

The Pioneer Female Lawyer¹: Myra Bradwell

by Karen L. Giffen

We ... who have seen the result of her work in the State of Illinois in shaping and helping carry through ... reformatory measures .. desire to express our appreciation. .. To us, she is the pioneer woman lawyer.²

These words were spoken in 1894 about Myra Bradwell, who some believe was America's first female lawyer.³ Although the acknowledgement may seem trite, our license to practice law represents the privilege to speak to the powerful. Remarkably, Bradwell was among those women who demanded and won the right to speak to the powerful 30 years before women's suffrage.

Bradwell began her legal career in 1868 when she was established as the founder, publisher and editor-in-chief of the soon to be wildly successful *Chicago Legal News*. Indeed, the *News* eventually became the official medium for the publication of all court records in Illinois⁴ and became the most widely circulated legal newspaper in the nation. Ostensibly, the *News* was devoted to the publication of legal notices, general news and important decisions.⁵ Bradwell found a way to use its pages and power to advocate for women's rights.

In 1869, Bradwell passed the Illinois Bar examination and petitioned for a license to practice law. Her petition was denied. In its affirmation of the denial, the Supreme Court of Illinois held:

... [W]e are certainly warranted in saying, that when the legislature gave to this court the power of granting licenses to practice law, it was with not the slightest expectation that this privilege would be extended equally to men and women.

* * *

Whatever, then may be our individual opinions as to the admission of women to the bar, we do not deem ourselves at liberty to exercise our power in a mode never contemplated by the legislature, and inconsistent with the usages of courts of the common law, from the origin of the system to the present day.

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This step, if taken by us, would mean that, in the opinion of this tribunal, every civil office in this State may be filled by women; that it is in harmony with the spirit of our constitution and laws that women should be made governors, judges and sheriffs. This we are not yet prepared to hold.

Bradwell responded to the court's opinion as follows:


What the decision of the Supreme Court of the United States in the Dred Scott case was to the rights of the Negroes as citizens of the U.S., this decision is to the political rights of women in Illinois – annihilation.⁶

Bradwell was not content with the Illinois Supreme Court's decision and took the matter to the U.S. Supreme Court.⁷ The case was decided by the Supreme Court in 1873 on the heels of the court's decision in the *Slaughterhouse Cases* that held that the Privileges and Immunities Clause of the 14th Amendment did not prevent the state from depriving citizens of their right to practice a trade.⁸ The majority in *Bradwell*, merely relied upon the prior decision in the *Slaughterhouse Cases* and affirmed the Illinois Supreme Court decision. However, Justice Joseph P. Bradley,⁹ a dissenter in the *Slaughterhouse Cases*, wrote a concurring opinion that reflects the kind of thinking Bradwell faced at the time. Bradley wrote:

[T]he civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of

things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood. The harmony, not to say identity, of interest and views which belong, or should belong, to the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband. ... The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.¹⁰

While it is certain that Justice Bradley would have been unhappy with the result, the Illinois legislature eventually opened most professions to women based on legislation co-authored by Bradwell. Although she never actually practiced law, Bradwell was admitted to the U.S. Supreme Court and Illinois Supreme Court in 1892, retroactive to her initial application in 1869. Among her many accomplishments were her support for other women lawyers, publishers and authors,¹¹ the assistance she provided to Mary Todd Lincoln to win Lincoln's release from an insane asylum,¹² and her participation in the women's suffrage movement, particularly in the founding of Cleveland's American Woman Suffrage Association.¹³ She was followed into the law and the *Chicago Legal News* by her daughter, Bessie Bradwell Helmer.

Myra Bradwell has been inducted into the National Women's Hall of Fame in Seneca Falls, New York. 



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Resources: Friedman, Jane M. *American's First Woman Lawyer: The Biography of Myra Bradwell*. Prometheus Books, 1993.

footnotes

² Proceedings of the Illinois State Bar Association, January 25, 1894.

³ Among others who may vie for the honor of America's first woman lawyer are: Margaret Brent who appeared in courts in Maryland in the late 17th century; Arabella Mansfield, who passed the Iowa bar examination in 1869; and Clara Shortridge Foltz, who practiced law in California from 1878 until 1934.

⁴ *Chicago Legal News* 4 (July 20, 1872).

⁵ *Chicago Legal News* 1 (October 3, 1868).

⁶ *Chicago Legal News* 2 (February 5, 1870).

⁷ *Bradwell v. Illinois* (1873), 83 U.S. 130.

⁸ *The Slaughterhouse Cases* (1873), 83 U.S. 36.

⁹ The ignoble Justice Bradley also wrote the majority opinion in the *Civil Rights Cases* (1883), 109 U.S. 3 in which the Civil Rights Act of 1875 was examined. Justice Bradley wrote, in ruling portions unconstitutional: *When*

a man has emerged from slavery and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rights of a mere citizen and ceases to be the special favorite of the law and when his rights as a citizen or a man are to be protected in the ordinary mode by which other men's rights are to be protected.

¹⁰ *Bradwell v. Illinois* (1872), 83 U.S. 130.

¹¹ *Myra Colby Brawell: Sisterhood, Strategy and Family*, Jeanine Becker, Women's Legal History Project, Stanford Law School.

¹² This story has been dramatized in the play *Mary and Myra* by playwright Catherine Filloux.

¹³ *Women and Social Movements in the United States, 1600-2000*, Denter for the Historical Study of Women and Gender at SUNY.