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Book Preface

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PREFACE

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At her death in December 1997, Betsy Clark had been working for more than a dozen years on a study tentatively entitled "Women, Church and State: Religion and the Culture of Individual Rights in Nineteenth-Century America." Between 1987 and 1995, several of the planned chapters had appeared in law reviews and in history journals. Another chapter had been written and revised before and during the first stages of her illness. Two chapters can be found in preliminary form in her 1989 Princeton dissertation and had been presented to a colloquium at Harvard Law School. But other chapters planned for the work were never committed to paper, in particular a chapter on notions of privacy (a pervasive feature of several of the competed chapters) and a concluding essay intended to examine both "the shift from negative and political rights claims to remedies requiring intervention or redistribution between groups of citizens...and...the relationship between the assertion of new 'rights' and remedies and the growth of state power."

As readers of the articles know, the work she lived to complete was both of extraordinarily high quality and completely original. Betsy Clark was a superb close reader of legal, religious, and polemical texts. She wrote with energy and wit, and she knew how to make arcane 19th century debates and controversies live for late 20th and early 21st century readers. All of her work grew out of a serious and continuing belief that she was exploring one historical foundation for the modern constitutional language typically identified for us with the jurisprudence of reproductive rights and abortion. She had, she believed, uncovered a "groundwork for contemporary notions of rights."

In a grant application written (we believe) during the summer of 1997, she described her historical story as beginning with early nineteenth century religious critiques of slavery, which were then mobilized "to bring forward new arguments for individual rights in the private sphere." Broad "aspirational claims for autonomy, bodily integrity, education, and a host of other 'rights' not contemplated by the Founders helped to create an environment in which some legal protections for individuals in their private capacities came to seem desirable." Some of those claims to state protection for individual capacity and privacy were ratified in constitutional amendments, statutes and case law, and bureaucratic regulations and practices in the thirty years after the Civil War. Understandings of the liberal individual came as a result to include a sphere of bodily integrity. Meanwhile, factions of the woman's movement debated the nature of the emerging state. Their arguments illustrated "the complex and often paradoxical relationship between citizens and the welfare state in an era when both individual rights and state power seemed to be growing."

The book she had planned would have had three parts to it, plus a conclusion. A first part, entitled "Antebellum Reform," focused on the political and religious culture within which aspirational rights talk developed. This part included three chapters, all of which had been written and revised during Betsy's life, versions of two of which were previously published. The second part of the book, "Liberal Suffragism, 1865-1895," also was planned to be composed of three chapters. Only one of these chapters was previously published, although Betsy's article on Elizabeth Cady Stanton incorporates some of the material that she would have included in

imagined chapters four and six. Part three, devoted to “Evangelical Suffragism, 1873-1895,” should have held a never drafted introductory chapter, followed by two chapters devoted to the legal and political thought of Frances Willard and the early Women’s Christian Temperance Union. Those latter two chapters exist only in a form slightly revised from her doctoral dissertation. Finally, as we mentioned earlier, she envisioned a concluding chapter.

We cannot produce the book Betsy would have written had she lived. Part One of her imagined book is complete. Much of Part Two is as well, although the articles she wrote focused more sharply on the legal thought of Elizabeth Cady Stanton than the final chapters would have. The work of Part Three remained in the form it was cast in her doctoral dissertation. It too focused on the thought of one woman, in this case Frances Willard, and it would have been dramatically recast in its final form. More importantly, Betsy died without having resolved a number of central interpretive questions that would have determined the book’s overall argument. Two such questions leap out from our review of her work: the relationship of the early WCTU (evangelical feminism) to the abolitionists, anticlericals, and liberal feminists that she had explored in earlier chapters and, secondly, the relationship of the whole nineteenth century history of rights discourse and the woman’s movement to the modern (late 20th century) constitutional languages of privacy and individualism and bodily integrity.

But while we cannot make Betsy’s book as it might have become, we can or hope to stimulate other historians and legal scholars and citizens to find their own answers to the questions she raised. So, in addition to reproducing her finished articles and chapters in a form that is at least roughly consistent with her expressed plans, we have asked several scholars to reflect on Betsy’s themes, in effect to write their own concluding essays to the work she did not live to produce. The scholars we have included come from varying perspectives, reflecting the range of subjects that Betsy’s work touched on: including the history of religion, constitutional history, legal theory, the methodology of legal history, and the history of feminism and woman’s rights. They are (in the order in which their essays appear): Kristin Olbertson of Alma College (Michigan); Carol Weisbrod of the University of Connecticut School of Law; Christine Stansell of the Princeton History Department and Martha Minow of Harvard Law School..