

Not Belonging

On May 9, 1866, San Francisco's leading daily newspaper published a front-page story describing a "tremendous sensation" that occurred the previous evening in the downtown district, caused by a woman dressed "in black doe-skin pants, men's boots, riding jacket, hat, etc., full masculine apparel." The woman was "leaning on the arm of what appeared to be a man although it might have been a woman," and her appearance drew "a mob of small boys, some hundreds in number," who shouted insults until restrained by police. The police, however, did not arrest the woman, despite her violation of a local cross-dressing law, prompting the newspaper to comment, "As the police arrest every man caught on the street in women's clothing, we see no reason as to why the rule should not be applied to the other sex as well." The next day San Francisco police dutifully arrested the woman, a feminist dress reformer named Eliza DeWolf, launching a court case and newspaper scandal that gripped the city for months.¹

The following decade, in December 1874, San Francisco police arrested John Roberts for appearing in public in "female attire," or more specifically, in the clothing of a "pretty waiter girl," consisting of "a red striped dress with train *de mud a la Barbary Coast*, a straw hat with a bit of lace and artificial flowers in it, a heavy veil which concealed his face, and a comforter which

he wore around his neck.” During these years Barbary Coast bars, in the heart of the vice district, employed “pretty waiter girls” and some female impersonators to sell liquor and sex on the premises. We do not know whether Roberts worked in these bars or merely dressed in the style of their employees. Passing over such details, court reporters stated that Roberts was drunk at the time, had a “mania” for wearing women’s clothing, and had been recently arrested for the same offense.²

Twenty years later, in 1895, San Francisco police staked out a residential neighborhood to investigate complaints about a “strange woman” who walked the streets every evening. After close surveillance, they arrested Ferdinand Haisch, a middle-aged carpenter who lived in the neighborhood, on charges of “masquerading in female attire.” At the time of her arrest Haisch was wearing the latest women’s fashions: a three-quarter-length melton coat, green silk skirt, red stockings, silver-buckled garters, high-heeled shoes, and stylish hat. Unable or unwilling to provide a reason for this clothing, Haisch simply stated that apart from her carpenter’s outfit, it was the only clothing she had. Reporting on the arrest, newspapers stated that Haisch went to considerable lengths to present as a woman, making her own clothing and feminizing her voice. Following a brief stint in the city prison, Haisch was released by a judge on the condition that she never wear women’s clothing in public again.³

DeWolf, Roberts, and Haisch were just three of the people arrested for cross-dressing in nineteenth-century San Francisco. Specifically they fell afoul of the law that animates this book—a law that made it a crime for a person to appear in public “in a dress not belonging to his or her sex.”⁴ Passed by the San Francisco Board of Supervisors in 1863, this prohibition occurred in the context of a broader indecency law that also criminalized public nudity, indecent exposure, lewd acts, and immoral performances. In the hands of police and judges, the law became a flexible tool for regulating a wide range of cross-dressing practices, facilitating more than one hundred arrests before the century’s end. Those arrested faced public exposure, police harassment, and up to six months in jail; by the turn of the century they also risked psychiatric institutionalization or deportation if not a U.S. citizen.

Arresting Dress examines the emergence, operations, and legacies of San Francisco’s cross-dressing law during the second half of the nineteenth century. At first glance this may seem an obscure topic. After all, the law was passed almost 150 years ago, it targeted an arguably marginal cultural prac-

tice, and it created only a misdemeanor offense. However, if cross-dressing histories teach us anything, it is that first appearances can be deceiving. Far from a marginal practice, cross-dressing was a central component of nineteenth-century urban life. Indeed cross-dressing emerged as peripheral only in the wake of cross-dressing law; consequently this book scrutinizes marginality as one of the law's effects. Moreover cross-dressing laws were not idiosyncratic or archaic regulations but foundational city codes that were central to the project of modern municipal government. Such laws were passed in over forty U.S. cities between the Civil War and World War I, with remarkably long lives, remaining in force until the 1970s. These laws had wide circulation, reaching beyond the legal realm of courtrooms and codebooks into newspaper scandals, freak-show performances, tourist entertainments, and vaudevillian theater. They also had immense effects, producing new definitions of gender normality and abnormality that haunt us today. Finally, cross-dressing laws extended beyond the policing of normative gender to impact the social meanings of city space, race, and citizenship. In particular they crossed paths with federal immigration laws to limit the terms of national belonging and construct a gender-normative nation. Far more than a local government order that created a misdemeanor offense, cross-dressing law represented a specific strategy of government that constructed normative gender, reinforced inequalities, and generated new modes of exclusion from public life.

A Brief Overview of Cross-Dressing Law

Although cross-dressing laws are rarely, if ever, enforced in U.S. cities today, they were a central component of urban life from the mid-nineteenth century to the mid-twentieth. Between 1848 and 1900 thirty-four cities in twenty-one states passed prohibitions against cross-dressing, as did eleven more cities before World War I.⁵ Most of these cities, including San Francisco, passed laws that specifically targeted a person “wearing a dress not belonging to his or her sex” or “wearing the apparel of the other sex” as part of broader prohibitions against public indecency. Other cities, such as Los Angeles and New Orleans, passed laws prohibiting “indecent dress” or wearing “disguises” that did not mention gender or sex but encompassed cross-dressing when they were enforced. Cross-dressing laws were local innovations, passed by municipal governments, and no state or federal legislature passed a law that

directly prohibited cross-dressing practices. However, California and New York did pass state laws that criminalized public “disguise” or “masquerade” for the purpose of avoiding identification.⁶ As with local disguise laws, the state statutes were not specifically aimed at cross-dressing practices but were nonetheless used to arrest people for wearing gender-inappropriate clothes.

Far from being nineteenth-century anachronisms, cross-dressing laws had remarkable longevity and became a key tool for policing lesbian, gay, and transgender communities in the mid-twentieth century. In particular, numerous oral histories and memoirs document their frequent—and frequently brutal—enforcement in working-class bars and neighborhoods during the 1950s and 1960s. For example, in their study of a working-class lesbian community in mid-twentieth-century Buffalo, New York, Elizabeth Kennedy and Madeline Davis interviewed several women who remembered the police arresting butch lesbians for wearing less than three pieces of women’s clothing, in violation of local law. In Nan Alamilla Boyd’s book *Wide Open Town* San Francisco residents describe similar harassment on the West Coast, where the police used cross-dressing law to arrest transgender women and gay men in drag, as well as butch lesbians. Several law review articles provide additional support for what these histories suggest: city police departments across the United States used cross-dressing laws to harass queer and transgender communities in the mid-twentieth century, particularly when they raided bars but were unable to catch customers soliciting or having sex. In San Francisco this police harassment helped spark the 1966 Compton’s Cafeteria riots that mark the birth of U.S. transgender activism. Even the more widely known Stonewall riots in New York in 1969 appear to have been at least partially fueled by cross-dressing laws; according to the social historian Martin Duberman, the crowd in the Stonewall Inn fought back only after the police attempted to arrest a butch lesbian for wearing men’s clothing.⁷

Given the high number of U.S. cities that passed cross-dressing laws and their central role in twentieth-century queer and transgender life, surprisingly little is known about their history, particularly during the nineteenth century, when they were initially passed.⁸ Consequently this book breaks new ground by providing the first in-depth study of U.S. cross-dressing laws in one city, San Francisco, during the second half of the nineteenth century. Of course, San Francisco does not represent all of the U.S. cities that passed cross-dressing laws, but it does provide a particularly rich site

for analyzing the production and policing of normative gender in relation to broader societal trends.⁹

Between 1848 and 1900 San Francisco experienced unprecedented growth, as a series of economic, political, and social upheavals transformed the region from a small, coastal village in recently Mexican territory into an epicenter of U.S. capitalist investment, urban development, and imperial expansion. This rapid development made questions of governance, social order, and urban space particularly pressing, as the burgeoning city struggled to develop a system of government that benefited its white, male, merchant elite. The same half century also encompassed a crucial period in the reformulation of gender and sexual norms, as well as the redrawing and consolidation of racial and national boundaries against a backdrop of U.S. territorial expansion, manifest destiny ideology, changing patterns of immigration, the end of slavery, and the birth of Jim Crow segregation. Once again emergent questions of morality, difference, racialization, and citizenship assumed particular urgency in San Francisco, where city life was profoundly shaped by the multinational gold rush migrations and the aftermath of the Mexican-American War. San Francisco's cross-dressing law thus emerged in an acutely charged political and cultural climate, where broad societal trends were condensed and accentuated. In this context the interplay of multiple boundary formations comes into view—of normative gender, race, and nation and governable city space. Using cross-dressing law as a window onto these formations, *Arresting Dress* uncovers an important component of lesbian, gay, and transgender history that has consistently appeared in the footnotes of twentieth-century studies but has yet to be brought to the fore.

The significance of cross-dressing laws, however, extends beyond their historical prevalence to encompass their political effects as strategies of government that produced new definitions of normative gender during a period of rapid social change. In using the term *normative gender* I refer, in part, to the multiple taken-for-granted rules and assumptions that dictate how men and women are supposed to be in a given society, including how they should look, act, feel, and think. In this book, however, I primarily use the term to refer to something more fundamental: the modern Western insistence that all bodies and ways of being can be meaningfully divided into discrete, opposing binary categories of male and female, man and woman, masculine and feminine. These binary gender norms are cultural products, not biological absolutes, and they seem to be everywhere and nowhere at

the same time; they permeate our assumptions, our interactions, and even our language but can be difficult to isolate and pin down. However, despite their seemingly elusive character, there are moments in history when the boundaries of normative gender are thrown into question, disrupting our classification schemes. During these moments social institutions often intervene to define and regulate normative gender, restricting who can lay claim to femininity or masculinity and who is permitted to be a woman or man. Such institutional impositions create new contested terrain, as normative gender boundaries are formed, deployed, policed, negotiated, and resisted with varying degrees of success.

In the second half of the nineteenth century local governments across the United States took up the project of normative gender in a particularly explicit way, through laws that made it a crime for a person to appear in public in “a dress not belonging to his or her sex.” At first glance today these laws seem to focus exclusively on clothing, banning women from wearing pants, for example, and men from wearing dresses. On closer examination, however, cross-dressing laws come into focus as a central mechanism for policing a whole series of “belongings”—not only the items of clothing that “belonged” to a specific sex but also the types of people that “belonged” in public space and the types of bodies that “belonged” in the categories of man and woman.

A Scholarship of “Not Belonging”

Written in opposition to the restrictions on “belonging” that cross-dressing laws incited, this book resists three theoretical or methodological judgments of “not belonging” that can hamper cross-dressing histories. First, it resists the division of cross-dressing phenomena into groups that do and do not “belong” in sexuality and gender studies. It does so through trans-ing analysis, a new interpretive approach that can reinvigorate and open up cross-dressing histories, without embracing every cross-dressing trace as indicative of a lesbian, gay, or transgender past. Second, the book resists the isolation of nonnormative gender as a formation that does not “belong” alongside classifications of race, sex, disability, and citizenship. In doing so it introduces the concept of problem bodies to signal the wide range of bodies that local government targeted for legal regulation in nineteenth-century San Francisco. Finally, it resists the elevation of law as an autonomous domain that does not “belong” in popular culture and the downgrading

of popular culture as an apolitical domain that does not “belong” in studies of law. In doing so it highlights the mutual operations of regulation and fascination in the production of gender marginality.

The book’s analytic innovations primarily speak to queer and transgender studies, even as they draw from and contribute to additional bodies of scholarship, including gender history, urban studies, critical legal studies, and critical race studies. Specifically the book builds upon several historical studies of cross-dressing in the nineteenth-century United States, which developed out of the lesbian and gay studies movement in the late 1970s and 1980s. Much of this work emphasized the political utility of social history and uncovered a wealth of evidence on cross-gender practices in the nineteenth century, particularly material on females who dressed and lived as men.¹⁰ Many of these studies represented the purposeful efforts of queer scholars to reclaim a shared and recognizable past, and they frequently affirmed cross-dressing females as prototypical lesbians, and later as transgender men. Indeed significant debate occurs within this literature concerning the (homo) sexual versus (trans)gender identities of historical cross-dressers.¹¹

The lesbian and gay studies movement carved out critical space in academia for the study of cross-dressing histories. It also provided me with invaluable leads toward some of the archival sources that I use in this book. However, while these studies are based on rich historical evidence and a laudable political desire to reclaim and validate past experiences, they have important analytic limitations.¹² In particular the imposition of contemporary gender and sexual identities onto past cross-dressing practices rests on the assumption that past experiences can be accurately understood in terms of present-day categories and concepts. This, however, is not the case. As numerous historians have documented, the ways that Western societies organize gender and sexuality today are quite different from the ways they did so in the past. In particular the concepts of transvestite, transsexual, and transgender did not exist for most of the nineteenth century, nor did the concepts of lesbian, homosexual, and heterosexual. This, of course, does not mean that people did not dress, live, and identify as the “opposite” sex or have sex with others of the same sex. It does mean, however, that the social and subjective meanings of these practices cannot be assumed but need to be carefully investigated, both to shed light on the past and to gain insight into the ways that contemporary understandings of gender normativity and difference emerged.¹³

In sharp contrast to the cross-dresser as prototype trope found in early lesbian and gay studies, 1990s queer theory presented the cross-dressing figure as a metaphor for the instability and fluidity of gender and sexual identities. Most notably Judith Butler used the cross-dressing, cross-gender figure to deconstruct the binary of authentic versus imitative gender. Butler highlighted butch/femme and drag performances as sites of gender contestation, arguing that the contradiction between sex and gender contained in these performances exposes the construction of all gender performances. Marjorie Garber extended Butler's insights by analyzing the possibilities of transvestite representations to signify the artifice of gender binaries. Garber argued that the persistent popular appeal of transvestism stems from its extraordinary power to indicate "category crises," or moments of turmoil when the naturalness of binary classifications is called into question. Moreover these category crises are not limited to sex, gender, and sexuality but can include race, class, and national classifications, as accompanying cultural anxieties are displaced onto the transvestite as "a figure that already inhabits, indeed incarnates, the margin."¹⁴

While Butler's and Garber's work is invaluable for troubling the ostensibly natural relationships between binary sex, gender, and sexuality, their theoretical insights can appear disconnected from specific sociohistorical contexts in which "gender trouble" and "category crises" emerge. As a result some scholars argue that Butler's and Garber's metaphoric use of drag erases transgender subjectivities, celebrating the "gender trouble" caused by transgender representation while neglecting the "gender trouble" experienced in transgender lives. While acknowledging that these criticisms are part of a broader, ongoing dialogue between queer theory and transgender studies, this book shows that both forms of "gender trouble" can be usefully brought together through close attention to the specific ways that normative gender boundaries are produced, policed, negotiated, resisted, and deployed.¹⁵

Trans-ing Analysis

This book presents a new critical approach for studying cross-dressing histories that I term *trans-ing analysis*. This approach incorporates insights from the burgeoning field of transgender studies, as well as from scholarship that seeks to queer history, either by focusing on nonnormative sexual practices (without reducing them to lesbian or gay identities) or

by excavating the sexual meanings and dynamics of phenomena that are not transparently sexual (as in scholarship that seeks to queer the state).¹⁶ Trans-ing analysis follows a similar logic but with specific focus on the historical production and subsequent operations of the boundary between normative and nonnormative gender. As such it brings together a range of cross-gender phenomena that are rarely considered alongside one other—not only people and practices that are marked as nonnormative but also cross-gender practices that do not provoke censure and cross-gender discourses that represent men as feminine, women as masculine, and gender difference as impossible to read. Trans-ing analysis thus expands the framework for examining the political significance of attempts to produce and police normative gender boundaries through cross-dressing laws.¹⁷

In this book I use trans-ing analysis to shift attention—at least provisionally—away from the recognizable cross-dressing *figure* to multiple forms of cross-dressing *practices*. In doing so I carve out analytic space for practices that do not always or easily attach to recognizable cultural figures—the cross-dressing practices of men who donned women’s clothing at gold rush dances, for example, or of white women who wore men’s clothing to visit Chinese prostitutes. This shift also facilitates expanded analysis of the variety of cultural figures that cross-dressing practices did sometimes coalesce around, incorporating not only the familiar figures of sexuality studies, such as the “passing woman” or the “fairie,” but also the feminist dress reformer, the female stowaway who lived as a man aboard ship, the male gender illusionist who performed as a woman on the respectable vaudevillian stage, and the female prostitute who wore men’s clothing to advertise her sexual services. By bringing together a wide range of cross-gender practices, trans-ing analysis provides space to highlight their potentially disparate cultural meanings and contradictory effects.

In addition to encompassing multiple cross-gender *practices*, I use trans-ing analysis to bring cross-gender *representations* into the framework of study, focusing on popular and expert discourses that depict hyperfeminine men, hypermasculine women, and illegible gender. Such discourses proliferated in nineteenth-century San Francisco, as newspapers and political tracts published texts and images that were not specifically about cross-dressing but nonetheless used cross-dressing as a rhetorical device to comment on social and political issues of the day. Most notably, popular and political discourses used cross-gender imagery to represent Chinese

men as hyperfeminine in an effort to mobilize support for exclusionary immigration laws. Placing cross-dressing imagery alongside practices and prohibitions, trans-ing analysis facilitates a richer exploration of the production and circulation of normative gender.

Problem Bodies

Just as this book proposes trans-ing analysis to assemble a wide range of cross-dressing practices and representations, it introduces the concept of “problem bodies” to collectively refer to the multiple sets of bodies that local government officials defined as social problems and targeted for intervention. In nineteenth-century San Francisco these included bodies that were marked as a social threat because of their performance of cheap labor (the Chinese laborer) or participation in marginal street economies (the disabled beggar, the city prostitute), as well as bodies that were marked as a threat due to their departure from emerging gender norms (the “degenerate” female impersonator, the feminist dress reformer, the “bogus man”). Placing problem bodies alongside one another, this book shows that cross-dressing laws were not an isolated or idiosyncratic act of government but one part of a broader legal matrix that was centrally concerned with the boundaries of sex, race, citizenship, and city space.

Laws that targeted problem bodies appeared in the “Offensive Trades and Nuisances” chapter of the municipal codebook. This body of law defined the atypical human body as an unsightly public nuisance, akin to sewage, trash, and slaughterhouses that operated within city limits. As such it positioned problem bodies on the margins of humanness—not as some *body* whose actions created public disorder but as some *thing* whose existence constituted urban blight. At the same time, nuisance law acknowledged the everyday character of the bodies and objects it regulated; it insisted not on their complete eradication but on their relocation to a different space where they could be concealed or confined. Under the proscriptions of nuisance law, problem bodies existed at the vexing intersection of commonplace and contemptible—an “everyday other” to be socially and spatially contained.

The “problem bodies” concept has clear parallels with Jennifer Terry and Jacqueline Urla’s term *deviant bodies*.¹⁸ In their formulation, the term critically interrogates the scientific and popular belief that deviance is locatable within the body—a belief that gained particular currency in the United

States during the nineteenth century as social conflicts were displaced onto the individual aberrant body. The concept of problem bodies performs comparable analytic work but with a specific focus on the practices of local government. In particular it spotlights a distinct process, observable in nineteenth-century cities such as San Francisco, whereby disparate sets of bodies were framed as undermining the municipal project of administering urban life. Certainly some problem bodies, at some times, were subjected to scientific scrutiny and viewed through the lens of embodied abnormality. Many others, however, were marked by a nuisance law framework as an annoying but ordinary presence in city space. The problem bodies concept is particularly useful for cross-dressing history, as it facilitates analysis of the overlapping ways that cross-dressing bodies were constructed and policed—not only as indecent bodies that threatened public morals but also as nuisance bodies that threatened public order and as illegible bodies that threatened the cultural imperative of verifiable identity in an anonymous city. Foregrounding the role of municipal government over science, I use problem bodies to spotlight a distinct terrain in the production of marginality: the local management and policing of city space.

I primarily developed the problem bodies concept to make sense of the persistent coappearance of these bodies in archived texts. Within nineteenth-century municipal codebooks, for example, cross-dressing, prostitute, and disabled bodies appeared alongside one another as (il)legal equivalents in public space, through general orders that banned the public appearance of a person wearing “a dress not belonging to his or her sex,” in “a state of nudity,” or “deformed so as to be an unsightly or disgusting object.” Problem bodies were also brought together in the local police court, as cross-dressing offenders shared the holding cells and court benches with Chinese laborers who violated the city’s lodging house laws and city prostitutes who engaged in “indecent” displays. Freak-show amusements similarly brought these bodies together, as cross-dressing performers shared the spotlight with the racialized “Missing Link” and “What-Is-It?” characters and multiple performances of disease and “deformity.” In city newspapers reports of cross-dressing arrests appeared alongside stories of Chinese immigrants who “sneaked” into the country in cross-gender disguise. It would take considerable effort to “unsee” such connections, when legal and popular practices persistently grouped these bodies as sharing a common existence on the margins of urban citizenship. The problem bodies concept

is thus an archival approach as much as a theoretical framework, which refuses to obscure the clear historical connections among nonnormative gender, sex, race, disability, and citizenship.

By using the concept of problem bodies to construct and interpret cross-dressing history, this book pays particularly close attention to the interplay of gender, racial, and national formations. It draws from scholarship that demonstrates that race has no biological or scientific basis but is a socially constructed category that emerged through historically specific processes of racialization. In the United States the social and political creation of “race” served to justify European American dominance by resolving a fundamental paradox at the heart of the republic: founded on principles of democracy and freedom, the nation’s economic and political development was rooted in the enslavement of Africans, the genocide of Native Americans, the exclusion of Asian immigrants, and the conquest of Mexican land. The construction of race helped to explain this contradiction by masking social inequalities as natural.¹⁹

Claims about gender and sexuality played a key role in processes of racialization, and I am indebted to numerous scholars who have analyzed these complex historical entanglements, especially in the American West.²⁰ In particular I draw on scholarship that examines the historical linkages among nonnormative gender, racial politics, and national belonging. Karen Leong, for example, argues that American orientalism relies heavily on tropes of feminization that depict Asian nations and peoples in feminine forms. In the late nineteenth century such representations played a key role in national politics, legitimizing federal laws that barred Chinese immigrants from the nation. Nayan Shah further highlights these connections by documenting the ways that officials in nineteenth-century San Francisco viewed economic and domestic arrangements in Chinese communities through a lens of gender “deviance” that justified systematic marginalization and disenfranchisement. *Arresting Dress* builds on this work by sharpening the focus on cross-dressing practices, prohibitions, and representations. Specifically it shows how the cultural circuits of cross-dressing laws sharpened lines between white and Chinese San Franciscans, paralleling and intersecting concurrent attempts to manage racial and national conflicts.²¹

Legal Borders

I argue that San Francisco's cross-dressing law did not operate through prohibitions alone but through a constitutive power that produced new definitions of normative and nonnormative gender. As Barbara Young Welke argues, legal institutions have remarkable power to construct "borders of belonging" that delimit the terms of citizenship along axes of gender, race, and ability. Legal scholars have long recognized the law's productive capacities, and historians have paid particular attention to its role in racialization. In the second half of the nineteenth century multiple laws promoted white supremacy, including federal laws that restricted citizenship to "white persons and persons of African descent," state antimiscegenation laws that outlawed interracial marriages, and state Jim Crow laws that mandated racial segregation in public facilities. As Ariela Gross argues, these laws assumed that racial identity was fixed and transparent, but their enforcement revealed otherwise, requiring courts to explicitly define racial categories and actively sort people among them. I argue that cross-dressing laws performed parallel work on the grounds of gender, shaping the legal categories of man and woman and limiting who could lay claim to each.²²

San Francisco's cross-dressing law did not simply *police* normative gender by enforcing preexisting standards and beliefs but actively *produced* it by creating new definitions of normality and abnormality and new restrictions on participating in public life. It did so, in part, by sorting out a wide range of cross-dressing practices, classifying some as acceptable, harmless, or entertaining and others as marginal, dangerous, or criminal. In targeting "a dress not belonging to his or her sex," the legal text lent itself easily to this task, focusing on practices that were transparently social (i.e., what clothing does and does not "belong" to whom) and hence subject to contestation and change. This imbued cross-dressing law with the flexibility to police a shifting sartorial boundary and hence to prosecute a range of dress practices judged to not belong.

Cross-dressing laws mobilized two overlapping strategies of containment that circumscribed cross-dressing discursively, within the category of criminality, and spatially, within the private sphere. This had profound effects on the gendered meanings of urban space at a time when city living assumed an increasingly central place in the nation. The rapid growth of the city prompted the development of new modern forms of municipal

governance that proactively intervened in local affairs. In particular, modern municipal governments increasingly relied on early forms of zoning to govern urban space, limiting specific industries (such as slaughterhouses and hospitals) to designated areas of the city.²³

Cross-dressing laws relied on the same logic as early zoning laws, seeking to confine nonnormative genders to designated private spaces and to reduce their public visibility. In the process it not only impacted the lives of those whose gender appearances fell within its reach; it also impacted the sociogeography of the city, marking public city space as exclusively gender normative and limiting gender difference to private or hidden realms. This consolidated definitions of gender normativity by overstating the rarity of “difference” and exaggerating the prevalence of the “norm.” Far from an idiosyncratic prohibition on marginal practices, cross-dressing laws were a specific form of governance that played a central role in the production of modern city space.²⁴

When foregrounding the productive capacities of cross-dressing laws, this book resists the temptation to view “the law” as a coherent autonomous domain that exists independently of other cultural practices. It draws from scholarship that calls for a critical cultural studies approach to law, focusing on the cultural lives of legal forms.²⁵ *Arresting Dress* thus traces the operations of cross-dressing laws outside of the juridical realm of courtrooms and codebooks into sites of popular culture where they ostensibly do not belong: the newspaper scandal, vaudevillian theater, the dime museum freak show, and the commercial slumming tour. As a result we see that cross-dressing laws had remarkably wide circulation, as offenders appeared as objects of scandal in newspaper stories and even as star attractions in local freak shows. Rather than point to distinct processes of legal regulation and cultural fascination, these popular sites reveal their overlaps and reinforcements, with regulation inciting interest and a desire to see, and fascination having disciplinary effects that circle back to law.

Archival Belongings

Complementing these analytic innovations, the book rests on a novel and expansive archive that assembles social processes, relations, and subjectivities that allegedly do not belong together. As authoritative and public acts of government, cross-dressing laws left a trail of documentation in their wake,

found in codebooks, arrest records, and court reports. As cultural texts that incited public outrage and fascination, cross-dressing laws also left their mark in newspaper scandals, freak-show publicity, theater reviews, and slumming tour guides. I spent many months in California libraries and museums locating these records, bringing together a wide range of documents that are frequently held apart by the disciplinary terms of scholarship and the structure of the archive.²⁶ For example, I read police records alongside freak-show catalogues, legal texts alongside novels, and government reports on Chinese immigration alongside newspaper scandals about cross-dressing. In doing so I was influenced by scholarship that challenges the concept of the archive as a neutral repository of facts and foregrounds its historical constitution and political effects.²⁷ This scholarship shows that the logic of the archive—its classifications, adjudications, inclusions, and exclusions—is a “discursive formation” that constrains what can be found, known, and narrated as “history.” I interrupt such archival reasoning to foreground social relations and processes that may otherwise have been obscured. As a result I bring together historical characters that seldom share the pages of academic inquiries, despite sharing nineteenth-century city streets: gold rush miners and freak-show performers; slumming tourists and dress reformers; female impersonators and stowaways.

Although this book focuses on cross-dressing laws, it does so expansively, extending in multiple directions to include the concurrent policing of race, sex, citizenship, and city space and the mutual operations of regulation and fascination in processes of marginalization. Despite this expansiveness, it does not—in fact it could not—provide a complete and accurate picture of cross-dressing laws in nineteenth-century San Francisco. In part this is because I rely exclusively on archived documents, which provide only a partial window onto the past. Moreover the documents that were available to me, such as government reports, newspapers, and private papers that somebody deemed worthy of preserving, reflect a particularly narrow and elite set of voices. Certainly different people’s voices occasionally appear in these documents, but only within institutional contexts (such as court trials or newspaper interviews) over which they had little control. The picture these documents present, then, reveals virtually nothing about cross-dressing practices that did not result in official investigation or newspaper scandal, nor about the subjective experiences of people who broke the law. However, these documents do reveal plenty about the stories that

government officials, judges, and journalists told about cross-dressing, regardless of their “truth.” Consequently I use these documents not to provide a complete and accurate account of the past but as windows onto dominant ideologies, anxieties, and classifications of the time.²⁸

As a study of nineteenth-century municipal law, this book confronts a problem that is well known to San Francisco historians: the sweeping destruction of local government documents by the 1906 earthquake and fire. Of particular consequence, the earthquake and fire destroyed virtually all records of the local police court, which had jurisdiction over cross-dressing crimes and other misdemeanor offenses.²⁹ California state court records can mitigate this problem for some researchers, as they document the appeal of cases that began in local courtrooms, including San Francisco’s police court. Cross-dressing offenders, however, did not appeal to the state courts or generate the higher level of legal discourse preserved in state records. The earthquake and fire also destroyed records that detailed everyday police work, including the police chief’s daily register of arrests and a register of “suspicious activities.”³⁰

Given the absence of local and state records, I relied on two main sources to reconstruct police and courtroom activity related to cross-dressing laws. First, I used the local government publication *Municipal Reports* to determine when cross-dressing arrests occurred. Published every fiscal year, *Municipal Reports* included annual arrest statistics, disaggregated by type of offense, and sometimes reported by month.³¹ Second, I combed the “local items” and “police court” columns of city newspapers to locate cross-dressing cases. These daily columns provided information on offenders’ names and alleged crimes, as well as on police court verdicts and sentences. These reports were often incomplete, describing a person’s arrest and conviction, for example, but failing to report his or her sentence. Moreover they overwhelmingly focused on white cross-dressing criminals and overlooked Chinese and Mexican offenders. These news reports played a key role in the operations of cross-dressing laws, establishing gender normativity as the property of whites. Consequently, although I use city newspapers to reconstruct cross-dressing cases, I do so critically, reading closely for silence and its effects.³²

Arresting Dress is not a conventional social history, and it does not primarily aim to recuperate lost histories. Nonetheless the book is grounded in a wealth of archival material, compiled in years of research, and readers who seek the new “stories” that new histories promise should not be disap-

pointed. Alongside Eliza DeWolf, John Roberts, and Ferdinand Haisch, for example, readers will meet Wong Ah Choy, a stowaway who wore men's clothing in violation of local law and attempted to evade immigration inspectors during the years of Chinese exclusion. They will also meet Dick/Mamie Ruble, a person who rejected all gender classifications and invited the police court judge to feel his/her muscles before stating, "I couldn't pass for a woman anywhere, even if I tried."³³ The book also introduces new characters who wore women's clothing that "did not belong to [their] sex," including Bert Larose, a "female impersonator" who sold liquor and picked pockets on the Barbary Coast and engaged in sexual acts with drunken male patrons, and Geraldine Portica, who lived in San Francisco from girlhood until her cross-dressing arrest triggered deportation to Mexico in 1917. Readers will also gain fresh perspective on some of the city's characters that have appeared in earlier cross-dressing histories, learning of Jeanne Bonnet's courtroom defiance after multiple cross-dressing arrests, for example, and Milton Matson's insistence that judges recognize his manhood, even as the police insisted he had a female body. Finally, readers will learn of new venues that provided cross-dressing entertainments in nineteenth-century San Francisco, including Bottle Meyer's bar on Pacific Street, which hired female impersonators in the 1890s, and commercial slumming tours through Chinatown and the Barbary Coast that encouraged female patrons to dress as men. Consequently, although this book focuses on the proscriptions and punishments that impinged on gender difference in nineteenth-century San Francisco, it also details the tenacity and persistence of those outlawed—people who defied the law, spoke out when sentenced, and articulated different gender possibilities.

Organization of the Book

Chapter 1, "Instant and Peculiar," explores the cultural forms, contexts, and meanings of cross-dressing in the years leading up to criminalization. A wide range of cross-dressing practices occurred during these years, shaped by the multinational, predominantly male migrations of the gold rush and the U.S. annexation of California from Mexico after less than three decades of independence from Spanish colonial rule. In the wake of these social upheavals, cross-dressing practices performed contradictory cultural work, with some destabilizing dominant notions of gender and race

and others consolidating the power of European-American men. Despite their disparate cultural meanings, these cross-dressing practices were legal equivalents, unhampered by government interference in a heterogeneous public sphere. This virtual legal vacuum was short-lived, however, and as the gold rush years came to a close San Francisco's government passed a local law that made it a crime for a person to appear in public "in a dress not belonging to his or her sex." This marked a new approach to managing gender in the rapidly developing city, positioning cross-dressing as a social problem in need of clear legal response.

Chapter 2, "Against Good Morals," examines the emergence of San Francisco's cross-dressing law in the context of a broader antiprostitution law. In the early 1850s multiple indecencies proliferated in the city, largely ignored by a municipal government that rarely intervened in local affairs. As the gold rush years came to a close, however, the social, political, and economic landscape changed, prompting new formulations of local government responsibility and new concerns about gender, sexuality, and family life. In this context political movements targeted cross-dressing and prostitution as problems of indecency and demanded government intervention through local law. This did not indicate a shift from a "wide-open" frontier town to a "locked-down" police state, but it did signal the debut of a proactive local government that assumed new responsibilities for the social and moral order of the city. In particular the law's emergence tightened the bounds of normative gender, pushing previously tolerated cross-dressing and commercial sex practices to the margins, as acts that no longer belonged in everyday public life.

Chapter 3, "Problem Bodies, Public Space," shifts the focus away from cross-dressing law's emergence to explore its legal operations and effects. Despite its roots in antiprostitution law, cross-dressing law soon became a tool for policing multiple gender offenses, including those of feminist dress reformers, female impersonators, fast young women who dressed as men for nights out on the town, and people whose gender identification did not match their anatomy in legally acceptable ways. The law did not respond to all cross-dressing practices equally, however, but selectively targeted those deemed to pose a social threat. Containing cross-dressing threats discursively (within the category of criminal) and spatially (within the private sphere), the law dictated the terms of urban belonging and marked city streets as gender-normative space. In the process it dovetailed with a host

of nuisance laws concerned with the public visibility of multiple problem bodies, particularly those of Chinese immigrants, prostitutes, and those deemed maimed or diseased. Cross-dressing law did not eradicate all cross-dressing practices, but it did ensure that those who continued to engage in them would be classified as criminal, aberrant, not belonging. In the process it set in motion new definitions of gender normality and abnormality and new modes of exclusion from public life.

None of this, however, means that cross-dressing practices completely disappeared from sight. In chapter 4, “A Sight Well Worth Gazing Upon,” I show how cross-dressing law increased the visibility of cross-dressing practices under the sign of criminality. After all, cross-dressing law consisted of not only a legal text that formally prohibited public cross-dressing practices but also a set of legal and cultural procedures that brought them into view. Specifically, everyday law enforcement mobilized intimate forms of surveillance and spectatorship as multiple actors *looked for* and *looked at* cross-dressing criminals in police photographs, court sketches, and newspaper crime reports. Visibility was partial, however, as newspaper reports focused on white cross-dressing criminals only and *looked past* similar offenses by Chinese and Mexican men and women. These representations played a crucial role in the operations of cross-dressing law, linking the politics of gender normativity to whiteness and framing cross-dressing offenders as criminal nuisances and queer freaks.

Chapter 5, “Indecent Exhibitions,” explores the relationships between cross-dressing law and three entertainment venues that placed cross-dressing performers on display: vaudevillian theater, dime museum freak shows, and commercial slumming tours. These city entertainments commercialized the law’s penchant for display and exploited the fascination that enforcement stirred up. At first glance these venues seemed to undermine the law, promoting and celebrating the public visibility of cross-dressing practices. On closer examination, however, they offered their own strategies of containment that dramatized, popularized, and democratized the normative gender boundaries that cross-dressing law produced.

Chapter 6, “Problem Bodies, Nation-State,” examines multiple points of convergence between cross-dressing laws and the federal immigration controls that developed in the late nineteenth century and early twentieth. Immigration law did not target cross-dressing as a specific practice, but supporters produced political narratives of nonnormative gender to mobilize

restrictions on national belonging. In particular, political campaigns for Chinese exclusion relied heavily upon cross-dressing imagery to vilify Chinese immigrants as hyperfeminine, deceptive men. Federal immigration law also ensnared people who wore clothing that did not “belong” to their sex, including Chinese women stowaways who tried to enter the nation undetected and resident immigrants who were deported following a cross-dressing arrest. By the early twentieth century the federal government was using immigration law to police problem bodies through exclusion from the nation. Together with cross-dressing laws, immigration laws positioned gender normativity as a precondition for full belonging.

In the book’s conclusion, “Against the Law,” I revisit my main arguments and consider the strategies of resistance employed by people who fell afoul of cross-dressing laws. Collective opposition was difficult, but individual protests arose, as people resisted arrest, argued in court, and insisted upon alternative forms of gender that undermined legal logic. These protests rarely resulted in courtroom victories, but they reached large audiences through the city press. As such they provided a counternarrative to cross-dressing laws and carved out critical space to resist their normalizing effects.

Terminology

A brief note on terminology is necessary. First, as a study of cross-dressing practices and punishments, this book inevitably confronts the challenge of representing—in the gendered English language—people whose gender identifications are unknown. Certainly this challenge is not pervasive, since some of the people who populate this book left at least partial records of their gender identification. Based on these records, for example, it is likely that Ferdinand Haisch identified as a woman, as did Eliza DeWolf. In these cases I follow my historical subjects’ lead and use pronouns and names (when known) that correspond to their self-identifications. In other cases, however, the available historical evidence is far less clear, as with John Roberts. In such cases the burden of proof often falls on the gender-variant person; the cross-dressing criminal in pants is assumed to be a woman, and the offender in a dress is assumed to be a man, unless there is compelling evidence to the contrary. In contrast, when there is no evidence of self-identification, I leave the subject’s gender identity open, using the terms *s/he* and *his/her*. Admittedly this can make for cumbersome reading, but

I choose to burden the reader with occasional awkward prose rather than burden the gender-variant subject with constant misidentification, even across the centuries. This strategy also avoids overstating the prevalence of normative gender identities, simply because they are the “norm,” without imposing cross-gender identities on all “uncertain” cases.

This book also navigates the challenges of writing about race during an era when racial categories were in flux. Chapter 1 begins in the mid-nineteenth century as multiple nationalities assembled in San Francisco, prompted by the discovery of gold and the conquest of Mexican territory. As Tomás Almaguer argues, European American migrants, from within and outside the United States, quickly joined together under the category “white,” seeking to monopolize the legal, political, and economic privileges it entailed. Chinese migrants, in contrast, were deemed a nonwhite race, with ancestral connections to Native Americans, while upper-class Mexicans were granted an intermediary status and legal classification as white, even as lower-class Mexicans were viewed as an “inferior” nonwhite race. In this book I use the terms *Chinese*, *Mexican*, and *white* to pinpoint the processes and consequences of this racialization, not to reify or essentialize race.³⁴

Finally, throughout the book I use the terms *cross-dressing* and *cross-dressing law*. However, these terms are not without their problems. First, cross-dressing does not refer to one specific style of dress but to a wide range of clothing worn by multiple people for many different reasons. The specificities of these different practices are obscured when all are grouped under the concept of cross-dressing. Second, the term *cross-dressing* erroneously assumes that the type of clothing that “belongs” to each sex is easily agreed upon, when in fact such determinations are subject to fierce social debate as well as to change over time. For example, in the nineteenth century the question of whether pants exclusively “belonged” to men or could legally be worn by women was hotly debated in city newspapers and courtrooms, as the limits of cross-dressing laws were tested. Finally, cross-dressing is a problematic concept because it assumes that people can also be easily and consensually classified as “belonging” to one of two discrete, opposite sexes. In nineteenth-century San Francisco this was transparently not the case, and numerous people self-identified as a sex they had not been assigned at birth. These identifications undermine the integrity of cross-dressing as a concept, as clothing and self-identity could be aligned even as self-identity and legal sex were not.³⁵ These problems with the term *cross-dressing* do not

render it unusable for the purposes of this book—it is, after all, what the law targeted in its ban on a person’s wearing “a dress not belonging to his or her sex.” However, these problems do make clear that *cross-dressing* is not a neutral descriptor but a politically loaded term, laden with assumptions about binary sex and gender and the meanings of their transgression. In this book I use the term only to spotlight, interrogate, and dismantle these assumptions, not to obscure and perpetuate them.