

# Celebrating 140 Years of Female Attorneys in Illinois

by Catherine D. Battista

July 1, 2012 marked the 140<sup>th</sup> anniversary of women being granted the right to practice law in Illinois. As a practicing attorney, I could not imagine doing anything else. If you listen to my mom, I was “born” to be a lawyer. Therefore, it is hard for me to visualize what my life would have looked like but for the pioneering efforts of the female practitioners who came before me. Thanks to their determination and grit, women were given the opportunity to practice law in Illinois side by side with their male counterparts.

In 1869, Myra Bradwell petitioned the Illinois Supreme Court for a license to practice law. Her application was denied on the basis of her gender - female. The Supreme Court stated:

The license was refused, and it was stated, as sufficient reason, the under the decisions of this court, the applicant, as a married woman, would be bound neither by her express contracts, nor by those implied contracts, which it is the policy of the law to create between attorney and client.<sup>1</sup>

Instead of deciding whether women should be permitted to practice law or not, the Supreme Court deflected and put the issue into the hands of the legislature, stating:

Whether, in the existing social relations between men and women, it would promote the proper administration of justice, and the general well being of society, to permit women to engage in the trial of cases in court, is a question opening a wide field of discussion which it is not necessary for us to enter...

Of the qualifications of the applicant [Myra Bradwell], we have no doubt, and we put our decision in writing in order that she, or other persons interested, may bring the question before the next legislature.<sup>2</sup>

In *Bradwell*, the Supreme Court reminded its audience of our country’s English common law roots and that at the time statutes were passed regulating the practice of law in Illinois, a “female” practitioner was completely unheard of.<sup>3</sup> “[T]hat a woman should enter the courts...would have created hardly less astonishment than one that she should ascend the bench of Bishops, or be elected to a seat in the House of Commons.”<sup>4</sup> The Court also stated that when laws were passed relating to the practice of law, there was no such “school of reform” as women’s rights. Instead, there was a belief that “God designed the sexes to occupy different spheres of action, and that it



Myra Bradwell 1870

belonged to men to make, apply and execute the laws.”<sup>5</sup> Graciously, the Court went on to say that this belief “may have been a radical error” but it was simply what was believed at the time.<sup>6</sup>

The Supreme Court acknowledged that, in 1869, there were some departments of the legal profession where women could “appropriately labor.”<sup>7</sup> However:

Whether, on the other hand, to engage in the hot strifes of the bar, in the presence of the public, and with momentous verdicts the prizes of the struggle, would not tend to destroy the deference and delicacy with which it is the pride of our ruder sex to treat her, is a matter certainly worthy of her consideration.<sup>8</sup>

The Court continued by pondering what impact the presence of female attorneys would have upon the administration of justice itself.<sup>9</sup> Finally, it stated that if the state legislature authorized the Supreme Court to issue law licenses to women as well as men, it would “cheerfully obey, trusting to the good sense and sound judgment of women themselves.”<sup>10</sup>

Ms. Bradwell appealed the Illinois Supreme Court’s decision to the United States Supreme Court and argued that she was entitled to a license to practice law “by virtue of the second section of the fourth article of the Constitution of the United States, and of the fourteenth article of amendment of that instrument.”<sup>11</sup> On appeal, the U.S. Supreme Court considered, “[Whether] a female citizen, duly qualified in respect of age, character, and learning, may claim under the fourteenth amendment, the privi-

lege of earning a livelihood by practicing at the bar of a judicial court.”<sup>12</sup>

Ms. Bradwell’s attorney, Matthew Hale Carpenter, argued that his client was entitled to equal protection under the Fourteenth Amendment and that she should be afforded the same privilege to practice law as her male colleagues:

I maintain that the fourteenth amendment opens to every citizen of the United States male or female, black or white, married or single, the honorable professions as well as the servile employments of life; and that no citizen can be excluded from any one of them....

There may be cases in which a client’s rights can only be rescued by an exercise of the rough qualities possessed by men. There are many causes in which the silver voice of woman would accomplish more than the severity and sternness of man could achieve...[b]ut the broad shield of the Constitution is over them all, and protects each in that measure of success which his or her individual merits may secure.<sup>13</sup>

In spite of Attorney Carpenter’s impassioned argument on behalf of his client, the U.S. Supreme Court affirmed the finding of the Illinois Supreme Court and found that a refusal by the courts of a state to admit a woman to practice law did not violate any provision of the Constitution of the United States or its amendments.<sup>14</sup> While the U.S. Supreme Court agreed that there are privileges and immunities belonging to citizens of the United States, it stated that “the right to admission to practice in the courts of a State is not one of them.”<sup>15</sup>

As a female attorney, I both laughed and grimaced when I read Justice Joseph P. Bradley’s concurring opinion. The justice stated that:

[N]ature 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 domestic sphere [is] that which properly belongs to the domain and functions of womanhood....the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband.<sup>16</sup>

Justice Bradley concluded by stating that 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.”<sup>17</sup>

Happily, while the U.S. Supreme Court denied her appeal in its December term of 1872, on March 22, 1872, Myra Bradwell and other women’s rights advocates, such as Alta M. Hulett, secured the passage of a bill in the Illinois state legislature giving all women, whether married or single, the right to practice law. The Act to secure to all persons freedom in the selection of an occupation, profession or employment went into



Alta M. Hulett

force on July 1, 1872 and stated that “No person shall be precluded or debarred from any occupation, profession or employment (except military) on account of sex.”

At the age of nineteen, on June 6, 1873, Alta M. Hulett became the first woman in the State of Illinois to be admitted to the bar. Myra Bradwell was admitted on March 21, 1890. Both women went on to become very successful practitioners and now have awards given out each year in both of their names to outstanding female attorneys in honor of their legacy.

One hundred and forty years later, women practicing law is accepted and commonplace. And, I am sure that our male peers would not use the words “timid” or “delicate” to describe our respective practice styles (although many of us do have silvery voices). When I think of my female colleagues, I am reminded of how smart, driven, creative and aggressive they are. I am also reminded of how many of them juggle career and family with an ease that would make any circus performer jealous.

In spite of how far women have come in the legal profession, there is still a huge gap between women and men in our field. In 2011, only 19.5% of all partners in law firms were women - and of that 19.5%, only 2% were minority women.<sup>18</sup> No state in this country has ever obtained equality in the ratio of men to women in judgeships.<sup>19</sup> On average, only 27% of state judgeships are held by women.<sup>20</sup> Women are still paid less than men for doing the exact same kind of legal work (whether it be government or in the private sector) with women making only 86.6% of their male peers’ salaries.<sup>21</sup> Finally, according to a study by a University of Chicago economist, 25% of female attorneys who have children will leave the practice of law altogether.<sup>22</sup>

Looking forward, I hope to see the playing field between male and female practitioners even out more. I

also hope to see the culture of our industry change to be more supportive of attorneys with families, male and female, by embracing "flex" schedules, remote work and telecommuting (where feasible). I am also eager to see how women continue to advance and grow in our field during the course of my lifetime. Hopefully, by the time my daughters are ready to become attorneys (if they so choose), they will have even more opportunity than what was afforded to me.

So, in commemoration of the 140<sup>th</sup> anniversary of women practicing law, I will take a moment to give a little pause of thanks to women like Myra Bradwell and Alta M. Hulett, as well as their male supporters like Matthew Carpenter, who made it possible for me to become a part of this incredible profession. I will also continue to celebrate the achievements of my female colleagues and discuss how we can make this profession a better place for women to practice law. If you would like to join in on that discussion, I strongly encourage all of the members of our bar, male and female, to attend one the meetings or events hosted by the Women in the Law Committee of the KCBA.

<sup>1</sup> *In the matter of the application of Mrs. Myra Bradwell, for a license to practice law*, 55 Ill. 535, 1869 WL 5503, 1 (1869)  
<sup>2</sup> *Bradwell*, 1869 WL at 1 - 3  
<sup>3</sup> *Id.* at 3  
<sup>4</sup> *Id.*  
<sup>5</sup> *Id.*  
<sup>6</sup> *Id.*  
<sup>7</sup> *Id.* at 5  
<sup>8</sup> *Id.*  
<sup>9</sup> *Id.*  
<sup>10</sup> *Id.*  
<sup>11</sup> *Myra Bradwell v. The State of Illinois*, 83 U.S. 130, 130 (1872)  
<sup>12</sup> *Bradwell*, 83 U.S. at 133  
<sup>13</sup> *Id.* at 137  
<sup>14</sup> *Id.* at 133  
<sup>15</sup> *Id.* at 139  
<sup>16</sup> *Id.* at 141  
<sup>17</sup> *Id.*  
<sup>18</sup> The National Association for Law Placement, "Law Firm Diversity Wobbles: Minority Numbers Bounce Back While Women Associates Extend Two-Year Decline" (November 3, 2011).  
<sup>19</sup> The Center for Women in Government and Civil Society (Rockefeller College of Public Affairs and Policy at University of Albany), Women in Federal and State-level Judgeships (2011).  
<sup>20</sup> The Center for Women in Government and Civil Society (Rockefeller College of Public Affairs and Policy at University of Albany), Women in Federal and State-

level Judgeships (2011).  
<sup>21</sup> Current Population Survey, Bureau of Labor Statistics, "Table 39: Median Weekly Earnings of Full-time Wage and Salary Workers by Detailed Occupation and Sex," Annual Averages 2011 (2012).  
<sup>22</sup> [http://www.abajournal.com/news/article/25\\_percent\\_of\\_lawyer\\_moms\\_leave\\_the\\_workplace\\_study\\_finds/](http://www.abajournal.com/news/article/25_percent_of_lawyer_moms_leave_the_workplace_study_finds/)



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# What is \$10 / Year?

(See President Steven Titiner's article on page 5 for details.)

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The Lawyer in the Lobby Program is a volunteer service project sponsored by the Kane County Bar Association.

It is a free service to members of our community and is designed to educate / inform individuals regarding their procedural questions on the law.

This service is for Civil Court Pro Se Litigants only who have matters presently pending before the Court in the Kane County Courthouse (3rd Street).

## SERVICE PROJECT HOURS & LOCATION:

- **Fridays 9:00 a.m. to 12:00 p.m.**  
*(or earlier, if court call is over for the day)*
- **Lobby at the Kane County Courthouse (3rd Street)**

## THANK YOU TO OUR JULY VOLUNTEERS!

Pat Edgerton  
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 Jon Shanower  
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We thank the following KCBA Members who volunteered to serve our low-income clients during JUNE legal clinics, or by taking a pro bono case:

Judy Berndt  
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 Greg Slovacek  
 Matthew Walker

Administer Justice is a charitable legal aid organization providing help and hope for low-income individuals within Kane County. We deeply appreciate the generosity of our volunteer attorneys who give of their time to assist those in need with case intake, document follow-up, and pro-se coaching.

To volunteer, contact Judith Leesley at 847-844-1100.



### Administer Justice

We thank KCBA Members  
 Dan Klenke, Dan Mintz,  
 Bill Murphy and Susan Shivers  
 for volunteering at the  
 "Lawyer in the Library" Program  
 in June 2012.

Administer Justice: Assisted people in 15 appointments.  
 KCBA Members : Assisted people in 8 appointments.

Administer Justice has partnered with the Kane County Law Library to create a resource for low-income individuals to receive help with document preparation and pro se coaching.

To volunteer, please contact Halle Cox at the  
 Kane County Law Library & Self Help Center.  
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