

The Rise of Wisconsin Women in the Law ... But Only After Securing the Right to Vote

This article in the series commemorating the 150th anniversary of the first woman admitted to a Wisconsin bar, Lavinia Goodell, highlights the historical emergence of women in law-related positions in Wisconsin made possible only after the 19th Amendment was ratified in 1920.

BY HON. HANNAH C. DUGAN

In an 1876 opinion, Wisconsin Supreme Court Chief Justice Edward G. Ryan vented a fear and enunciated a premonition. He feared that Lavinia Goodell's application for admission to the Wisconsin Supreme Court "would be one of judicial revolution."¹ He foresaw Goodell's "startling" legal argument for bar admission as a harbinger of unfathomable collateral consequences: women in public office.

"The logic [of Goodell's legal argument] goes far beyond the bar. The same peremptory rule of construction ... would obliterate almost all distinction of sex in our statutory corpus juris, and make females eligible to almost all offices under our statutes, municipal and state, executive, legislative and judicial...."²

Ultimately Justice Ryan could not prevent Goodell's admission to the supreme court; her second petition for admission (based on a revised, gender-neutral statute) was granted in a 2-1 ruling with Ryan dissenting.³

Ryan's dreaded premonition also could not be averted. Women would be eligible for powerful public offices. However, such eligibility would not be realized until after the 1920 ratification of the 19th Amendment to the U.S. Constitution. Women's suffrage eroded some of the cultural and systemic barriers keeping Wisconsin women from holding other "law-related" offices.

Late 19th Century and Early 20th Century Public Service for Wisconsin Women

Despite bar accessibility in 1879, women in Wisconsin did not pursue law degrees or legal careers in substantial numbers during the next

five decades. Between Goodell's admission to the bar and the 1920 ratification of the 19th Amendment granting women suffrage, only 31 women were admitted to the Wisconsin bar.



Belle Case La Follette, the first woman to graduate from the University of Wisconsin Law School (1885), never practiced law. She was married to Robert La Follette Sr., who served as Wisconsin's governor and represented Wisconsin in the U.S. House of Representatives and U.S. Senate. Belle Case La Follette was a gifted advocate, serving as her husband's political speechwriter, as a founder and editor of *The Progressive* magazine, and as a preeminent champion of social reforms, especially women's suffrage. When the Senate voted to send the proposed 19th Amendment to the states for ratification, she immediately sent word to Wisconsin advocates to act swiftly. Within two weeks, Wisconsin became the first state to ratify the 19th Amendment.

At the same time that Wisconsin women struggled for admission to the bar, they were precluded from affecting the development of law and public policy in the judiciary, the executive branch, the statehouse, or the U.S. Congress because they could not be elected to law-related offices.⁴ From 1869 until 1921, Wisconsin women were able to be candidates only in school board elections. However, even though women could be candidates in 1869, they were denied the opportunity to cast a school board ballot until 1884.⁵

During the 45 years after Goodell's bar admission, Wisconsin women slowly increased their presence in public office and policy-making positions.

Women did serve in local-government jobs in many capacities via appointment or through employment. For example, Kate Hamilton Pier, who earned an LL.B. from the University of Wisconsin Law School in 1887, was appointed a Milwaukee County Circuit Court commissioner on Sept. 20, 1892. She was the first woman to hold that position in the U.S. and became the first woman to hold a judicial office in Wisconsin.

However, despite meritorious work, a woman could not run for the elected position even within the governmental office she served. For example, when the Racine County clerk of court resigned in October 1910, the deputy clerk, Helen Blythe, sought appointment as county clerk for the three months remaining in the clerk of court's term. In 1909, at the urging of businessmen and lawyers that Blythe



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run for the clerk of court position, Blythe had sought an attorney general's opinion as to whether this would be possible. The attorney general opined that such a campaign for clerk would be "without precedent and without legal sanction."⁶

Sometimes women were elected to offices but were denied the positions. For example, Angela King worked as a clerk in the Janesville post office in the 1860s. The 1868 election of a new president (Ulysses S. Grant) required that a new postmaster be appointed. The local congressman agreed to a local election of the postmaster and to thereafter submit the name of the person elected to President Grant. Despite besting a field of male candidates and winning by 42 votes, King was denied the appointment in favor of the runner-up.⁷

Suffrage Changes Women's Public Service Status

Before Wisconsin became a state, territory leaders contemplated women's suffrage.⁸ During the progressive era in Wisconsin, women's suffrage was pursued unsuccessfully through litigation⁹ and proposed legislation.¹⁰

Belle Case La Follette was among the many leaders pushing for women's suffrage who hailed from Wisconsin. Although she was the first woman to graduate from the University of Wisconsin Law School (LL.B. 1885), she never practiced law. Instead, she pursued a career in advocacy. Belle Case La Follette was married to Robert La Follette Sr., who served as Wisconsin's governor and represented Wisconsin in the U.S. House of Representatives and U.S. Senate. She was a gifted advocate, serving as Robert La Follette Sr.'s political speechwriter, as a founder and editor of what would become *The Progressive* magazine, and as a preeminent champion of social reforms.

Chief and central among Belle Case La Follette's causes was women's suffrage. She traveled the state and nation, literally and figuratively standing on soap boxes, arguing that suffrage was

fundamental to the advancement of women in the public sphere. She was perched in the U.S. Senate gallery on June 4, 1919, when the Senate voted to send the proposed 19th Amendment to the states for ratification. She immediately sent word to Wisconsin advocates to act swiftly. Within two weeks, Wisconsin became the first state to ratify the 19th Amendment.

The 1920 certification of the 19th Amendment providing suffrage to women permitted women to vote in elections even though it wasn't clear whether Wisconsin law permitted women to file as candidates for election.

The women's vote in the 1920 November elections secured the gubernatorial election of John J. Blaine, who not only campaigned on expanding women's rights but also ensured that the state's 1920 Republican Party platform included an equal-rights plank. The suffragists would hold him to account.

Wisconsin's Equal Rights Statute.

Mabel Putnam, Wisconsin chair of the National Women's Party, quickly "inaugurated a movement to remove legal disabilities of women."¹¹ Her legislative reform campaign charged Blaine to keep his promise of equal rights for women.

Fewer than seven months after taking office, Governor Blaine signed landmark legislation: "An ACT to create new section 6.015 of the statutes to remove discriminations against women and to give them equal rights before the law."¹² "Wisconsin was the first state in the union to take the pioneer step of granting complete equality before the law to its women."¹³

The legislation stated the following:

"[W]omen shall have the same rights and privileges under the law as men in the exercise of suffrage, freedom of contract, choice of residence for voting purposes, jury service, holding office, holding and conveying property, care and custody of children and in all other respects. The various courts, executive and administrative officers shall construe the statutes where the masculine gender is

used, to include the feminine gender

“SECTION 2. Any woman drawn to serve as a juror, upon her request to the presiding judge or magistrate before the commencement of the trial or hearing, shall be excused from the panel or venire....”

Blaine preferred the option of signing a clear and straightforward statute rather than “amending a multiplicity of special statutes on a variety of subjects treated in the statutes ... [which] is cumbersome, complicated, and inconsistent with the amendment to the federal constitution granting full privileges and rights by the fundamental law.”¹⁴ Putman was skeptical: “[The Act’s] sponsors call it a blanket measure – it remains to be seen which of the prior statutes are repealed by implication. Therefore, to apply the law specifically is a matter which only time and experience will settle definitely.”¹⁵

Women Jurors. The question of women’s jury service had already been clarified by two attorney general opinions, one issued to the Rock County clerk of court on Jan. 8, 1921, and another to the Washburn County district attorney on April 11, 1921. The attorney general cited the relevant statute: “Section 2524, Stats. relating to qualifications of jurors, read as follows: All citizens of the United States who are qualified electors of this state ... who are esteemed as men of good character ... shall be liable to be drawn as jurors.” The attorney general opinions stated that the 19th Amendment provided that women were electors, and, if otherwise eligible, that they should be empaneled. The opinions explained that under statutory construction principles, the statute should be read “as *persons* of good character.”¹⁶

As with women moving for admission to the bar, women’s jury service evolved – when counties’ systems summoned women and when attorneys began to select them. Kenosha County drew its first woman juror on Sept. 14, 1921; within three weeks it drew its first panel of women jurors on Oct. 3, 1921.¹⁷

In contrast, Trempealeau County did not have a woman juror until 1953.¹⁸

Pioneering Women Public Office Holders

Even before the effective date of the 1921 equal rights bill, women were running, stealthily, for elected office all over the state. During autumn 1920, women ran for county treasurer and clerk of courts in Columbia County, for county clerk and register of deeds in Vilas County, and for county treasurer in Iron County.¹⁹ By 1923, Wisconsin women held over 400 municipal offices, with 55% percent being school board and library board positions.²⁰

Three women were the first elected to the State Assembly in 1924 – Mildred Barber, Hellen M. Brooks, and Helen F. Thompson.²¹ However, 50 years passed until election of the first woman state senator, Kathryn Morrison.²² Nearly 25 years after that, in 1998, Tammy Baldwin was the first woman elected to represent Wisconsin in the U.S. House of Representatives. Baldwin was elected in 2012 as the first female U.S. Senator from Wisconsin.

Election of women to statewide Wisconsin constitutional offices did not occur until more than 55 years after women’s suffrage. In 1979, Vel Phillips became the first woman elected Wisconsin’s secretary of state and the first Black woman in the U.S. elected to a statewide office. In 2001, Margaret Farrow became the first woman to serve as lieutenant governor; she was replaced the next year by Barbara Lawton, the first woman elected as Wisconsin’s lieutenant governor. Also in 2002, Peg Lautenschlager was elected as Wisconsin’s first female attorney general. All these policy-making, legislation-developing, and law-enforcing women brought fresh perspectives and ideas to their respective public offices.

Women Judges and Justices. The judicial branch also was enriched by the perspectives of women judges. By 1940, only 130 women had been admitted to the Wisconsin bar. Only a couple of those pioneer women lawyers would become judges. Verle Sells’ rise from new lawyer to judge was meteoric. Sells graduated from Marquette University Law School with high honors at age 47

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on Feb. 7, 1936, was admitted to the bar on Feb. 14, 1936, was appointed to the Florence County Circuit Court on March 5, 1936, and immediately stood election for the seat. She was elected one month later (unopposed) to a six-year term. Olga Bennett, U.W. 1935, became the first woman to be elected judge without prior appointment. She successfully challenged an appointed incumbent Vernon County judge in 1969.

Wisconsin women did not serve on the appellate bench until 1976, when Governor Patrick Lucey appointed Shirley S. Abrahamson to the Wisconsin Supreme Court; she subsequently won four consecutive elections.²³ Abrahamson was the only woman justice for 17 years, until Governor Tommy Thompson appointed Janine Geske (1993-98). Ann Walsh Bradley

(1995-present) became the first woman elected to the Wisconsin Supreme Court without first being appointed.

The gap of almost two decades between Chief Justice Abrahamson's and Justice Geske's high court appointments reflects the slowly rising trajectory of women serving in the Wisconsin judiciary.²⁴ Until recently, the historic dearth of women on the Wisconsin Court of Appeals mirrored that of the supreme court. When the court of appeals' 16 seats were created in 1978, the only woman appointed was Martha Bablitch (1978-85). It would be 16 years before another woman would serve on the court of appeals, when Margaret J. Vergeront was elected (1994-2012).²⁵

Conclusion

Lavinia Goodell, her contemporaries, and their successors in law practice and

in law-related offices set on a march toward the transformation in public service that diversity engenders. The passage of the 19th Amendment followed by the enactment of Wisconsin's equal-rights statute were essential for the tremendous number of female legislators, jurists, lawyers, jurors, policy-makers, legislators, constitutional officers, and local elected officers who have contributed to the execution of laws and to Wisconsin's jurisprudence. Full inclusion and parity of women in municipal offices, courthouses, and the statehouse still have not been achieved decades later. However, as Goodell hearteningly wrote in the *Woman's Journal* in 1877: "Little by little, but all the time, we are gaining essential rights." **WL**

ENDNOTES

¹*Motion to Admit Miss Lavinia Goodell to the Bar of this Court*, 39 Wis. 232 (1875).

²*Id.*

³*Application of Miss Goodell*, 48 Wis. 693 (1879).

⁴https://womenscouncil.wi.gov/Documents/Women-PublicLife_Web_2022.pdf.

⁵Chapter 211 of the Laws of 1885 gave women the right to vote in elections "pertaining to school matters."

⁶Racine Judge Belden acted despite the attorney general's opinion and named Blythe as clerk of circuit court. *Kaukauna Times* 9, Oct. 21, 1910.

⁷<https://www.findagrave.com/memorial/12763389/angie-josephine-king> (last visited Sept. 15, 2024); *Lavinia Goodell: The Private Life and Public Trials of Wisconsin's First Woman Lawyer*, <https://www.lavinia-goodell.com/the-contest-for-the-post-office-is-growing-hotter-every-day/> (last visited Sept. 15, 2024).

⁸"Suffrage debates during first convention," Wis. Historical Collections, vol. 27 at 210 (Madison: State Historical Society of Wis., 1919). There is an online facsimile at <https://www.wisconsinhistory.org/turningpoints/search.asp?id=55> (last visited Sept. 15, 2024).

⁹*Brown v. Phillips*, 71 Wis. 239 (1888). Suffragette Olympia Brown, a Racine County resident, while voting in a permitted school board election, attempted to vote in other local races. She asserted that those other elected offices also were concerned with "school-related matters" as specified in the statutes. In a unanimous opinion reversing a Racine County trial court decision, the Wisconsin Supreme Court refused to so expand suffrage eligibility beyond that stated in the language of the voting-eligibility statute. In 1901, clarifying the statute's language, the legislature required that municipalities provide a separate ballot box for women to vote only about school matters. 1901 c. 285.

¹⁰Genevieve McBride, *On Wisconsin Women: Working for Their Rights from Settlement to Suffrage* (University of Wisconsin Press 1994). Between 1899 and 1915, at least 21 legislative bills to enfranchise women were introduced and failed in the Wisconsin Senate and Assembly. In 1911, the Wisconsin Legislature authorized a statewide referendum granting women's suffrage. The referendum appeared on the November 1912 ballot. See Ops. Attorney General of Wis., vol. 1, July 1, 1912-April 1, 1913, at 223, <https://www.doj.state.wi.us/sites/default/files/dls/ag-opinion-archive/1912/Volume%20>

[01_1912-1913.pdf](#). The Wisconsin Constitution was not amended for women's suffrage until 1934, 14 years after the 19th Amendment was ratified. J. Res. 91, 1931 Leg. (Wis. 1931), https://docs.legis.wisconsin.gov/1931/related/joint_resolutions/91.pdf; J. Res. 76, 1933 Leg. (Wis. 1933), https://docs.legis.wisconsin.gov/1933/related/joint_resolutions/76.pdf.

¹¹Mabel Search, *Women's Rights in Wisconsin*, 6 Marq. L. Rev. 164 (1922), <https://scholarship.law.marquette.edu/mulr/vol6/iss4/6>.

¹²Chapter 529, Laws of 1921; Wis. Hist. Soc'y, *Governor Blaine Signs Equal Suffrage Bill*, <https://www.wisconsinhistory.org/Records/Newspaper/BA423> (reprint of Madison newspaper article July 1920) (last visited Sept. 15, 2024).

¹³Search, *supra* note 11, at 164.

¹⁴*Id.* at 168.

¹⁵*Id.* at 165.

¹⁶The statute itself was not amended to "person" from "men" until 1949.

¹⁷U.W.-Madison Libraries, Libraries Search, *Miss Clara Carter, First Woman Juror*, <https://search.library.wisc.edu/digital/AK32FO-MEX5B2Q48B> (last visited Sept. 15, 2024); U.W.-Madison Libraries, Libraries Search, <https://search.library.wisc.edu/digital/ACIM7S-L5AXZB6T8V> (last visited Sept. 15, 2024).

¹⁸*La Crosse Tribune* 9, April 21, 1953.

¹⁹*Madison Capital Times* 3, Oct. 18, 1920.

²⁰Women's Council Wis., *Wisconsin Women Roared into Public Office in the 1920s*, https://womenscouncil.wi.gov/Documents/WWC_1920FactSheet_FINAL_opt.pdf (last visited Sept. 15, 2024).

²¹*Wisconsin Blue Book* 718, 728, 732 (1925).

²²*Wisconsin Blue Book* 263 (1975).

²³For more information about women judges in Wisconsin, including Chief Justice Abrahamson, see *Lady Justice: 85 Years of Women in the Wisconsin Judiciary*, 94 Wis. Law. 32 (Sept. 2021).

²⁴Since 2020, the Wisconsin Supreme Court has had one male justice, Brian Hagedorn (elected in 2019), and six female justices - the highest percentage of women justices on any state high court in the nation (89%).

²⁵Only since the 2023 elections of Chris Taylor and Sara Geenen have more women served on the court than men - 10 women and six men. **WL**