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978-0-521-15225-9 - Law and the Borders of Belonging in the Long Nineteenth Century United States

Barbara Young Welke

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## Law and the Borders of Belonging in the Long Nineteenth Century United States

For more than a generation, historians and legal scholars have documented inequalities at the heart of American law and daily life and exposed inconsistencies in the generic category of “American citizenship.” Barbara Young Welke draws on that wealth of historical, legal, and theoretical scholarship to offer a new paradigm of liberal selfhood and citizenship from the founding of the United States through the 1920s. *Law and the Borders of Belonging in the Long Nineteenth Century United States* questions understanding this period as a progressive narrative of expanding rights, revealing that it was characterized instead by a sustained commitment to borders of belonging of liberal selfhood, citizenship, and nation in which able white men’s privilege depended on the subject status of disabled persons, racialized others, and women. Welke’s conclusions pose challenging questions about the modern liberal democratic state that extend well beyond the temporal and geographic boundaries of the long nineteenth century United States.

Barbara Young Welke is Associate Professor of History and Professor of Law at the University of Minnesota. She is the author of *Recasting American Liberty: Gender, Race, Law and the Railroad Revolution, 1865–1920* (Cambridge University Press).

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BARBARA YOUNG WELKE

*University of Minnesota*



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## ACKNOWLEDGMENTS

This book began almost a decade ago not as a book but with an invitation from Michael Grossberg and Christopher Tomlins to write an essay for *The Cambridge History of Law in America*. Editorship is its own craft. It requires being able to read less than fully articulated and often conflicting ideas expressed in muddy, disorganized, incomplete prose and see the potential, and then, through equal parts questioning, probing, seeing, encouraging, and where necessary redirecting, to help an author to fully realize and express her ideas. Mike and Chris bring all these skills to editing. They responded to more long, reflective emails, read more versions of the essay and then the book, and welcomed more follow-up phone calls than any author would have a right to ask. At every stage, they offered support, pushed me to be clear about what I was saying, and challenged me where they were unconvinced. It is with the deepest respect and gratitude that I acknowledge their knowledge, skill, support, and friendship.

Mike and Chris got me into this thing and helped me see it through, but I could write *Law and the Borders of Belonging* only because of the original archival work and scholarly articles and monographs of the many scholars who came before me. “All works of history are in a sense collaborative endeavors, for no matter how original, they necessarily build

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on previous scholarship. This is even more true for books, like [this], based largely on secondary literature. My greatest debt is to the legions of American historians on whose work I have relied.” Eric Foner opens the acknowledgments of *The Story of American Freedom* with these words and sentiments. Agreeing with them entirely and unable to improve upon them, I repeat them here. I have tried to convey something of my intellectual debt, as well as providing a resource for further reading, in the bibliographic essay.

Completing this book required reading far beyond the boundaries of my own areas of expertise. I benefited immensely from the generosity of many individuals who read the manuscript at various stages and supported me throughout. Their suggestions of other works I should read and comments on parts of the work that most closely touched on their own fields of study broadened my field of vision. It is with deep pleasure that I acknowledge all those who gave so generously of their time and knowledge. Margot Canaday, Kirsten Fischer, Linda Kerber, Erika Lee, Jeff Ostler, and Peggy Pascoe all read the first long version of what ultimately became (in a dramatically shortened version) the CHLA essay. Their generosity in volunteering to read kept me going; their comments made both the essay and the book far better. It was Kirsten, Erika, and Linda who independently each suggested that they thought this was a book, not just an essay. I thank them for their specific comments on the manuscript, but also for first seeing that this might be a book and then supporting me in the additional years of work that endeavor required. Peggy’s thoughtful comments, as always, filled many single-spaced pages. Jeff’s reading was absolutely crucial for his expertise in Native American history. Next to Chris and Mike, Margot Canaday read more drafts of the book than anyone. Her generosity in offering to read again and again and the fresh eye and important critiques she brought to every reading both meant a great deal to me and have made this a better book. The students in my U.S. Women’s Legal History course at the University of Minnesota enthusiastically read an early draft of the book;

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their reading was key in helping me see the book through undergraduates' eyes. Conversations about the project with Susan Rugh while paddling in the BWCAW improved both the book and my quality of life.

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this be the first book in a new series in legal history by Cambridge University Press, edited by Michael Grossberg and Christopher Tomlins. Three anonymous reviewers read the book for Cambridge University Press. I am grateful to all of them. Publishing has changed dramatically in the decade since Cambridge published my first book in 2001. It is now, like so much else, a largely global electronic enterprise. I appreciate having had as my guides in this new world Eric Crahan, Editor, History & Politics; Emily Spangler, Senior Editorial Assistant, History & Politics; Marielle Poss, Senior Production Controller; the team at Newgen Imaging Systems, Chennai, India; Robert Swanson and Gerald McLenahan in navigating Cambridge's distinctive indexing system; and in copyediting the manuscript, Sue Spiegel.

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*Belonging* or, as we’ve called it for short, “BoB.” That they all support yet more book projects tells you that I am as lucky in my home life as I am in my professional life.

Barbara Young Welke

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