

THE *DORSETT* CASE

Martha Angle Dorsett was the first woman admitted to the bar in this state. Documents and newspaper articles relating to her and her case are posted below. Each has been reformatted.

Dorsett first applied for admission to the bar in September 1876. In an order issued on October 4, 1876, Judge Austin H. Young denied her application, while noting that she had already been admitted to the bar of Iowa (a biographical profile of Young is posted separately on the MLHP). Dorsett and her husband thereupon lobbied the legislature to amend the statute on attorney qualifications, which it did in 1877. Dorsett was finally admitted on January 11, 1878.

In 1869, Arabella Mansfield became the first woman to be admitted to the bar of Iowa. Because Dorsett knew about and must have been inspired by Mansfield, a short account of the latter's admission to the bar of Iowa appears in Article X. In denying Dorsett's application, however, Judge Young found a decision denying the application of Lavinia Goodell by Chief Justice Edward G. Ryan of the Wisconsin Supreme Court more persuasive. After Ryan's ruling, Goodell lobbied the Wisconsin legislature to amend the statute, which it did in 1877. When the case returned to the Wisconsin Supreme Court in the spring of 1879, Goodell's application was granted. Both orders of the Wisconsin Supreme Court are contained in Article XI.

Thomas A. Woxland's "In Re Dorsett: Opening the Minnesota Bar to Women," 47 *Bench and Bar of Minnesota* 16-19 (November 1990), is particularly informative because it is based on personal interviews of Dorsett's grand-children. Woxland graduated from the University of Minnesota Law School in 1973, was assistant director of the University of Minnesota Law Library, then director of library and professor of law at Northern Illinois University Law School, and finally legal information officer at the International Labour Office in Geneva, Switzerland. Now retired, he lives in Decorah, Iowa. ■

ARTICLES

- I. “Women Cannot Practice Law,” *Pioneer Press*, October 5, 1876, at 6, reprinting in full Judge Young’s order denying Dorsett’s application. Pages 3-8.
- II. Editorial, the *Minneapolis Tribune*, Thursday evening, October 5, 1876, at 2. Page 8.
- III. Statute establishing admission requirements on which Judge Young based his ruling. Pages 8-9.
- IV. Statute establishing admission requirements after amendment in 1877. Page 9.
- V. “District Court—Mrs. Martha Angle Dorsett Admitted to Practice in the Minnesota Courts,” *Minneapolis Tribune*, January 11, 1878, at 4. Pages 10-11.
- VI. “A Lady Lawyer Admitted to the Bar—And that Same Old Libel Suit on Trial.” *Pioneer Press*, Saturday, January 12, 1878, at 6. Pages 12-13.
- VII. “State’s First Woman Attorney Is Dead.” *Minneapolis Journal*, March 8, 1918, at 2. Page 13.
- VIII. “Martha A. Dorsett Is Taken By Death,” *Minneapolis Morning Tribune*, March 9, 1918, at 4. Page 14.
- IX. Thomas A. Woxland, “In re Dorsett: Opening the Minnesota Bar to Women,” 47 *The Bench & Bar of Minnesota* 16-20 (November 1990). Pages 15-25.
- X. Account of the admission of Arabella Mansfield to the bar of Iowa in Mary Jane Mossman, *The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Profession* 41 (Oxford and Portland, Oregon: Hart Publishing Co., 2006). Pages 25-26.
- XI. *In the Matter of the Motion to Admit Miss Lavinia to the Bar of this Court*, 39 Wis. 232 (1875); and *Application of Miss Goodell*, 48 Wis. 693 (1879). Pages 26-34.

ARTICLE I.

(Judge Young's ruling was reprinted in its entirety on page 6 of the *St. Paul Pioneer Press*, on Thursday morning, October 5, 1876, under the headline "Women Cannot Practice Law.")

THE PIONEER PRESS

Saint Paul and Minneapolis Pioneer Press and Tribune
October 5, 1876

6

WOMEN CANNOT PRACTICE LAW.

—
The Reasons Filed Yesterday in
the Court of Common Pleas.

—
**An Important Decision by Judge A.
H. Young .**

—
Something that Will Interest the La-
dies and the Lawyers

—
It will be remembered that a few days since mention was made of the fact that a lady had made application for an examination by the proper committee with a view of becoming a member of the bar of Hennepin county. The convention was held on Monday afternoon last, and Judge Young himself pays her a high compliment in the statement that she passed the best examination of any applicant within his knowledge for a long time. But notwithstanding her undeniable capacity and knowledge of the law the court holds that she cannot practice in the courts of Minnesota on account of prohibitory statutes now in existence. In view of the importance of the questions involved, Judge Young's exhaustive opinion is herewith presented in full, as follows:

State of Minnesota, Hennepin county, court of common pleas.

In the matter of the application of Martha Angle Dorsett, to be admitted to practice as an attorney and counselor at law in said court general September term, 1876.

The applicant, Mrs. Martha Angle Dorsett, having been admitted by the Supreme Court of the State of Iowa to practice as an attorney at law in these courts of said State, presents her certificate to this court and asks to be admitted to practice herein; upon such application having been made, Mrs. Dorsett was duly examined as to her qualifications for such admission, under the laws of the State and the rules of practice of this court, by an examining committee in open court, and which said committee, after a very thorough examination, reported that the same was satisfactory and recommended that she be admitted to the bar of said court, if under the statute of this State and the rules of this court, such admission is authorized.

The statute bearing upon this point reads as follows:

“Any male person of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, is entitled to admission to practice in all the courts of this State.”

The applicant has furnished to the examining committee and court satisfactory proof that she possesses the requisite qualifications as to age, moral character, learning and ability, to entitle her to admission; but she is a female and does not, therefore, come within the scope of the statute above quoted. It is true that the statute does not, in express terms, declare that females shall not be admitted to practice; still, by affirmatively providing who may be so admitted, limiting the class to males, there is an implied inhibition against the admission of females, quite as plain and binding as though the section contained an actual prohibition. The statute referred to is exactly like the territorial statute of 1857, and which has therefore been in operation for twenty-five years.

A quarter of a century ago it was an unheard of thing for a woman to apply to be admitted to practice in the courts of any of the states, and it is scarcely to be inferred that the limiting clause referred to was at that time intended by the legislature to possess any significance as a negative act. During the period referred to, very many important alterations have been made in the laws of this, as also many other of the States, enlarging and defining the powers and

liabilities of *married women*, and in a measure approaching to the recognition of the rights and qualifications of females to exercise the functions of citizenship in the broadest sense. A limited right of franchise has been accorded in this State. In Iowa, Illinois, and possibly some other states, women have, by express statute or by an implied right, where the law is silent upon the subject, been admitted. In Wisconsin, the supreme court, under a statute containing no *positive*, and a very doubtful, if at least any implied, prohibition, rejected an application of a woman to be admitted to that court on *general principles*. The arguments of Chief Justice Ryan, in deciding the case referred to, are not without merit and sound reason, and yet it will be claimed that there is a smattering of a conservatism which assumes to exercise a guardianship of advisory protection over females, which is not in accordance with the advanced ideas of unlimited rights of citizenship on the part of such persons.

The law is noted for its conservatism, and especially so is that class of lawyers and judges who have made their profession a life study, and believe that a lawyer can only attain to a standing worthy of his calling by a life-long application thereto. The part assigned to women by nature, is, as a rule, inconsistent with this idea.

The work which the wives and mothers of our land are called upon to perform, and the part they are to take in training and educating the young, and which none other can do so well, forbids that they shall bestow that time (early and late) and labor, so essential in attaining to the eminence to which the true lawyer should ever aspire. It cannot therefore be said that the opposition of courts to the admission of females to practice, when such opposition has been manifest, is to any extent the outgrowth of that conservatism, or as it is sometimes styled, "old fogyism," which is opposed to the enfranchisement of women; it rises rather from a comprehension of the magnitude of the responsibilities connected with the successful practice of law, and a desire to grade up the profession, and encourage only those to adopt the same, as from their attainments, natural and acquired, are qualified for, and from their adaptability and earnestness, it may reasonably be expected will honor the calling. Sex is by no means the only criterion by which to determine this question, as is evidenced by the

many male persons applying for admission, whose characters, learning and ability entitle them to take but a low seat in the practice; such is the proportion of this class of applicants received, that the “lower seats” are all full, and for the honor of the profession, it is desirable that every means should be adopted which will tend to raise the standard of legal ability, not forgetting moral worth.

And this it is not attempted to underrate or belittle the natural qualifications of females for the profession, many are unquestionably in such respects fitted to take a high place in any calling or profession, and when such as one possesses such a love for the law as that she is thereby impelled to adopt the profession as a life calling and is willing to give her best years to the prosecution of the same, preferring such a life to that of wifehood and motherhood, in all which those words imply, I do not think the profession would suffer from any such accession.

But the courts have not made, nor will they ever assume to dictate, the law in the premises, and when the people of the state, in a legislative capacity, shall remove the disability, I doubt not the profession as now constituted will heartily welcome to its ranks this applicant and others of like merit, and seek to adapt the practice in all respects so far as possible to the new element thus introduced. For the reason first stated, however, this application must be refused. So ordered.

A. H. Young, Judge.

MLHP: The ruling was also reprinted on page 4 of the *Minneapolis Tribune* on Thursday evening, October 5, 1876, under this headline:

NO WOMAN NEED APPLY.

—
Judge A. H. Young so Remarks Upon
Applications Made for Admis-
sion to the Bar.

And Delivers Himself of an Exhaustive
Opinion Upon the Subject.

—
Mrs. Dorsett, therefore, “Daren’t” Ex-
pound the Warped Masculine
Law in Our Courts.

—
But in Private Life May Meditate Upon
the Inequality of the Code She
Is So Well Prepared to
Elucidate.

Mention was made several days ago that Mrs. Martha Angle Dorsett and her husband had both applied for admission to practice in the courts of this state, bringing with them certificates from the supreme court of Iowa. The case was remarkable as being the first application made by a woman to practice in the courts. Judge Young, however, has delivered the following opinion, in which he holds that the prohibitory statutes debar women from admission to the bar, while admitting in his private relation that the lady passed the best examination of any applicant for admission that has been presented for a long time:.....[the full opinion followed].

As noted by Professor Woxland, Judge Young’s ruling was reprinted in full in the first issue of *The Syllabi*, a publication of John West, in October 1876. A copy of the ruling as it appeared in *The Syllabi* was also published in Wood R. Foster Jr., & Marvin R. Anderson, eds., *For The Record: 150 Years of Law & Lawyers in Minnesota*, 102-3 (Minnesota State Bar Association, 1999).

The August 1894, issue of *The Minnesota Lawyer* reprinted parts of Judge Young’s order prefaced with the following: “In searching through the files of the various courts, matters of curious interest, as well as matters of value to the profession, are sometimes discovered. Thus the opinion of Hon. A. H. Young, formerly judge of the Fourth District, rendered almost twenty years ago, in the matter of the application of Martha Angle Dorsett to be admitted to

practice as an attorney and counselor at law, will be of great interest to certain applicants for the same permission to-day, who possess the same disqualifications, and also, we trust, the same qualifications.”



ARTICLE II.

(Editorial in *Minneapolis Tribune* on October 5, 1876)

THE MINNEAPOLIS TRIBUNE

THURSDAY EVENING OCTOBER 5, 1876 2

According to Judge Young’s decision in the matter of the application of Mrs. Dorsett for admission to the Hennepin county bar—and it is undoubted law—women cannot be admitted to practice law in the state of Minnesota—and the majority of that sex say Amen.



ARTICLE III.

(Statute on attorneys’ qualifications which was interpreted by Judge Young)

(Laws 1866, Ch. 88)

CHAPTER LXXXVIII.

ATTORNEYS AND COUNSELLORS

Section 1. Any male person, of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability is entitled to admission to practice in all the courts of this state.

Sec. 2. For the purpose of admission, he shall apply to the supreme court or any district court when in session, and shall show first, that he is of the age of twenty-one years, which proof may be made by his own affidavit; and second, that he is

a person of good moral character, which may be proved by certificate or other evidence satisfactory to the court.

Sec. 3. The applicant shall also be examined in open court, as to his qualifications of learning and ability, by the judges, or under their direction, at the term at which application for admission is made.

Sec. 4. If, upon the examination, he is found duly qualified, the court shall direct an order to be entered, to the effect that the applicant is a citizen of the United States, of the age of twenty-one years, of good character, and possesses the requisite qualifications of learning and to practice as an attorney and counsellor in all the courts of and upon the entry of the order, he is entitled to practice as such attorney and counselor.

....



ARTICLE IV.

(Legislation amending statute on attorneys' qualifications)

(Laws 1877, Ch. 123)

CHAPTER 123.

AN ACT TO REGULATE THE ADMISSION TO PRACTICE OF
ATTORNEYS AND COUNSELLORS AT LAW

Be it enacted by the Legislature of the State of Minnesota:

Section 1. That section one (1) of chapter eighty-seven (87), Statutes of one thousand eight hundred and sixty-six (1866), the same being section one (1) of chapter fifty (50), Bissell's compilation of the laws of one thousand eight hundred and seventy three (1873), be amended to read as follows: Any person of the age of twenty-one (21) or upwards, of good moral character, and who possesses the requisite qualifications of learning and ability, is entitled to admission to practice in all the courts of this State.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 28, 1877.



ARTICLE V.

(Dorsett was admitted on January 11, 1878.
In the following article, her middle name
was misspelled by the *Tribune*)

THE MINNEAPOLIS TRIBUNE

FRIDAY EVENING

JANUARY 11, 1878.

4

DISTRICT COURT.

Mrs. Martha Angel Dorsett Admitted
to Practice in the Minnesota
Courts.

The First and Only Lady Lawyer
Ever Admitted to the Bar of
the State.

In the district court this morning, immediately upon Judge Vanderburgh's taking his seat, the report of the examining committee in the matter of the application of Mrs. Martha Angel Dorsett to be admitted to practice in the courts of the state was presented. The following order by direction of the Judge was spread upon the minutes of the court:

In the Matter of the application of Martha Angel Dorsett for admission to the bar.

Martha Angel Dorsett having been duly examined by the proper committee, and said committee having found her possessed of the necessary qualifications, and made their report recommending her admission to the bar, she was, by order of

the court, duly admitted to practice as an attorney and counselor at law in all the courts of this State, and was in open court duly sworn in accordance with the statutes in such case made and provided.

Mrs. Dorsett is the first lady ever admitted to practice in the state. About a year since, she in company with her husband came to this city from Iowa, and both were examined for admission to the bar. The committee reported them both as fully qualified, and her husband was admitted, and has since been practicing law in this city. Judge Young was compelled to refuse Mrs. Dorsett's application, as the statutes did not admit of a lady practitioner of law. Last winter the law was changed for the special accommodation of this applicant, and this morning she was admitted to the bar.

She is a young lady not more than twenty-three years of age, very modest in manner, and remarkably intelligent. She graduated from the law school at Des Moines, Iowa, and there is no doubt of legal attainment. Judge Young, in conversation this morning, spoke of her in exalted terms.

THE STEVENS CASE.

All day yesterday the case of the State vs. Ed. A. Stevens, for libel, was on trial, and no end is yet apparent. Auditor Black was on the stand until 11 o'clock this morning, his examination lasting two full days. Mr. Edwards, the complaining witness, was next called, and the prospects are that his evidence will as much time as did the preceding witness.

JUDGE YOUNG'S COURT.

Judge Young this morning filed a decision in the case of Mitchell & Co. vs. Tuckerman & Eldred, denying the motion of the plaintiff.

The case of Geo. H. Johnson, administrator, etc., vs. Peter Olson, was tried this morning and submitted.



ARTICLE VI.

(Dorsett's middle name was misspelled by the *Pioneer Press*)

THE PIONEER PRESS

January 12, 1878 Saint Paul and Minneapolis Pioneer Press 6

DISTRICT COURT.

A Lady Lawyer Admitted to the Bar — And that Same Old Libel Suit on Trial.

Something new under the sun—a lady lawyer admitted to practice in all the courts of the State. Upon the opening of the district court yesterday morning, the examining committee reported favorably upon the application of Mrs. Martha Angel Dorsett to be admitted to practice in all the courts of the State. Whereupon Judge Vanderburgh caused the following to be spread upon the records of the court:

“In the Matter of the application of Martha Angel Dorsett for admission to the bar.

“Martha Angel Dorsett having been duly examined by the proper committee, and said committee having found her possessed of the necessary qualifications, and made their report recommending her admission to the bar, she was, by order of the court, duly admitted to practice as an attorney and counselor at law in all the courts of this State, and was in open court duly sworn in accordance with the statutes in such case made and provided.”

Mrs. Dorsett is a graduate of the law school at Des Moines, Iowa, is a lady of about twenty-three, and removed with her husband (also a lawyer) to this city about a year since. She passed a highly creditable examination, and we believe is the first lady ever admitted to the bar in Minnesota, the law in that respect having been last winter specially amended for her

benefit.

The State-Edwards-Stevens libel case is still on trial. When will it end? The newspaper court gives it up, but it will certainly be continued in our next.

Before Judge Young the case of Geo. H. Johnson administrator, vs. Peter Olson, was tried and submitted. Judge Young also filed a decision for plaintiff in the case of Mitchell & Co. vs. Tuckerman and Eldred.



ARTICLE VII.
(Obituary of Dorsett)

THE MINNEAPOLIS JOURNAL
March 8, 1918

2

**State's First Woman
Attorney Is Dead**

Mrs. Martha A. Dorsett, 1166 Seventh st. SE, the first woman admitted to the bar in Minnesota, died today. She was 66 years old and is survived by her husband, C. W. Dorsett, two sons and three daughters. One son, Lieutenant K. C. Dorsett, is in France with the American forces. For more than 30 years Mrs. Dorsett and her husband conducted the Dorsett Catering company in Minneapolis. At the time of her death, she was a member of the Junior Bar association, a life member of the Maternity hospital board, and the Michigan Women's alumnae in Minneapolis.

The funeral will take place Monday at 2 p.m. from Lakewood chapel.



ARTICLE VIII.
(Obituary of Dorsett)

MINNEAPOLIS MORNING TRIBUNE

March 9, 1918

4

**MARTHA A. DORSETT
IS TAKEN BY DEATH**

Pioneer Suffrage Worker and
First Woman Admitted to
Bar in State.

Mrs. Martha A. Dorsett, for 30 years associated with her husband, A. W. Dorsett, in a catering business here, died yesterday in her home, 1166 Seventh street southeast.

Mrs. Dorsett was a pioneer worker in the cause of woman suffrage, was the first woman admitted to the bar in Minnesota and was instrumental in getting the law amended so women attorneys could practice.

She was 66 years old, was born in Randolph, N. Y., and came here in 1876. Mrs. Dorsett was a close friend of the late Dr. Martha G. Ripley and was a life member of the Maternity Hospital association. She belonged to the Junior Bar association, the University of Michigan Alumni association and attended the First Church of Christ, Scientist.

Her husband and five children survive her. Two children, Mrs. G. D. Hansen and Miss Lucy Dorsett, live in Minneapolis; K. C. Dorset, a son, is first lieutenant with an Oregon engineering corps in France.

Funeral Services will be conducted Monday, 2 p.m., in Lakewood chapel.



ARTICLE IX.

(The following article by Thomas A. Woxland appeared in the November 1990 issue of *Bench & Bar of Minnesota*. © Thomas A. Woxland.

Posted with the permission of Professor Woxland
and the Minnesota State Bar Association)

BENCH & BAR OF MINNESOTA

November 1990

16

In re Dorsett: Opening the Minnesota Bar to Women

BY

THOMAS A. WOXLAND

Martha Angle Dorsett, the first woman admitted to practice in Minnesota, took a road not soon followed by others of her sex; but to some degree, all Minnesota women, lawyers today are in her debt.

On the morning of February 27, 1877, the Minnesota Legislature convened with those in the House listening to “devotional exercises” conducted by the Rev. Henry Ward Beecher, the famous abolitionist and brother of Harriet Beecher Stowe. To a large crowd, “ladies predominating,” Rev. Beecher read from the thirteenth chapter of First Corinthians and “offered a fervid and characteristically impressive prayer.”

The presence of Rev. Beecher likely accounted for at least some

portion of the crowd, but others as likely turned out to witness the House consider and pass, by a vote of 63 to 30, a bill that opened the practice of law in Minnesota to women. The Senate had earlier passed the revised admission statute by a vote of 26 to 6. This act of 1877, changing the admission requirement from “Any male person...” to “Any person...” was the product of “a bill which was introduced to meet the case of Mrs. [Martha Angle] Dorsett, of Minneapolis...”

Martha Dorsett was admitted by the Hennepin County Court in January of the following year, 15 short months after her earlier application for admission to practice before that court was denied. While she thus became the first woman admitted to the bar of Minnesota, she followed in the footsteps of several pioneering midwestern women lawyers.

Early Skirmishes

The issue of women being admitted to practice was one in which the Midwest led the nation. It was in the Midwest that the first admission battles were fought, and it was in the Midwest where women first won the right to practice law.

Belle Mansfield of Mount Pleasant, Iowa was the very first. She was admitted to the Iowa bar in 1869 by Justice Francis Springer, a liberal judge who broadly construed the Iowa gender-limited admission statute by relying on a statutory construction provision that specified that “words importing the masculine gender only may be extended to women.” The next year the Legislature explicitly agreed with him by removing the male-specific language from the admission statute.

Other midwestern states followed Iowa during the early 1870s: Lemma Barkaloo was admitted to the Missouri bar in 1870; Sarah Kilgore in Michigan in 1871; Alta M. Hulett in Illinois in 1872 (two years after the Illinois Supreme Court, in a decision that would be notoriously affirmed by the United States Supreme Court, rejected the application of Myra Bradwell); Nettie Lutes in Ohio in 1873; and Elizabeth Eaglesfield in Indiana in 1875. None of these first women lawyers entered practice without some controversy.

In early 1876, the controversy came to Wisconsin with the application of Lavinia Goodell. Ms. Goodell had been admitted

to practice at the local level by a court in Janesville, and when one of her clients had an appeal to the Wisconsin Supreme Court, she applied for admission there.

Chief Justice Edward Ryan, an avowed antifeminist, heard the matter. One of Ms. Goodell's arguments was that the masculine pronouns of the admission statute should be read in light of another Wisconsin statute (similar to the one in Iowa) that "every word importing the masculine gender may extend and be applied to females as well as males."

Justice Ryan was not the progressive jurist that Iowa's Springer was. He was not persuaded by Ms. Goodell's argument. He found the rule of construction concerning statutory reference to masculine gender to be discretionary not mandatory. The Legislature could not have intended to have it broadly applied he said, for if that were the case, not only would women be allowed to practice law, but they would also qualify to vote and to hold public office.

Justice Ryan continued in a manner that would be soon echoed in the Dorsett case in Minnesota:

The law of nature destines and qualifies the female sex for the bearing and nurture of the children of our race and for the custody of the homes of the world and their maintenance in love and honor. And all life-long callings of women, inconsistent with these radical and sacred duties of their sex, as is the profession of the law, are departures from the order of nature; and when voluntary, treason against it.

Justice Ryan was not willing to permit Lavinia Goodell to commit treason against her nature. He also wanted to protect her and others of her gender from

...all the nastiness of the world which finds its way into courts of justice; all the unclean issues, all the collateral questions, of sodomy, incest, rape, seduction, fornication, adultery, pregnancy; bastardy, legitimacy; prostitution, lascivious cohabitation, abortion, infanticide, obscene publication, libel and slander of sex,

impotence, divorce — all the nameless
indecencies....

Local newspapers reported the Goodell case widely, and most also editorialized on Ms. Goodell's behalf. The *Wisconsin State Journal* wrote: "If her purity is in danger, it would be better to reconstruct the court and bar than to exclude the women." And the *Milwaukee Sentinel* said:

The prejudice of the sex is the most imbecile, the least excusable, of all prejudices — and yet it is one of the strongest. Long after the opponents of 'women's rights' have ceased to present an argument; long after every argument has proved fallacious, the prejudice remains in full force, and the intolerance of woman workers in the fields assumed to be out of their sphere is as bitter and almost as widespread as ever.

Ultimately, Ms. Goodell was successful. The Wisconsin Legislature revised the admission statute in 1877, adding a provision that "No person shall be denied admission or license to practice as an attorney in any court of this state on account of sex." In 1879, with Justice Ryan dissenting, the Wisconsin Supreme Court admitted Lavinia Goodell to the profession.

In re Dorsett

Martha Angle was born in Randolph, New York in 1851. In the fall of 1872 she was admitted to the University of Michigan. She received a Ph.B. degree in 1875 and soon thereafter began studying law in Des Moines. She graduated from the then-standard one-year course at the Iowa College of Law (later to become the Drake University Law School) and received her LL.B. degree. She and a Michigan classmate, Charles W. Dorsett, were admitted to practice law in Iowa in 1876. They were married in June of that year and moved to Minneapolis. Both applied for admission to the Minnesota bar; Charles Dorsett's application was quickly approved.

Before Judge Young heard her petition to practice, an examining committee had already determined that Martha

Dorsett met the statutory qualifications of learning and ability and recommended her admission.

Judge Young agreed that she had all the qualifications to practice law in Minnesota, all save one. He first repeated the admission statute. It read: "Any male person of the age of 21 years, of good moral character, and who possesses the requisite qualifications of learning and ability, is entitled to admission to practice in all the courts of this state." Ms. Dorsett, he said, lacked one statutory qualification: "she is a female, and does not, therefore, come within the scope of the statute quoted above." Judge Young took no cognizance of the Minnesota statute on construction that stated (in terms similar to the Iowa and Wisconsin statutes), "words importing the masculine gender may be applied to females."

Judge Young could have ended his opinion with his recitation of the admission statute. He did not. He went on, at some length and after the fashion of Wisconsin's Justice Ryan, to discuss the general inappropriateness of women to the practice of law. He cited with favor the Goodell case and found Justice Ryan's reasoning to be "not without merit," although he admitted that the opinion did have "a smattering of conservatism which assumes to exercise a guardianship or advisory protection over females, which is not in accordance with the advanced ideas of unlimited rights of citizenship on the part of such persons." He found, however, that such conservatism was appropriate when it came to such a privilege as the practice of law in the state's courts:

The law is noted for its conservatism, and especially so is that class of lawyers and judges who have made their profession a life study, and believe that a lawyer can only attain to a standing worthy of his calling by a life-long application, thereto. The part assigned to women by nature is as a rule inconsistent with this idea.

The work which the wives and mothers of our land are called upon to perform, and the part they are to take in training and educating the young, and which none other can do so well, forbids that they shall bestow that time (early and late) and

labor, so essential in attaining to the eminence to which the true lawyer should ever aspire.

Judge Young did comment to a newspaper reporter that “the lady passed best examination of any applicant for admission that has been presented for a long time.” And at the end of his opinion he noted that there may be some women both well-qualified and willing to devote their best years to law’s “life calling,” preferring it to wifhood and motherhood. He foresaw a time when “the people of the state in a legislative capacity, shall remove the disability.” At that time, he concluded, “I doubt not the profession as now constituted, will heartily welcome to its ranks this applicant and others of like merit, and seek to adapt the practice in all respects so far as possible to the new element thus introduced.”

Ms. Dorsett’s case was newsworthy, enough to be reported in the popular press and also caught the eye of John West, then a fledgling legal publisher, who devoted fully one-quarter of the edition of his new publication, *The Syllabi*, to reporting the Hennepin County Court’s decision (*see sidebar*). Unlike the Wisconsin press in its treatment of Ms. Goodell, the Minneapolis press was not very supportive of Ms. Dorsett. Under the headline, “No Woman Need Apply,” the *Minneapolis Tribune* declared that: “According to Judge Young’s decision in the matter of the application of Mrs. Dorsett for admission to the Hennepin county bar — and it is undoubted law — women cannot be admitted to practice law in the state of Minnesota — and the majority of that sex say Amen.” The paper did note that Charles Dorsett was a licensed attorney and that “practically Mrs. Dorsett may as efficient a counsellor and ‘inside’ law partner to her husband, as though she was a full fledged member of the bar.”

Failing with Judge Young, Ms. Dorsett’s next forum was the legislature. She, together with her husband, campaigned successfully throughout the fall and winter to have the admission statute amended.

Martha Dorsett was finally admitted by the Hennepin County Court on January 11, 1878. Judge Charles Vanderburgh’s order stated:

Martha Angel [sic] Dorsett having been duly

examined by the proper committee, and said committee having found her possessed of the necessary qualifications, and made their report recommending her admission to the bar, she was, by order of the court, duly admitted to practice as an attorney and counselor at law in all the courts of this state, and was in open court duly sworn, in accordance with the statutes in such case made and provided.

The newspaper account of her admission recited her virtues of character and intelligence and noted that even the judge who had originally refused her petition for admission, “in conversation this morning, spoke of her in exalted terms.”

The story was reported as far away as Texas, where the *Texas Law Journal* of Tyler told its readers that: “Mrs. Martha Angrl [sic] Dorsett, of Minnsota [sic], was recently admitted to the bar and licensed to practice law in the courts of that state. This is the first instance of a woman being admitted to the bar in that state. She is said to be young — not more than 23 [she was actually 26] — modest in manner, and very intelligent.”

Life After Law

Although the Dorsetts pioneered in opening the practice of law in Minnesota to women, their association with the law ultimately was quite brief. Martha and Charles Dorsett practiced law for about ten years. Then, frustrated by special interest politics in Minnesota and the “robber baron” mentality of the time, they left legal practice in the 1880s.

On land that they owned in northeast Minneapolis, they first ran a dairy. They expanded into an ice-cream manufacturing establishment, a retail bakery and a very successful catering business. “Dorsett Fashionable Caterers” was, by 1890, the “largest catering house in the Northwest,” occupying a four-story building on Nicollet Avenue. They advertised “delicious lunches and peerless frozen creams the year round, furnished with every requisite and served in the most approved manner.”

Charles and Martha Dorsett were parents to two daughters and foster parents to eight more children. Financially, they were quite prosperous; they were generous philanthropists and very

involved in civic affairs. Martha Dorsett was a close friend of Dr. Martha G. Ripley, the pioneering woman physician in Minnesota and founder of the Maternity Hospital in Minneapolis; Ms. Dorsett was a life member of the Maternity Hospital Association.

The Dorsetts were also politically very active. They were leaders of both the suffrage and prohibition movements. Arrangements for the Seventeenth Annual Meeting of the American Woman Suffrage Association held in Minneapolis in 1885 were made by Ms. Dorsett and Dr. Ripley, and according to Susan B. Anthony's and Elizabeth Cady Stanton's *History of Woman Suffrage*, "C. W. and Mrs. Martha A. Dorsett have been among the oldest and most valued suffrage workers in the state." Charles Dorsett was twice the Prohibition Party candidate for governor of Minnesota and twice ran unsuccessfully for the State Legislature.

In 1898, Martha Dorsett became a Christian Scientist—at that time a quickly growing denomination less than 20 years old. Beginning the next year, and throughout the rest of her life, she listed her occupation not as a practitioner of the law, but as a "Christian Science practitioner." According to members of her family, she was a well-known and respected healer among those of her faith. When she died in 1918, at age 66, legal practice was a distant memory.

The door opened by Martha Dorsett in the 1870s was not soon passed through by very many others. As of 1886, according to the Anthony and Stanton *History*, "the women of Minnesota seem thus far to have no special calling to the legal profession. Mrs. Martha Angle Dorsett is the only woman as yet admitted to the bar." In the early 1890s, a few women joined the profession; between 1892 and 1894, six female graduates of the new University of Minnesota Law School entered practice in the state.

Women did not come into the legal profession in any substantial numbers until the most recent decades. As late as 1969, it was estimated that there were only 100 women practicing law in Minnesota. A great increase in law school enrollments of women occurred in the 1970s and 1980s. By 1990, more than 40 percent of all law students nationally were women. And the rise in the number of women graduating from

law schools has been reflected by their increasing participation within the practicing bar. In 1980, 750 women practiced law in Minnesota (8 percent of the licensed attorneys); five years later, their numbers had almost doubled and women represented 12.3 percent of the profession. Today, of Minnesota's early 14,000 attorneys, roughly 22 percent are women. To some degree, all owe a debt to Martha Angle Dorsett.

A CLOSE ENCOUNTER

The professional paths of Martha Dorsett and John West, the founder of the state's premier legal publishing house, crossed fatefully in the fall of 1876, a time of crucial consequence in the nascent stage of the career of each.

An 18-year-old John West had moved to Minnesota in 1870. His first job was as a traveling salesman for an office supply company. His territory was Minnesota and western Wisconsin, and many of his visits were to law offices. From conversations with attorneys, he realized that their need for fast and easy access to legal treatises and court reports was mostly unmet. In 1872, to help meet that need, he set himself up as John B. West, Publisher and BookSeller—Minnesota's first full-time law book publisher and salesman.

Although his initial publications—largely a line of legal forms—were exclusively aimed at Minnesota practitioners, he acted as a general book agent for publications of broader geographic appeal. His nephew later wrote that “he kept many contacts with lawyers in western Wisconsin to whom he made sales of office supplies, law treatises and reports published by eastern companies.”

In October 1876, Mr. West launched a publication that would, over the next ten years, evolve into the National Reporter System. *The Syllabi* was an eight-page weekly legal news sheet that promised “prompt and reliable intelligence as to the various questions

adjudicated by the Minnesota courts at a date long prior to the publication of the State Reports” To stimulate subscriptions, he sent the first issue gratuitously to all Minnesota attorneys.

That first issue contained single-paragraph summaries of nine recent Minnesota Supreme Court cases, the text of one Minnesota federal case, and, most surprisingly, the full opinion of the Hennepin County of Court of Common Pleas decision entitled “In the Matter of the Application of Martha Angle Dorsett to be Admitted to Practice as an Attorney and Counselor at Law in Said Court.”

There is no evidence that John West was either an advocate or an opponent of women’s rights. He was, however, a canny entrepreneur and a consummate salesman. Aware of the controversy surrounding Lavinia Goodell’s attempt to be admitted to the Wisconsin bar from his frequent sales trips to that state, he probably recognized the Dorsett case as a newsworthy one for Minnesota attorneys and one that might help stimulate a readership and subscriptions for his new publication.

After publishing Judge Austin Young’s opinion denying Martha Dorsett’s admission, no West publication mentioned her again. *The Syllabi* reported judicial, not legislative, developments; it did not report the 1877 statutory change that opened Minnesota practice to women. Nor did West print the short judicial order that admitted Ms. Dorsett to practice in 1878.

Whether due in any small part to that first report of the Dorsett case or not, John West’s *Syllabi* was well-received. In its second issue he noted that, “the reports received thus far are of the most flattering character, assuring us that it not only supplies a want long felt, but that it will meet with a hearty support!” In fact, the support was, so hearty that it quickly outgrew its format. After six months, *The Syllabi* was replaced in April 1877 by the North-Western Reporter (old series). Also a weekly, it lasted two

years until it was replaced by a new North Western Reporter (the, first of the modern regional reporters). In 1882, John West, along with his brother Horatio and two partners, incorporated as West Publishing Company. By 1888, they had created the National Reporter System.
—Tom Woxland

Bibliographical Note

Information about Martha Dorsett comes primarily from the *Minneapolis Tribune*, 1876-1878; the alumni records of the University of Michigan; and conversations with Lucille Baker and Dorsett Cant, grandchildren of Martha and Charles Dorsett. Further information about the career of John West and the early history of West Publishing Company may be found in: W. W. Marvin, *West Publishing Company: Origin, Growth, Leadership* (1969); and, Woxland, “‘Forever Associated with the Practice of Law’: The Early Years of the West Publishing Company,” 5 *Leg. Ref. Serv. Q.* 115 (Spring, 1985).

For a more extensive discussion of the controversies surrounding the admission to legal practice of Belle Mansfield and Lavinia Goodell, see, Robinson, “Women Lawyers in the United States,” 2 *Green Bag* 10 (1890); and, K.B. Morello, *The Invisible Bar* (1986).



ARTICLE X.

(Account of the *Arabella Mansfield* case in Mary Jane Mossman, *The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Professions* 41 (Oxford and Portland, Oregon: Hart Publishing, 2006). © Mary Jane Mossman. Posted with the permission of Hart Publishing Ltd., London.)

In the context of the women’s movement just after the Civil War, however, the first judicial decision about women’s eligibility to practise law must have seemed auspicious: in 1869, an Iowa court held that Arabella Mansfield was eligible

for admission to the bar, even though she was a woman. When her application was initially reviewed by the state's examining committee, the committee acknowledged that the statute governing eligibility for the legal profession expressly provided for the admission of only 'white male persons.' At the same time, however, the committee suggested that this statutory language should be interpreted in accordance with the principle (included in another statutory provision) that 'words importing the masculine gender only may be extended to females.' According to the committee, therefore, Mansfield was fully qualified for mission to the bar, 'not only by the language of the law itself, but by demands and necessities of the present time and occasion.' The committee's report was then presented to Justice Francis Springer, described by Morello as 'one of the most liberal and progressive judges in Iowa,' and Springer not only accepted the argument that masculine words should be interpreted to include females, but also provided an expansive view of gendered language; according to Justice Springer, the inclusion of affirmative declaration of gender could never be construed as an *implicit* denial that the right extended to females. The court's conclusion was reinforced the following year when amending legislation was enacted which eliminated both the race and gender requirements in relation to eligibility for the bar in Iowa.



ARTICLE XI.

(Orders of the Wisconsin Supreme Court
denying and granting Goodell's application)

SUPREME COURT OF WISCONSIN

*In the Matter of the Motion to admit Miss Lavinia Goodell
To the Bar of this Court.*

39 Wis. 232 (1875)

RYAN, C. J. In courts proceeding according to the course of the common law, a bar is almost as essential as a bench. And a good bar may be said to be a necessity of a good court. This is

not always understood, perhaps not fully by the bar itself. On the bench, the lesson is soon learned that the facility and accuracy of judicial labor are largely dependent on the learning and ability of the bar. And it well becomes every court to be careful of its bar and jealous of the rule of admission to it, with the view of fostering in it the highest order of professional excellence.

The constitution makes no express provision for the bar. But it establishes courts, amongst which it distributes all the jurisdiction of all the courts of Westminster Hall, in equity and at common law. *Putnam v. Sweet*, 2 Pin. 302. And it vests in the courts all the judicial power of the state. The constitutional establishment of such courts appears to carry with it the power to establish a bar to practice in them. And admission to the bar appears to be a judicial power. It may therefore become a very grave question for adjudication here, whether the constitution does not entrust the rule of admissions to the bar, as well as of expulsion from it, exclusively to the discretion of the courts.

The legislature has, indeed, from time to time, assumed power to prescribe rules for the admission of attorneys to practice. When these have seemed reasonable and just, it has generally, we think, been the pleasure of the courts to act upon such statutes, in deference to the wishes of a coordinate branch of the government, without considering the question of power. We do not understand that the circuit courts generally yielded to the unwise and unseemly act of 1849, which assumed to force upon the courts as attorneys, any persons of good moral character, however unlearned or even illiterate; however disqualified, by nature, education or habit, for the important trusts of the profession. We learn from the clerk of this court that no application under that statute was ever made here. The good sense of the legislature has long since led to its repeal. And we have too much reliance on the judgment of the legislature to apprehend another such attempt to degrade the courts. The state suffers essentially by every such assault of one branch of the government upon another; and it is the duty of all the coordinate branches scrupulously to avoid even all seeming of such. If, unfortunately, such an attack upon the dignity of the courts should again be made, it will be time for them to inquire whether the rule of admission be within the legislative or the judicial power. But we will not anticipate such an unwise and unbecoming interference in what so peculiarly concerns the

courts, whether the power to make it exists or not. In the meantime, it is a pleasure to defer to all reasonable statutes on the subject. And we will decide this motion on the present statutes, without passing on their binding force.

This is the first application for admission of a female to the bar of this court. And it is just matter for congratulation that it is made in favor of a lady whose character raises no personal objection: something perhaps not always to be looked for in women who forsake the ways of their sex for the ways of ours.

The statute provides for admission of attorneys in a circuit court upon examination to the satisfaction of the judge, and for the right of persons so admitted to practice in all courts here except this; but that to entitle any one to practice in this court he shall be licensed by order of this court. Tay. Stats., ch. 119, §§ 31, 32, 33. While these sections give a rule to the circuit courts, they avoid giving any to this court, leaving admission here, as it ought to be, in the discretion of the court. This is, perhaps, a sufficient answer to the present application, which is not addressed to our discretion, but proceeds on assumed right founded on admission in a circuit court. But the novel positions on which the motion was pressed appear to call for a broader answer.

The language of the statute, of itself, confessedly applies to males only. But it is insisted that the rule of construction found in subd. 2, sec. 1, ch. 5, R. S., necessarily extends the terms of the statute to females. The rule is that words in the singular number may be construed plural, and in the plural, singular; and that words of the masculine gender may be applied to females; unless, in either case, such construction would be inconsistent with the manifest intention of the legislature.

This was pressed upon us, as if it were a new rule of construction, of peculiar application to our statutes. We do not so understand it. It appears to be but a particular application of the general rule thus stated by TINDALL, C. J.: "The only rule for the construction of acts of parliament is, that they should be construed according to the intent of the parliament which passed the act." And it is not new or peculiar here. Potter's Dwaris, 111. The last clause of the rule, relating to sex, seems to be almost as old as Magna Charta. Coke, 2 Inst, 45. We apprehend that, unless in the construction of penal statutes, it

has been little questioned since the much considered case of *King v. Wiseman, Fortescue*, 91. The rule is permissive only, as an aid in giving effect to the true intent of the legislature. Even of a statutory rule positive in terms, Lord DENMAN said: "It is not to be taken as substituting one set of words for another, nor as strictly defining what the meaning of a word must be under all circumstances. We rather think that it merely declares what persons may be included within a term, when the circumstances require that they should." *Queen v. Justices, etc.*, 7 A. & E. 480. So, *a fortiori*, of the permissive rule here. And the argument for this motion is simply this: that the application of this permissive rule of construction to a provision applicable in terms to males only, has effect, without other sign of legislative intent, to admit females to the bar from which the common law has excluded them ever since courts have administered the common law. This is sufficiently startling. But the argument cannot stop there. Its logic goes far beyond the bar. The same peremptory rule of construction would reach all or nearly all the functions of the state government, would obliterate almost all distinction of sex in our statutory *corpus juris*, and make females eligible to almost all offices under our statutes, municipal and state, executive, legislative and judicial, except so far as the constitution may interpose a virile qualification. Indeed the argument appears to overrule even this exception. For we were referred to a case in Iowa, which unfortunately we do not find in the reports of that state, holding a woman not excluded by the statutory description of "any white male person." If we should follow that authority in ignoring the distinction of sex, we do not perceive why it should not emasculate the constitution itself and include females in the constitutional right of male suffrage and male qualification. Such a rule would be one of judicial revolution, not of judicial construction. There is nor sign nor symptom in our statute law of any legislative imagination of such a radical change in the economy of the state government. There are many the other way; an irresistible presumption that the legislature never contemplated such confusion of functions between the sexes. The application of the permissive rule of construction here would not be in aid of the legislative intention, but in open defiance of it. We cannot stultify the court by holding that the legislature intended to bring about, *per ambages*, a sweeping revolution of social order, by adopting a very innocent rule of statutory construction.

Some attempt was made to give plausibility to the particular construction urged upon us, founded on ch. 117 of 1867, and ch. 79 of 1870. It was represented that the former admits women to every department of the university, excepting the military only, and so necessarily including the law department; that the latter directs admission to the bar of the graduates of the law department; that the legislature had thus provided for the admission of female graduates of the law school, and ought therefore to be understood as intending the admission of women under the general statute. If the legislature had so provided for the admission of female graduates, we do not perceive how that could aid the construction of the general statute, or this lady, who does not appear to be a graduate. But, unfortunately for the position, the statutes were not stated with the fair accuracy which becomes counsel, and do not support it.

The act of 1867 is an amendment of sec. 4 of the act of 1866, reorganizing the university. The section of 1866 provided, without qualification, that "the university in all its departments and colleges shall be open alike to male and female students." The section of 1867 substitutes the provision, that "the university shall be open to female as well as male students, under such regulations and restrictions as the board of regents may deem proper." In both statutes, the section provides that all able bodied male students shall receive military instruction, and makes no other reference to a military department. And the argument that the admission of females under the statute of 1867, to all departments except the military, necessarily contemplated their admission to the law department, falls to the ground, because the statute neither mentions all departments nor excepts the military—if there be a military—department.

The inaccuracy is the more striking from the fact that the section of 1866 does expressly include all departments and colleges, and the amendment of 1867, evidently *ex industria*, omits them. The change of an absolute right of admission to all departments and colleges of the university in 1866, to admission to the university under discretionary regulations and restrictions of the regents in 1867, is very significant; the more so that it is the only amendment made. It seems likely that the legislature came to regard the absolute and indiscriminate right of 1866 as dangerously broad, and to consider it necessary to make the right subordinate to the judgment of the regents. And if the law school had then been established by statute, it would

be very doubtful whether the admission of females to it would be sanctioned by the act of 1867. But there was no such statute; and the law school was in fact established, not by statute, but, as we learn, by the authorities of the university, some time in 1868, after the enactment of the section in both forms. The first class of students, all males, graduated in 1869, without color of right to practice. Hence the statute of 1870, to give the right, presumably passed without thought of the admission of females to the bar. And the general argument for this motion takes nothing by these statutes.

So we find no statutory authority for the admission of females to the bar of any court of this state. And, with all the respect and sympathy for this lady which all men owe to all good women, we cannot regret that we do not. We cannot but think the common law wise in excluding women from the profession of the law. The profession enters largely into the well being of society; and, to be honorably filled and safely to society, exacts the devotion of life. The law of nature destines and qualifies the female sex for the bearing and nurture of the children of our race and for the custody of the homes of the world and their maintenance in love and honor. And all life-long callings of women, inconsistent with these radical and sacred duties of their sex, as is the profession of the law, are departures from the order of nature; and when voluntary, treason against it. The cruel chances of life sometimes baffle both sexes, and may leave women free from the peculiar duties of their sex. These may need employment, and should be welcome to any not derogatory to their sex and its proprieties, or inconsistent with the good order of society. But it is public policy to provide for the sex, not for its superfluous members; and not to tempt women from the proper duties of their sex by opening to them duties peculiar to ours. There are many employments in life not unfit for female character. The profession of the law is surely not one of these. The peculiar qualities of womanhood, its gentle graces, its quick sensibility, its tender susceptibility, its parity, its delicacy, its emotional impulses, its subordination of hard reason to sympathetic feeling, are surely not qualifications for forensic strife. Nature has tempered woman as little for the juridical conflicts of the court room, as for the physical conflicts of the battle field. Womanhood is moulded for gentler and better things. And it is not the saints of the world who chiefly give employment to our profession. It has essentially and habitually to do with all that is selfish and malicious,

knave and criminal, coarse and brutal, repulsive and obscene, in human life. It would be revolting to all female sense of the innocence and sanctity of their sex, shocking to man's reverence for womanhood and faith in woman, on which hinge all the better affections and humanities of life, that woman should be permitted to mix professionally in all the nastiness of the world which finds its way into courts of justice; all the unclean issues, all the collateral questions of sodomy, incest, rape, seduction, fornication, adultery, pregnancy, bastardy, legitimacy, prostitution, lascivious cohabitation, abortion, infanticide, obscene publications, libel and slander of sex, impotence, divorce: all the nameless catalogue of indecencies, *la chronique scandaleuse* of all the vices and all the infirmities of all society, with which the profession has to deal, and which go towards filling judicial reports which must be read for accurate knowledge of the law. This is bad enough for men. We hold in too high reverence the sex without which, as is truly and beautifully written, *le commencement de la vie est sans secours, le milieu sans plaisir, et le fin sans consolation*, voluntarily to commit it to such studies and such occupations. *Non tali auxilio nec defensoribus istis*, should juridical contests be upheld. Reverence for all womanhood would suffer in the public spectacle of woman so instructed and so engaged. This motion gives appropriate evidence of this truth. No modest woman could read without pain and self abasement, no woman could so overcome the instincts of sex as publicly to discuss, the case which we had occasion to cite *supra*, King v. Wiseman. And when counsel was arguing for this lady that the word, person, in sec. 32, ch. 119, necessarily includes females, her presence made it impossible to suggest to him as *reductio ad absurdum* of his position, that the same construction of the same word in sec. 1, ch. 37, would subject woman to prosecution for the paternity of a bastard, and in secs. 39, 40, ch. 164, to prosecution for rape. Discussions are habitually necessary in courts of justice, which are unfit for female ears. The habitual presence of women at these would tend to relax the public sense of decency and propriety. If, as counsel threatened, these things are to come, we will take no voluntary part in bringing them about.

By the Court.—The motion is denied.

SUPREME COURT OF WISCONSIN

Application of Miss Goodell. *

48 Wis. 693 (1879)

COLE, J. On the former application for the admission of *Miss Lavinia Goodell* to the bar of this court it was held that there was no statutory authority for the admission of females to the bar of any court of this state. 39 Wis. 232. Since that decision was made, the legislature has provided that "no person shall be denied admission or license to practice as an attorney in any court of this state on account of sex" (subdivision 5, sec. 2586, Rev. St. 1878), which removes the objection founded upon a want of legislative authority to admit females to practice. It may admit of serious doubt whether, under the constitution of this state, the legislature has the absolute and exclusive power to declare who shall be admitted as attorneys to practice in the courts of this state; or whether the courts themselves, as a necessary and inherent part of their powers, have not full control over the subject. It was said by the chief justice, on the previous application, that it was a grave question whether the constitution does not intrust the rule of admission to the bar, as well as of expulsion from it, exclusively to the discretion of the courts, as a part of their judicial power. But it was further remarked by the chief justice that the legislature had, from time to time, assumed the power to prescribe rules for the admission of attorneys, and, when those rules have seemed reasonable and just, it has generally been the pleasure of the courts to act upon such statutes, in deference to the wishes of a co-ordinate branch of the government, without considering the question of power. A majority of the court are disposed to pursue the same course now, and act upon the statute above cited, waiving, for the present, the question whether or not the courts are vested with the ultimate power, under the constitution, of regulating and determining for themselves as to who are entitled to admission to practice. We are satisfied that the applicant possesses all the requisite qualifications as to learning, ability, and moral

* The publication of this decision, in the reports, has been delayed in the expectation that a dissenting opinion would be prepared by the chief justice. – REP.

character to entitle her to admission, no objection existing thereto except that founded upon her sex alone. Under the circumstances, majority think that objection must be disregarded. *Miss Goodell* will therefore be admitted to practice in this court upon signing the roll and taking the prescribed oath.

By the Court. - So ordered.
RYAN, C. J., dissented.

[**MLHP**: Ryan's biographer explained why the chief justice's dissent was not published: "Ryan dissented and was expected to write an opinion. However, he grew seriously ill at the time and never got around to it. There can be no doubt, however, that the ground of his dissent was the common law precept that the courts themselves ultimately determine who shall and who shall not be admitted to the bar and that women had no place in it." Alfons J. Beitzinger, *Edward G. Ryan: Lion of the Law* 142 (Madison: State Historical Society of Wisconsin, 1960).]



Posted MLHP: December 2008.
Revised: February 2009.