility toward the Union, its penchant for paper money schemes, its reluctance to adopt the federal Constitution, its peculiar political culture, and its long-standing fear of over-arching federal authority, Graham argues that “if national authority could take root” there, “it could take root anywhere” (8). Until 1842 Rhode Island was governed by its 1663 colonial charter. Nearly 75 percent of the colony’s white male population was able to meet the freehold requirement set by the legislature until the Revolutionary period. Thus the liberal nature of the document, as the leading scholar of the state’s history, Patrick T. Conley, has noted, prompted citizens to “preserve and enshrine” it (*Democracy in Decline: Rhode Island’s Constitutional Development, 1776–1841* [Providence, RI, 1977], 54). However, as Graham points out, while Rhode Island’s unique political culture often set it apart from its neighbors, it was certainly not unique in relation to its weak state judiciary. Eleven of the thirteen states in the period 1787–89 used

trial courts, not appellate courts, as the highest judicial tribunal. This meant that the final authority often rested with the legislative branch.

Federal law as administered by the Judiciary Act of 1789 provided a remedy of sorts because it had the capacity to bypass state law and directly reach individuals. The 1787 Constitution created the Supreme Court and outlined the classes of cases in which its jurisdiction would be appellate or original. However, Congress was in charge of determining the jurisdiction of the lower federal courts. The Judiciary Act of 1789 established thirteen district courts, one for each of the eleven states that had ratified the Constitution to that point and an additional one for northern Massachusetts and for western Virginia. The act provided a single judge of each district court and grouped these courts into three circuits, composed of a district judge and two justices from the Supreme Court. The district courts dealt primarily with the enforcement of federal revenue laws while the circuit courts dealt with contract cases.

As William Paterson remarked in 1789, the new federal courts would “Bring Law Home” and afford the federal government with an opportunity to “meet every Citizen in his own State” (70). Rhode Island’s merchant class quickly realized that the federal courts were in reality “creditor courts” and could thus provide them with a much-needed avenue to resolve debt disputes (112). Graham’s research reveals that the plaintiffs won more often than not in federal court and, more importantly, the judgments made there were enforced.

Graham argues that with judicial questions dealing with wages, the slave trade, federal revenue, contract disputes, equity, and diversity of citizenship, the federal courts served as the “voice of national authority” (137). For example, from 1799 to 1801, the Rhode Island district court served as the “epicenter” of the “legal assault” on the slave trade (116). More slave ships were condemned in Rhode Island than in any other state. In 1803, an action against a ship was deemed to outweigh any claim against it for lost wages of seamen. Since the crew took part in the illegal activity of the international slave trade, they had no legal right to lost wages.

Graham also details the careers of some of Rhode Island’s most prominent jurists, including Benjamin Bourne, Henry Marchant (who served as Rhode Island’s first district judge), David Barnes, and David Howell. Howell’s terms as a Rhode Island supreme court justice was not renewed after he concurred with the opinion of Chief Justice Paul Mumford in the 1786 case of *Trevett v. Weeden*. Rhode Island’s highest court refused

to issue a judgment for John Trevett, who attempted to pay a butcher, John Weeden, in paper tender. Weeden refused to accept the currency. Distorting the court's actual holding, a legislative commission later chastised the court for using the power of judicial review. James Mitchell Varnum, who argued on behalf of Weeden, lost his position in the confederation Congress, but he was subsequently appointed United States judge for the Northwest Territory.

In this short but stimulating work, D. Kurt Graham demonstrates the importance of the federal judiciary in the early national period. Graham's analysis of grand jury charges between 1790 and 1812 convincingly shows how federal judges used a "power public forum" to their "full advantage to establish not only a truly national authority but also a sense of national unity" (91). However, he errs in his assertion that after 1812 grand jury charges were always "focused on the institution of the jury itself rather than on the larger public" (110). Justice Joseph Story, a key figure in Graham's account, focuses on the "larger public" in his June 1842 grand jury charge, which was given in the middle of Thomas Wilson Dorr's attempt at extralegal reform in Rhode Island. This caveat aside, *To Bring Law Home* enriches our understanding of the fascinating legal history of early Rhode Island, as well as the nation as a whole. Moreover, Graham's research methods provide an avenue for additional state level studies, and thus will be of interest to students and scholars alike.

ERIK J. CHAPUT is a PhD candidate in early American history at Syracuse University. His doctoral dissertation, "The Rhode Island Question: The Dorr Rebellion and Competing Visions of the People's Sovereignty," is being directed by James Roger Sharp.

Advocating the Man: Masculinity, Organized Labor, and the Household in New York, 1800–1840. By Joshua R. Greenberg. (New York: Columbia University Press, 2008. Pp. 272. Cloth, \$60.00.)

Jolly Fellows: Male Milieus in Nineteenth-Century America. By Richard Stott. (Baltimore: The Johns Hopkins University Press, 2009. Pp. 384. Cloth, \$55.00.)

Reviewed by Jonathan Nash

Joshua R. Greenberg and Richard Stott have written valuable contributions to the historiography of masculinity. Greenberg's snapshot of early

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.