

NELCO
NELCO Legal Scholarship Repository

Roger Williams University School of Law Faculty
Papers

Roger Williams University School of Law

12-1-2003

Researching the Laws of the Colony of Rhode Island and Providence Plantations

Gail I. Winson

Roger Williams University School of Law, gwinson@law.rwu.edu

Follow this and additional works at: http://lsr.nellco.org/rwu_fp

 Part of the [Legal History, Theory and Process Commons](#), and the [Legal Writing and Research Commons](#)

Recommended Citation

Winson, Gail I., "Researching the Laws of the Colony of Rhode Island and Providence Plantations" (2003). *Roger Williams University School of Law Faculty Papers*. Paper 1.
http://lsr.nellco.org/rwu_fp/1

This Article is brought to you for free and open access by the Roger Williams University School of Law at NELCO Legal Scholarship Repository. It has been accepted for inclusion in Roger Williams University School of Law Faculty Papers by an authorized administrator of NELCO Legal Scholarship Repository. For more information, please contact tracy.thompson@nellco.org.

**Researching the Laws of the Colony of Rhode Island and Providence Plantations:
From Lively Experiment¹ to Statehood**

by Gail I. Winson*

I. Introduction

Roger Williams is generally recognized as the founder of Rhode Island. Although his settlement of Providence in 1636 was not the first or only settlement in the area, he was able to open the whole region to English settlement.² Due to his friendship with local Indians and knowledge of their language he obtained land from the Indians and assisted other settlers in doing the same. When Williams was banished from the Massachusetts Bay Colony in 1635 because of his rejection of Puritanism, his friend, Governor John Winthrop, suggested that he start a new settlement at Narragansett Bay.³ Founders of other early settlements also migrated from the Massachusetts colony seeking religious freedom. Rhode Island began as four separate towns, which were not incorporated until a joint government was formed in 1647, under the “Incorporation of Providence Plantations,” or Charter of 1644. Until the granting of that charter, Rhode Island had no authority to exist as an English colony.

The official name of the state remains today “Rhode Island and Providence Plantations.” Rhode Island refers to Aquidneck Island, the location of the present-day towns of Portsmouth, Middletown, and Newport. According to Howard Chapin’s *Documentary History of Rhode Island*, “the earliest appearance of the name Rhode Island as the designation of the island of

* Associate Professor of Law and Director of the Law Library, Roger Williams University, Ralph R. Papitto School of Law; B.A., Moravian College; M.S., Drexel University; J.D., University of Florida; Member of The Florida Bar (inactive) and the State Bar of California (inactive).

Aquidneck is in a letter from Roger Williams to Deputy Governor John Winthrop ... which from its context was evidently written in the spring of 1637.”⁴ As described below, the Island was one of the first areas in the Colony to be settled. Providence Plantations refers to early settlements at the northern end of the Narragansett Bay, in Providence and the surrounding area. The word plantation has the meaning of a settlement in a new country or region.⁵

Parts II, III, and IV of this paper consist of bibliographic essays covering three main periods in the early development of the Colonial government and legal institutions of Rhode Island: 1636-1647, the formation of the four original towns and their consolidation under a Parliamentary Patent, or Charter; 1647-1663, government under the Code of 1647 and the issuance of a Royal Charter; and 1663-1776, governance under the Royal Charter and the deterioration of relations with the monarchy leading to a declaration of independence. While the history of Rhode Island is fascinating, only the bare essentials are provided in this article, sufficient to explain the background and context in which legal institutions developed in the Colony.

Part V deals with legislative documents and includes a bibliographic listing of important legislative documents of the colonial period. Part VI addresses the early development of Rhode Island’s court system, and includes a bibliographic listing of both primary and secondary sources on the history of the courts. The conclusion provides a list of additional sources for researching the history, government, and laws of colonial Rhode Island, including archival collections in the state.

As records of this period are understandably scarce, and original records are in manuscript form, the researcher may do well to start with secondary sources cited throughout this article. Some documents are also available in published form, having been transcribed and

printed during the nineteenth century, or later.

II. 1636-1647: The Four Original Towns

Because Rhode Island originated from the founding of four towns, the most complete early records of executive, legislative, and judicial activities are found in town records. A source of selected town records from the Colonial period can be found in the multi-volume set entitled *Records of the Colony of Rhode Island and Providence Plantations in New England*, which was transcribed and edited by John Russell Bartlett, then Secretary of State, and printed by the order of the legislature beginning in 1856.⁶ This set and its 1968 reprint by AMS Press is owned by many libraries throughout the country.

Providence

Roger Williams and five companions founded the settlement of Providence in 1636. In 1637 the original group, joined by later settlers, drew up the first compact under which all agreed to obey “all such orders or agreements as shall be made for public good of the body in an orderly way, by the major consent of the present inhabitants, masters of families incorporated together in a Towne fellowship, and others whom they shall admit into them only in civil things.”⁷ Williams purchased title to the lands from Indians in the area, and thereafter transferred lands to his fellow settlers.

In 1640, the original compact was augmented by an agreement which set up a more formal governing structure, and took one step away from pure democracy. The document, entitled “Report of Arbitrators at Providence, containing proposals for a form of government,” agreed that five men, called “disposers” were to be chosen from among the inhabitants and

charged with making dispositions of land, stock and all general things.⁸ The agreement set forth a plan for “government by way of arbitration,” and provided for the appointment of a town clerk to keep records. The Articles also reasserted the colony’s intention “still, to hold forth liberty of Conscience.”⁹

Records from the founding of Providence are meager, due to the fact that they were most likely destroyed in the year 1676 when the town was sacked and burned by the Indians.¹⁰

However, the following multi-volume set, printed under authority of the City Council of Providence, contains town records from the Colonial period:

The Early Records of the Town of Providence, printed under authority of the City Council of

Providence by [the] Record Commissioners. Providence: Snow & Farnham, City Printers, 1892-1915. 21v.

In 1949 the Historical Society published a consolidated index to these volumes, indexing names and places, and including a summary of each volume. The earliest entry is August 1633, noting the birth of Roger Williams’ daughter. Volume 14 is Deed Book No. 1, 1664-1705. Volume 15 is Providence Town Papers, 1639 to April, 1682. Volume 16 is Will Book No. 2, September 12, 1716 to January 7, 1728/29. Volume 17 contains Providence Town Papers, April, 1682 to March, 1722. Volume 20 is Deed Book No. 2, 1705-1711.

Portsmouth (Originally Pocasset) and Newport

A second group of settlers, followers of Anne Hutchinson, signed a compact in Boston in 1638 to start a new settlement.¹¹ Led by William Coddington, the group moved to Rhode Island (Aquidneck Island) where they purchased land from the Indians with the aid of Roger Williams.

But unlike Williams in Providence, the Portsmouth settlers did not adhere to the same principle of separation of religion and state. The group in Portsmouth elected Coddington as Judge and yielded “all due honour unto him according to the lawes of God.”¹² Within a short time, however, Coddington was deposed by some of his fellow settlers, and moved on to found the town of Newport.¹³

In 1639, Coddington and his followers signed an agreement to begin a new settlement named Newport, located at the southwest end of the island. The compact contained the provision “that our determinations shall be by major voice of judge and elders; the Judge to have a double voice.”¹⁴ As in Portsmouth, Coddington was elected Judge, but this time with a double vote.¹⁵ By 1640, the two settlements formed a joint government, with Coddington as the first governor.¹⁶

Some records from the towns of Portsmouth and Newport are contained in the *Records of the Colony of Rhode Island*, edited by Bartlett. Records from the town of Portsmouth are published in the following volume:

The Early Records of the Town of Portsmouth, edited in accordance with a resolution of the General Assembly, by [Clarence S. Brigham] the Librarian of the Rhode Island Historical Society. Providence: Snow & Sons, State Printers, 1901. xii, 462 p.

The majority of the book comprises proceedings of the town council. The volume also contains miscellaneous records such as deeds, wills, inventories, and powers of attorney. As entries are not always in chronological order, the volume contains a chronological table of town meetings, and an index of persons and places. According to the preface, the records of Newport are irrevocably lost.

Warwick (Originally Shawomet)

Few records exist detailing the founding of the town of Warwick, due to the fact that its founder, Samuel Gorton, believed that as English subjects the settlers had no lawful right to establish a government without authority from the crown. Therefore, no town government was established and no officers were elected until 1647 under the charter of 1644.¹⁷ Two volumes have been published containing Warwick town records:

The Early Records of the Town of Warwick, edited in accordance with a resolution of the General Assembly by [Howard Millar Chapin] the Librarian of the Rhode Island Historical Society. Providence: E. A. Johnson Company, 1926. vi, 362 p.

These records do not cover the very early period of the town's founding, but start around 1648 and continue to 1667. Items, many of which contain references to disputes and controversies in the town, are not strictly in chronological order," as many eighteenth century entries were made on the blank part of pages containing seventeenth century records" (pref., p. vi). Separate indexes are provided to subjects, places, persons, and Indian names.

More Early Records of the Town of Warwick, Rhode Island: "The Book with Clasps" and "General Records". Transcribed by Marshall Morgan; edited by Cherry Fletcher Bamberg and Jane Fletcher Fiske. Boston, MA: New England Historic Genealogical Society, 2001. xviii, 357 p.

This recently published volume contains records dating from 1664 to the early part of the eighteenth century. The original volumes from which these records were transcribed remain in the vault at Warwick City Hall, although microfilm copies of the originals are available at the Rhode Island Historical Society Library. Records include

proceedings of town meetings and “town orders,” as well as, records of liquor excise taxes, deeds, indentures, wills, inquests, and other legal documents. The introduction contains a brief history of the town of Warwick and is followed by a list of suggested readings. The book also contains an index, which is very helpful to the researcher, considering that entries are not always chronological.

Charter of 1644

In 1643 Roger Williams traveled to England to obtain a charter which would authorize the towns of Providence, Portsmouth, and Newport to form a colony. At this point England was in turmoil; King Charles I had fled London, and Parliament was ruling without a monarch. For this reason Williams obtained this first charter from the Parliamentary Commissioners for Plantations, the highest existing authority aside from the monarchy.¹⁸ The Charter of 1644 legitimized the settlers’ claims to land obtained from the Indians, and protected the fledgling colony from boundary disputes with neighboring New England settlements.¹⁹

The formal name of the charter is the “Incorporation of Providence Plantations, in the Narraganset-Bay, in New England.”²⁰ Under it, the Parliament granted to the inhabitants of Providence, Portsmouth, and Newport “full power and authority to rule themselves...by such a form of civil government...they shall find most suitable to their estate and condition...Provided nevertheless, that the said laws, constitutions, and punishments, for the civil government of the said plantations, be conformable to the laws of England, so far as the nature and constitution of the place will admit.”²¹ Warwick was later included as the fourth town under the charter,²² and is considered one of the four original towns. Although separation of church and state is not specifically mentioned in the charter, it can be inferred by the repeated mention of a “civil

government.”²³ The Royal Charter of 1663 was more explicit on this point.²⁴

III. 1647-1663: Acts and Orders of 1647 and the Royal Charter

Acts and Orders of 1647

In 1647, a series of meetings of freemen from the four towns culminated in the forming of a joint government under the Charter of 1644. It was agreed by the General Assembly that the form of government should be “Democraticall; that is to say, a government held by ye free and voluntarie consent of all, or the greater parte of the free inhabitants.”²⁵ A code of laws was enacted covering subjects from battery and assault, to high treason, to probate of wills. A General Court of Elections was established as a legislative body. However, new laws had to be discussed and voted on in town meetings before being sent to a General Court of Elections (later called the General Assembly) for approval or nullification.²⁶ A General Court of Trials for the whole colony was established at the same time to administer justice under the code of laws agreed upon.²⁷ The document which set forth a form of government and a code of laws is entitled “Acts and Orders Made and Agreed upon at the Generall Court of Election, held at Portsmouth, in Rhode Island, the 19, 20, 21 of May, Anno. 1647, for the Colonie and Province of Providence.”²⁸ It is printed, along with the Charter of 1644, or “First Patent of Rhode Island,” in the following pamphlet:

The Proceedings of the First General Assembly of “The Incorporation of Providence

Plantations,” and the Code of Laws Adopted by That Assembly in 1647, with notes

historical and explanatory by William R. Staples. Providence: Charles Burnett, Jr., 1847.

64 p.

The code of laws printed here was framed upon the adoption of the colonial charter. It is not a compilation or digest of laws already in existence. It represents an “attempt to codify the Common and Statute Laws of England, or rather such parts of them as [the assembly] deemed binding on the province, and those parts altered, at their pleasure, so as to conform to the nature and constitution of their place.(pref.)

Royal Charter of 1663

Upon restoration of the monarchy in England in 1660, the existence of the colony was once more threatened, because the original charter, or patent, of 1644 was obtained by Roger Williams from the Parliament and lacked the royal seal. John Clarke, as agent of the Colony of Rhode Island, therefore petitioned King Charles II that the settlers be permitted “to hold forth a lively experiment...with a full liberty in religious concerns...”²⁹ and be granted “a more absolute, ample and free charter of civill incorporation, whereby under the wing of your Royall protection, we may not onely be sheltered, but...may be caused to flourish in our civill and religious concerns...”³⁰ The Charter was granted in 1663 and served as Rhode Island’s constitution until the Dorr Rebellion led to the adoption of a new constitution in 1842.³¹ The original Charter is on display, enshrined in a vault at the entrance of the Senate chambers in the Rhode Island State House. A more readable and readily available version appears on the Secretary of State’s web site at <http://www.state.ri.us/rihist/richart.htm>.³²

The Charter subsequently granted by King Charles II named the new colony “The Governor and Company of the English Collonie of Rhode-Island and Providence Plantations, in New-England, in America.”³³ The Charter also appointed the first Governor, Deputy Governor, and ten Assistants, and provided for a General Assembly to be called twice a year, and to include

a prescribed number of representatives from each of the various towns.³⁴ The General Assembly was given broad powers to govern the Company, including executive, legislative, and judicial powers.³⁵ Over 350 years later, the concentration of power in the General Assembly continues to cause separation of powers issues in Rhode Island.³⁶

In one of the most well-known provisions of the Charter, King Charles II granted the colonists of Rhode Island religious freedom, declaring that

our royall will and pleasure is, that noe person within sayd colonye, at any tyme hereafter, shall bee any wise molested, punished, disquieted, or call [*sic*] in question, for any differences in opinione in matters of religion, and doe not actually disturb the civill peace of our sayd colony; but that all and everye person and persons may, from tyme to tyme, and at all tymes hereafter, freelye and fully have and enjoye his and their owne judgments and consciences, in matters of religious concernments, throughout the tract of lande hereafter mentioned; they behaving themselves peaceable and quietlie, and not useinge this libertie to lycentiousnesse and profanenesse, nor to the civill injurye or outward disturbance of others.³⁷

In summary, the most important organic laws to emerge from the years 1636 to 1663 are the Charter of 1644, the Acts and Orders of 1647, and the Royal Charter of 1663. The Charter of 1644 was the first authorization from the mother country to settle the land around Narragansett Bay. The document also protected the fledgling colony from boundary disputes with neighboring

New England settlements, which already had charters. The Acts and Orders of 1647 was the first code of laws passed to govern the entire colony. This document represents an attempt to codify the common and statutory laws of England existing at the time of the enactment, at the same time modifying the English law to adapt it to primitive conditions in a newly settled land. By far, the most important of these three documents is the Royal Charter of 1663. At long last Rhode Island was recognized by the monarchy as a legitimate colony. Moreover, the Charter served as Rhode Island's constitution until a new constitution was adopted in 1842.

IV. 1663-1776: From Royal Charter to Revolution

As the fledgling colonial government struggled to assert its authority over established town governments, it was beset by challenges from within and without.³⁸ The period 1664 to 1690 was marked by boundary disputes and hostilities among the Indians. King Philip's War was waged during 1675 and 1676. Seen by Rhode Islanders as "an aggressive effort by the Puritan colonies seeking to secure their claims to the land of the Wampanoags and Narragansetts and thus to assert political authority over as much of Rhode Island as they could,"³⁹ the War ended with Connecticut asserting its authority over Narragansett country in the southern part of Rhode Island.⁴⁰

The darkest period of Rhode Island Colonial history came in 1686 when the English monarchy, under James II, abrogated the charters of all the colonies from New Jersey to Maine and reorganized them into one unified colony, under Governor Edmund Andros.⁴¹ Rhode Island became merely one county in the Dominion of New England. Fortunately, within two years James was forced to abdicate; Andros was consequently arrested in Boston; and the New England colonies returned to their respective political systems.⁴²

The end of the seventeenth century ushered in an era in which Rhode Island was drawn more and more into the affairs of the British Empire, through a series of wars and trade disputes.⁴³ Rhode Island was asked to provide men and supplies in support of England's wars. Always reluctant to give up its independence, Rhode Island refused to cooperate and brought upon itself a series of suits by the monarchy against the colony. In addition to complaints accusing Rhode Island of not supporting the king's war efforts, the colony was also accused of illegally commissioning privateers, of forming an illegal admiralty court, and of tolerating piracy.⁴⁴

Despite being constantly at odds with England, Rhode Island survived and grew as a colony. Its citizens interpreted their charter as "a grant of quasi-independence uniting the plantations with the king only by voluntary allegiance so long as his interest and theirs coincided. When claims of English rights and royal power differed from claims of charter rights, Rhode Islanders insisted that charter rights had equal, not subordinate authority."⁴⁵

The General Assembly passed an act repudiating Rhode Island's allegiance to King George III on May 4, 1776,⁴⁶ the date commemorated each year as Rhode Island Independence Day, a legal state holiday. On July 18, 1776, the General Assembly, meeting in Newport, approved the July 4th resolution of the Continental Congress declaring the thirteen colonies free and independent states, and pledged itself to "support the said General Congress, with our lives and fortunes."⁴⁷ In December of 1776, the British invaded Newport and occupied both the port and the whole island of Aquidneck for three years.⁴⁸ Although no battles were fought on Rhode Island soil after the British withdrew in 1779, Rhode Island soldiers were engaged in almost every major battle of the Revolution.⁴⁹

Despite the fact that Rhode Island was in the vanguard of the revolutionary movement and generously provided men and materials in support of the war, the newly independent state

resisted submission to a centralized government when the war ended.⁵⁰ It was not until May, 1790, that Rhode Island ratified the federal constitution and became the thirteenth state in the new union.⁵¹

V. Legislative Digests and Session Laws

Although early settlers signed self-governing compacts, and passed laws under these compacts, they had no authority from the English government to form a government of their own. The laws passed under such compacts dealt with only those subjects necessary to organize into a community and maintain safety and order for the inhabitants. Even under the Royal Charter of 1663, and the earlier Parliamentary Charter of 1644, the colonists were directed to conform their laws to the laws of England “so far as the Nature and Constitution of the place will admit,”⁵² An early Act, under the 1644 Charter, adopted “the Sea Lawes, otherwise called the Lawes of Oleron.”⁵³ A 1700 Act of the General Assembly confirmed “that where the laws of this Collony or custom shall not reach or comprehend any matter, cause or causes, that it shall be lawfull to put in execution the laws of England ...”⁵⁴

In 1749, after questions arose as to which English statutes were really part of Rhode Island law, the General Assembly passed an act which listed the specific statutes that were in force in the colony.⁵⁵ Thus, in considering the nature of the digests of colonial laws described below, one must remember that they represent only a part of the body of law governing the colony.⁵⁶

The existence of so many early digests can probably be attributed to pressure placed on the General Assembly by the English government. Such pressure may have arisen “from two causes: first, complaints against the Rhode Island government; and second, cases appealed from

the colonial courts, to the courts of England; in the adjudication of these cases authentic copies of the laws were imperatively required.”⁵⁷ Whether under pressure from the English government, or on their own initiative, the General Assembly did manage to sporadically produce the following digests of colonial laws.

1705 Digest

Laws and Acts of Her Majesties Colony of Rhode Island, and Providence-Plantations Made from the First Settlement in 1636 to 1705. With a historical introduction by Sidney S. Rider.

Providence: Sidney S. Rider and Burnett Rider, 1896. viii, 120, 65 p.

"The volume consists of a facsimile reproduction of the original manuscript [1705] followed by a reprint, in type, for convenience in consulting" (p. viii). The statutes are set out under various subject headings, but not in one alphabetical arrangement as in modern codes.

As described earlier in this article, a code of laws was adopted in 1647 when the four towns of Providence, Portsmouth, Newport, and Warwick incorporated under the Charter of 1644. After a number of years of subsequent legislation, the General Assembly attempted to have a codification of the laws prepared. After many failed attempts by various committees, all of the laws were finally collected in 1705. However, no committee was ever successful in having the laws printed, and they were not printed until Sidney Rider produced this copy in manuscript and letterpress print in 1896. It is available on microfiche in Hein's *Colonial Session Laws: Rhode Island* (Buffalo, NY: William S. Hein, 1987?), and in its original manuscript form in the Rhode Island State Archives.

1719 Digest

The Charter and the Acts and Laws of His Majesties Colony of Rhode-Island, and Providence-Plantations in America, 1719. A fac-simile reprint with a bibliographical and historical introduction by Sidney S. Rider. Providence: Sidney S. Rider and Burnett Rider, 1895. 18, 8, 102, [3] p.

This digest is considered the first compilation of the Colony's laws. This edition is a photo-reprint of the 1719 ed. printed in Boston by John Allen, for Nicholas Boone. It is also available, on microfiche, in Hein's *Colonial Session Laws: Rhode Island* (Buffalo, NY: William S. Hein, 1987?). The introduction includes a historical survey of all digests of Rhode Island laws from 1719 to 1772.

The laws in this digest were collected between 1715 and 1717 by order of the General Assembly. After some revisions, the digest was printed, and was distributed in 1719. According to Sidney Rider in his introduction to the 1895 edition, there is no record of a re-enactment of this body of laws by the General Assembly, nor is there a record of the repeals of former laws not contained in it.

1730 Digest and Supplements

Acts and Laws, of His Majesty's Colony of Rhode-Island, and Providence-Plantations, in America. Providence: J. H. Bongartz, 1927. [14], 283 p.

This digest, the second revision of the Rhode Island laws, was published in parts; the first collection of laws appearing on pages 1-210. Supplementary pages were then added, covering laws enacted through the legislative session of February, 1736, and comprising pages 211-283.

This edition includes the 1730 digest published in Newport and a second volume (pages 211-283) containing *Supplementary Pages to the Digest of 1730*, published in Newport 1730-1737, and collecting laws through February, 1736. Other published versions of this digest are listed below.

Acts and Laws, of His Majesty's Colony of Rhode-Island, and Providence-Plantations, in America. Newport: Printed by James Franklin, and sold at his shop near the town schoolhouse, 1730. [13], 210 p.

Acts and Laws, of His Majesty's Colony of Rhode-Island, and Providence-Plantations, in America. Newport: Printed by J. Franklin, 1730-1737. [14], 283 p.

Supplementary Pages to the Digest of 1730 of the Acts and Laws of Rhode Island. Providence: S. S. Rider and B. Rider, 1892. p. 211-283. (Photo-reprint of p. 211-283 of the 1730-[37] ed. printed by J. Franklin, Newport.)

1745 Digest and Supplement

Acts and laws of his Majesty's Colony of Rhode-Island, and Providence-Plantations, in New-England, in America. Newport: Printed by the Widow Franklin, 1745. [15], 308 p.

Acts and Laws of His Majesty's Colony of Rhode-Island, and Providence-Plantations, in New-England, in America, from Anno 1745 to Anno 1752. Newport: Printed by J. Franklin, 1752. [8], 110 p.

This digest, the third revision of Rhode Island laws, was compiled by order of the English government (*R.I. Records*, 5:355) and collected all of the laws passed since the 1744 Digest.

1767 Digest and Supplement

Acts and laws of the English Colony of Rhode-Island and Providence-Plantations, in New-England, in America. Newport: Printed and sold by Samuel Hall, 1767. 46, 272 p.

The fourth revision of the Rhode Island laws. Available on microfilm in *Published American Colonial Records*, CR 49 (New Haven, CT.: Research Publications, 197?).

Acts and Laws of the English Colony of Rhode-Island and Providence-Plantations, in New-England, in America: Made and Passed Since the Revision in June, 1767. Newport: Printed and sold by Solomon Southwick, 1772. 41 p.

A supplement to the 1767 digest. Available on microfilm in *Published American Colonial Records*, CR 49 (New Haven, CT: Research Publications, 197?).

Acts and Laws of the English Colony of Rhode-Island and Providence-Plantations, in New-England, in America: Made and Passed Since the Revision in June, 1767. Newport: Printed and sold by Solomon Southwick; Providence: Issued by Harry Gregory, 1893. [2], 41 p.

Fac-simile reprint of the 1772 Rhode Island digest of laws, issued by Harry Gregory, Providence, R.I., 1893. Original edition was issued as a supplement to the 1767 edition of the *Acts and Laws*.

Session Laws

Session laws from October, 1747 to June, 1776, are listed in *Pimsleur's Checklist of Basic American Legal Publications* (Littleton, CO: Fred B. Rothman, 2001). Other checklists and indexes which may be helpful, if available, are the following:

John Russell Bartlett, *Index to the Printed Acts and Resolves of, and the Petitions and Reports to the General Assembly of the State of Rhode Island and Providence Plantations, from the Year 1758 to 1850*. Providence: Knowles, Anthony & Co., 1856. xiii, 424 p.

J. Harry Bongartz, *Check List of Rhode Island Laws. Containing a Complete List of the Public Laws and Resolves of the State of Rhode Island to Date*. Providence: J.A. & R.A. Reid, Printers, 1893. 8 p.

Grace Elizabeth Macdonald, *Check-List of Legislative Documents in the Rhode Island State Archives*. Providence: The Oxford Press, 1928. 24 p.

The texts of the session laws are available on microfiche in *Colonial Session Laws: Rhode Island* (Buffalo, NY: William S. Hein, 1987?). Also, see Part VII below for a general description of colonial session laws available in Rhode Island libraries and archives.

VI. Court System⁵⁸

The first judicial system in Providence relied on arbitration as a suitable method of

settling differences in the new colony. Petitioners who did not agree with the decision of the Disposers, or arbitrators, could appeal to the general town meeting for a trial. Indeed, the institution of the town meeting exercised all functions of government in the early settlement, including judicial.

Both Portsmouth and Newport elected a Judge as their highest government official upon their founding. In 1638 at a general town meeting, the citizens of Portsmouth also elected Elders to assist the Judge in the administration of justice. Notwithstanding this delegation of judicial and legislative powers, the Judge and the Elders were still accountable to the General Meeting and required to make quarterly reports to the town of all cases, actions, or rules handled by them. In Newport it was agreed that determination of all matters handled by the Quarter Courts be made by major vote, the Judge having a double vote. By 1640, the two towns united, and Quarterly Circuit Courts were established. A General Court also met to hear cases dealing with matters of concern to the whole island.

The union of the four original towns under the Charter of 1644 and the enactment of a code of laws in 1647 brought a new judicial system. A General Court of Trials was established to try serious criminal offenses and civil matters of great importance to the entire colony. Towns were given the right to retain their own courts to deal with local matters. Revisions to the system in 1651 converted the General Court into a court of appeal, making it the predecessor of today's Rhode Island Supreme Court. The General Court exercised appellate and supervisory power over the local courts, which now exercised original jurisdiction over all but the most serious crimes. This modified system continued until the Royal Charter of 1663 was received.

Under the Royal Charter, the governor, deputy governor, and ten assistants functioned as magistrates. The General Assembly was empowered to create judicial tribunals and at its first

session under the Charter, provided that either the governor or the deputy governor, with at least six assistants, should hold the General Court of Trials at Newport twice a year. Although the act creating the new court did not specify jurisdiction, it was generally considered a successor to the court held under the old charter, and was a court of common law jurisdiction.

The next important change took place in 1729 when the General Assembly divided the colony into three counties--Newport, Providence, and Kings--providing civil and criminal courts for each county. The civil courts were called Courts of Common Pleas and had jurisdiction over all civil actions arising within the county, triable at common law. The criminal courts were called Courts of General Sessions of the Peace and had original jurisdiction over all crimes except capital ones, and appellate jurisdiction over petty offenses tried by local justices of the peace. Appellate jurisdiction was granted to a higher court called the Superior Court of Judicature, Court of Assize, and General Gaol Delivery, still held exclusively in Newport, as the former General Court of Trials had been.

As the colony became more populous, it became more impractical for the Superior Court to sit only in Newport, and for the governor or deputy governor to preside over the court. Accordingly, the General Assembly passed an act in 1747 designating five judges, a chief and four associates, to be chosen annually by the assembly and commissioned by the governor, to hold court for two sessions a year in every county. The court retained the cumbersome name of The Superior Court of Judicature, Court of Assize and General Gaol Delivery until 1798, when its name was changed to The Supreme Judicial Court, and in 1843, to The Supreme Court. In 1780 the General Assembly passed an act prohibiting any member of either house of the assembly from filling the office of a justice of the Supreme Court.

Although it may seem that by the end of the eighteenth century, Rhode Island enjoyed a

well developed court system, with an independent judiciary, important judicial functions were still performed by the General Assembly. From the beginning the General Assembly seems to have considered itself empowered to exercise both legislative and judicial functions and was at various times called a court. Indeed, individuals often petitioned the assembly to exercise a kind of equity jurisdiction to modify the results of a court case, to grant a new trial, to grant a divorce. It would take until the middle of the nineteenth century for Rhode Island to have a truly independent judiciary, thanks to the historic decision of *Taylor v. Place*.⁵⁹

General Sources on the History of the Judicial Branch

Thomas Durfee, *Gleanings from the Judicial History of Rhode Island*. Providence: Sidney S.

Rider, 1883. 164 p.

A readable account of the development of the court system and the judiciary in Rhode Island. Although it is obvious from reading other sources that the author gleaned his information from various colonial documents and other authoritative sources, he does not cite his sources. Quotes are not footnoted, nor is there a preface or introduction to indicate what sources the author used. Available on microfiche in *Law Books*

Recommended for Libraries: Legal History, No. 49 (Littleton, CO: Fred B. Rothman, 1987).

Amasa M. Eaton, "The Development of the Judicial System in Rhode Island," *Yale Law Journal* 14 (Jan. 1905), 148-170.

A general review of the history of the judicial system from the beginning of the

Colony up to the date of this article, when a special commission on the revision of the judicial system was due to report its recommendations to the General Assembly.

John T. Farrell, "The Early History of Rhode Island's Court System," *Rhode Island History* 9 (July 1950), 65-71; 9 (Oct. 1950), 103-117; 10 (Jan. 1951), 14-25.

A scholarly treatment, in a series of three articles, of the establishment and operation of various courts in Rhode Island during the seventeenth century. The author cites to the numerous sources used in his research, most of which are published sources available in many libraries.

Edward Field, "The Struggle for Judicial Supremacy," vol. 3, chap. 2 in *State of Rhode Island and Providence Plantations at the End of the Century: a History*. Boston: Mason Pub. Co., 1902.

The author traces the development of the judiciary "from its source in the simple compact of the people, where no differentiation can be discerned between the legislative and judicial powers" to its establishment as a "co-ordinate branch of the government." (p. 89) According to the author, a clear statement declaring the independence of the judiciary was not made until the 1856 opinion of Chief Justice Ames in the case of *Taylor v. Place* (4 R.I. 324). Like the earlier work by Thomas Durfee, the author does not provide citations to his sources.

Edmund W. Flynn, "Judicial History of Rhode Island," in *West's Rhode Island Digest*. St. Paul, MN: West Pub. Co., 1952. 1:xii-xxii.

The author provides a short history of the Rhode Island court system, covering the years 1636 to 1952, the date of the article.

James M. Varnum, *The Case, Trevett against Weeden ... Tried before the honourable Superior Court, in the County of Newport, September term, 1786. Also, the case of the judges of said court, before the honourable General Assembly, at Providence, October session, 1786, on citation for dismissing said complaint. Wherein the rights of the people to trial by jury, &c. are stated and maintained, and the legislative, judiciary and executive power of government examined and defined.* Providence: Printed by John Carter, 1787. 60 p.

A summary of the judicial and legislative proceedings of one of the first cases on the issue of judicial review. Although the holding of *Trevett v. Weeden* was merely that the Superior Court did not have jurisdiction to hear the case, arguments before the court were based on the constitutionality of an act of the General Assembly. In effect, the court declared the act in question to be unconstitutional, and the Assembly understood the decision as such. The judges were called into the General Assembly to answer for their actions, but after extended discussion, were not charged with any wrongdoing. Consequently, the case came to stand for an important point on the long road to the establishment of an independent judiciary in Rhode Island.

Specific Courts

Rhode Island Court Records: Records of the Court of Trials of the Colony of Providence

Plantations, 1647-1670. Providence, 1920-1922; reprinted Buffalo, N.Y.: Dennis & Co.,

1946. 2v.

This volume is also available on microfilm, in *Published American Colonial Records: Rhode Island*, CR 51 (Woodbridge, CT: Research Publications, 197?). The Colony Court of Trials was established under the Code of Laws of 1647. Most of the records of this court were preserved in the manuscript volume “Rhode Island Colony Records 1646-1669,” kept in the custody of the Secretary of State, and are transcribed here in these two thin volumes. Entries contain more information than the typical court records, or minutes, of town courts. A name index is included at the back of each volume.

Rhode Island General Court of Trials 1671-1704, transcribed by Jane Fletcher Fiske. Boxford, MA, 1998. xii, 266 p.

This volume extends the coverage of Rhode Island court records in print to 1704, continuing the coverage of earlier volumes published by the Rhode Island Historical Society. Records reproduced here are a literal transcription of the first half of “Newport Court Book A,” a record of the Court of Trials for the whole colony. An appendix includes twelve pages of *Warwick Quarterly Court Records 1659-1674*, first published in 1922 as a separate pamphlet. Most of the files for the cases in Book A have been lost, but the author transcribed files of cases scattered throughout Newport County Court Records, and published them in *Gleanings from Newport Court Files* described below. This volume includes a “List of Courts and Terms,” an index of personal names, and an index of places and subjects.

Fiske, Jane Fletcher, *Gleanings from Newport Court Files 1659-1783*. Boxford, MA: Jane

Fletcher Fiske, 1998. xiv, 609 p.

This volume consists of abstracts of court cases and documents such as deeds and wills, arranged in chronological order under entries numbered 1 through 1182. Some entries are a few lines long; others run to several pages. The volume also contains a glossary, an index, and numerous lists. There are lists of persons of color, places, documents and records, grounds for cases, items sued for, public houses and ships, and persons by occupations. To complete this work, the author studied three different types of court records: docket books, record books, and files. These records were originally stored in the Newport Court House, but are currently preserved in more appropriate conditions in the judicial archives in Pawtucket, Rhode Island.

Records of the Court of Trials of the Town of Warwick, Rhode Island, 1659-1674, transcribed by Helen Capwell. From original records in the library of George L. Shepley. Providence: The Shepley Press, 1922. 15 p.

According to the preface, written by Howard Chapin, this book of Warwick court records is the earliest known separate book for the minutes of a Rhode Island town court. Short entries state the cause of action, the names of the parties, and the disposition of the case. In some cases, names of jurors also appear.

Records of the Vice-Admiralty Court of Rhode Island, 1716-1752, edited by Dorothy S. Towle, with an introduction by Charles M. Andrew. Washington, D.C.: The American Historical Association, 1936. 595 p.

The introduction by Charles Andrews is an eighty-page history of the vice-

admiralty courts in the colonies. This is followed by the editor's introduction relating the history of the Rhode Island Vice-Admiralty Court. The Vice-Admiralty court system in the colonies was created by the English government. Massachusetts, New Hampshire, and Rhode Island constituted one district; so that the Rhode Island vice-admiralty court was a branch of the Boston court, held by a deputy appointed by the judge in Boston.

The volume includes a table of cases and a name index. It is available on microfiche in *Law Books Recommended for Libraries: Legal History*, No. 151 (Littleton, CO: Fred B. Rothman, 1988). According to the editor, there are few records relating to cases in the vice-admiralty court before 1740, with the majority of the records going forward from that date until 1752. (intro., p. 97-98). She used the minute books as a guide, but reconstructed the cases from the file papers. Documents presented appear in their entirety in chronological order, but the work as a whole is selective. "Although the material here printed is about one third of all the documents, it does represent the more important part, and the part which shows just how the business was done and how the opinions were formulated." (intro., p. 98)

Try[a]ls of Thirty-Six Persons for Piracy, [& c?] Twenty-Eight of Them upon Full Evidence were Found Guilty, and the Rest Acquitted. At a Court of Admiralty for Tryal of Pirates, Held at Newport within His Majesties Colony of Rhode-Island and Providence-Plantations in America, on the Tenth, Eleventh, and Twelfth days of July, Anno Dom. 1723. Pursuant to His Majesties Commission, Founded on an Act of Parliament, Made in the Eleventh & Twelfth years of King William the Third, Entituled, An Act for the more Effectual Suppression of Piracy. And made [per]petual by an Act of the Sixth of King George.

Boston: Printed and Sold by Samuel Kneeland, in Queen-Street, Below the Prison, 1723.
14 p.

Facsimile from the original in the Rhode Island Historical Society, 1939.

Frederick Bernays Wiener, "Notes on the Rhode Island Admiralty, 1727-1790," *Harvard Law Review*, 46 (1932): 44-90.

The author describes admiralty court records located in the Rhode Island Archives. The first half of the article deals with admiralty practice before 1776; the second half describes the practice of the state court of admiralty established in the spring of 1776. Appendix A, pp. 72-83, includes abstracts of cases selected for some point of interest in law or human affairs.

Marguerite Appleton, "Rhode Island's First Court of Admiralty," *The New England Quarterly*, 5 (1932) 148-58.

The author provides an interesting and informative account of Rhode Island's exercise of admiralty jurisdiction from 1653 until 1704. In 1653, the General Assembly at Newport appointed a committee to "take care that the state's part of all the prizes [during Cromwell's War with the Dutch] be secured and account given" (p. 148). Although the tribunal formed by this act was called a Court of Admiralty, in reality it was the General Court of Trials hearing prize cases (p. 149). For forty years after the war with the Dutch came to an end in 1654, there is no mention of a court of admiralty in Rhode Island (p. 151). In 1694, during King William's War, a law was passed authorizing another tribunal, this one a special court with special powers for the "condemning of prizes and other

seafaring activities as occasion shall require” (p. 152). When England established a royal Court of Admiralty in 1704, Rhode Island’s local court was abolished by an Order in Council (p. 156). This did not stop the Governor of Rhode Island from continuing to grant commissions to privateers men, insisting that he had the right to do so under the Royal Charter. In conclusion, the author states that Rhode Island “was unwilling (or unable) to appreciate the value of centralized control even in matters clearly of imperial concern...They resented this reasonable administrative measure and resisted its application, accepting most unwillingly the supervision and control of the Mother Country.” (p. 157-58).

Zechariah Chafee, Jr., “Records of the Rhode Island Court of Equity, 1741-1743,” In *Publications of The Colonial Society of Massachusetts*, vol. 35 (Transactions, 1942-1946), 91-118. Boston: The Society, 1951.

This article is based on a paper delivered by Mr. Chafee to the Society in 1944. He explains the origins and purpose of the Court of Equity which came into existence in 1741 and was abolished in 1743/44 (*R.I. Records*, 5:22-24; 76-78). Although its existence was short-lived, a complete record of its proceedings survives in the Rhode Island State Archives. The Court “was intended to correct mistakes in the early stages of a lawsuit and make it come out right without overmuch attention to the strict rules printed in the statutes or in the sparsely scattered treatises owned by Rhode Island lawyers” (p. 96). Such appeals had been previously been heard by the General Assembly. “The work of the court was not what lawyers in London then or in Providence today would call equity.” (p. 97). The majority of the paper relates the facts and dispositions of sixteen interesting cases

heard by the Court of Equity.

Harold D. Hazeltine, "Appeals from Colonial Courts to the King in Council, With Especial Reference to Rhode Island," in American Historical Association, *Annual Report*, 1894, pp. 299-350.

Joseph Henry Smith, *Appeals to the Privy Council from the American Plantations*. New York: Columbia University Press, 1950. 770 p.

VII. Additional Sources

Rhode Island State Archives

337 Westminister Street

Providence, Rhode Island

(401) 222-2353 (Phone)

The Archives holds the original, manuscript version of *Rhode Island Colony Records*, from which the records in the Bartlett volumes (*R.I. Records*) were selectively transcribed and edited in 1856-65. The thirty volumes in the set date from 1646 and contain proceedings of the General Assembly. The proceedings cover both legislative and judicial actions since the Assembly functioned in both capacities during the colonial period. There is also a one-volume work entitled *Records of the Island of Rhode Island*, covering the years 1637 to 1663, recording the founding of Portsmouth and Newport. A third work, of one volume, is entitled *Ancient Records of the Colony of Rhode Island and Providence Plantations*, and is referred to as "Gyles

Records.” These records from the colony for the years 1638-1670, were copied by Charles Gyles and others from 1824-1835. The volume also includes an appendix of additional records 1637-1718, and Andros court records 1687-1688.

Other General Assembly documents housed at the Archives include the *Acts and Resolves* beginning in 1728, the House and Senate Journals beginning in 1728 and 1733 respectively, and petitions to the General Assembly, beginning in 1725. The Archives also holds a manuscript copy of the 1705 legislative digest, comprising legislation enacted by the General Assembly from 1663-1705. Other notable collections in the Archives are papers relating to the adoption of the Constitution of the United States, Reports of Committees to the General Assembly, and the file papers for the Rhode Island Equity Court, which existed from 1741-1743.

Card index files provide access to many of the collections, including the *Colony Records*, General Assembly *Acts and Resolves*, and petitions to the General Assembly. Early records are well maintained in a climate-controlled environment, and Archive personnel are very helpful to would-be researchers. Although this is a very valuable collection for researching Rhode Island colonial records, it may not be the best place to begin researching, only because most records are obviously in manuscript form and sometimes difficult to read. Published documents and secondary materials pointed out in this bibliography might be a better starting place, or perhaps to answer a question without having to resort to seventeenth and eighteenth century manuscripts.

Rhode Island Supreme Court Judicial Archives

5 Hill Street

Pawtucket, Rhode Island 02860

(401) 721-2640 (Phone)

The Judicial Archives holds all existing colonial court records in the state. At the appellate level, records include those of the General Court of Trials, 1671-1730, and the Superior Court of Judicature, Court of Assize, and General Gaol Delivery, 1730-1798. Inferior courts were established for the counties of Newport, Providence, Washington (King's), Bristol, and Kent. At the inferior level, records include those of the Courts of Common Pleas, 1730-1905, and the Courts of General Sessions of the Peace, 1730-1838. The records of the courts are of three types: file papers, docket books, and record books. There are also index books accompanying the record books. The court archivist, Stephen Grimes, has compiled a very helpful guide to the court records, from which information was taken for this description.

Rhode Island State Law Library

Frank Licht Judicial Complex

250 Benefit Street

Providence, Rhode Island 02903

(401) 222-3275 (Phone)

The Law Library's primary mission is to serve the reference and research needs of the bench and the bar. The Law Library, also open to the public, has a fairly complete set of published colonial-era *Acts and Resolves*, as well as a set of early legislative schedules (*Acts and Resolves* and legislative reports) in manuscript form. These materials, as well as secondary sources on the colonial period, are housed in the library's vault. Early court records have been transferred to the judicial archives.

Rhode Island State Library

State House, Room 200

Providence, RI 02903

(401) 222-2473 (Phone)

Established within the Office of the Secretary of State by a resolution passed in 1852, the Rhode Island State Library renders assistance to members of the General Assembly in research and preparation of proposed legislation. Also open to the public, the library houses official documents of the State of Rhode Island and is a depository for United States documents. The library holds the published Acts and Resolves of the General Assembly for the period 1750 forward and other primary and secondary sources for research in the colonial period.

General Treatises on Rhode Island Colonial History

Samuel Greene Arnold, *History of the State of Rhode Island and Providence Plantations*. 2d ed.
New York: D. Appleton, 1874. 2v.

A comprehensive, chronological account of Rhode Island's history from 1636 to 1790, with dates cited in the margins. A scholarly treatment which cites authorities and includes a detailed index to each volume.

Thomas Williams Bicknell, *The History of the State of Rhode Island and Providence Plantations*.
New York: The American Historical Society, 1920. 6v.

Volumes one to three constitute a consecutively paged history, and volumes four to six are devoted to biographies of notable Rhode Islanders. Each chapter of the history deals with a different aspect of the state's history, including a chapter on the judiciary (vol. 3, p.

935-71).

Edward Field, *State of Rhode Island and Providence Plantations at the End of the Century: A History*. Boston: Mason Pub. Co., 1902. 3v.

This is an editorial work which continues the coverage of Arnold's *History of the State of Rhode Island*. Most of volume one comprises a concise political history from the settlement of the colony to the end of the nineteenth century, written by Clarence Saunders Brigham. The remainder of the set contains chapters treating various aspects of Rhode Island history, written by the editor and other scholars. Volume three contains a "Bibliography of Rhode Island History."

Sydney V. James, *Colonial Rhode Island: A History*. New York: Charles Scribner Sons, 1975. xviii, 423 p.

The editors, in their introduction, characterize this title as "the first scholarly history of the subject since the turn of the twentieth century" (p. xiii). The author provides an excellent bibliographic essay covering primary and secondary sources (p. 385-411).

Notes

1. Second Address from Rhode Island to King Charles the Second, *Records of the Colony of Rhode*

Island and Providence Plantations, ed. John Russell Bartlett, 10 vols. (Providence: A. C. Greene & Bros., 1856-65), 1:490-91 (hereafter cited as *R.I. Records*).

2. William G. McLoughlin, *Rhode Island: A History* (New York: W. W. Norton, 1986), 4 (hereafter cited as *R.I. History*).

3. Howard M. Chapin, *Documentary History of Rhode Island*, 2 vols. (Providence: Preston and Rounds Co., 1916-19) 1:2 (hereafter cited as *Documentary History*).

4. *Ibid.*, 2:15.

5. *Webster's Third New International Dictionary of the English Language Unabridged*, s.v. "Plantation."

6. 10 vols. (Providence: A. C. Greene & Bros., 1856-65).

7. *R.I. Records*, 1:14.

8. *Ibid.*, 27-28.

9. *Ibid.*, 28.

10. *Ibid.*, 12.

11. McLoughlin, *Rhode Island History*, 21.

12. *R.I. Records*, 1:52.

13. Patrick T. Conley, *Democracy in Decline: Rhode Island's Constitutional Development 1776-*

1841 (Providence: Rhode Island Historical Society, 1977), 16 (hereafter cited as *Democracy in Decline*).

14. *R.I. Records*, 1:87.

15. *Ibid.*

16. *Ibid.*, 100 (text of the compact joining the two towns under one government, signed at the General Court of Election in 1640 in the town of Newport).

17. *R.I. Records*, 1:129.

18. McLoughlin, *R.I. History*, 28.

19. Conley, *Democracy in Decline*, 17.

20. *R.I. Records*, 1:145. The charter is also referred to as the “Patent for Providence Plantations,” dated March 14, 1643. Because the old Julian calendar was still used in the colonies prior to 1752, the researcher may find apparent discrepancies in the dates of various documents and events.

Under the Gregorian calendar, adopted in 1752, the date of the Patent, or Charter, is March 24, 1644. The text of the Patent appears in *R.I. Records*, 1:143-46; also in Benjamin Perley Poore, *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States*, 2d ed., 2v. (Washington, D.C.: Govt. Print. Off., 1878) 2:1594-95; and in Francis Newton Thorpe, *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America*, 7v.

(Washington, D.C.: Govt. Print. Off., 1909) 6:3209-11.

21. Ibid.

22. Conley, *Democracy in Decline*, 18.

23. Ibid.

24. See text accompanying note 38.

25. *R.I. Records*, 1:156.

26. Ibid., 148-49.

27. Ibid., 191, *et seq.*

28. For the full text of the Acts and Orders and the act which established a General Court of Trials, See *R.I. Records*, 1:147-208; the text of the Acts and Orders is also reproduced, in part, in *Colonial Origins of the American Constitution: A Documentary History*, edited and with an introductory essay by Donald S. Lutz (Indianapolis: Liberty Fund, 1998) 172-203.

29. Second Address from Rhode Island to King Charles the Second, *R.I. Records*, 1:490-91.

30. Ibid., 491.

31. For a full account of the Dorr Movement, see Marvin E. Gettleman, *The Dorr Rebellion: A Study in American Radicalism: 1833-1849* (New York: Random House, 1973).

32. For other sources of the text, see Poore, *Federal and State Constitutions*, 2:1595-1603; and Thorpe, *The Federal and State Constitutions*, 6:3211-22.

33. *R.I. Records*, 2:6.

34. *Ibid.*, 8.

35. *Ibid.*, 9, *et seq.*; See also, Sydney V. James, *The Colonial Metamorphoses in Rhode Island: A Study of Institutions in Change*, ed. by Sheila L. Skemp and Bruce C. Daniels (Hanover, N.H.; London: University Press of New England, 2000) 51-52 (hereafter cited as *Colonial Metamorphoses*).

36. Robert F. Williams, "Rhode Island's Distribution of Powers Question of the Century: Reverse Delegation and Implied Limits on Legislative Powers," *Roger Williams University Law Review* 4 (Fall 1998): 159-74.

37. *R.I. Records*, 2:5-6.

38. James, *Colonial Metamorphoses*, 53-63.

39. McLoughlin, *R.I. History*, 42.

40. Letter from Rhode Island to Connecticut, 25 October 1676, *R.I. Records*, 2:556-58.

41. McLoughlin, *R.I. History*, 48.

42. *Ibid.*

43. For a discussion of this period, see "Rhode Island Becomes an Imperial Entrepot," in McLoughlin, *R.I. History*, 50-83.

44. *Ibid.*, 53; for documents related to complaints against the colony, see *R.I. Records*, v.3.

45. McLoughlin, *R.I. History*, 82-83.

46. *R.I. Records*, 7:522-23.

47. *Ibid.*, 7:581.

48. McLoughlin, *R.I. History*, 94-95.

49. *Ibid.*, 98-99.

50. *Ibid.*, 100.

51. For a complete account of Rhode Island's history during the period of confederation, see Irwin H. Polishook, *Rhode Island and the Union, 1774-1795* (Evanston, IL: Northwestern University Press, 1969) [xi], 268 p.

52. *R.I. Records*, 1:145.

53. *Ibid.*, 151 (Laws of Oleron refer to a twelfth century code of maritime laws adopted by England successively under Richard I, Henry III, and Edward III, according to *Black's Law Dictionary*, 6th ed., s.v. "Oleron, Laws of").

54. *R.I. Records*, 3:425.

55. *Ibid.*, 5:289 (lists the specific statutes in force in the colony "until the General Assembly shall order otherwise").

56. Sidney S. Rider, introduction to *The Charter and the Acts and Laws of His Majesties Colony of Rhode-Island, and Providence-Plantations in America* (Providence: Sidney S. Rider and Burnett Rider, 1895)11.

57. *Ibid.*, 9.

58. Information for the following summary of the development of the Rhode Island court system is taken from: Thomas Durfee, *Gleanings from the Judicial History of Rhode Island* (Providence: Sidney S. Rider, 1883); and Edmund W. Flynn, “Judicial History of Rhode Island,” *West’s Rhode Island Digest* (St. Paul, MN: West Pub. Co., 1952) 1:xii-xxii.

59. 4 *R.I.* 324 (1856).