Women and the Legal System in Early Rhode Island

Images of Women at Work, 1775-1962

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Cover: Unidentified woman at Paradise Valley. From Mabel Norman Cerio Collection at the Newport Historical Society.

Contents page: Double gas Apparatus at Newport Lighthouse, by David Melville, 1817. NHS Collections.

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Editor’s Note:

This issue of our journal commemorates the many roles of women in Newport history. It coincides with the Newport Historical Society’s 13th annual Winter Lecture Series, “Her True Profession: The Changing Roles of Newport Women, 1700 to the Present.” The first lecture in this series, “Skirting the Law: Women and the Legal System in Early Rhode Island,” by Elaine F. Crane of Fordham University, is presented here as the lead article. The article examines gender inequities in 17th century Rhode Island and how women sometimes circumvented—or “skirted”—the legal system to enhance their roles in society.

The second section of this issue of Newport History is a photograph essay compiled by the Society’s Curator and Deputy Director for Collections, Joan Youngken, featuring images of women at work from the colonial period to the 1960s. This essay echoes the major theme of the Winter Series: how women worked within and without the constraints of their particular time period to find their own “True Professions,” a phrase often used by Catherine Beecher and her sister, Harriet Beecher Stowe, in their mid-nineteenth century manuals for women. All of the images used in this photograph essay are from the collections of the Newport Historical Society.

Also in this issue is the latest chapter on the life of William Claggett, clockmaker, engraver, scientist, and now, conclusively, printer. This short article examines a newly-discovered document that confirms a long-held belief that Claggett printed money for the colony of Rhode Island on plates that he engraved. The author, Richard L. Champlin, is the former librarian at the Redwood Library and has studied the lives and work of Newport’s clockmakers for more than twenty years.

Finally, in “From the Collection,” a meteorological log and lighthouse record book kept by David Melville, storekeeper, inventor, meteorologist, is examined.
Skirting the Law: Women and the Legal System in Early Rhode Island

Elaine F. Crane

Rhode Island, like its more godly sister colony to the north and east, relied both on English common law and the Bible when constructing its legal system. If Massachusetts lent a little more weight to the Bible, and Rhode Island a little more to the common law, that does not concern us; for our purposes it is enough to understand that a legal system that relied on either or both did not provide women with a level playing field. It is my intention to discuss how women made end runs in the legal games that women and men played in early Rhode Island.

For those who may be unaware of the impact of the common law on women, I would like to outline its most basic provisions, and then explain how, I believe, women circumvented the gendered inequities of that tradition—how they “skirted” the law. Since other New England colonies relied on that same tradition, I suspect my conclusions apply not only to Rhode Island, but to the entire region.

Single women (and by that I mean all women prior to marriage, as well as widows) had many of the same legal rights as men. Unmarried women could make contracts, which meant they could buy and sell property; they could be the recipients of legacies and control whatever property they received; they could work for a living and spend the proceeds of their labor (their income) as they chose; they could sue in court and be sued themselves; and they could make wills and leave property to whomever they wished.

Once women married, however, all this changed. They were legally prohibited from engaging in the above activities. Common law saw the husband and wife as one person, and that person was the husband. What this meant, legally speaking, was that unless special provisions were made to the contrary, she no longer controlled property that currently belonged to her or would belong to her in the future. Any property (real or personal) that she brought to the marriage essentially became her husband’s to dispose of as he chose. True, without her concurrence he could not sell any real estate that she brought along with her (it would eventually go to their children), but she could not sell it without his permission. He could sell his own or jointly held real estate as long as she agreed to the sale, and if she did, she was, in fact, giving up her future dower rights to the use of one-third of that property.

Editor’s Note: This article was first presented as a talk by the author on March 15, 1996, as part of the Newport Historical Society’s 13th annual Winter Lecture Series, “Her True Profession: The Changing Roles of Newport Women, 1700 to the Present.”
As far as personal property was concerned, any teapots, jewelry, shoe buckles, furniture, cows, or anything else that she possessed at marriage instantly became his to dispose of as he pleased—unconditionally. If she earned income, he could spend it; if she made cheese to barter with a neighbor, he could eat it. If she had a pearl necklace given to her by her mother, he could sell it. She could not make a contract, which meant that she could not buy or sell property. She could not make a will, for she had no property of her own to devolve. On the other hand, he was required by law to leave her some property at his death for her subsistence (her dower rights or "thirds"). If he left a will, the husband could leave as much to his wife as he wanted; his whole estate if he chose. If he did not leave a will, she was still entitled to one-third of his real property (that is, house and land) for her use for the remainder of her life, and in some jurisdictions one-third of his personal property to do with as she pleased. This meant that if she lived on a farm and grew corn, she could sell the corn, but not the land it grew on. She would have a room in the house, but two-thirds of that house might not belong to her.

Was the law so harsh in reality? Were relations between men and women hostile because of these rules? Probably not. Evidence suggests that husbands and wives worked out various arrangements and accommodations with each other. Husbands rarely interfered with their wives’ activities. A wife like Anne Bull, for example, occasionally borrowed money from her husband, Henry, to buy property—even though the law theoretically precluded her from doing so.1 In addition, however, I would argue that Rhode Island women found other, innovative ways to circumvent common law restrictions, and in so doing, they skirted the law. Their circumvention took many forms, according to their needs and depending on the evolution and application of the law itself. In the early days of Rhode Island’s settlement (that is, for a few decades following the 1630s), there were very few relevant laws on the books, which made life easier, since colonists were less likely to break a law that did not exist. However, as the law evolved and Rhode Island law began to conform more and more to the English legal tradition (especially in the eighteenth century), women had to become ever more imaginative in order to get along. They had to devise ways of providing for themselves, particularly in seafaring communities where, on any given day, there were far more women in town than men, and these women, single or married, found it difficult to support themselves.

Let us turn back to the 1630s. Roger Williams and Anne Hutchinson were banished from Massachusetts. Providence was founded as a result and so were Portsmouth and Newport. None of these entities had a charter from the crown, though there were, of course, several agreements with the Indians. Whatever the

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legal basis for English settlement, there was lots of land to distribute—at least from
the perspective of the Anglo-American colonists—lots of land to buy and sell and
lots of land simply to occupy.

At this point I must admit we historians have distorted the historical record. We
have assumed that all this land exchanged hands by deed—or some other written
record—and that this evidence so carefully recorded and safely kept in the vault of
the Newport Historical Society tells us all we need to know about land transactions.
Unfortunately, this is not the case. I suspect that in the early years, more real prop­
erty transfers rested on what were called “verbal bargains” (or handshakes) than
were ever recorded in a legal, formal manner. Why do I say this? Well, it certainly
was true in Massachusetts where the records are more complete and the authorities
showed great concern about such unrecorded transactions. Also, the Massachusetts
magistrates singled out widowed women as the most flagrant offenders. These
women were simply enjoying, selling, bequeathing, or wasting all of their deceased
husbands’ property, despite the fact that they were entitled to no more than one-third
of it. The reason all this came to the authorities’ attention was because creditors
were becoming frustrated at being denied their just share of the estate. It is likely
that the same thing was happening in Rhode Island, but officials were less con­
cerned—at least in the beginning. For the first decades of settlement they appear to
have been no more concerned about casual and unrecorded land transfers than they
were about the violation of any other inconvenient law. Only when creditors pressed
the Rhode Island Assembly did the legislators try to stabilize the situation by
enforcing the law—which had the effect of favoring creditors.

Non-recorded property transfer had been illegal as early as 1644, when Rhode
Island law required all land grants to be entered in what was called a “State Book.”
In spite of this, authorities admitted that there had been unrecorded sales and
resales, some of which had been made by settlers who had since left the jurisdiction.
In such circumstances it was next to impossible to determine the rightful owner of
a piece of property. Thus, because of the confusion, the law allowed anyone who
could demonstrate proof of purchase by writing, bargains, contracts, or other testi­
mony, to record his or her property in that “State Book.” This would clear title to
such property and prevent future problems. Two decades later, however, Rhode
Islanders were still transferring property without a thought for future titles, and in
1663, the legislature reiterated its plea and specifically demanded that “all Devises
and Bequests of Land” be in writing. This is only a hint of what was actually hap­
pening—a reflection of what Rhode Islanders were not doing (they were not trans­
ferring property on paper). There is also another hint as late as 1711 when the Rhode
Island legislature admitted in euphemistic fashion that “in the beginning of settle­
ment” deeds, grants, and conveyances “were weakly made”—a practice that they
feared would eventually lead to litigation over contested titles and debt.

Having argued thus, I admit once again that there is very little surviving evidence from seventeenth century Rhode Island that allows us to speculate about property accumulation by women, particularly in this manner. Nevertheless, if Massachusetts women operated under the assumption that no law was better than common law, I do believe that the unsettled conditions of Rhode Island afforded women there the same window of opportunity to act independently. They, as well as men, bought, sold, and traded property without regard to common law or formal documents. A handshake, a witness, a reliance on the collective memory of the community, was good faith enough for women, who risked ignoring the law because their economic future was at stake. To enjoy or sell an entire estate was better than living on one-third of it and being denied the right to sell any of it.

In 1711, the Rhode Island General Assembly hastened to make good all those old, “weakly made” cloudy titles, provided the alleged owners could claim “uninterrupted peaceable possession for twenty years.” In doing so, the Assembly was, in fact, telling the people who had been involved in such unrecorded property transactions that they had bet on the right horse. Since under the new law “he, she, or they” gained fee simple title (basically the unlimited right to transfer that property in the future) the legislation was particularly meaningful to women who now had title to an entire piece of property or estate, whereas under common law they were entitled to only one-third.³

Until 1770, the Newport Town Council was vested with responsibility for the division of a decedent’s real property. In that year, a new statute provided that if a husband had not left a will, his heirs had the right to petition the courts for partition of the estate. However, here again the records are silent. Theoretically, one would expect documents to show widows petitioning the Town Council or the courts for the partition of their thirds, or that they were seeking the advice of the Town Council prior to selling property, but such requests rarely appear in the records. In short, there are extremely few examples of the state stepping in and distributing property to widows. References to thirds appear only when property was contested and litigated. My conclusion is that during the first decades of settlement, and perhaps for many decades beyond that, Newport widows did not ask the Town Council to distribute estates, and usually were left to enjoy whatever real property their husbands had owned, particularly if it was unencumbered by debt or other controversy. This was one way of skirting the law, and possibly a widespread method at that.

Eighteenth-century Rhode Island showed the effects of long-term settlement and modernization. Trade was increasing and barter was slowly giving way to a cash economy. As the exchange of goods (real or personal) increased, debt was increasing too. It was all well and good to look the other way or wink when widows

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ignored the common law rule of dower as long as her dead spouse’s estate was not
debt-ridden, but as we move into the eighteenth century, that was less likely to be
the case. In 1718, after creditors started clamoring, the General Assembly passed a
law favoring creditors over widows, no matter how needy a widow might be. From
that time forward, the Town Council could only distribute an estate after the debts
had been subtracted from it. By mid-century, a widow was forced to turn over all
goods and chattels from an insolvent estate to creditors except for “her apparel, and
such Bedding and other household goods...necessary for the upholding of life.” At
her death or remarriage even this modest property would revert to any hovering
creditors. If this personal property did not cover the entire debt, the court could
authorize the sale of as much real property as necessary at auction to satisfy that
debt.

Once laws were on the books and once written law in Rhode Island conformed to
common law and made way for common law to fill in where there were no Rhode
Island statutes, women were in financial trouble if the law was enforced. What was
a woman to do? The legal system was placing widows in an increasingly disadvan-
taged position over time if her deceased husband’s estate was encumbered by debt.
Rhode Island widows, like other debtors, went to jail if they did not pay their hus-
band’s debts. Thus, notwithstanding the risks, many women refused to abide by leg-
islation that restricted their lives, and their resistance is evidence of a social
paradox: by establishing legal boundaries that were detrimental to the economic
well-being of so many women, lawmakers encouraged lawbreakers. Some women
were clever enough to manipulate the system without violating a particular statute;
others evaded the law with greater abandon. All hoped to get away with it.

Some women circumvented the rules out of desperation. Deserted by her husband
and left with five small children, Mary Fordice was under such “great Difficulty to
maintain her selfe and children” that she admitted in 1723 having “bought several
Pieces of land upon Credit in her own name.” As a result, she had “got in debt” and
needed to sell that property in order to pay “her just debts.” As a married woman,
such transactions were technically illegal, and only a successful petition to the
Rhode Island General Assembly could clear title to such a sale. Fordice threw her-
self on the mercy of the legislature, and they assented to the sale.

Court records hint that as society became more structured and codified, as law-
makers took the rules of common law dower more seriously, as legislators favored
creditors over widows, and as widows became more subject to male authority,

4. “An Act for Distribution and Settling of Intestate Estates” (1718), Acts and Laws of His Majesty’s Colony of
Rhode Island and Providence Plantations in America (Boston: printed by John Allen for Nicholas Boone, 1719),
p. 95; “An Act for Making the Real Estate of Deceased Persons Liable to Satisfy Their Debts” (1769), Acts and
Laws of His Majesty’s Colony of R.I. and Providence Plantations, Made and Passed Since the Revision in June,
1767 (Newport: S. Southwick, 1772), p. 11.

5. Rhode Island Colony Records (ms) 4:421 (Nov. 26, 1723), Rhode Island State Archives.
women consistently sought ways to bypass the gender-based inequities that threatened their autonomy and economic status. How did they do it? Required to present estate inventories, an administratrix might render a fraudulent account—or none at all. She might even neglect to report her husband’s death. Whatever she did, she hoped the law would not catch up with her. When William Coddington, Newport town clerk, examined the Town Council records, he noted that as sole executrix, Mehitable Chace never “rendered any account of her executorship.” Mehitable’s actions—or lack thereof—might explain why, as the eighteenth century advanced, widows were less likely to be granted sole custody of an estate. They were not trusted to fulfill their duties.6

Allowed only one-third of the goods and chattels, a widow who delayed submission of an estate inventory could use up or hide a considerable portion of that property in the meantime. She knew, of course, that even if she were left the entire movable estate, creditors were entitled to their share first. However, with a little time, she could deplete it so that the creditors would be frustrated. She might even work out a deal with the creditors themselves. That all of the above happened from time to time is clear from the language of the legislation designed to prevent such abuses. Authorities barely concealed their frustration with widows who were negligent in submitting estate inventories or who were slothful in “proving the wills of the deceased.”

Nevertheless, Rhode Island law did not seem to deter Ruth Waterman from scheming to remove estate property in order to deceive her creditors. Through questioning, a witness’s deposition in the Waterman case corroborated what authorities merely suspected: “Did Mrs Waterman tell you that the things you saw [at Captain Andrew Waterman’s house] were the widow Ruth Waterman’s and you must not say any thing about it?” Answer: “Yes.” Were these widows being greedy, or did the law and changing economic conditions force them to protect themselves in whatever way they could? Did application of the law make enjoyment of personal property by widows a criminal offense? Presumably it did.4

Winking at the law could have benign—even positive—effects on women’s lives, and there is abundant evidence that Rhode Islanders routinely ignored common law constraints on marriage when it suited them, because such evasion frequently worked to women’s advantage by enlarging their sphere of economic opportunity. According to law, married women could not enter into contracts, but evidence that they did so permeates the records. Also, despite common law, Rhode Island courts confirmed the right of a married woman to make a contract.


In what is a remarkable case, Elizabeth Scott, wife of John, asked Thomas Peckham to chase after and capture a runaway slave. In return, Mrs. Scott agreed with Peckham to pay "all his expences...and also to satisfie [him] for his time and trouble." When the time came to pay Peckham, John Scott refused to honor his wife's agreement, and Peckham sued. John went to jail for refusing to pay up, but defended himself on the grounds that "the plaintiff [Peckham] hath not set forth any matter or cause sufficient in Law...to oblige Defdt to pay the money" because, said Scott, a wife's contract "cannot in law bind and oblige her husband without his assenting to it." To seal his argument with a final flourish, Scott added, "many a man might be ruined by his wife if such contracts are allowed." Despite Scott's eloquence (not to mention common law precedent), the court found for Peckham and affirmed the bargain. Scott appealed, but to no avail. Still certain of his legal position, however, Scott took his grievance to the General Assembly of Rhode Island, where, alas, Peckham's argument was once again sustained. In Rhode Island, a married woman could indeed contract and obligate her husband. 9

As I have already explained, common law rules prevented married women from suing or being sued as individuals. Yet throughout the 1730s, Bethia Hedges was in and out of court in Newport, both as plaintiff and defendant, and depending on one's perspective, she was either a conniving fraud or a splendid example of a woman who manipulated common rules governing married women to her own advantage. 10 Part of the reason Bethia successfully defended herself in a 1735 suit initiated by Thomas Hicks was because Hicks sued her as a widow, and Bethia claimed that since her husband was alive, she could not be sued without her husband as a co-defendant. Yet as it turned out, John Hedges (Bethia's husband) was, in fact, dead—and Bethia knew it—according to a deposition from another Newporter, John Osborn, who was present when Mrs. Hedges received the sad news of her husband's demise in 1731, four years before Hicks sued her.

Moreover, the reason that John's death came to light at all was because it served Bethia's interest to reveal that information. In June 1735 (one month after she agreed to arbitration in the Hicks matter), Bethia sued another man, John Hunt, for a debt of £95. Hunt requested the court to dismiss the case because Bethia, as a married woman, could not bring suit in her own name. This is the context in which John and Mary Osborn came forward and described the circumstances


of John Hedges’s death, presumably at Bethia’s request, since it was the only way Bethia could collect the debt. By this time, however, the court appears to have had enough. Bethia lost the case. Was it worth the risk of discovery? Bethia apparently thought so.

But there is more. Two years later, Bethia was in court again, this time defending herself against Job Caswell’s claim of £24. In her response, she asked the court to dismiss the action, because “she at the Time the Note is dated was under Covert [i.e. married] and therefore could not make a Note worth anything.” The court agreed, dismissed the suit, and awarded Bethia costs. It was not in her interest to ask the court to follow the ruling in the earlier Peckham case because if the law allowed her to obligate her husband without his consent (as it had in 1715), Job could have come after John Hedges’s estate for his £24 claim, which was the last thing Bethia wanted.

Bethia’s strategies probably worked as well as they did because she lived in Newport where mariner husbands were away for months (even years) without confirmation of their health and safety. The report of John Hedges’s death came from Jamaica, and was verified by someone who had seen his grave, but unless his widow chose to disseminate that information, other Newporters might simply assume he was still somewhere in the Caribbean. John and Mary Osborn knew of Hedges’s death, and Thomas Hicks must have suspected as much, but the Osborns confirmed the news only when Bethia had a purpose in revealing it. Living and dead husbands each had their own advantages.

The institution of marriage may have been legally problematical, but there was no theoretically acceptable alternative for men or women. As we will see, however, this lack of alternatives affected men and women differently. First of all, the American colonies were overwhelmingly Protestant in the seventeenth and eighteenth centuries. This meant that a controlled celibacy was unavailable as a recognized substitute for marriage, which translated into an absence of convents, the one valid European alternative to marriage for women. No convents where women could be educated, no convents to act as refuge for a surplus of women, no convents where women played leadership roles.

At the same time, unfortunately, there were few ways that women could be economically independent outside of marriage, particularly in the later colonial period. So although many, probably most, women married for love, a good number must have married for economic security. The expectation was that a husband would support his wife at least with what they called the necessities of life: food, clothing, shelter. The expectation was that they would be companions, that each would have a role to play within that marriage, but that those roles were hierarchal. The wife was to obey her husband. She was not a servant, but a virtuous wife not only attended her husband’s needs and desires, but respected his opinion as authoritative. Physical abuse by either spouse was discouraged and sometimes even prosecuted.

How did this work in reality? Accommodations were made, no doubt, to ease ordinary marital tensions, but there were bad marriages. We know about some of
them; there were others, no doubt, of which we are unaware. Sometimes the local authorities stepped in and tried to make peace by chastising an abusive husband or criticizing an abrasive wife. They insisted a husband maintain his wife—when and if they caught up with him. Also, there were legal remedies for a very bad marriage. By 1650, Rhode Island had a divorce law in place—with adultery the only grounds for divorce. The law made no provision for maintenance (or what we would call support or alimony), although the court sometimes awarded the wife such maintenance. Absolute divorce took away a wife’s entitlement to the dower rights (her thirds) that we discussed earlier. Thus, the scenario from a woman’s perspective must have been difficult to imagine: as a woman alone, she would have an incredibly hard time supporting herself, given the limited economic opportunities open to women. She would rarely leave a marriage with property, she could not count on the court awarding her maintenance, and she lost her rights to one-third of the estate if she survived her ex-husband. Not surprisingly, there were very few divorces in seventeenth and eighteenth century Rhode Island.

At the same time (and this is where we return to “skirting the law”) there are hints that a great many people were living together without being married. Every so often a couple was fined for this infraction and the magistrates issued a stern warning against people living together unless they were lawfully married. Nevertheless, such warnings appear to have had little effect, even though people faced charges of fornication, bastardy, or (if one of the parties was married), bigamy, or even adultery if they were caught. Why would people—especially women—take such a risk? All this brings us to the story of Horod Long.

In 1665, Horod Long sent the General Assembly a petition about which the Assembly was very troubled because it went to the heart of morals and marriage in Rhode Island. Horod Long had been married in England to John Hicks before her 14th birthday. He eventually brought her to Rhode Island where, according to testimony, he beat her. John accused Horod of “whoredom” and the authorities granted a divorce whereby Horod was awarded some property that had been sent to her by her mother. She apparently never saw that property because John carried it away with him and she “was put,” as she said, “to great hardship and straight.” Horod explained that she did not know what to do, and as a result was “drawn by George Gardner to consent to him so far as I did, for my maintenance.” In other words, she agreed to live with George Gardner because she had no other choice. She did so, she said, “with much oppression of spirit, judging him not to be my husband, never being married to him according to the law of the place.” She told George how she felt about their relationship, realizing that they had little property but that he had, as she said, “all my labour.” Would he, she asked, allow her some maintenance either to live apart from him, or else would he agree “not to meddle” with her. Gardner, she related, “always refused.” Therefore, she was petitioning—after twenty years of

11. For records relating to this story, see Bartlett, Records of...Rhode Island, vol. 2, pp. 99-105, 126.
cohabitation—for some “of that estate and labour hee has had of mine” as well as the house upon “my land” and maintenance for their child. All this explains a great deal about the circumstances of women under common law and what ordinary women had to do sometimes to survive. One of the most interesting points is that Horod, at two separate times, put a value on her “labor.” She felt it had worth.

How did the General Assembly treat her petition? Before they knew her whole story they asked her whether “she would return to George Gardner and live with him as a wife ought to do.” She responded in essence that no matter what the magistrates decided, she would not go back to Gardner. At this point, the authorities made inquiries and discovered the true nature of the relationship between Horod and George. The couple had, according to the deputies, committed a crime and were engaging in a notoriously illicit relationship that had gone on for two decades. Horod had lived all this time “in that abominable lust of fornication” and she and George together had engaged in the “horrible sin” of “uncleanness.” They were to pay £20 into the treasury and ordered not to lead “so scandalous a life.” Furthermore the General Assembly took this opportunity to warn others who were also living in extra-marital relationships that such behavior would not be tolerated. Horod got no property settlement, and she could no longer depend on Gardner.

That is not the end of the story, however. For what must have been a combination of reasons, Horod eventually took up with one John Porter. As a result, she was hauled before the court for fornication and cleared, but apparently the relationship with Porter continued even though he was probably the same Porter who was separated from his wife, Margaret, and who had been ordered by the court to maintain Margaret.

We know about Horod and her tribulations because of her petition and the fact that she came under the scrutiny of the courts. How many others were involved in relationships of a like nature, I cannot say, but I do think that many of these non-marital liaisons were entered into by women because of their inability to support themselves, or because they had husbands who were not providing for them. Many, many fornication prosecutions came before the court and women were far more often punished than men. Accusations of adultery were far less frequent, and even though historians (not to mention seventeenth-century magistrates and legislators) have focused on these as sex crimes, I am not convinced that they were. Sex was involved, but that may not have been what was really at issue. I think the heart of the matter was economic and that extra-marital liaisons were often an attempt to circumvent the legal disabilities of a bad marriage and the inequitable laws governing marital property within marriage.

It was not only the common law disadvantages of marriage and property that encouraged women to skirt the law. Cultural attitudes toward women—what women were supposed to do, how they were supposed to act, stereotypical attitudes toward them—also translated into local ordinances that created hardships.

The food and beverage industries were carefully regulated by local officials, which meant that the tasks with which women were most closely affiliated could only be used to produce income with governmental permission. More specifically,
it was beer production that was most closely monitored and therefore created the most difficult problems. In the Middle Ages in Europe the majority of brewers (and probably sellers) of beer had been female. During the fifteenth century, however, the proportion of women declined, and by the early seventeenth century, the vast majority of tipplers were male, leaving only a small number of English widows in the trade. The beer and ale industries were also under attack in Europe, with the Puritans, interestingly enough, being the most vigorous critics. They associated alehouses with disorder, and considered them stepping-stones to poverty.

Women, who were always associated with disorder to begin with, were singled out and criticized for their role in promoting such unruliness through the making and selling of alcoholic beverages. These ideas traveled very well to New England, and from the beginning Rhode Island lawmakers controlled the trade by issuing licenses to those who were permitted to sell beer and ale. For a combination of reasons known only to them, Rhode Island officials were far more stringent than their Massachusetts counterparts when it came time to issue those licenses to women. They observed the law of the spirit with great care, and even when Boston officials granted a number of licenses to women, Rhode Island officials did not.

Thus, here again, we are forced to ask the same question we have asked in other contexts: what was a woman to do? Although I have not discussed the various ways by which women were prevented from maximizing their economic potential, it is enough to say that, as the colonial era advanced, urban women were increasingly shut out of income producing opportunities, and that their exclusion from the beer and ale industries is simply another example of that process. The problem was resolved once again by skirting the law: throughout the New England colonies an underground, unlicensed trade developed whereby women sold alcoholic beverages without licenses. I do not mean to say that men were uninvolved in this illegal traffic, but since it surfaced only when the law caught up with an indiscreet seller, I can say that more women than men were prosecuted for selling alcohol without a license.

There are alternative reasons for this, of course. It could be that more women than men were willing to risk punishment, or that the authorities looked the other way when men engaged in illegal trafficking. Or it could be that more women than men were unable (or unwilling) to pay for licenses—assuming, of course, that the officials were willing to issue them to women in the first place. In any case, men and women convicted of selling alcoholic beverages without a license received the same fine, which at £2 was pretty hefty compared to other infractions. Two pounds was also the cost of a license, but the difference is that men who requested liquor licenses almost always got them; women could be pretty certain of a refusal.

Women who sold beverages illegally often took an extra risk by selling alcohol to Indians, a transaction that was prohibited with or without a license. The penalty was a very high fine, but it may have been worth the extra risk. Women had difficulty obtaining licenses to sell alcoholic beverages; Indians were prohibited from buying such drink. Their mutual interest was served by the trade, and my suspicion is that
those women who engaged in it could make a substantial profit. The trade was the equivalent of seventeenth and eighteenth century bootlegging. Collectively, the evidence from Massachusetts and Rhode Island suggests that men were the ones who turned women in for illegal trading and who acted as witnesses against them. It happened all the time in Boston, and even though the evidence is scanty in Rhode Island, the Newport Town Council records show a few instances of men complaining against several women at a time who were selling liquor without licenses. In an economic context, their hostility makes sense. Women who sold alcoholic beverages illegally were probably selling it for less than the going rate (unless, of course, they were selling it to Indians), and this competition was probably resisted by men who had bought licenses and were selling openly at established prices.

Another problem was that if the women who were prosecuted could not pay the fine, they were incarcerated. Since women were not as economically viable as men, they were less likely to be able to satisfy the judgment against them. All in all, it was a pretty risky operation, but what was a woman to do? What were her choices if she could not earn an income or provide for herself in some other way? It seems to me that cultural assumptions about women worked in tandem with the law to encourage female lawlessness. Yet questions remain unanswered, which, perhaps, should be addressed. If what I have described is actually taking place, should we begin to examine more seriously the implications of a culture of lawlessness? In other words, we know all about Rhode Island smuggling in the revolutionary era, but do these earlier activities set the scene for the later period? Are the preconditions already in place so that lawlessness becomes an integral part of the culture? Is lawlessness gendered in a variety of ways that we are only beginning to realize?

Moreover, if certain aspects of lawlessness are particularly female in nature, does this presuppose a female network, a bonding among women, whereby skirting the law is both commonplace and acceptable and where women help each other? Theft, particularly of fabric and clothing, appears to have been a “female” crime, and one that required not only thieves, but receivers of stolen goods. Finally, how do we grasp the extent of such legal circumvention? Laws denying women tavern or brewing licenses encouraged an illegal, underground trade, but what was the nature of that traffic and how great was it? Laws also prohibited people from renting out rooms to vagrant transients. Such ordinances hurt women more than men because women were more likely to run boarding houses or earn a little pocket money from renting out rooms. These prescriptive laws were routinely ignored, but did such evasion measurably enhance female income or was it inconsequential in the long run? Skirting the law contained risk, but that was a gender-based risk: women had more to lose than men if they chose to abide by the law.

In mid-eighteenth century Newport, women sometimes ventured outside traditional domestic roles to become contributors to the town’s economy and culture away from the home. Usually, they based their experiences in the community upon accepted areas of female activity: the education of children, the sale of garments, and hospitality. In this advertisement, published in the Newport Mercury on November 15, 1773, Abigail Stoneman informed the public of her newly-opened coffee house.
Although not as well-remembered as her friend Julia Ward Howe, Fanny Fern, American journalist and writer, was equally well-known in her day. Fern (Mrs. Sara Payson Willis Parton) summered in Newport, and was a founding member of the Town and Country Club. In a mock commencement ceremony held by the Club, Fern presented an essay on "rhinosophy," which Howe illustrated on a blackboard:

"Nose + nose + nose = proboscis
Nose - nose - nose = snub"
FANNY FERN.

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AND

A MEMOIR.

BY

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WITH ILLUSTRATIONS BY ARTHUR LUMLEY.

NEW YORK:


LONDON: B. LOW, SON & CO.

M.DCCC.LXXIII.
The women in this 1885 photograph form a visible connection to the past. Their surroundings, which include cookware and a spinning wheel, emphasize traditional women's roles. This staged photograph was taken at “Aunt Polly's Quilting Party,” held at the Opera House to raise money for new uniforms for the Newport Artillery Company. From left to right are Martha Goddard, Mrs. Hazard Goddard, Carrie Williams, Esther Bowler, Lydia Williams, Lydia Wetherill, Harriet Bates, Mrs. Braman, Mrs. Tripp and her granddaughter, and Bailey Bates.
In the nineteenth century, as women moved increasingly into roles outside the home, "suitable" professions were few. Occupations for women included owning or managing small businesses, nursing, working as domestic servants, and school teaching, many of which are extensions of women's roles within the home. In this photograph from just before the turn of the century, a teacher instructs her class at a school house in Portsmouth, Rhode Island.
The photographer of this view of the music room at Chetwode (ca. 1905) was unable to avoid revealing herself, perched on a ladder, peering into her box camera, in the large mirror to the left of the doors. Snapshot albums offer evidence that many women enjoyed photography as a hobby, but professional women photographers were uncommon in Newport, as elsewhere. The identity of this woman is unknown, but her work in the Chetwode albums demonstrates documentary skill.
The nurses in this photograph appear to be taking part in a World War I food drive at William K. Covell's store on Thames Street. Women contributed to the war effort in a variety of ways, including devising recipes that helped to maximize the food supply. Today, women's activities during wartime continue to expand from the traditional roles of medical personnel and "Rosie the Riveter" to include combat duty.
By the 1940s, the Torpedo Station on Goat Island had the largest industrial work force in Newport's history, employing approximately 13,000 men and women. Many women left home for the first time to work at the Station and became an essential part of the defense industry workforce. In an oral history interview with the Newport Historical Society in 1986, Mary Sullivan recalled that skilled and unskilled labor was required for the continued operation of the Torpedo Station. As a result, many women and blacks found work there. "Before that time," she recalled, "the only women who worked who had families were widows and people whose husbands were unable to work."

When the Torpedo Station closed, life for working women changed once again. Full-time wage-earners had achieved a new sense of pride, independence, and importance in the war effort. Many, according to Sullivan, "when the need was over, just went back to their homes and families and never worked again." Others, however, "became accustomed to the work and wanted to continue." Whether or not these women continued to work after the Torpedo Station closed, their experience affected the future of their families. "It was carried through in families," reported Sullivan. "When women found out there were these opportunities, they brought this [idea] home to their children. The children being reared then were told that there were such opportunities."
Jacqueline Kennedy has the presence of a First Lady in this photograph taken at the Elms in 1962. Her roles as White House emissary and advocate of her own political and social causes was in keeping with traditions established by predecessors like Dolly Madison and Eleanor Roosevelt. In this photograph, Mrs. Kennedy has just unveiled a model of a proposed National Cultural Center.
William Claggett:  
A Printer Confirmed

Richard L. Champlin

When Howard Chapin published an article for the Rhode Island Historical Society’s *Collections* in 1929 on William Claggett as a printer of paper currency, Chapin acknowledged that he lacked the clinching proof. His conjecture has since become a certainty, however, with the appearance of a document now owned by the author of this article. The small document is a mere six inches by five inches and consists of an invoice signed by William Claggett, who is best known as a clockmaker. This invoice became a receipt, of course, when Claggett signed it acknowledging payment. Addressed to the treasurer of the colony of Rhode Island, it details Claggett’s designing and printing of paper currency, as the General Assembly had employed him to do.

Chapin’s article illustrated two such bills, one for three shillings, the other for a crown, both dated 1738. Two similar items of currency in the collection of the Newport Historical Society illustrate a bill of credit for three shillings and another for six pence, both dated 1740. All four bills display differing designs sufficiently intricate to discourage counterfeiting in that age, and as most would agree, are certainly the work of William Claggett.

The document in this author’s possession, bearing the date April 30, 1748 (another date, May 1, is crossed out), reads:

*Colony of Rhode Island Dr [debtor]*

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<td>To whiting ditto</td>
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<tr>
<td>To Ink</td>
<td>6-. -</td>
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<tr>
<td>To the use of the Room</td>
<td>2-. -</td>
</tr>
<tr>
<td>To printing 2000 Sheets at 6</td>
<td>50. -</td>
</tr>
</tbody>
</table>

£66.13.-

*Per W Claggett*

*Recd the Contents*

*Per Wm. Claggett*

On the verso of the document is authorization to pay Claggett for his services, signed by John Gardner, General Treasurer, and Thomas Richardson, who succeeded Gardner in 1748:
These bills of credit were designed, engraved, and printed by William Claggett in 1740. Collection of the Newport Historical Society.
Newport April 30th 1748

Sir,

Please to pay to Mr. Wm. Claggett on Order for the Service mentioned Sixty Six pounds thirteen shillings old Tenor & charge the same to the Acct of the Colony

£66.13
To John Gardner Esq
Gen. Treasurer


Newport May 11th 1748

Sir,

Please to pay to Mr. Wm. Claggett on Order for the Service within mentioned Sixty six Pounds thirteen Shillings Old Tenor & charge the same to the Account of the Colony

£66.13
To Thomas Richardson Esq
Genl Treasurer

Thus the clockmaker, whose career ended in October 1749, wholly or partly designed, engraved, and printed paper money for the colony. He signed his name both as W. Claggett and Wm. Claggett on the very same document. It comes as no surprise, then, that he signed his clocks in like manner. The item “To dating the plates” suggests that Claggett hand-engraved extra, undated plates earlier, then dated them only as needed. A careful comparison of the scrolls and flourishes in the designs with those of the arches on the clock dials leaves little room for doubt that the same talent accomplished both. Further, the items “To 25 bushls of Coles” and “To the use of the Room” suggest that Claggett may have used a room in his own house on Bridge Street, in Newport, a house in which another room was given over to his experiments with a large electrical machine.

Thus, this small document confirms that this maker of clocks also found time to create and produce bills of credit. As Howard Chapin concluded, “Claggett deserves definite recognition in any history of the development of arts and designs in America.”

Newport has always been full of “self-made” individuals—people that have used talent, hard work, and ingenuity to rise above religious oppression, social standing, or gender to become successful merchants, craftsmen, or writers. Perhaps no other Newporter exemplifies that more than David Melville, pewterer’s son, store and bath house keeper, Old Stone Mill theorist, meteorologist, and inventor of a patented process for producing illuminating gas.

Melville’s process for producing illuminating gas was an extension of successful experiments taking place in Europe, where scientists had developed several methods for distilling flammable gas from coal, tar, and decaying animal and vegetable matter. By 1810, using lamp fixtures of his own invention, Melville had successfully illuminated Pelham Street, which became the first street in America to be lighted by gas.

Melville’s method for producing gas apparently was very simple, and he opened his house on Pelham Street to all who wished to view the process. On February 20, 1813, Melville posted an advertisement in the Newport Mercury, inviting the public—for twenty-five cents each—to view the gas lighting on display. Melville informed the Mercury’s readers that “the gas lights are in no way offensive, and very agreeable to the eye.” He informed interested parties that “contracts will be entered into for the furnishing and putting up of the apparatus, &c., in manufactories...The gas apparatus is very simple in its construction and so easy in its management, that any person of ordinary faculties may be taught in one day to manage every part of it effectually.” Thousands of people visited his house and soon orders came in from owners of the textile mills that were springing up all over the region, seeking clean, safe, and inexpensive means of lighting their cavernous factories. Using fixtures of his own design, Melville lighted the cotton factory of Seth Beamis in Watertown, Massachusetts, and the factories of the Wenscott Manufacturing Company and DeWolfe’s Arkwright Factory, both near Providence.

In 1817, David Melville contracted with the United States Government to build a gas-lighting apparatus for Beaver Tail Lighthouse on Jamestown. At the conclusion of the contract, which lasted one year, he sent copies of the lighthouse log and meteorological diary to the Secretary of the Treasury in Washington, D.C., and the Collector of Customs in Newport, William Ellery. The Newport Historical Society holds the original “Meteorological Table and Diary, kept at Newport Light House during an experiment with Gas Lights in the year 1817 & 18 by David Melville.”

The first pages of this “Meteorological Table and Diary” contain a detailed schematic of the apparatus installed at Beaver Tail. Adjacent to the lighthouse...
keeper's house, Melville built a separate "gasometer house," which contained the apparatus. The schematic describes the different elements of Melville's design. At the very center are "A fireplace in which fire is made to warm the Tar & Rosin" (B), and "An iron vessel in which the Tar & Rosin is kept warm" (C). The gas created by the boiling of the tar and rosin was purified by being forced six times through a condenser (K) before passing to the two gasometers (M), each capable of containing 1600 gallons of illuminating gas, which could be tapped by the lighthouse keeper as needed. These are the very basic elements of Melville's process, which is very similar in principle to the distillation of alcoholic spirits from sugar or molasses.

On October 17, 1817, Melville introduced the gas lights in the Beaver Tail Lighthouse "by degrees to accustom the keeper to the management of them." Four days later, Melville wrote William Ellery to inform him that "This Light House is now fully illuminated with Gas Lights." Despite some setbacks, Melville's gas lights seemed to burn more brightly than the previous lamps, which burned whale oil. On the 19th, Melville recorded in his log that "The gas lights [were] observed to be much brighter than the lamp, the flames whiter and more intense." On November 17, Melville recorded in his log that he was "informed by John Gorton from Block Island that this light is always seen from thence in clear weather, distance 25 miles and observed to be much better than formerly." On February 23,
1818, Melville noted that “Captain Robert Lawton observed the light from his house in town, remarked that the light was much bigger and brighter than it used to be.” Melville did express disappointment that invitations to insurance companies and the Newport Marine Society to inspect his apparatus were ignored. “No notice has been taken of my request,” he wrote, “nor has the apparatus of lights been examined officially to my knowledge.”

From the very beginning of his experiment, Melville logged the daily weather, largely to determine how well the light functioned under a variety of conditions. He noted the temperature in the morning and afternoon, the wind direction, and general atmospheric conditions, such as “clear,” “hazy,” or “rain.” On a hazy day, for instance, Melville would note, “Point Judith light not seen.” Several weeks into the experiment, Melville began to notice that in certain atmospheric conditions, frost or humidity would collect on the lens of the light. After performing a variety of experiments, Melville corrected these problems by refining the gas distillation process and channeling warm air from the burners past the lens to keep it dry. Melville’s weather observations were more than perfunctory. They were essential to the success of his experiment at Beaver Tail and represented a true interest in the budding field of scientific meteorology, an interest that was shared by many of his contemporaries in Newport and is preserved at the Newport Historical Society in their journals and logs.

On October 18, 1818, Melville recorded in his log that “the experiment with gas has terminated agreeably to my contract with the United States. Considering the arduousness of the undertaking on my part, the prejudices I have had to combat, the obstacles that have been thrown in the way, and the entire neglect with which it has been treated by those who are most interested in having good lights in the light houses, it has succeeded beyond my most sanguine expectations.” In an addendum to his log, written in 1854, Melville recalled that the “5th Auditor of the [United States] Treasury acknowledged the receipt of the Diary, & noticed in very flattering terms the minuteness of its details...The Collector examined the bills without delay and paid them immediately without objecting to a single charge, very much to my satisfaction.”

Despite the seemingly overwhelming success of the practical applications of Melville’s illuminating gas, the enterprise was doomed to failure. The cost of lighting factories with his gas became prohibitively high, and after an explosion at DeWolfe’s Arkwright factory (which was later proven to be caused by a watchman who entered the gas house with a lighted candle), Melville’s gas lighting was deemed unsafe. Although the experiment at Beaver Tail lighthouse was deemed a success, the United States government decided not to renew Melville’s contract. Melville wrote in the 1854 addendum to his log that this rejection was due to “the opposition to the use of Gas in the Light Houses by those engaged in the Whale fishery, and the dealers in Whale oil generally...and it was considered to be the duty
of the government to encourage the Whale fishery as a Nursery for seamen for the Navy."

Melville, nevertheless, had supreme faith in the process he invented. "That nothing has occurred to injure the reputation of the gas lights or to implicate the integrity with which the experiment has been conducted on my part," Melville wrote in his journal upon the conclusion of the Beaver Tail experiment, "I bow with reverential awe in thankfulness to that omnipotent being who formed the universe out of caos [sic] and who said 'Let there be light, and there was light.'"

R.M.P.

Sources and Further Reading: Edith May Tilley, "David Melville and his Early Experiments with Gas in Newport," Bulletin of the Newport Historical Society, Jan. 1927, no. 60.
In Memory of William A. Sherman (1903-1996)

With the passing of William A. Sherman on February 26, 1996, the Newport Historical Society lost one of its most outstanding and loyal members. Serving as president from 1973 to 1987, Bill Sherman helped to achieve a major increase in the Society’s membership and managed a significant increase in the Society’s endowment fund. One of the most forward-thinking steps taken by Bill and the Board of Directors during his administration was to recognize and act upon the need for a professional Executive Director for the Society.

Born in Newport on May 12, 1903, William Sherman was a lifelong resident of this city. He was a graduate of Rogers High School and attended Harvard College. Beginning in 1926, William Sherman worked at Newport Trust Company, which later merged with Industrial National Bank. Before retiring, William Sherman served as a senior vice president. As a descendent of Newport founder, Nicholas Easton, Bill Sherman, along with Gladys Bolhouse of the Newport Historical Society, probably knew more about the history and family connections of Newporters than anyone else in town.

As impressive as was his steadfast devotion to the Newport Historical Society, even more remarkable was his participation in so many organizations dedicated to the betterment of his native city. He was a past member of the vestry of St. George’s Church, where he and his wife, Emily Taussig Sherman, attended services. Sherman served as treasurer of the Redwood Library for fifty years. He also served as treasurer of the International Tennis Hall of Fame, the Trustees of Long Wharf, Child & Family Services of Newport County, and Townsend Aid for the Aged. He was a trustee at Newport Hospital, a corporator of the Bank of Newport, and member of the Board of Directors of the Newport Daily News. Sherman also was a member of the Newport Rotary Club, the Sons of the Revolution, Society of Colonial Wars, and the Mayflower Society.

One of Bill’s lifelong interests was as a player and observer of tennis. Bill was Newport city champion in his younger days and continued to be an active player well past his 80th birthday. Bill and Jimmy Van Allen undoubtedly were two of the most loyal fans at the annual Newport Casino and International Tennis Hall of Fame tennis tournaments.

As we join his family in regretting his loss, we celebrate his life as a most dedicated son of Newport. We salute him also for having a major influence on the growth and reputation of the Newport Historical Society during his fourteen years as president.

We can all be thankful that he lived and passed this way.

S.M.C.B.
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The Newport Historical Society
Museum and Library

The Newport Historical Society has maintained a library and museum of Newport and Rhode Island history since its incorporation in 1854. For almost 150 years the Society has continued to grow both in membership and in the extent and diversity of its collection.

Society activities include lectures, walking tours, and educational outreach programs and special events. The Seventh Day Baptist Meeting House, built in 1730, now attached to the main building, is a treasure of colonial architecture. The library and manuscript collections contain a wealth of information for researchers.

HOURS: The Society's research facilities are open to the public
Tuesday through Friday 9:30 A.M. to 4:30 P.M.
Saturday (September 1 to Mid-June) 9:30 A.M. to 12 Noon
(Mid-June to August 31) 9:30 A.M. to 4:30 P.M.

For information on current exhibits and programs please call (401) 846-0813

The Museum of Newport History at the Brick Market is an entertaining, multidimensional exhibit of over 350 years of Newport history told through objects, images, and paintings, as well as state-of-the-art interactive computers and videos. On display are examples of Newport's finest colonial furniture, samplers, and manuscripts, as well as artifacts representing all walks of life from Newport's colorful past.

The Wanton-Lyman-Hazard House, 17 Broadway, illustrates the history of Colonial America through the daily life of individual Newporthers. Call the Society for hours.

The Quaker Meeting House, built in 1699, the oldest religious structure in Newport is open for viewing by appointment.
Become a Member of the Newport Historical Society

Membership Benefits

- Unlimited free admission to the award-winning Museum of Newport History at the Brick Market.
- Free copy of Newport: A Short History, a lively history of the area from its settlement by Native Americans.
- Subscription to the quarterly journal Newport History, which contains a variety of articles on Newport County's past, and a periodic newsletter with information about the Society's activities.
- Free admission to Walking Tours of Historic Newport.

- Reduced rates for all educational programs, special events, and activities.
- Reduced rates on all services (photographic, genealogical research, etc.)
- Discount on all items sold by the Society.

Membership Form

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Complete and mail this form with check for appropriate amount to:
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