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978-1-107-00879-3 - A Legal History of the Civil War and
Reconstruction: A Nation of Rights

Laura F. Edwards

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A Legal History of the Civil War and Reconstruction

Although hundreds of thousands of people died fighting in the Civil War, perhaps the war's biggest casualty was the nation's legal order. *A Legal History of the Civil War and Reconstruction* explores the implications of this major change by bringing legal history into dialogue with the scholarship of other historical fields. Federal policy on slavery and race, particularly the three Reconstruction Amendments, are the best-known legal innovations of the era. Change, however, permeated all levels of the legal system, altering Americans' relationship to the law and allowing them to move popular conceptions of justice into the ambit of government policy. The results linked Americans to the nation through individual rights, which were extended to more people and, as a result of new claims, were reimagined to cover a wider array of issues. But rights had limits in what they could accomplish, particularly when it came to the collective goals that so many ordinary Americans advocated. Ultimately, Laura F. Edwards argues, this new nation of rights offered up promises that would prove difficult to sustain.

Laura F. Edwards is the Peabody Family Professor of History at Duke University. Her book *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* was awarded the American Historical Association's 2009 Littleton-Griswold Prize for the best book in law and society and the Southern Historical Association's Charles Sydnor Prize for the best book in southern history.

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Acknowledgments

When Chris Tomlins and Mike Grossberg invited me to write the chapter on the Civil War and Reconstruction for *The Cambridge History of Law in America*, I resisted. I had just published my first book on Reconstruction, was finishing my second book on women in the Civil War era, and wanted to leave the period behind and move on to a new project. I tried to say no. In fact, if memory serves (which, admittedly, it often does not), I said no twice. Chris and Mike, however, kept coming back, and I finally agreed to the project. At the time, I was unsure about that decision. Now I cannot thank them enough for their persistence or their faith in me. Handing over the chapter on the Civil War and Reconstruction, with its voluminous and contentious historiography, to a then-junior scholar whose work had focused more on gender than on legal history was a gamble that others would not have taken. In fact, I realize now that my initial hesitance was as much about my own doubts about this particular intellectual challenge as it was about my eagerness to move on to a new project that I thought – mistakenly – was unconnected to this one. I am now grateful that I took on *The Cambridge History of Law in America* essay. The essay and this book (which is based on that essay) have challenged me in ways I never anticipated and have changed the way I think about the nineteenth century more generally. I am even more grateful to Chris and Mike, whose encouragement and support saw me through.

I also owe a huge debt to the undergraduate students who have taken my U.S. legal history courses and my U.S. women's history courses. I worked through the ideas in this book through those

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courses over the past fifteen years. My students were, unknowingly, engaged in the process of revision with each comment they made and each question they asked. Their input has added immeasurably to this book.

Nancy MacLean, Lisa Levenstein, and Jacquelyn Hall read the first half of the manuscript at a critical moment, and their feedback was crucial in framing the book's analysis, setting its tone, and keeping its author on track. Greg Downs, Kate Masur, and Mike Ross generously read and commented on drafts of the entire manuscript, and their comments have strengthened the analysis enormously. The conference "The World the Civil War Made," organized by Kate and Greg with Bill Blair at Penn State University, provided a particularly important intellectual space for thinking through some of the big issues in the book toward the end of the writing process. I also benefited from feedback at a workshop at the University of Oregon Law School, the Third Biennial UnCivil Wars Conference at the University of Georgia, and a seminar at the History Department, University of Tennessee. The comments of two anonymous readers on the initial proposal were particularly engaged and thoughtful, and they helped me enormously in crafting this manuscript.

I may have resisted the project initially, but I had more fun writing this book than I have had writing any other book. The opportunity to read widely, explore connections among various strands of the scholarship, and put all those ideas together in narrative form was incredibly rewarding. That experience owes to the uninterrupted time made possible by a John Simon Guggenheim Postdoctoral Fellowship, and I thank the Guggenheim Foundation for seeing the promise in this project and providing the opportunity to realize its potential. I also thank Duke University for providing leave that allowed me to take a full year to write.

This book is dedicated to my husband, John McAllister, as are my last book and my first book. That is because he has been and always will be the center of my world.