

Michigan Lawyers in History

Merrie Hoover Abbott

By Carrie Sharlow



The state of Michigan was built by the lumber and auto industries, agriculture, and the lawyers who lived, studied, and practiced here. The articles in this occasional series highlight some of those lawyers and judges and their continuing influence on this great state.

Emelia Schaub is generally proclaimed as Michigan's first female prosecutor.¹ It would be more precise to say that Schaub was the state's first female prosecutor who was allowed to keep her elected office. Let me introduce you to Merrie Hoover Abbott.

Merrie (or Marie or Mary) Hoover was born in Clinton County in the 1870s to Jacob and Cynthia Hoover. The Hoovers were a pioneer family and produced 14 children, 12 of whom survived to adulthood.² Merrie was somewhere in the middle of the bunch. After graduating from the St. Johns public schools, she attended school in Ypsilanti, where she received training for secretarial work.³

By 1891, she was working as a stenographer at Marshall Field & Company in Chicago, where she met her husband, Charles Stewart Abbott. The couple married in 1894 and settled in West Branch. Initially, the Abbotts ran a mercantile business, but Merrie talked her husband into attending law school and she accompanied him.⁴ Charles graduated from the University of Michigan Law School in 1897 and Merrie finished up a year later.

The Abbotts returned to West Branch, where Merrie was considered an oddity around town. Her status as a "lady practitioner" was viewed as a handicap, and she

didn't attend events held by the "social set of West Branch."⁵

She was also considered a joke, and her nomination to run for county prosecutor of Ogemaw County was supposed to be seen as one.⁶ After all, what was more amusing than a female officer of the court? The 1898 election was only three weeks away when Merrie was nominated; certainly, no one would vote for a woman. Besides, the area was staunchly Republican, and the Democrats didn't expect to win any seats.

Everyone underestimated Merrie. She didn't see the handicap or the joke, and over the next three weeks, she campaigned in good weather and bad, showing the community that she was "bright, witty and forceful."⁷ Even so, everyone—except Merrie—was surprised when she won.⁸ There was apparently a recount, but Merrie won by four or six votes. Her successful election made headlines across the country and was viewed as a huge victory for the women's suffrage movement; if women could be elected to office, surely the right to vote was right around the corner.

The patriarchy was less pleased. The incumbent, William T. Yeo,⁹ refused to yield the office to Merrie, who threatened to "incarcerate [him] in the county jail unless he complie[d] with her demand."¹⁰ Lame duck state attorney general Fred A. Maynard said

she couldn't take office without a ruling by the Supreme Court, and even the dean at her alma mater flatly stated that "Mrs. Abbott is clearly ineligible."¹¹

Of course, no one questioned the validity of Horace Oren's election to the office of state attorney general that same year. Once he was sworn into office, he filed "an application for a writ of quo warranto"¹² to remove Merrie from her elected seat.

On June 22—when she could have been doing her job prosecuting cases in Ogemaw County—Merrie went before the state Supreme Court to argue her right to hold office. She spoke "for three-quarters of an hour, and created the impression that she [was] a good advocate."¹³ Her argument was logical: she had graduated from law school, been admitted to the bar by this exact Court, been nominated for the office, and "received the votes necessary for her election."¹⁴ Granted, women weren't allowed to vote, but there were other examples in the state of women holding office. Judge Allen B. Morse and Thomas A. E. Weadock, both legends in the Detroit circuit, argued for Merrie as well.¹⁵

Oren's argument was the opposite of the suffrage movement's victory: if a woman couldn't vote, she couldn't hold office. The attorney general argued that "in the absence of express constitutional authority, women



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were not entitled to hold office.”¹⁶ It made absolutely no sense to “permit one who was precluded from voting for a candidate for a certain office to hold the office itself.”¹⁷

The judgment was rendered in October and Merrie was removed from office. That, too, made headlines across the country, as the Michigan Supreme Court proclaimed that “women can not hold office.”¹⁸ Despite earning a degree from the University of Michigan Law School and being older than 21, Merrie was viewed by the law as having a “want of capacity,” and classed with “children, idiots, lunatics, and aliens.”¹⁹

The Court’s decision notwithstanding, Merrie had practiced as Michigan’s first female county prosecutor for 10 months. Later references note that she tried 156 cases, losing only once.²⁰

Merrie continued on in private practice. The Abbotts moved to Detroit and formed the firm of Abbott & Abbott, and eventually Merrie became more famous for her vigorous defense of poisoner Rose Barron and less for her ouster.²¹ Of course, it helped when the Nineteenth Amendment was ratified and any question of women not being electors was nullified.

About a decade before Merrie’s death, another female Michigan attorney ran for county prosecutor and won, and this time was allowed to keep her seat. When Emelia

Schaub was touted as “Michigan’s first woman prosecutor” in 1936, a newspaper sought to set the record straight and interviewed Merrie, who was fairly modest about her experience some 38 years earlier.²²

Michigan’s first female prosecutor, Merrie Hoover Abbott, died in October 1946. Every woman lawyer who has come after her carries her legacy. ■

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ENDNOTES

1. *‘First’ Title Held by Detroit Woman: She Prosecuted Criminals at the Turn of the Century*, Detroit Free Press (Sunday, November 15, 1936), p 12.
2. *Portrait Biographical Album of Clinton and Shiawassee Counties, Mich, Containing Full Page Portraits and Biographical Sketches of Prominent and Representative Citizens of the County Together with Portraits and Biographies of All the Presidents of the United States and Governors of the State* (Chicago: Chapman Bros., 1891), p 921, available online at <<https://quod.lib.umich.edu/cgi/t/text/text-idx?c=micounty;idno=BAD0873.0001.001>>.
3. *Nominated as a Joke: But Mrs. Abbott Made a Lively Campaign and Was Elected*, The North Adams Transcript (Friday, December 9, 1898), p 6.
4. *Will Apply for Their Baby’s Admission to the Bar of Michigan*, Detroit Free Press (Sunday, December 30, 1906), p 19.
5. *Woman as Public Prosecutor: Mrs. Abbott, of Michigan, is First to Hold This Office*, Republican News Item (Thursday, January 5, 1899), p 2.

6. *She was Nominated as a Joke: Despite that Mrs. Abbott will Hold Office as a Prosecuting Attorney*, The Salt Lake Herald (Saturday, December 10, 1898), p 2.
7. *Woman as Public Prosecutor*.
8. *She was Nominated as a Joke*.
9. Apparently, attorney Yeo didn’t know when to back down. In 1901, he informed his neighbors he’d captured a rat of unusual size in Ogemaw County. When they “informed him that there was never a rat native to this county, he gave them a pitying smile and said that he thought he knew a rat when he saw one.” He called a veterinarian, who informed him that he had caught a muskrat, and the story made the newspapers (*Not Rats in Ogemaw*, Detroit Free Press (December 30, 1901)).
10. *She Has Demanded Her Office: Mrs. Abbott, Prosecuting Attorney of Ogemaw County*, Detroit Free Press (Tuesday, January 3, 1899), p 3.
11. *Mrs. Abbott Ineligible. She was Elected Prosecuting Attorney of Ogemaw County, Michigan*, The Inter Ocean (Friday, November 11, 1898), p 5.
12. *Mrs. Abbott’s Office*, Detroit Free Press (Friday, June 23, 1899), p 3.
13. *Id.*
14. *Id.*
15. *Id.*
16. *Id.*
17. *Id.*
18. *Women Can Not Hold Office*, The Atchison Daily Champion (Sunday, October 29, 1899), p 2.
19. *Attorney General v Abbott*, 121 Mich 540, 546; 80 NW 372 (1899). It wasn’t all bad. The opinion itself exceeds 11,000 words. More than half were a dissent from Justice Moore.
20. *Will Apply for Their Baby’s Admission to the Bar of Michigan*.
21. *Id.* See also Burton, Stocking & Miller, *The City of Detroit, Michigan, 1701–1922* (Vol 3, 1922), p 543.
22. *‘First’ Title Held by Detroit Woman*.