The Court Archive:
Myra Bradwell

John A. Lupton
© Illinois Supreme Court Historic Preservation Commission
February 2024

When Myra Bradwell applied for a law license in 1869, many men may have found it unthinkable for a woman to become an attorney. Bradwell's attempt to become a lawyer in Illinois is an often-told story about the inequalities between men and women in the 19th century, socially, legally, economically, and in the right to choose a profession.

No one questioned her credentials, interestingly. She read law with her husband James Bradwell, not so much to practice law, but in order to assist him in his law office. In 1868, she began publishing the daily newspaper, *The Chicago Legal News*, one of the first law-specific newspapers in Illinois. She followed the process to become a lawyer: she obtained her certificate of good moral character; she passed an examination by two lawyers, who then certified that Bradwell had the requisite knowledge to be a lawyer. She sent her application to the Illinois Supreme Court, expecting the Court's approval to be merely pro forma.

However, Bradwell received a letter from the Supreme Court clerk that she had been denied her license on the account of the "disabilities" of being a married woman—specifically, her inability to enter into contracts and to act as an agent for others. Incensed, Bradwell filed a petition for the Supreme Court to reconsider. She noted that the Illinois legislature removed many of the common law "disabilities."

Changes to the legal status of women only recently began to be implemented. In 1861, the Illinois legislature passed a married women's property rights act, providing for married women to own land themselves. The earnings act of 1869 further provided married women to earn money for themselves. Prior to this time, coverture laws prevented married women from voting, owning land, bringing or defending lawsuits, entering into contracts, and acting as an agent.

The Illinois Supreme Court responded to Bradwell's petition with an opinion in *In Re Bradwell*, 55 Ill. 535 (1869). The Court, while sympathetic to Bradwell's petition, could not allow her to become an attorney without the legislature passing a law to that effect. In his opinion, Justice Charles Lawrence said that "courts of justice were not intended to" push "popular reforms" and that if it allowed Bradwell to become an attorney, then "women should be made Governors,

Judges, and Sheriffs. This we are not prepared to hold." This was a half-century before women even had the right to vote nationally.

Expecting this ruling, Bradwell already made plans to appeal to the United States Supreme Court and enlisted the legal services of Wisconsin Senator Matthew Carpenter. Bradwell based her arguments on the "privileges and immunities" clause in the recently enacted 14th Amendment to the U.S. Constitution.

In an 8-1 decision, the U.S. Supreme Court affirmed the Illinois Supreme Court's decision to deny Bradwell her law license in *Bradwell v. Illinois*, 83 US 130 (1872). Justice Samuel Miller wrote the opinion and based his argument specifically on the 14th Amendment, that the admission to practice law is not one of the privileges and immunities belonging to citizens. More famously, Justice Joseph Bradley authored the concurring opinion that commented more on the differences between men and women that precluded them from practicing law, specifically that "the natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life." Chief Justice Salmon Chase was the dissenter but offered no written opinion as to why.

Before the judgment in the US Supreme Court, Bradwell had already been lobbying the Illinois legislature for a new law, which passed in 1872. The act "to secure all persons freedom in the selection of an occupation, profession, or employment" allowed women to become lawyers. Alta Hulett then became licensed as the first woman attorney in Illinois in 1873. Bradwell never reapplied because she said that she had "once complied with all the rules and regulations of the court for the admission of attorneys." In 1890, the Illinois Supreme Court granted her a license retroactively to 1869.