

Women in the Law— A History of Endurance

By Marlene Coir

Women continue to break glass ceilings, having often been inspired by those who came before. Let us become familiar with some historical firsts for women in the legal profession in this nation and the state of Michigan.

Margaret Brent—Colonial Maryland

Margaret Brent was an astute land owner in colonial America. She was also the first woman to practice law in this land not only on her own behalf, but also as a representative of others—including an English lord.¹

Brent, a Catholic of noble birth, came to Maryland with her sister and two brothers in 1638, having been granted land in the Catholic-tolerant colony by Lord Baltimore. As unmarried women, Brent and her sister could legally manage their own property and they set up a household independent of their brothers.

In 1645, during England's civil war against Charles I, the Province of Maryland was attacked by a Protestant sea captain who claimed it for the English Parliament. Maryland's Governor Leonard Calvert, brother of Lord Baltimore, fled the colony along with most of the population. The number of Maryland's English occupants fell to fewer than 100 people. Brent was among the faithful provincials who greeted Gov. Calvert when he returned with a small band of soldiers in late 1646.

When Calvert died less than a year later, it was discovered that Brent had been named executor of his estate. Unfortunately, the estate's liquid, or movable, assets were insufficient to pay Calvert's soldiers. Brent, as executor, could not legally sell property to raise funds necessary to appease the by-then mutinous soldiers. It appeared that the Maryland territory might be absorbed by neighboring Virginia, causing the Calverts,

including Lord Baltimore, to forfeit their investment. Because of the dire emergency, in 1648 the Maryland Provincial Court appointed Brent as Lord Baltimore's attorney-in-fact, replacing the deceased Leonard Calvert. Brent was then able to sell Lord Baltimore's cattle without obtaining his permission. Thus, she was able to pay the soldiers and keep peace in the colony.

Her actions were applauded by the Maryland Assembly but won her the wrath of Lord Baltimore when he found out she had confiscated and sold his property. In 1650, the Brents were forced to leave Maryland for the Northern Neck of Virginia, where they prospered. Margaret Brent lived there on her plantation until her death circa 1671.

Myra Colby Bradwell—Illinois

Several women vied for the title of "first woman admitted to a state bar" during the late nineteenth century. Myra Colby Bradwell challenged the Illinois Supreme Court's 1869 decision to deny her the right to become a member of the Illinois State Bar because of her sex, even though she had passed the state's bar exam. She appealed that decision on constitutional grounds. In *Bradwell v State of Illinois*,² the United States Supreme Court ruled that the right to hold a profession was not protected by the Fourteenth Amendment of the U.S. Constitution. Although the Illinois legislature opened up

all professions in that state to women in 1872, Bradwell never renewed her application to the Illinois State Bar. She became an honorary member after the new legislation had passed, and did, in fact, practice law.³

Belva A. Lockwood—Virginia

The United States Supreme Court followed the precedent set in *Bradwell* in 1893 when it denied Belva A. Lockwood's suit for mandamus to force Virginia to admit her to the Commonwealth's state bar. At that time, Lockwood was the first woman admitted to practice law before the land's highest court, yet was denied admission to the bar in her home state.⁴

Arabella Mansfield—Iowa

Arabella Mansfield (nee Belle Aurelia Babb) has been feted as the first woman to be admitted to a state bar in the United States. Mansfield read the law as an apprentice in her brother's law firm, passed the Iowa bar exam—even though taking the exam was restricted to "males over 21"—then successfully challenged the bar's restriction on membership in state court. She was sworn into the Iowa bar in June 1869. Although lauded as the first state-licensed female attorney in the U.S., she never practiced law. She opted for a career in academia, becoming dean of the School of Art at DePauw University in 1893.⁵

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Charlotte E. Ray—District of Columbia

Charlotte E. Ray, a graduate of Howard University School of Law, is celebrated as the first African-American female lawyer. It is said that she applied for admission to the District of Columbia Bar in 1872 as C. E. Ray and was admitted under the assumption that she was a man, and that she practiced for only a short time before becoming a teacher in Brooklyn, New York.⁶ This account is contradicted by J. Clay Smith Jr. in his article “Charlotte E. Ray Pleads Before Court.” In the piece, one can read Ray’s actual pleadings brought before the court during her career as an attorney.⁷

Sarah Killgore Wertman—Michigan

In Michigan, Sarah Killgore Wertman became one of the first women in the U.S. to complete law school and be admitted to a state bar. She graduated from the law department at the University of Michigan in March 1871 and was admitted to the bar in Michigan shortly thereafter. It is uncertain if she ever practiced law in Michigan; however, she was admitted to the bar in Ohio in 1893 and practiced in her husband’s law office. Killgore Wertman remained active in the University of Michigan Alumni Association and was a member of the Equity Club, a women lawyers’ group at the University of Michigan Law School.⁸

Please enjoy additional reading about women in the law at the online sites provided at right. These sites are not necessarily being touted as sources of scholarly research, but as general reading for those whose interest may have been piqued. ■



Marlene Coir has been a member of the State Bar of Michigan since 1990 and presently sits on the SBM Committee on Libraries, Legal Research, and Legal Publications. She is an active member

of the Association of American Law Libraries and chairs the Mich-ALL Government Relations Committee. Marlene is an attorney with the Child Advocacy Program and also provides reference service at the Wayne State University Arthur Neef Law Library.

ENDNOTES

1. Carr, *Margaret Brent—A Brief History* <<http://msa.maryland.gov/msa/speccol/sc3500/sc3520/002100/002177/html/mbrent2.html>>. All websites cited in this article were accessed November 16, 2016.
2. *Bradwell v Illinois*, 83 US 130; 21 L Ed 2d 442 (1872).
3. Law Library of Congress, *Women Lawyers and State Bar Admission* <https://memory.loc.gov/ammem/awhhtml/awlaw3/women_lawyers.html>.
4. *Id.*
5. Friedman, *America’s First Woman Lawyer: The Biography of Myra Bradwell* (Amherst: Prometheus Books, 1993), p 15; see also Wikipedia, *Arabella Mansfield* <https://en.wikipedia.org/wiki/Arabella_Mansfield>.
6. National Conference of Women’s Bar Associations, *Women Lawyer “First”* <<http://ncwba.org/history/women-lawyer-firsts>>; Wikipedia, *Charlotte E. Ray* <https://en.wikipedia.org/wiki/Charlotte_E._Ray>.
7. Smith, *Charlotte E. Ray Pleads Before Court*, 43 Howard LJ 121 (2000).
8. Leary, *Sarah Killgore Wertman: Michigan’s First Woman Lawyer*, 48 Law Quad Notes 8 (2006) <https://www.law.umich.edu/historyandtraditions/students/Documents/Sarah_Killgore_Bio.pdf>.

National Conference of Women’s Bar Associations Women Lawyer “First”

<http://ncwba.org/history/women-lawyer-firsts>

This site includes live links to national, international, state, and municipal information on women in the law. It provides both historical discussion and current affairs.

Michigan Lawyers Weekly Women in the Law

<http://milawyersweekly.com/women-in-the-law>

Every year, *Michigan Lawyers Weekly* hosts a luncheon and awards presentation celebrating women in the law. This archived article lists those Michigan women lawyers honored at the September 2016 event.

Library of Congress

Women in History: Lawyers and Judges

<https://blogs.loc.gov/law/2015/03/women-in-history-lawyers-and-judges>

This article was posted to the Law Librarians of Congress blog in 2015 in celebration of Women’s History Month and International Women’s Day. It is one of three posts highlighting international milestones for women in the areas of suffrage, political participation, and involvement in the practice of law. It in turn provides links to additional online information and resources.

U.S. Federal Courts

Women in the Federal Judiciary

<http://www.uscourts.gov/about-federal-courts/educational-resources/annual-observances/womens-history-month>

The courts posted this page in tribute to Women’s History Month. It provides information on the groundbreaking achievements of the first female federal judges as well as professional and personal information on women who presently sit on the federal bench.

Angela N. Johnson

Researching Women As Lawyers

<https://womenaslawyers.wordpress.com>

Johnson’s blog contains an amazing amount of information on women in the law. The author provides information on how to use the site and a table of contents. She also provides a timeline, which begins with a note on Margaret Brent and continues through the twentieth century. The last major update to this site was in 2011, but a few articles have been posted since then.

HeinOnline

Women and the Law (Peggy)

<http://heinonline.org> (by subscription)

This proprietary online database provides a platform for those interested in scholarly research about the historic and evolving roles of women in our society. It is also available at many municipal, county, and law libraries nationwide.