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**Deborah A. Rosen**. *Courts and Commerce: Gender, Law, and the Market Economy in Colonial New York.* Columbus: Ohio State University Press, 1997. xvi + 232 pp. $45.00 (cloth), ISBN 978-0-8142-0737-6; $49.95 (cloth), ISBN 978-0-8142-0736-9.

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**Mining the Legal Records of New York**

In a series of topical chapters Deborah Rosen, a professor of history at Lafayette College, explores the way that law became a tool for participants in a commercial economy and the ways that gender made a difference in eighteenth-century New York. Rosen argues that the focus of historians on the impact of a growing market economy in the nineteenth century has led them to miss a major transformation in the eighteenth. Careful to include both urban and rural areas within her samples, Rosen documents New York's participation in the consumer revolution of the eighteenth century, the increasing reliance of interest-bearing debt by males, changes in the legal system to make it an effective tool for this commercialization, and the growth of a more impersonal market economy. Finally, Rosen looks at the role of women within this system, arguing that the evidence neither supports a romanticized "golden era" for colonial women nor an improved status for women of the revolutionary era.

The underpinnings for this discussion are the legal records of colonial New York. Rosen has done a systematic sampling of both upstate and city records to document each of her points about economic activity and wealth in pre-revolutionary New York. She has complemented this work with good use of the legal records as qualitative sources, and an appropriate array of recent work by scholars working on New York and other colonies. Thus Rosen frequently places what is happening in New York in a larger colonial context. She also spend much time trying to distinguish her work from those of others.

Rosen's statistics are convincing. New York clearly underwent a major economic transition in the eighteenth century. Men clearly participated in a market economy based on commercial credit to which women had little access. The courts increasingly became a tool for the collection of commerical debt and enforcement of commercial contracts. The market economy fueled and supported a consumer economy. Inheritance patterns and legal rules of coveture limited women's participation. The one exception to this pattern of exclusion was that widows were an important source of capital by loaning money at interest.

The findings, however, are hardly surprising. The outlines of this eighteenth-century consumer revolution have been reported from South Carolina to New England in studies produced by numerous scholars over the last twenty years. For example, in their 1980 study of Middlesex County, Virginia, Darrett and Anita Rutman thoroughly documented that a consumer revolution occurred in the Chesapeake by 1750. Since then numerous Chesapeake historians have confirmed that finding. Throughout the 1980s other studies–notably those by Edwin Perkins, Carole Shammas, Lorena Walsh, and Russell Menard–have filled out that picture for a variety of colonies.[1] Similarly, legal scholars have been documenting the increasing use of eighteenth-century courts as debt-collection tools in several colonies. Cornelia Dayton's *Women Before the Bar* covers this topic thoroughly. Peter Charles Hoffer's *Law and People in Colonial America* also mentions the rise in litigation in the early 1700s.[2] Even if not pathbreaking, Rosen's data is very useful in confirming and extending the findings with solid, convincing data on New York.

The discussions of gender and law, however, are much more problematic. Rosen switches from careful statistical analysis of behavior revealed in legal records to deductive reasoning based on legal treatises, newspaper articles, and post-colonial court decisions. Following the path laid out by Marylynn Salmon, Rosen comes to even more negative conclusions, claiming that women had no contractual rights in colonial New York, for example. The only evidence cited for this claim is Blackstone's famous dictum about the husband and wife being

one person in the law and a set of nineteenth-century decisions. The distinction between status of married and single women thus disappears from much of her argument. The secondary works she cites to show that the rules of coverture did not change (including some of this reviewer's research) argue, in fact, that actual legal outcomes and custom did change. Rosen dismisses evidence that women actively participated in the economy as exceptional even when the studies are based on the kind of widespread quantitative evidence that Rosen favors in the earlier sections of her book.[3]

Rosen's editors would have served her better by encouraging her to take this book through another revision. Small errors have gone uncorrected. For example, Rosen uses the financial problems mentioned in Long Island resident Mary Cooper's journal to illustrate the problems of a widow (pp. 47-48). However, Mary's husband Joseph Cooper or "Daddy" (which Mary spelled "Dade" or "Dadde") was very much alive.[4] The appendix is truly an appendage–17 pages of charts that could not be integrated into the text because they deal with topics not really covered. The women's material in the final third of the book contradicts statements made earlier in the sections on the economy. There is some good statistical work in this volume, but the transformation from dissertation to book is not complete. As a result, specialists in the field may want to refer to her work on the role of New York courts in commerce, but it will not be attractive to a broader audience.

Notes

[1]. Darrett and Anita Rutman, *A Place in Time* (New York: W. W. Norton, 1980); Edwin Perkins, *The Economy of Colonial America* (New York: Columbia University Press, 1988); Lorena Walsh, "Urban Amenities and Rural Sufficiency: Living Standards and Consumer Behavior in the Colonial Chesapeake, 1643-1777," *Journal of Economic History* 43 (1983): 109-117; Carole Shammas, "Consumer Behavior in Colonial America," *Social Science History* 6 (1982): 67-86; and Carole Shammas, *The Pre-Industrial Consumer in England and America* (Oxford: Clarendon Press of Oxford University Press, 1990).

[2]. Cornelia Hughes Dayton, *Women before the Bar: Gender, Law, and Society in Connecticut, 1639-1789* (Chapel Hill: University of North Carolina for Institute of Early American History and Culture, 1995); Peter Charles Hoffer, *Law and People in Colonial America* (Baltimore: Johns Hopkins University Press, 1992).

[3]. Joan R. Gundersen and Gwen Victor Gampel, "Married Women's Legal Status in Eighteenth-Century New York and Virginia," *William and Mary Quarterly*, 3d ser., 39 (1982): 114-134; Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill: University of North Carolina Press, 1986); Lisa Wilson, *Life after Death: Widows in Pennsylvania, 1750-1850* (Philadelphia: Temple University Press, 1992); Patricia Cleary, "'She Merchants' of Colonial America: Women and Commerce on the Eve of the Revolution," Ph.D. dissertation, Northwestern University, 1989.

[4]. Field Horne, ed., *The Diary of Mary Cooper: Life on a Long Island Farm, 1768-1773* (Oyster Bay, N.Y.: Oyster Bay Historical Society, 1981), pp. 2, 7, 13, 26, 39, 58, 60, 61. The editor is very clear about identifying Jospeh Cooper as "Dade".

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