



April, 2017

This section of the Sun Tavern in the East Parlor focuses on the Courthouse (now the Town Hall in Fairfield) and the early cases tried in Fairfield. Images, interpretive panels and a “You be the Judge” interactive explore themes of early laws that addressed both real and perceived threats to the community. From the 1600s through the mid-1900s those who felt they had been wronged—and those accused of wrong-doing—came to the Fairfield Town Green to have justice administered.

Open space and bench seating enables programs that explore the courts, legal history, and 17th/18th/early 19th-century crime and punishment.

Seeking Justice on the Fairfield Town Green



The Fairfield Green has always been a civic hub for the community. It was here that the residents placed the meetinghouse where they first worshipped, the jail, courthouse, churches, a school, and taverns that served both locals and travelers. Militia drilled here, preparing to defend the community. It has been a place of public announcements—like the reading of the Declaration of Independence—and a place of celebration—like a community ox roast marking the end of the War of 1812. It has also been the place for seeking and dispensing justice. **From 1666**, when the county court was established at Fairfield, until **1853**, when the court moved to Bridgeport, men and women from around the region came here—to the Green—to argue for what they felt was rightfully theirs or defend themselves against accusers.

17th Century Crime and Punishment

Law and the Bible

In the 1600s the meetinghouse was a place of both worship and governing for the town. This made sense, as most colonial laws were rooted in the Bible and addressed both physical and moral threats to the community. Punishments included fines, public shaming (usually involving time in stocks or pillory), physical penalties (like whipping, branding, or having an ear cut off), or death. In the Code of 1650, Connecticut’s first set of laws, capital crimes included blasphemy, adultery, murder, and witchcraft.

Fairfield's Witch Trials [See "Accused" Teacher Guide & Book]

Most New Englanders in the 1600s believed that the devil could influence witches to use magic against others. Although the Salem, MA witch trials are more famous, the first execution for witchcraft in the colonies was in Connecticut in 1647. Often it was women on the margins of society who were accused. One of the most widespread panics occurred in 1692, when six women were accused by a Stamford girl. Two—Elizabeth Clawson and Mercy Disborough— were ultimately tried in the courthouse here in Fairfield. Evidence included witness testimonies, "Devil's marks" found on one woman's body, and ducking (or "trial by water") in Edward's Pond on the Green. Clawson was acquitted. Disborough was convicted, although the decision was later overturned.

Seeking Justice in Revolutionary Fairfield

Wartime Cases

During the American Revolution (1776-1783), many cases brought to trial in Fairfield related to area residents' support—or lack of support—for the Patriot cause. Failure to appear for military duty could land you in court, as could illegally breaking the wartime trade embargo or providing supplies to the British. In 1782 Allen Nichols of Fairfield pled guilty and was fined for transporting "a certain long boat... laden with fresh beef, cheese & fatted geese" to Long Island, where he intended to sell provisions to the enemy. Loyalists could legally have their property confiscated. In 1780 Jonathan Bulkley, who owned the tavern just across the street, was called upon to defend himself against accusation that he was a British sympathizer. He was acquitted.

Burning of Fairfield

On July 7-8, 1779, British forces burned much of Fairfield in an attempt to interrupt the flow of provisions from local farms to the Continental Army and to draw George Washington from his position at West Point. In October, at the urging of Fairfield residents, the General Assembly appointed a three-man committee to assess the damages. Residents who suffered losses were excused from paying taxes for a time. Like residents of other Connecticut towns who suffered at the hands of the British, they were also compensated after the war through allocations of land in the "Firelands" portion of the Western Reserve in Ohio. [*Flipbook for visitors shows the damage incurred from the Burning*]

Testimonies

In late July and August 1779, several women who had remained in the town through the raid provided first-hand testimony about what happened. Some of that testimony is also included here.



Eunice Dennie Burr, wife of Thaddeus Burr

"I had been told 'that if people would stay in their own houses (they) the enemy would not molest them, and their property would be safe.' [Soldiers] came rushing into the house, and repeatedly accosted me with, "You damn'd rebel, where is your husband, he is a selectman!" . . . at the same time stripping me of my buckles, tearing down the curtains of my bed, breaking the frame of my dressing glass, pulling out the drawers of my table and desk; and after taking what they could find, they then went up stairs, and proceeded much in the same manner. [...] No sooner were one set out, but another came in, calling for cider, breaking down the china, stone, and glass ware in the closets, and wherever they found it." Fairfield, August 2, 1779

Jane Bulkley, the wife of Andrew Bulkley

“A number of officers and men came to my house... and said that persons who stayed in their houses, should be safe in person and property; and at their request, I went and milked my cow, and gave them the milk; whereupon, the cow was led away by them, and killed.” July 24, 1779

Mary Beers, wife of Reuben Boers

“That about 1 o’clock... Hessians, in Gen. Garth’s division, broke into our house, and thereupon I came out of the cellar, with two small children and a negro child; and on opening the cellar door, they cried out, kill her, kill her, and came at me with a number of fixed bayonets. [...]The Hessian general... said, my husband should be well used; that my person, property, children and house should be safe; but said he, (the general laying his hand on the head of my little babe,) poor child, I pity you, I cannot spare your house, it must be burnt.” Fairfield, 24th July, 1779

Ruana Roberson, wife of John Roberson

“They said they would burn the church, for that it was not the church of England, nor had it been since the war, for the professors did not comply with the articles of the church of England.” Fairfield, July 22, 1779

Ann Nichols, wife to Hezekiah Nichols

“That when the troops under the command of Gen. Tryon, came into Fairfield, I was peaceably at home; and thereupon, one of the soldiers came to me and with strong hand, robbed me of the buckles out of my shoes; and in the course of the night, I was often treated with extravagant, insulting, and abusive language, and threatening at my own house. [...] I escaped from the conflagration of the town, in the morning, and concealed myself in a wet ditch and miry swamp.” Fairfield, July 21, 1779

For Self-Guided Visitors

Take it to Court

The County Court met twice a year in Fairfield, generally in April and November, with two commissioners (later called Justices of the Peace) presiding and a jury of twelve men . The County Court served various functions, including issuing tavern licenses and appointing local officials, but most of what they did was to decide legal cases. In addition, the Superior Court—the court of appeals, which also had jurisdiction over divorce cases—met twice a year in Fairfield as it completed its circuit of county seats. The Superior Court consisted of a chief justice and four other men.

If the Robe Fits... (interactive & self-guided)

Judicial robes were first used in the colonies in the 1760s in an effort to make the courts look more dignified, like those in England. Justices wore red robes in winter and black in summer, along with wigs. Court clerks and lawyers wore black robes.

You be the Judge

Your job is to hear the evidence, consider the law, and deliver justice in each case. You and the Defendant (or witness) should both read the introduction. Then flip the page towards your partner to try the case. As the judge, you always get to speak first. At the very end of each case, you can read what really happened.

You be the Defendant

Your job is to tell your story to the Judge who will make a decision in each case. You and the Judge

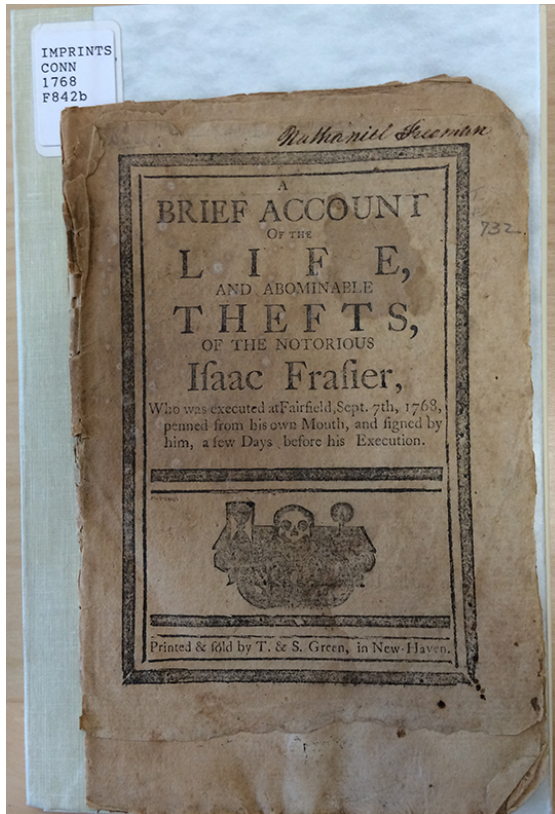
should both read the introduction. Then flip the page towards you to try the case. As the Defendant, you always wait for the Judge to speak first. At the very end of each case, you can read what really happened.

Case 1

Page 1: Judge & Defendant

Case against Isaac Frasier: Theft, Jail-breaking, and Arson 1768

Isaac Frasier was born in Rhode Island but spent much of his life in Connecticut and Massachusetts. He committed dozens of burglaries in both states. He was caught several times. A couple of times he was tried and punished, but he also escaped from jails in Litchfield, Fairfield, and New Haven. On April 27, 1768, he was tried by a special court in Fairfield.



Cover of Isaac Frasier's narrative

Page 2: Judge

Judge: Do you admit to breaking into houses and shops and stealing money, gold and silver, linen and other fabrics, coats and vests, buckles, silver spoons, silk handkerchiefs, combs, horses, deer skins, shoes, guns, and beaver hats over the years?

Page 2: Defendant

Frasier: Yes, and I have been punished. Twice I was whipped, cropped*, and branded with a "T" for thievery. * in this use, "cropped" means having part of your ear cut off.

Page 3: Judge

Judge: Yet these punishments did not keep you from committing more crimes. Two years ago you were warned that you would face the death penalty if you were convicted again. Then you were caught breaking into a shop in Fairfield and put in jail. Around midnight you set fire to the jail in an effort to escape—is that true?

Page 3: Defendant

Frasier: Yes. I had another prisoner help me, but the fire spread too quickly, and we were almost killed. In the end, the jail, the jailer's apartment, and the courthouse all burned down.

Page 4: Judge

Judge: These crimes were really the last straw! Do you have anything to say to defend yourself before I declare my verdict?

Page 4: Defendant

Frasier: My father died when I was a small child, and my mother was very poor. She has no choice but to bind me as an apprentice at the age of 8. My master's family was not kind to me. They did not make me attend church, and they did not teach me right from wrong. I believe this was the beginning of my wicked ways.

Page 5: Judge

You be the judge! What do you think should happen to Isaac Frasier?

Page 5: Defendant

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Page 6: Judge & Defendant

Isaac Frasier was convicted and sent to jail in New Haven to await execution. He petitioned the General Assembly for a pardon but was rejected. He also broke out of the New Haven jail, although he was soon caught again. He wrote a narrative of his life while in jail and was finally executed in Fairfield on September 7, 1768.

Case 2

Page 1: Judge & Defendant

Case against Peter Banks: Illegal Smallpox Inoculation 1778

Smallpox was the most feared disease in the American colonies. It was very contagious, and there was a major epidemic going on at the same time at the Revolutionary War. Inoculation was available starting in the 1720s. However, it was very controversial, because it involved exposing the person to a small dose of the infection in hopes that they would get a mild case of the disease and be immune after a few weeks of recovery. Inoculation was expensive, so it was not available to everybody. Also, people who had been inoculated were not always careful to stay isolated. The state passed a law making it illegal for civilians to be inoculated without permission:

“And be it further enacted, That no person hereafter within the limits of any town in this state, shall receive, give or communicate the infection of the small-pox by way of inoculation... without first obtaining a certificate from the major part of the civil authority, and of the select-men of such town....”

Page 2: Judge

Judge: Peter Banks, is it true that you were voluntarily infected with smallpox in this town of Fairfield without the permission of the town selectmen?

Page 2: Defendant

Banks: Yes, I received the inoculation in my left arm. I wanted to protect myself from this deadly disease. General Washington has ordered that the entire Continental Army be inoculated. Wise men like Benjamin Franklin, John Adams, and Thomas Jefferson support inoculation. Why should I not do it?

Page 3: Judge

Judge: But you risked making other people sick. Those who are inoculated must stay away from other people for 2-4 weeks, until their symptoms are gone. You were seen walking around town while still sick with the disease.

Page 3: Defendant

Banks: If I had asked for permission, I might have been refused. I could not risk it. It is true that I did not feel completely recovered, but I had to carry out my business in town. I did not intend to put anyone else in danger.

Page 4: Judge

You be the judge! What do you think should happen to Peter Banks?

Page 4: Defendant

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Page 5: Judge & Defendant

In truth, Peter Banks did not even show up for his court appearance. However, the judge must have determined that Banks did not pose a significant danger to the community. The case against Banks was dismissed, although he did have to pay nine pounds, nine shillings, and eight pence to cover the court costs.

Case 3

Page 1: Judge & Defendant

Case against Thomas Wagstaff: Counterfeiting 1770

Counterfeiting—printing, minting, or knowingly using fake money—was a real problem in colonial America. There were so many currencies in use—British and Spanish coins, plus a variety of paper money printed in each of the colonies—that it was not too surprising that counterfeiting was widespread. Even one of the most famous engravers and printers in Connecticut, Abel Buell of New Haven, was convicted of counterfeiting in his youth.

Page 1: Judge

Judge: Thomas Wagstaff, you are accused of minting fake money. What do you have to say for yourself?

Page 1: Defendant

Wagstaff: It was my friend, John True, who got me involved in this crime! John claimed that he could stamp Spanish silver dollars out of less expensive metals and no one would know the difference. All I did was provide him with the cheaper metal.

Page 2: Judge

Judge: But you were still part of the plot! If people in this colony cannot be confident that their money

is worth what it says it is worth, we will have chaos. Do you know that just two years ago, in 1768, a large group of men was convicted of counterfeiting right here in Fairfield? They were all branded with a “C” and each had part of his right ear cut off. And they were lucky. In some colonies the punishment would be death.

Page 2: Defendant

Wagstaff: I beg you, sir! I have confessed my involvement. Please be lenient!

Page 3: Judge

You be the judge! What do you think should happen to Thomas Wagstaff?

Page 3: Defendant

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4: Judge & Defendant

Thomas Wagstaff was sentenced to a fine, but he could not afford to pay and was imprisoned for 14 months. Along with the other counterfeiters in the jail, he broke out and escaped while awaiting trial. Advertisements offering rewards for his capture were published, and eventually he was caught in New York and returned to Fairfield. He was tried and sentenced to pay a fine, which he was not able to do. He asked the legislature for relief, and they eventually ordered his release, on condition that he stay within the town limits of Fairfield.

Case 4

Page 1: Judge & Complainant

Mary Bennett v. James Bennett: Divorce

1705

Image: colonial couple.jpg or something generic?

Connecticut’s laws regarding divorce were the most permissive in the British Empire. The marriage contract could be broken due to abandonment or infidelity, and either the husband or the wife could initiate the divorce case. Physical violence was not grounds for divorce in colonial law, but by the late 1700s, the legislature sometimes approved divorces on the grounds of “cruelty” when the courts could not.

Page 2: Judge

Judge: Mary Bennett, what brings you to the court today?

Page 2: Complainant

Bennett: Sir, I am here seeking a divorce from my husband, James Bennett. He deserted me four years ago and has sent no support for me or our poor children.

Page 3: Judge

Judge: This is very serious. Three years of abandonment is generally enough to grant a divorce. Have you heard nothing from him? Have you no idea where he might be?

Page 3: Complainant

Bennett: No one has seen him in this colony for the past four years, but I have heard word from friends

that he may be in Virginia or Maryland. Please, sir, I do not think my husband will ever come back. I need to be able to marry again. How else will I support my children and myself?

Page 4: Judge

You be the judge! Do you think Mary Bennett should be granted a divorce?

Page 4: Complainant

Blank

Page 5: Judge & Complainant

Unfortunately, we do not know the judge’s decision in this case—just that it was brought to the court. It is likely that Mary Bennett was granted a divorce based on the evidence of desertion, which would allow her to remarry and give her the right of one-third of their property.

Courthouse Timeline

1647	The first execution for witchcraft was in Connecticut
1650	Connecticut’s first set of Laws
1666	The court was established in Fairfield, Connecticut
1692	A wide spread witchcraft panic swept the colonies, 6 women were accused by a Stamford girl. Elizabeth Clawson and Mercy Disborough tried in the courthouse in Fairfield. Clawson was acquitted. Disborough was convicted.
July 7-9 1779 Burning of Fairfield	British forces burned much of Fairfield in an attempt to interrupt the flow of provisions to local farms to the Continental Army. The General Assembly appointed a three men committee to assess the damages. Residents who suffered losses were excused from paying taxes for a time.