WOMEN IN THE LAW

*It was 1876 and she just wanted to practice law*

# Woman Rejected by Court 'On General Principles'

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STATE OF MINNESOTA, COUNTY OF HENNEPIN, 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 Term, Sept., 1876*

**"The work which wives and mothers of our land are called upon to perform . . . forbids that they shall bestow that time and labor so essential in attaining to the eminence to which the true lawyer should ever aspire."**

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 the 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 statutes of this State and the rules of this court, such admission is authorized.

The statute hearing 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 precisely like the Territorial statute of 1857, and which has therefore been in operation for twenty-five years.

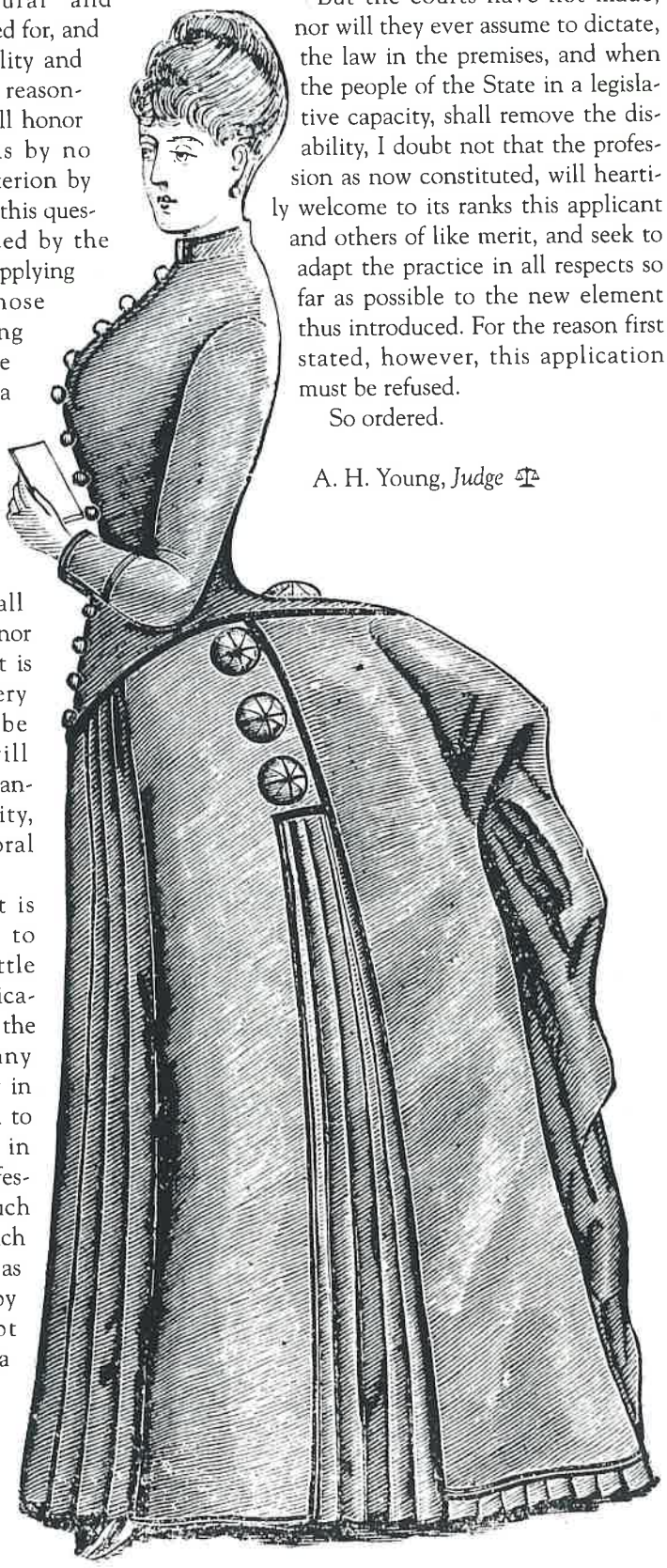
A quarter of a century ago it was an unheard of thing for a woman to apply to be admitted to practice in the courts of any of the States, and it is scarcely to be inferred that the limiting clause referred to was at that time intended by the legislature to possess any significance as a negative act. 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 to practice in the courts. 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 arises 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 in this, it is not attempted to underrate or belittle the natural qualifications of females for the profession, as many are unquestionably in such respects fitted to take a high place in any calling or profession, and when such an 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 these words imply. I do not think the profession would suffer from any such accension.



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 that 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* ⚖