RECENT studies describe how eighteenth-century courts, by embracing "ancient procedures" and time-honored routine, helped to reveal the intent of the law and the means by which society peacefully resolved its grievances. Moreover, through forms and ceremony courts defined and reinforced where participants "stood in society, what obligations they owed to social superiors and inferiors, and what constituted the accepted norms of social contact." But these studies neither explore the role of females in the legal apparatus nor admit the effect of the "verbalization functions" and "dramaturgical forms" experienced by women in courts. Thus, how ritualized "acts of contrition," "rituals of detestation," and "significant postures and gesticulations" explicit in courtroom settings were perceived by women, and whether they were internalized by them, have eluded us.¹ New legal works touching on eighteenth-century women, while enhancing our knowledge of the law and women's legal rights, offer only partial help in clarifying the extent to which females participated in the legal system or how they responded to their experiences.²

Even recent provocative accounts of the Revolution that have sought to analyze "the revolutionary experience of American women" and to chart the effect of the war upon them fall short of describing female participation in the legal process. Linda Kerber, in particular, identifies changes experienced by American women in legal as well as intellectual and ideological terms, yet she makes no concerted effort to examine closely the roles assumed by women in either criminal or civil procedures. She finds that "the courthouse remained a male domain...


² A convenient survey of these works is provided by Marylynn Salmon, "The Legal Status of Women in Early America: A Reappraisal," *Law and History Review* 1 (1983): 129-51. These studies have defined "the legal status of women" almost exclusively in terms of civil law.
Women were present only as plaintiffs, defendants, or witnesses — as recipients, rather than dispensers, of justice.” Pennsylvania’s legal practices in the eighteenth century suggest it is not so much her conclusions as it is the inference and implications of her conclusions that must be amended. Court ritual and routine sometimes required women to exert influence equal to men. On occasion, their opinions and observations were deemed crucial — even superior — in some limited spheres within the court’s jurisdiction. Furthermore, real opportunities for social, legal, economic, and political education existed for women in Pennsylvania’s courthouses.

The importance of the courthouse to the Pennsylvania community was reflected in many ways. Its functional and symbolic importance was established by its geographical setting, usually in the center of a town. Johann Schoepf, a German traveler of 1783, was struck by the fact that the city of Reading “had four principal streets which stand exactly with the compass-points, and where these cross is a fine Court-house.” The structural impressiveness of courthouses also drew attention to their importance. Philip Vickers Fithian was not surprised in 1775 to discover that the York courthouse was one of three “considerable public Buildings” in that town. Throughout the 1760s and 1770s, the inhabitants of Bedford, Cumberland, and Westmoreland counties struggled with particular urgency to insure that courts would be accessible. The effort of building such formidable structures to house their courts and the energy spent in securing and maintaining them demonstrate the symbolic and practical significance the early Pennsylvanians attached to their courthouses.

Males viewed the courtroom as their domain. Judges habitually addressed the “Gentlemen” of their courts to enumerate the obligations and responsibilities of their “countrymen,” and conventionally called upon “every man” to aid them in the quest for order and


stability. When the Reverend Robert Ayers came upon a court session in Western Pennsylvania in 1786, he commented only on the "Number of Old & Young Men" going in and out of a small cabin. Ephraim Douglas, describing the opening of courts in Fayette County in 1783, observed that spectators behaved with good order and decency "to a man." 5

Pennsylvania courtrooms served as microcosms of the larger society and through legal forms and dramaturgical exercises reinforced the values, expectations, and priorities of that society. The exclusion of women from posts of power and honor in court machinery and routine was consistent with more sweeping assumptions and practices. Legal and historical restraints dictated that females could not be judges, sheriffs, constables, clerks, jurors, lawyers, or members of judicial ad hoc committees. Women (and everyone else, for that matter) were constantly reminded that they lived in largely a patriarchal, ranked, and deferential society. Women were bonded for good behavior as well as for appearance in court, just as were men, but often male relatives or acquaintances had to put up money or security for them, and the male was ultimately responsible if the bond should be forfeit. George Hays of Cumberland County was held legally and financially responsible when Margaret Holliday of that same county failed to appear to testify in the October 1784 sessions. 6

Similarly, Pennsylvania practice sometimes allowed male relatives to appear in court in place of female plaintiffs. John Keen, for instance, appeared in the September 1784 term of the Philadelphia County general sessions for his wife Mildred, who had been charged with assault and battery. In her stead he submitted to the court and paid a small fine levied against her. York County's Philip Grayble, the victim of a 1771 assault by three women and a male, appeared "in behalf of the women" to voice their desire to plead guilty and accept their punishment. By the same token, those petitioning during court sessions for pardons or remittances of fines and punishments for persons


6 Cumberland County Quarter Sessions (hereafter cited as QS) Dockets, October 1784, Cumberland Co. Courthouse, Carlisle.
G.S. Rowe

convicted generally did not approach females. Such practices identified female subservience. 7

Nonetheless, like its society as a whole, Pennsylvania's legal system permitted — indeed, demanded — participation by women. In shaping the legal processes, they wielded power, forged a sense of their own self-worth, and raised themselves above subservient status. Unlike many institutions in eighteenth-century Pennsylvania, courts were not segregated by sex or ethnic origins. Regularly attracted to local courts by administrative needs, Pennsylvania women participated in the proceedings of orphans courts, the licensing of taverns, bonding of servants, administration of wills, and the settlement of debts. They also observed the collection, adjustment, and distribution of taxes, and judgments about local road construction and maintenance. They came seeking divorces and redress from abusive masters and mistresses, and to participate in coroners' inquisitions. They hoped, as did men, to meet friends and neighbors and to share in local gossip. Like men, women came to watch neighbors resolve disputes or defend themselves against criminal allegations. They found brutal crimes interesting, and they liked watching the courts mete out punishments. 8

Not all women appeared in court or took part in its routine voluntarily. Thirteen hundred fifty-five females were accused of crimes in Pennsylvania between 1763 and 1790, and forced into court. They represented 14.8 percent of all accusations and 12.2 percent of all convictions in those years. In the three decades following the Seven Years War, 339 women faced charges for assaults against individuals. Forty-six were charged with murder. Another 424 were accused of theft; still another 609 faced prosecution for either fornication or bastardy. The remainder consisted of less popular crimes. 9 In addition, hundreds of women attended common pleas proceedings as subjects or instigators of civil suits or as witnesses in those proceedings. 10

7 Philadelphia Co. QS Dockets, Sept. 1784, HSP. York County QS Dockets, April 1771, York Co. Courthouse.
10 Appearances by women before common pleas courts have not been tabulated, but numerous dockets in several counties have been consulted.
Many females accused of criminal activity appeared more than once at their courthouses. Ninety-three women between 1763 and 1790 (6.9 percent of the total) appeared at least twice on charges. Ann McGriggor, an aged habitual thief in Philadelphia, and Grace Justice of Bedford, the mother of several illegitimate children, were among those who appeared more than three times to face criminal charges. Philadelphia's Ann Winter (alias Mary Flood), "a Notorious Thief," suffered through eleven separate prosecutions in two decades, eight times in Philadelphia and three in Lancaster County. At least one hundred women (and probably more) appeared more than once as witnesses.  

Most females indicted for criminal behavior ultimately appeared before the court at trial proceedings and occasionally at grand jury deliberations. A few warrants for females were returned non est inventus or an equivalent (in the 1783 case of Elizabeth McNeal of Philadelphia, it was the more prosaic, "gone to Chester"). One hundred sixty-four of the indictments (9.7 percent of the total) subsequently were ruled nolle prosequi by the attorney general or his deputies. Most women, however, appeared to face charges and were introduced to the inner sanctum of their local courts.

For many females experience with the legal mechanisms began long before court days when they complained of crimes to local authorities. Victims of criminal acts, among them a substantial number of women, initiated most allegations coming before grand juries in eighteenth-century America. A bastardy charge was one type of offense women brought to the attention of county officials. Elizabeth Bean of Tinicum Township, Chester County, in November 1782 approached justice of the peace John Pearson to accuse "a certain Negro man named Took of Ridley Township" of begetting "upon her a child likely to become a bastard." Mary Dixon from Southampton Township, Bucks County, drew the attention of Justice Joseph Hart to one Joseph Dwire of the same township, who, after "promising kindness and Marriage, prevailed and lay carnally with her," had left her pregnant and unmarried.  

Naturally, females were reluctant to bring bastardy charges against males for fear of incriminating themselves. Still women overlooked the legal dangers to themselves on occasion to instigate proceedings against...
males as a first step in securing financial security for themselves and their children. Elizabeth Wilson of Chester County was told by her paramour that she "need not go to law" to gain support for their twin sons. Rape cases were frequently initiated by women. Maria Catherine Tasser's affidavit bringing rape charges against Berks County's William May in 1763 and Elizabeth Jenkins's action against Phillip Stone of York in 1771 are two examples. Women did not approach the law without serious thought, but many did so to protect themselves and their families. In 1783 Magdalina Huister (or Hustor) insisted that the Berks County court of quarter sessions bind her husband for good behavior toward her. Elizabeth Clendinen of Philadelphia County approached that county's general sessions in 1780 (and again in 1785) seeking redress against her spouse John, who had thrown her from their home along with her three small children, leaving them penniless. When Mathias Luken (or Lukens) of Germantown abused his wife Elizabeth and introduced into their home one Sarah Miley "of poor reputation," Elizabeth Luken also enlisted help from county justices. Esther Booth in 1783 petitioned the Philadelphia County court of quarter sessions for aid in protecting her apprentice brother William from a master she considered abusive.

Concerns of Pennsylvania women were not limited to domestic or sexual matters. Ann Awle of East Fallowfield Township, Chester County, executed an affidavit against Solomon Harlan in 1790 for stealing a mare from her. In August 1789 Jane Wisely complained to a local justice that James Lytle of Lancaster County had cheated her out of £6. Rebecca Ferreby of Plumstead Township, Bucks County, entered a complaint against Constable William Derrock (or Dorroch) for "a Breach of the Peace" after Derrock and several of his men forced their way into the Ferreby home. On occasion, servant maids like York's Judith Condon (alias Judith Manning) also filed complaints before justices regarding abusive masters and mistresses. Condon did so even though her master was the sheriff of York County. These female plaintiffs greatly influenced the criminal process.

14 Elizabeth Wilson, A Faithful Narrative of Elizabeth Wilson (Philadelphia, 1786), 5; Berks County: Misc. Papers, 1754-1808, HSP; York Co. QS Dockets, 1771.
15 Berks Co. QS Dockets, 1783 notation, Historical Society of Berks County, Reading (HSBec); Philadelphia Co. QS Dockets, Dec. 1780, Mar. 1781, Sept. 1785, Dec. 1783, HSP.
16 John Worth Docket, 1789-1790, East Fallowfield Township, CCHS; Lancaster Co. QS Dockets, Aug. 1789, Lancaster County Historical Society, Lancaster (LCHS); Bucks Co. QS Criminal Papers, Box 9, BuCHS. For servants, see York Co. QS Dockets, April 1766, York County Courthouse, York; Chester Co. QS Dockets, Feb., May 1772, CCHS; notation of petition from Condon in April Sessions, QS Dockets,
Mary Martin of Bloody Run, Bedford County, came to court after Catherine Hoy and her common-law husband obtained change for a twenty shilling note from her and then stole the bill when she was temporarily distracted. Elizabeth Pownall, wife of innkeeper John Pownall of Solebury Township, Bucks County, instigated criminal charges against John Edwards and William Leppard (or Leopard) for assaulting her. When she told Edwards and Leppard their bill was a half crown, Edwards called her "a Damn'd lying Bitch." She slapped him for his insolence, but he picked up "a Piece of Board about Seven feet long & with both Hands Struck her . . . with the Edge of it on the side of her Head whereupon she fell down as Dead." It was said that Edwards then "Danc'd about the House Singing & Saying the Damn'd Bitch is I hope Dead as a Devil." Pownall, who "Bled Much & was Unsensible for some Hours," got her revenge — as did Mary Martin — in court. These cases and others could not have been as swiftly or as equitably resolved without the testimony of females. 17

Female witnesses were crucial to legal proceedings. Before and during formal court proceedings they appeared and were sworn as witnesses. Women gave testimony that was often remarkable for its candor 18 and earthiness. 19 Predictably, cases of fornication, bastardy, rape, infanticide, and marital discord hinged upon evidence from females. Elizabeth Kelly, wife of Tinicum Township weaver Michael Kelly, offered valuable testimony against her Bucks County son-in-law Daniel McAfee after McAfee beat her daughter Elinor. When females faced with fornication or bastardy actions denied pregnancy, they were examined by a committee of women who reported to local justices or to the court sitting en banc. Susannah Ashton, who routinely served in this capacity for Bucks County officials, had counterparts in every county. 20

1779. The court ruled that Condon had to return to the home of William Rowan but it warned Rowan to treat her with gentleness and respect and to find another master for her. It also required that Rowan pay court costs.

17 QS Criminal Papers, Box 6, Cumberland County Historical Society, Carlisle; Bucks Co. QS Criminal Papers, Oct. 14, 1763, Box 8, BuCHS; Bucks Co. QS Docket, Mar. 1763, Bucks County Courthouse, Doylestown.

18 See letter from Abigail McIlwain, July 8, 1788, Clemency Records, 1775-1789, RG-27, microfilm roll 38, Pennsylvania Historical and Museum Commission, Harrisburg (PHMC), and testimony by Barbara Tonover that Nehemiah Armstrong buggered a brindle cow, in Oyer and Terminer Court Papers, RG-33, Lancaster County, 1760-1761 file, PHMC.

19 Note testimony of Sally Jack respecting the schoolmaster's physical endowments, "Resp. v. James Roven," 1788, in Jasper Yeates Legal Papers, folios 2, 6, HSP.

20 Bucks Co. QS Criminal Papers, #1782, #1881 (McAfee "was not to be found"), BuCHS, microfilm roll 1.
Females often testified in other types of cases. Mary Crothy (alias Anna Manna) and Peter Smith were arraigned in Chester County in February 1773 for stealing "a blanket, a Handkerchief [and] a ball of yarn" largely on evidence supplied by Mary's "friend" Esther Reilly. The state's case in the attempted robbery of John Keith, a tax collector in Upper Makefield Township, by armed men in Bucks County in February 1782 depended in large measure on the testimony of Keith's sister and housekeeper Sarah. Females routinely testified at coroners' hearings, including those held at the courthouse. Of the twenty-seven affidavits taken in the wake of difficulties in Wyoming in February 1785, nine were from females.21

Women coming before Pennsylvania courts represented a wide range of lifestyles and economic levels. Not all defendants, for instance, were like Philadelphia's Ann Winter, a "Notorious Thief," Lancaster's young Mary Grover, "very weak in understanding," the daughter of "exceedingly poor, ignorant & worthless" parents, or Chester County's Elinor Orchard, said to be "an Infamous Woman, a Cons't Disturber of the peace." Elizabeth Smith, who testified in Bedford's quarter sessions in October 1788, was the wife of that county's justice of the peace, Thomas Smith. Carlisle's Margaret Iseet (or Ipset), accused of felony theft in 1783, apparently lived in that city for twelve years "in good credit and repute." Mary Humphrey, called to Philadelphia's city court in 1783 for operating a disorderly house, claimed that for years "tho poor she supported the character of an honest, virtuous & industrious woman." Further research will probably confirm that women appearing before courts of common pleas as litigants or as parties to litigation were more substantial citizens than those drawn to criminal courts.22

Despite legal and historical restraints on their participation as judges, lawyers, or jurors, women played bold and visible roles in Pennsylvania's legal apparatus. Whether as accusers, witnesses, victims, or observers, they asserted themselves in shaping legal developments.

21 William Moore Docket, 1772-1776, 2, CCHS; Records of the Supreme Court (Eastern District), Coroners' Inquisitions, 1751-1796, PHMC; deposition of Sarah Keith, Feb. 22, 1782, in Pa. Arch., 1st Ser., 9: 501-2, 10: 653. Females as young as ten years old testified in cases, including murder and rape trials.
22 James Young to Timothy Matlack, Oct. 30, 1778, Clemency Records, 1775-1789, RG-27, microfilm roll 36, PHMC; Thomas McKean to the Supreme Executive Council, June 18, 1783, ibid., roll 38; William Moore Docket, July 1774, 2, CCHS; Bedford Co. QS Dockets, Oct. 1788, Bedford Co. Courthouse, Bedford; Deposition of Margaret Iseet, Feb. 8, 1783, and deposition by Mary Humphrey, Aug. 5, 1783, Clemency Records, 1775-1789, RG-27, microfilm roll 38, PHMC. Courts of Quarter Sessions seemingly drew larger numbers of illiterate, bound, and propertyless women.
In their roles they participated fully in the preliminaries, routine, and ritual of what Rhys Isaac has called "courtroom culture." Females attended court in impressive numbers, but what they learned from their attendance is less evident. Lessons learned must be gleaned from often cryptic sources or established largely by inference. Opportunities to fraternize at local courthouses and to learn and act out rituals that reflected community values and expectations were especially salient in the socialization of Pennsylvania's "out-groups." Court practices forced both sexes and diverse ethnic and religious groups to interact and to learn from one another. Especially in Western Pennsylvania, where there was a constant infusion of newcomers, the supreme court conducted citizenship ceremonies to award recent immigrants new status and obligations. Chief Justice Thomas McKean believed his court taught the rudiments of civilization to the often crude and illiterate people of the west, in turn allowing them to exhibit new skills and attitudes. Westerners, deprived of urban social organizations, came to gauge their lives by regular court functions, that is, "before the October Sessions," or "after the July Term."

Women variously reacted to courthouse forms and proceedings according to their intelligence and their participation. Some practices and procedures underscored the subservience of women, while other routines emphasized their equality. Still others confirmed their superior abilities and contributions.

The law and its administration sought specific educational goals. The people of eighteenth-century Pennsylvania believed that "it is not how laws are made, nor how they are interpreted, but how they are used that must influence the public." They believed, too, that "the laws of a country are necessarily connected with every-thing belonging to the people of it, so that a thorough knowledge of them and of their progress, would inform us of everything that was useful to be known about [the people]." Judge Alexander Addison of Western Pennsylvania's Fifth Judicial Circuit put it more succinctly: "The Court is the mouth of the law." He and other authorities tried to educate the

public through decisions, processes, and gestures of the court. Though the education received in Pennsylvania’s courthouses on the part of both men and women doubtless, on occasion, was inadvertent and perhaps even contrary to the desired aims of officials, deliberate efforts were undertaken to inculcate particular ideas and responses.  

One of the court’s prime concerns was nourishing respect of authority. Long-established patterns of deference toward members of the court combined with public punishment for those eschewing the expected homage to reinforce that obeisance. Women were fined as quickly as men for contempt of court, and like men, they learned to accept the majesty of the judges and their judicial associates.  

By acts of homage as well as by acts of contrition, “rituals of detestation,” the taking of formulaic oaths, and by their participation in “forensic dramas” encompassing formal and familiar aspects of community life, women learned the ideals and practices that “sustained the commonweal and protected individuals.” Thus, Ursulla Hornsdorff, by appearing in York County’s October sessions, giving a deposition under oath, publicly expressed contrition for her actions. Agreeing to a £60 bond to maintain “good behavior, especially toward the Rev’d Nicholas Hornel,” she reaffirmed her belief in community values and relationships. Ostensibly, she learned by her actions even as she instructed others by them. Hundreds of Hornsdorff’s female contemporaries repeated her experience.  

The court was harsh to those defying community standards. The death penalty, corporal punishment, and heavy fines were its primary weapons against those who violated society’s accepted norms. In the eighteenth century, “court days were part carnival, part horror show.” Twenty-five women were sentenced to death in Pennsylvania between 1763 and 1790, and more than five hundred were sentenced to be publicly whipped. Other women often accompanied those convicted of capital offenses to witness their punishments. Mary Stackhouse, a Philadelphia widow, witnessed the 1783 hanging of her son Kimble, convicted of burglary. Mary Halbert viewed her husband’s execution for


26 For an excellent discussion of lessons pursued in English courts that sheds light on Pennsylvania objectives, see Dennis Hay, “Property, Authority, and the Criminal Law,” in Hay et al., Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England (New York, 1975), 17-63. Men were more often cited for contempt than women because men annoyed the court by not serving on grand and petit juries.  

27 York Co. QS Dockets, Oct. 1764.
a crime for which she was largely responsible. Female friends and relatives typically swarmed around the carts carrying loved ones to their execution. Philadelphia's Ann Martin affirmed the power of public corporal punishment on victim and observer, asking that she be spared a whipping, otherwise the "public shame... would be indelibly fixed upon her." 28

But society through its courts and law demonstrated compassion and leniency as well as harshness and held out the possibility of both forgiveness and rehabilitation. Convicted women who petitioned the court and council for pardons or remittance of fines, corporal punishment, or court costs generally succeeded. Convicted of bastardy in January 1784, Abigail McIlwain (nee Lovejoy) of Washington County, pleading her weakness for uniformed men and the lack of single men in Pittsburgh, found favor with the council. If petitions in the state's clemency file are typical, women received proportionately more compassion than did men. Chief Justice McKean's advocacy of pardon for Rachel Hamer, accused in 1783 of aiding the enemy, because of his "tenderness for her sex," found a persistent echo in the words and actions of other judges. 29

Through ceremony, practices, and the laws they enforced courts ultimately demonstrated that justice was available to all. In newspaper notices and advertisements for court days, and through the clerk's traditional opening statement, the court invited all present with concerns before the bench "to now draw near & give their attendance & they shall be heard." 30 The court assured that even poor, defenseless, and unattached females had access to the court and that their presence would be taken as seriously as those more fortunate than they. Women's petitions would be given equal weight with those from men and neither the law nor legal practices would deliver harsher punishment or greater indulgences than demanded of males in similar circumstances.

Pennsylvania women discovered early that criminal courts sought to protect the poor and defenseless. Hence, females maneuvered to

29 Abigail McIlwain, July 8, 1788, Clemency Records, 1775-1789, RG-27, microfilm roll 38, PHMC; McKean to Council, Feb. 10, 1783, ibid.
30 See fragment in Bedford Co. QS Dockets, 1792, for the complete wording.
escape judicial punishment by describing themselves as "destitute and helpless," being "in the utmost distress and woe," of being "a poor Inferior Woman," of being "destitute of friends," a "complete stranger in this City," "without friend or protector." They employed similar arguments to save male relatives from the court, often claiming, as did the wife of George Hardy in September 1779, that should he be executed, the court would leave "an afflicted wife & her train of weeping Children." Men also used court "tenderness" toward women for their own ends. Typical was John Benson of Chester who, in 1784, begged pardon by arguing hardship to his "distressed, friendless" wife and "helpless lisping Infant." 31

Evidence suggests that females generally had less to fear from the criminal court than did males. In general practice the court system in Pennsylvania offered many advantages that served the interests of women, even though many of the customs reflected their assumed inferiority. Though felony law with its harsh penalties and many infractions was an object of terror, it was sexually neutral and posed no more of a threat to women than to men. Coverture, on the other hand, provided loopholes and safeguards for women in criminal proceedings that men did not enjoy. Women who apparently committed felonies with their spouses, for instance, were assumed to have acted under coercion and were therefore not culpable. Although Sarah Price was indicted along with her husband Michael for felony theft in York County's quarter sessions in April 1764, only Michael stood trial and suffered punishment. 32 In Pennsylvania, however, prosecutors clearly viewed each case on its merits and occasionally prosecuted wives and husbands together. Treason, riot, and other like crimes did not fall in this category. But those crimes that did exempted females from some severe punishments for felony convictions. 33

31 Depositions of Ann Martin, June 7, 1783, Ann Fletcher, Oct. 16, 1779, roll 36; Berbery Edwards, 1776, roll 36; Elizabeth Smith, June 1783, roll 38; Mary Baker, Aug. 25, 1780, roll 36; Jennifer Boyd, Sept. 22, 1780, roll 36; John Benson, Oct. 25, 1784, roll 38, all in Clemency Records, 1775-1789, RG-27, PHMC.

A more careful examination of the socioeconomic status of women coming before Pennsylvania courts is needed to determine how much of this practice was rhetorical and how much was real.


33 In murder cases where husbands and wives were suspected, the woman was never charged. In such crimes as riot, theft, trespass, and forcible entry, determination was apparently based on the particulars of the case, and occasionally women were
A precise examination of grand jury procedures and practices in eighteenth-century Pennsylvania is not possible. But existing evidence suggests that grand juries scrutinized allegations against women as carefully as those against males. An intensive study of criminal charges and their resolution in Pennsylvania between 1763 and 1790 reveals that a larger percentage of allegations against females were ruled *ignoramus* than were those against men. Similarly, a larger percentage of indictments were ruled *noile prosequi* in female cases than in male proceedings.34

Clearly, Pennsylvania’s criminal courts were lenient toward females. This is seen in the higher acquittal rate for women than for men, in fewer convictions for females, in a higher percentage of pardons and reprieves given to women, and in greater numbers of remittances of women’s fines. It became common practice in some counties not to collect from women because their fines would most probably be quickly remitted. Following Christina Shipfelin’s conviction for fornication and bastardy in York County in April 1766, for instance, the clerk immediately recorded that “the Attorney-General on behalf of the Government forg[ave] the fine.” William McClay wrote to Joseph Shippen from Sunbury in September 1775 that “I believe it is a generally received Opinion, that the Governor Remits the Fine of the Woman in case of Fornication.”35 In some crimes, such as infanticide, juries refused to convict women, even when the evidence was overwhelmingly against them.36 Informal legal channels often were as sympathetic and receptive to females as were formal ones.37 The written record does not confirm it, but it is unlikely that women were oblivious to the advantages they experienced in their criminal courts.

Pennsylvania’s court system, like its larger society, offered mixed lessons and diverse roles to women. Advantages to women were less evident in courts of common pleas than in criminal courts. Whether females perceived this in the daily routine of civil courts is unclear,
but that they did in certain areas of civil law is incontestable. Evidence is available on the blatant inequities inherent in a distinction made between *feme covert* and *feme sole* status as well as from various limitations stemming from English common law tradition. Alexander Addison once observed that Pennsylvania courts had "always rejected nice subtleties, to attain substantial justice" including the allowance of a *feme covert* to act as *feme sole* on occasion. His enthusiasm for Pennsylvania practices was probably not shared by his female contemporaries, however.38

Pennsylvania law did not permit widows any inheritance when their husbands' estates were insolvent. Nor did the colony provide adequate protection against a husband conveying a wife's estate without her permission. Women seeking to protect their estates through prenuptial agreements without trustees also discovered legal impediments. These combined with general restrictions to make women legally inferior in matters of property. Few women remained unaware of this.39 That males dominated civil society and that their power was intertwined with property and property rights were part of the education of all adult females.40

Courts strongly emphasized the importance of education. In 1789, justices in Washington County agreed to turn over their bench fees to the Washington Academy to promote education in the county. While

38 Addison, *Reports of Cases in the County Courts*, 51.
40 This theme is developed in Hay, "Property, Authority, and the Criminal Law," 17-63.
courtroom pageantry and practice permitted courthouses to educate Pennsylvania's female population, a more general education was available when the court was not in session. In several counties, courthouses served as schools for those unable to attend regular day schooling. In 1787, for example, the people of Cumberland County initiated a "Sunday Evening Charity School" to meet in the courthouse "for instructing poor people in reading." Twenty-three "scholars," male and female, attended.41

Vendues held at courthouses also allowed females and males to understand the economic realities of their communities. They watched those losing property through neglect or the inability to pay taxes and those able to increase their holdings. Women also experienced the ignominy of such losses and the exhilaration of family gain. Courthouses were also places where at times women witnessed those losing property express their displeasure in stark and violent ways.42

At courthouses women could observe the maneuverings of the local militia or provincial forces, share in the ceremony of war, and listen to discussions of military and strategic importance. Important political documents were also read and discussed at local courthouses, enabling women to hear their Declaration of Independence, their state and federal constitutions, and important treaties. Women in Washington County joined court observers in March 1795 to listen to Alexander Addison and Hugh Henry Brackenridge explicate Jay's Treaty. Politics were so much a part of court days in Western Pennsylvania that one judge was accused of "converting the seat of justice into a Coffee House box for the dissemination of political homilies[sic]." That same judge was later successfully impeached because of his practice of turning his courts into partisan political arenas. At their courthouses, too, women heard arguments over the wisdom of calling constitutional conventions and who should represent the community in those bodies. Courthouses were also the locales where those unhappy with their constitutions gathered to voice or act out their disenchantment.43

41 Carlisle Gazette, Apr. 22, 1789; Nov. 28, 1787.
42 Ibid., May 30, 1787.
Frequently, women went to their local courthouses to share in commemorating significant political milestones in their community's history and those of their state. When fireworks designed to celebrate the anniversary of the ratification of the Treaty of Paris ignited prematurely in 1784 in Philadelphia and "went off in One glorious, though horrible Explosion," an observer confirmed the presence of females, noting that the "Women [began] Screaming, fainting and Crying." When the women of Carlisle and surrounding areas gathered to celebrate the nation's birthday, Dr. Robert Davidson addressed a "brilliant circle of patriotic ladies," elaborating upon the contributions of the "daughters of the America," who "actuated by the same spirit, and speaking the same language as their beloved husbands and brothers," had "resolved to share their fate whatever it be." Pennsylvania's women, he told them, had encouraged men to do battle, had managed farms in their husbands' absences, and had raised large sums of money to foster the American cause. They had prepared garments for suffering soldiers, and they had denied themselves "the products of foreign clothes which custom had taught them to consider part of the necessities of life." "Such was the conduct of the patriotic daughters of America," he told them, and he urged that "their names be mentioned here with honor, and their praises descend with the stream of time."*44*

Pennsylvania women derived much of their understanding of the Revolution through their courts.45 Despite the presence of conservative judges and lawyers, Pennsylvania courts ineluctably became instruments of rebellion after 1763. Clearly the discussions and activities at local courthouses not only politicized heretofore quiescent elements of Pennsylvania's male society, but mobilized large segments of the male population in defense of colonial liberties. By 1775, however, a number of court personnel-inspired actions sent clear messages to Pennsylvania's female population as well as to its male population that traditional political and social patterns were under siege, and that crucial issues were being confronted on the home front as well as on the battlefield. The closing of the courts by various revolutionary


*45* Isaac, "Dramatizing the Ideology of Revolution," *passim*, treats this phenomenon for males. Kerber, *Women of the Republic*, 154, believes that "women were absent from this political culture. They appeared on its fringes: as keepers of taverns in court towns, as sellers of merchandise in courthouse squares. But they had relatively little share in the crucial political rituals by which men were emotionally aroused into patriotic unity of purpose and, ultimately, into resistance to England." Norton, *Liberty's Daughters*, 155, draws a picture of greater female participation.
committees throughout 1775 and 1776 was itself graphic testimony of those changes. Prosecutions against females withered and died as a result of the truncation of legal proceedings under the old charter. Threats to safety suggested by the move brought that message home vividly to women, as did the failure of courts to make laws needed for a responsible society. These included, among others, the licensing of female tavern keepers, protection of orphans, the overseeing of female estates, securing financial help from fathers of illegitimate children, and punishing males abusive to females.46

Once the courts reopened, Chief Justice McKean imposed terms of incarceration to end on the Fourth of July. These sentences showed to both felon and spectators the importance of America’s Declaration of Independence.47 Judges took advantage of their addresses to grand juries to explain the revolution to the public and to encourage their support of it. In Western Pennsylvania Judge Alexander Addison routinely used addresses to grand juries and court observers after 1790 to become quite literally the “republican schoolmaster” of the region.48

Many judges expressed ire against traitors and those cool to the Revolution. In their excoriations of Tory activities before sentencing Tory malefactors the judges hoped to fill women and men with patriotic opinions. Two women, Sarah O’Brien and Abigail McKay, in court in 1778 after being committed to jail as accomplices to James Moleworth, executed for treason, heard themselves accused of “crimes of so black a Dye.” The evocation of harsh punishments for those aiding and abetting the enemy was also used to strengthen the will of the Whigs while diminishing that of the Tories — whether male or female. Susanah Adams, attainted in 1778 along with her husband Jonathan, a German-town snuffmaker, faced a death sentence with her spouse.49

Women were not mere bystanders to the politicization of court days following 1763. They were denied access to courts following the clo-


sure of the tribunals in 1776 just as were men, as Rebecca Stall (or Stell) and Ann Smedley, plaintiffs in civil suits before the supreme court, discovered. Women participated in the rituals of contrition forced upon Tory sympathizers, once the state courts reopened, just as they experienced the ire of prorevolutionary judges. Above all, women expressed their own feelings on court days following 1776. Women of all political persuasions increasingly appealed to revolutionary committees or to the state government for redress, often circulating their own petitions following their trials. 50

They also signed the petitions of others. Elizabeth Critchborn, Mary Miller, Mary Warner, and Catherine Jolly were among those signing petitions to save John Roberts, sentenced to die for treason in 1778. Ann Wood, Mary Hood, Elizabeth Bethel, and a half dozen other women joined their names with others on appeals circulating on court day on behalf of Abraham Carlisle, similarly convicted and sentenced. In Cumberland County, Marcy Hess and Elizabeth Smiley supported a petition favoring mercy for James Stuart of Sherman’s Valley, convicted and fined in August 1784. The Doan women faithfully attended court proceedings involving their menfolk and worked to overturn warrants of execution for outlayr issued against their husbands and brothers. 51

Abigail Jameson, Martha Stuart, Sarah Lee, and Jean Shoemaker joined other “inhabitants of Wyoming” pressing their government in February 1785 to provide them greater protection. Some women began to sign court day petitions for better roads in their counties, something not done before the Revolution. Mary Vernon of the borough of Chester, rather than her husband Edward, observed the court’s handling of a burglary prosecution against the Vernons’ mulatto slave, Jesse Shriver. She led efforts to save his life after he was convicted in April 1784. 52 In these and a variety of other ways, Pennsylvania women expressed their political commitment and convictions. 53

50 Supreme Court Dockets: Appearances, 1774-1799, RG-33, Box 3, PHMC.
51 Pa. Arch. 1st Ser., 7: 35-37, 54; Petition for James Stuart, Aug. 9, 1784, Clemency Records, 1775-1789, RG-27, microfilm roll 38, PHMC; petition of Hester, Rachel, and Mary Doan, Clemency File, Aug. 13, 1788, RG-27, Box 9, PHMC.
52 Pa. Arch., 1st Ser., 10: 653, 704, 7: 35-37, 54; deposition of Mary Vernon, Apr. 19, 1784, Clemency Records, 1775-1789, RG-27, microfilm roll 38, PHMC.
It is impossible to establish a clear link between what happened in Pennsylvania courthouses and subsequent ideas and actions by its female population. Constant exposure to courthouses and courtroom "culture" does not itself insure that females recognized priorities and assumptions about themselves and their society explicit in the routine and ritual. But in a host of ways, courthouses offered women in early Pennsylvania an unparalleled opportunity to learn about themselves and those around them.

Courts often taught less by speaking directly to individuals than by making them part of ceremony and practices. Females learned to read and write in courthouses, and they were introduced to important political documents. They were exposed to community standards and expected relationships. Women participated in identifying and punishing transgressors and shared in community celebrations. They experienced alterations in political and social values and aspirations, and they defined their multifaceted and often contradictory role with the law. In this respect, courthouses loomed large in the lives of Pennsylvania's early women.

54 Norton, Liberty's Daughters, 6, 133, argues that women generally did not understand the law or their legal rights.

55 Joyce Appleby has observed that "societies knit together by habit and ritual can dispense with words," but that when words were uttered, "the spoken word [was] an event, taking its real significance from its presentation — the setting, the gestures, the expectations of the audience, the observance or lack of observance of conventions." See her "Value and Society," in Jack P. Greene and J. R. Pole, eds., Colonial British America: Essays in the New History of the Early Modern Era (Baltimore, 1984), 294, 300.

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IN COMMEMORATION
GIFT
IN MEMORY OF
ALFRED M. HUNT
FROM
Mr. and Mrs. Ralph H. Demmler

IN COMMEMORATION
GIFT
IN MEMORY OF
MARGARET D. JACKSON
FROM
Dr. and Mrs. William J. McVay

IN COMMEMORATION
GIFTS
IN MEMORY OF
CARLTON G. KETCHUM
FROM
Dr. and Mrs. Lester A. Dunmire
Mr. and Mrs. Curtis E. Jones

IN COMMEMORATION
GIFT
IN MEMORY OF
EUGENE B. STRASSBURGER, JR.
FROM
Mr. and Mrs. Edwin J. Strassburger