The Court Archive:
Women and Juries

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Illinois passed a limited women's suffrage law in 1913, which was then rendered moot by the passage of the 19th amendment to the U.S. Constitution in 1920, giving women the right to vote in all elections. In Illinois, the right to vote, which is one of several requirements for jury service, did not necessarily mean women could serve on juries.

In 1924, Hannah Fyfe was called for jury duty in Cook County, but her name was eliminated because she did not "possess the necessary legal qualifications for jury duty, in that she was a woman." Fyfe claimed that because she was a legal voter in addition to all other qualifications, she had the right to serve on a jury. She petitioned for a writ of mandamus against the Cook County jury commissioners, and the Cook County Circuit Court agreed with Fyfe. The commissioners appealed to the Illinois Supreme Court, and Fyfe was represented by Elizabeth Perry, a Chicago attorney. The Supreme Court reversed the decision because the laws that governed jury pools comprised of electors referred only to men, and Illinois has passed no laws to update the definition of "elector" (*People ex rel. Fyfe v. Barnett et al*., 319 Ill. 403 (1926)).

It took the General Assembly 11 years to pass a new law to allow women to serve on juries in 1937. Cook County refused to implement it, arguing that the Illinois Constitution prohibited women from serving on juries and that only a Constitutional amendment could provide women that right. The Constitution of 1870 specifically noted that only men could serve on juries. Clara Denny challenged Cook County's interpretation in an original mandamus suit in the Illinois Supreme Court (*People ex rel. Denny v. Traeger et al.,* 372 Ill. 11 (1939)). The Supreme Court granted the writ allowing women to serve on juries because many statutes and other state Constitutions while referring only to "men," intended to include "women."

While the right for women to serve on petit juries was finally accepted, a defendant in a 1941 criminal case in McDonough County decided to test whether that right included service on grand juries. Clifford Thurman was indicted for mayhem and assault but made a motion to quash the indictment because five women served on the grand jury. Since women were not allowed to serve on grand juries, he claimed, their votes to indict did not count, resulting in an insufficient grand jury vote total to indict. The McDonough County Circuit Court agreed with Thurman and quashed the indictment. The state appealed the case to the Illinois Supreme Court (*People v.*

Thurman, 377 Ill. 453 (1941)). In a *per curiam* decision, the Court ruled that the McDonough County Circuit Court erred in quashing the indictment because "we are unable to escape the conclusion that the General Assembly intended" that the qualifications for jury service, "neither prohibit or require the inclusion of women" to grand or petit juries. Therefore, women were allowed to serve on grand juries because there was no law that prevented them from doing so.

The battle for women to serve on juries was a long process in the 1920s, 30s, and 40s. It took at least three test cases that hinged on a narrow, then broad, definition of "men" before women were accorded equal access to the jury box.