

BOOK REVIEWS

The Making of Tocqueville's America: Law and Association in the Early United States.
By KEVIN BUTTERFIELD. (Chicago: The University of Chicago Press, 2016. 311 pp. Illustrations, notes, index. \$40.)

When Alexis de Tocqueville wrote about his travels in the United States, he famously celebrated its vibrant voluntary culture as one of the hallmarks of the young nation. Kevin Butterfield's recent book provides fresh perspective on a familiar phenomenon by positioning these organizations not only in civil society but in an evolving and distinctly American legal culture. Butterfield argues convincingly that associational culture was shaped not only by the individuals who organized and joined voluntary endeavors but by judges who were repeatedly called upon to adjudicate disputes between members and voluntary associations. In an increasingly law-minded early republic, men and women associated with voluntary associations believed that members had a right to legal protections, including the right to bring suit when their rights were abused, implying in turn that private organizations could and should be under the scrutiny of the public. Through the first third of the nineteenth century, Americans hammered out remarkably consistent internal organizational forms and external jurisprudence governing the appropriate relationship between individuals and the organizations they joined—collectively creating what Butterfield calls “an American common law of membership” (162, 231). By the 1840s, with this common law largely in place, courts began to withdraw active intervention, restricting themselves only to determining whether proper procedures (as laid out in charters) had been followed, not whether the laws in those charters were just or appropriate. The onus fell upon members to understand what they were signing up for when they joined. Butterfield uses this paired organizational and legal history to explain how the early republic could celebrate individualism and foster the rights-bearing individual at the same time that it spawned “the associational impulse,” the growth of an increasingly pluralistic and socially, economically, and politically powerful array of organizations (6).

Butterfield's detailed, nuanced readings of the development of jurisprudence relating to voluntary associations is particularly rich when he analyzes the nineteenth century and the court cases that shaped concepts of membership, due process, and the limits of arbitrary authority over individuals. Less well-supported is his insistence that the developments he charts constitute a radical break from

precedent. Butterfield argues that the American Revolution ushered in “something new,” “unique,” and “distinctively American” (9, 10, 87). The law-oriented approach of the early republic, he argues, supplanted earlier colonial-era organizations “almost wholly founded on play and seeking little more than fellowship” (15). Such an argument rests on a truncated and caricatured version of voluntary associations in colonial America and the wider British Atlantic world, which, contrary to Butterfield’s narrow definition, drafted and maintained articles of association that presaged later organizational constitutions, engaged in social, economic, and political work, and served not as discarded dead ends but as templates off of which later organizations would build.

Notwithstanding this thin origin story, the great contribution of this book is to help explain how in the era of the early republic the rapid increase and embrace of voluntary associational culture coexisted with and even buttressed the primacy of the rights-bearing individual. Butterfield’s reading of voluntary associations through a detailed legal history offers a new and useful paradigm through which to understand the evolution of early American civil society.

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Luxurious Citizens: The Politics of Consumption in Nineteenth-Century America. By JOANNA COHEN. (Philadelphia: University of Pennsylvania Press, 2017. 296 pp. Illustrations, notes, index. \$45.)

Joanna Cohen’s *Luxurious Citizens* is a smart and elegant study of the creation of the American consumer-citizen in the years between the nation’s founding and the end of the Civil War. Over these decades, the prosperous patriot-consumer, whose prudent nonessential purchases helped fund the new nation, gave way to a more profligate middle-class consumer, who demanded unfettered access to goods at good prices as a right of citizenship. Early elites like Abigail Adams might have demanded abstinence for the good of the country, invoking the patriot-citizen. Massachusetts farmers refused to exchange their foreign-made corduroy cloth for uncomfortable American leather. By 1865, the pleasure of corduroy had won out over civic virtues of self-restraint.

Cohen describes her book as a “cultural history of economic ideas,” especially the ideas of lawmakers, manufacturers, vendors, advertisers, and a wide range of pundits and journalists. In her chapters, she follows heated debates over early national commercial policy, consumer abstinence and indulgence before and during the War of 1812, the dangers and enticements of public auctions, the tariff, the proliferation of enticing advertisements, and the role of consumers during the Civil War. Throughout, she pays close attention to both what was said and how it was said. Cohen describes the increasing importance of gender and, to a lesser